

DISCLOSURE OF INDEPENDENT EXPENDITURES *in* **NEW YORK CITY ELECTIONS**

Note: The Board approved rules for the disclosure of independent expenditures on March 15, 2012.

FEBRUARY 2012



A Report of the Campaign Finance Board



DISCLOSURE OF INDEPENDENT EXPENDITURES IN NEW YORK CITY ELECTIONS A REPORT OF THE CAMPAIGN FINANCE BOARD — EXECUTIVE SUMMARY

The Supreme Court’s controversial ruling in *Citizens United* didn’t create independent expenditures, but along with subsequent decisions it removed constraints on how they are funded, allowing corporations, unions, and wealthy individuals to expend unlimited sums in support of their favored candidates. In the two years since, groups formed to take advantage of this new landscape have fueled an exponential growth in independent spending in federal, state, and local elections.

In New York City, a lack of disclosure has long kept the details of independent spending in City elections hidden from public view. A Charter amendment approved by the voters in November 2010 requires independent spenders to disclose information about their spending and fundraising. The New York City Campaign Finance Board is charged with bringing this information to the public.

Independent Expenditures in a Post-*Citizens United* World (page 3)

The presidential primaries have brought independent spending levels to new, previously unimaginable heights. Outside groups unaffiliated with political parties have spent more than \$50 million on independent expenditures in the 2012 election so far, and more than half the advertising in early primary states has been conducted independently of the campaigns. As Stephen Colbert has demonstrated to hilarious effect, the rules governing these “independent” spenders at the federal level are so lax that spenders can essentially operate hand-in-hand with the candidates they support.

The recent increase in independent spending is not limited to federal elections. There is a clear trend of increased spending by third parties in state elections between 2006 and 2010 as well. States like Arizona (140 percent) and Maine (316 percent), both of which have systems of public financing, saw dramatic increases. Outside groups are also becoming more and more active in local elections. One example is San Francisco, where the mayoral election in November 2011 was dominated by a candidate who opted out of that city’s public financing system while benefiting from nearly \$1 million spent on his behalf by outside groups.

Why Disclosure Matters (page 6)

Strong disclosure requirements for outside spending — and the sources of the funds — are the only way for voters to know the identities of the big spenders who are backing candidates. Disclosure helps the public understand who is paying for advertising messages seeking to influence its votes. It provides voters with the information they need to hold elected officials accountable for their positions and supporters, and it helps ensure that candidates are playing by the rules.

Independent Expenditures in New York City Elections (page 8)

In response to the growing challenge of outside spending in City elections, the 2010 Charter Revision Commission proposed an amendment to the City Charter requiring disclosure of independent expenditures meant to influence the outcome of City elections. New Yorkers voted overwhelmingly to adopt the proposal.

The amendment requires individuals or entities making independent expenditures of \$1,000 or more to disclose their expenditures. Entities spending \$5,000 or more must disclose the sources of the funds used. The disclosure requirement includes spending on behalf of candidates and ballot measures. For independent expenditures that focus on a candidate, any communications must show who paid for them.

The Charter requires the Campaign Finance Board to promulgate rules governing the disclosure requirements. The proposed rules drafted by the Board are intended to provide the public with a full view of money in City elections. Voters who pay close attention during election season know that some campaign messages do not rely on straightforward words like “vote for” or “defeat.” Disclosure requirements limited only to expenditures for messages like these that constitute “express advocacy” would allow significant spending to go undisclosed.

Definitions (page 8)

As such, the requirement to disclose is written broadly, to cover spending in two categories: *express advocacy communications*, which contain phrases that can have no reasonable meaning other than to advocate the election or defeat of a candidate or ballot proposal; and *electioneering communications*, which refer to a candidate or ballot proposal within 30 days of a primary election, or within 60 days of a general election.

There are several examples of electioneering communications designed to influence voters during the most recent City elections, each of which were funded with contributions well in excess of the contribution limits that apply to City candidates. That’s why it is important that disclosure be required for spending on electioneering communications.

Delivery (page 11)

Spending to transmit the most explicitly political messages — express advocacy communications — will be subject to broad disclosure, across most forms of media, including: radio, television, cable, or satellite broadcasts; phone banks; mass mailings; other printed material like literature or palm cards; paid online ads; websites created to advocate for or against a candidate or ballot proposal; and other forms of paid political advertising.

Because they include messages that only mention the name of a clearly identified candidate, disclosure of spending on electioneering communications will be limited by modes of delivery, including: radio, television, cable, or satellite broadcasts; paid advertisements, such as in a periodical or on a billboard; and mass mailings.

Federal regulations do not require disclosure of electioneering communications sent by mail, but it is important that the Board’s rules reflect the way people and organizations communicate about elections in New York City. Though there is no good disclosure of outside spending to study, a review of candidates’ expenditures during the 2009 election shows that mail is a significant portion of election-related communication with voters. A requirement to disclose spending on electioneering communications by outside groups that fails to include mass mailings would likely allow a significant amount of spending in New York City elections to go undetected.

Exemptions (page 13)

Some groups have argued for a blanket exemption for “membership communications” to be applied to any and all communications between an organization and its members. However, a broad carve-out for any entity or group based on the intended audience for a communication does not conform to the spirit or letter of the Charter. The proposed rules do include a limited exemption for some regular communications from an organization to its membership, including for routine newsletters, phone calls to members, and for communications related to internal deliberations about endorsements.

There is a compelling basis to create a more specific exemption from disclosure of spending on electioneering communications for certain non-profit organizations. 501(c)(3) organizations must refrain from activities that explicitly support candidates for public office. With these constraints, it is unlikely that 501(c)(3) groups will engage in the sort of activity that is more clearly intended to influence elections. Other jurisdictions have reached the same conclusion. The CFB’s draft rules will exempt 501(c)(3) organizations from reporting spending on electioneering communications if they relate to a candidate for office.

Conclusion (page 15)

As it considered the issues during the course of the past several months, the Board has worked hard to ensure that New Yorkers are given access to the information they expected when they voted to require disclosure of independent expenditures in City elections. Recent experience across the nation suggests that outside spending in elections will continue to increase in the coming years. Recent experience in New York City shows a clear need for disclosure requirements that are broad enough to encompass spending on “sham issue ads” as well as those that expressly advocate for a candidate.

The spending limits that candidates accept as a condition of the public matching funds program magnify the impact of spending by outside groups. With a Supreme Court that has proven hostile to further regulation of campaign spending, strong disclosure rules may be the voters’ last, best defense against the impact of independent, big-money spending in politics.



DISCLOSURE OF INDEPENDENT EXPENDITURES IN NEW YORK CITY ELECTIONS A REPORT OF THE CAMPAIGN FINANCE BOARD — FEBRUARY 2012

INTRODUCTION

Disclosure of money in politics is fundamental to the democratic process. Candidates must make public the names of their contributors, because thorough disclosure provides valuable information for voters and protects the public from potential abuses of the political process. Without disclosure of a candidate's contributors, voters may feel as if they are unable to make a truly informed choice at the polls.

Information about independent spending by outside groups is no less important — but is often harder to come by. Independent expenditures can provide an avenue for wealthy interests to influence election outcomes. Most candidates know who funds the independent television ads and glossy mailers that sing their praises and denounce their competitors. In some cases, the spenders may not even hide their identity. But without robust disclosure, the general public cannot know the details.

In January of 2010, the Supreme Court issued its controversial ruling in *Citizens United*, holding that the federal government may not restrict or ban independent political spending by corporations or other groups in elections. The Court's opinion rested on a slender distinction: direct contributions to candidates may indeed pose a threat of corruption, but independent expenditures are different. Because they are made without coordination or prearrangement between the spender and the candidate, the Court reasoned, there is no opportunity for a *quid pro quo* to develop. That reasoning led Justice Anthony Kennedy to declare:

[W]e now conclude that independent expenditures, including those made by corporations, do not give rise to corruption or the appearance of corruption.¹

During the two intervening years, that rationale has been vigorously tested.

With wealthy individuals, corporations, and unions now able to funnel unlimited resources into new vehicles for political spending, groups formed to take advantage of this new landscape have fueled an exponential growth in independent spending. This year, so-called Super PACs flush with six-, seven-, or eight-figure donations have flooded the early primary states with negative ads.

The law requires these groups to maintain independence from the candidates they support — even as federal rules on independent expenditures allow the candidates themselves to solicit contributions for their Super PACs. As late-night television host Stephen Colbert has demonstrated to hilarious effect, the restrictions against coordinating with “independent” spenders are slack enough to make a mockery of the word “independence.” In reality, these groups can cooperate rather closely with candidates — for instance (in Colbert's case), a candidate's business partner (fellow Comedy Central host Jon Stewart) can direct his Super PAC. *These* are the restrictions the Court relies upon to conclude that independent expenditures do not give rise to the perception of corruption.

1 *Citizens United v. Federal Election Commission*, 558 U.S. ___ (2010).

Even as they explained away the potential for independent spending to corrupt the political process, the Court preserved the ability for members of the public to draw their own conclusions. Justice Kennedy wrote in the *Citizens United* decision that “prompt disclosure of expenditures can provide shareholders and citizens with the information needed to hold corporations and elected officials accountable for their positions and supporters.”²

Complete disclosure of outside spending — and its sources — is the only way for voters to know the identities of the big spenders backing the candidates. Disclosure should be timely, so voters are informed before they vote. As independent spending has exploded, however, lawmakers have struggled to keep up. While many states have strengthened their own disclosure laws in the wake of *Citizens United*, attempts in Congress to pass the DISCLOSE Act were blocked in the 111th Congress.³

Even before *Citizens United*, outside spending posed a growing challenge to New York City’s landmark public campaign financing system. The CFB’s report on the 2009 elections noted a distinct increase in outside spending. “With real estate and labor groups both intensifying their involvement in city elections,” the report said, “the activities of [outside groups] make it clear that these opposing interests will continue to play increasingly active roles in future elections.”⁴

Much of this activity, however, was hidden from public view. New York City campaign finance law requires a robust level of reporting from candidates, but voters seeking information about the full range of financial activity in City elections had no place to learn about outside spending.

New York City’s efforts to remedy this lack of disclosure began the following year. A Charter Revision Commission appointed in March 2010 by Mayor Michael Bloomberg proposed an amendment to the City Charter requiring the disclosure of independent expenditures in City elections. In November 2010, New Yorkers voted overwhelmingly to adopt the proposal.

The Charter amendment requires the Campaign Finance Board to promulgate rules to administer the disclosure of independent expenditures in City elections. In recognition of public interest in the issue, the CFB set out to conduct an open process that solicited input at every step along the way. The Board held its first public hearing on March 10, 2011 to discuss its approach to the rule-making. Thirteen representatives from good government groups and unions, elected officials, and members of the public testified in person, and four additional persons submitted written comments to be considered by the Board.

On September 8, 2011, the Board voted to release a draft of its proposed rules. The rules were published in the City Record on September 26, 2011 and were made available for a 30-day period of public comment. The Board held the mandated public hearing to discuss the proposed rules on October 27, 2011. Twenty-nine people testified before the Board, and an additional 24 written statements were submitted. (See Appendix A for a complete list of those who testified at both hearings.)

In response to this feedback, staff revised the proposed rules to address many of the concerns expressed to the Board. In advance of adopting the rules, the Board announced on February 16, 2012, that it would make the revised proposed rules public, and accept written comments for a period of two weeks.

2 *Citizens United*, 558 U.S. ___ (2010).

3 The legislation, co-sponsored in the Senate by U.S. Senator Chuck Schumer (D-NY), was reintroduced in the U.S. House of Representatives in February 2012 by Rep. Chris Van Hollen (D-MD).

4 NYC Campaign Finance Board, “New Yorkers Make Their Voices Heard: A Report on the 2009 Elections,” September 2010, p. 171. See pp. 167 – 171 for several specific examples of independent expenditures in City elections.

INDEPENDENT EXPENDITURES IN A POST-CITIZENS UNITED WORLD

Citizens United didn't create independent expenditures. Along with subsequent decisions, it removed constraints on how they are funded, allowing corporations, unions, and wealthy individuals to expend unlimited sums in support of their favored candidates. As a result, independent spending is exploding in elections at every level — federal, state, and local.

Federal elections. In the decision's immediate aftermath, the 2010 federal midterm elections saw a massive influx of outside funding into independent groups. More than \$300 million in independent expenditures were made to sway voters choosing members of the U.S. House and Senate in that year's elections — more than four times the amount in the 2006 midterm elections. What's more, nearly half the spending came from groups — like non-profit 501(c)(4) organizations — that are not required to disclose their donors.⁵

The 2012 presidential primaries have brought independent spending levels to new, previously unimaginable heights. Outside groups unaffiliated with political parties have spent nearly \$53 million in federal races through February 12, more than doubling the total through the same date in 2008.⁶ A study by the Wesleyan Media Project found that outside spending in the Republican presidential primaries in early 2012 (from January 1 – January 25) represented an increase of more than 1,600 percent from the GOP primaries in 2008. While independent expenditures accounted for only 2.6 percent of all ads aired in the early part of the 2008 race, this year nearly half the advertising in the early states has been independent of the campaigns.⁷

So-called Super PACs and other groups on both sides of the partisan divide are gearing up for the November elections, providing an inviting outlet for wealthy interests to influence their outcome. With the restrictions on campaign spending by corporations and unions lifted, more than 96 percent of the funds raised by Super PACs have come from contributions of at least \$10,000, according to a report released in February 2012 by Demos and USPIRG.⁸

State elections. The dramatic effects of *Citizens United* are not limited to federal elections. The National Institute on Money in State Politics (www.followthemoney.org) analyzed its impact at the state level, examining independent expenditures over the past three election cycles in selected states. Looking at 18 states, there is a trend of increased spending by third parties in state elections over the four years between 2006 and 2010.

Some of the most dramatic increases were in states that were forced to repeal prohibitions on corporate or union spending in elections after *Citizens United*. Arizona, which has a system of public financing for state elections, saw outside spending more than double between 2006 and 2010.⁹ North Carolina saw a 368 percent increase in independent spending over the same four years.¹⁰ In Iowa, independent spending increased by 28 times over.¹¹

5 Center for Responsive Politics, <http://www.opensecrets.org>

6 <http://www.opensecrets.org/outsidespending/>

7 Wesleyan Media project, "Outside Group Involvement in GOP Contest Skyrockets Compared to 2008," January 30, 2012, <http://mediaproject.wesleyan.edu/2012/01/30/group-involvement-skyrockets/>

8 Blair Bowie and Adam Lioz, "Auctioning Democracy: The Rise of Super PACs and the 2012 Election," Demos and U.S. Public Interest Research Group (USPIRG), p. 8.

9 National Institute on Money in State Politics, Independent Spending in Arizona, 2006 – 2010, August 12, 2011 <http://www.followthemoney.org/press/ReportView.phtml?r=456>

10 National Institute on Money in State Politics, Independent Spending in North Carolina, 2006 – 2010, December 20, 2011 <http://www.followthemoney.org/press/ReportView.phtml?r=472>

11 National Institute on Money in State Politics, Independent Spending in Iowa, 2006 – 2010, October 27, 2011 <http://www.followthemoney.org/press/ReportView.phtml?r=464>

Figure 1: Outside Spending on Elections in Selected States, 2006 – 2010

STATE	2006	2008	2010
AK [†]	\$1,930,767	\$582,432	\$1,238,923
AZ [†]	\$1,027,275	\$2,042,083	\$2,469,404
CA	\$65,190,482	\$17,290,413	\$38,979,390
CO ^{†*}	\$378,045	\$7,552,924	\$25,707,424
FL	\$31,538,738	\$17,003,237	\$48,218,708
IA [†]	\$152,316	\$1,658,855	\$4,328,751
ID	\$430,194	\$134,840	\$363,819
MA ^{†*}	\$5,178,051	\$574,538	\$18,066,290
ME	\$1,268,506	\$635,188	\$5,276,162
MI [†]	\$7,836,398	\$4,463,470	\$7,846,430
MN [†]	\$14,312,258	\$4,614,654	\$15,867,794
MO	\$3,701,979	\$5,553,165	\$3,243,441
NC [†]	\$570,734	\$8,790,647	\$2,673,595
OH [†]	\$9,940,483	\$3,100,144	\$20,706,556
OK [†]	\$471,233	\$711,267	\$1,093,158
TN [†]	\$1,268,701	\$2,694,253	\$2,152,321
TX [†]	\$1,053,484	\$1,867,485	\$2,138,671
WA	\$7,010,313	\$27,131,173	\$6,021,436
TOTAL	\$153,259,957	\$106,400,768	\$206,392,273
<p>Source: National Institute on Money in State Politics, http://www.followthemoney.org Note: includes expenditures on candidates and ballot measures * Changes in reporting requirements may account for some of the variation between years † Banned independent spending by corporations or unions prior to 2010</p>			

Like New York City, many of the states reviewed by NIMSP did not have an existing ban on independent expenditures by corporations or unions prior to 2010. For example, in Maine, which also provides public financing for elections, independent spending in 2010 was four times the comparable amount in 2006, growing twice as fast as did direct contributions to candidates.¹² The sharp increases in outside spending in those states cannot only be explained by *Citizens United*. Overall, a view of independent expenditures at the state level suggests an existing trend that *Citizens United* helped to accelerate.

12 National Institute on Money in State Politics, Independent Spending in Maine, 2006 – 2010, December 23, 2011 <http://www.followthemoney.org/press/ReportView.phtml?r=474>

Local elections. Independent spending has grown in big-city elections as well. San Francisco's 2011 mayoral election represents a unique case study on the impact independent expenditures can have on the local level. San Francisco has a public campaign financing program similar to New York City's, in which candidates who agree to limit their spending can receive public matching funds for small, local contributions. The 2011 election was the first contested mayoral election since the system was established in 2006, and the first in which mayoral candidates received public funding.¹³

Ed Lee was appointed interim mayor in January 2011 after his predecessor, Gavin Newsom, took office as Lieutenant Governor of California. Despite promising he would not run for election to a full term, Lee announced a change in heart in August after an independent group named Progress for All conducted a campaign to draft the interim mayor into the race.¹⁴ The law sets a \$500 limit on contributions to candidates, but the group's "Run Ed Run" campaign, operating independently of the candidate, raised mostly large contributions of as much as \$5,000.¹⁵

Lee entered a crowded race. With the help of the public matching funds program, four candidates were able to spend more than \$1 million — City Attorney Dennis Herrera; State Senator Leland Yee; former city legislator Bevan Dufty; and Board of Supervisors President David Chiu — and a fifth, venture capitalist Joanna Rees, spent nearly \$1 million. Lee, however, opted out of the matching funds program and quickly established himself as the leading fundraiser in the race, spending \$1.9 million.

But independent expenditures were the story of the election. Lee's campaign spending was supplemented by nearly \$1 million in spending by outside groups, most of it collected in large denominations. Wealthy supporters ranging from Silicon Valley investors to former mayor Willie Brown helped fund independent expenditure committees on his behalf. Former Facebook president Sean Parker gave \$100,000 to an independent committee called San Franciscans for Jobs and Good Government that spent more than half a million dollars on television ads, websites, and other advocacy in support of Lee's campaign. Another independent group, SF Neighbor Alliance for Ed Lee for Mayor 2011, spent nearly \$100,000 to publish a book about Lee and distribute 50,000 copies to voters.¹⁶

One news report explained, "Businesspeople with financial stakes in city contracts, real-estate professionals involved in major development projects, and investors in San Francisco companies who stand to benefit from specialized tax breaks can all be found" among those funding independent expenditures supporting Lee.¹⁷

While Lee was opposed by an additional \$420,000 in independent expenditures, most from a group supporting Leland Yee, he was by far the direct beneficiary of more outside spending than any candidate. With outside groups raising and spending unlimited sums to influence elections, expensive proxy battles between wealthy "independent" interests threaten to override the positive impact of the small-donor public funds program. San Francisco's previous mayoral election, in 2007, saw less than \$30,000 in outside spending.¹⁸ Four years later, spending by outside groups totaled nearly \$2.6 million. (See Figure 2.)

13 For more details on San Francisco's public financing system, visit www.sfethics.org.

14 John Coté, "SF Mayor Ed Lee changes mind, will seek full term," *San Francisco Chronicle*, August 8, 2011.

15 Gerry Shih, "The Money Behind 'Run, Ed, Run,'" *The Bay Citizen*, August 2, 2011.

16 Chris Roberts, "'Run, Ed, Run' Crew Returns With the Book of Ed Lee," *The San Francisco Appeal*, October 11, 2011.

17 Rebecca Bowe, "The Billionaire's Mayor," *San Francisco Bay Guardian*, October 18, 2011.

18 San Francisco Ethics Commission. *2007 Mayoral Public Financing Program and A Feasibility and Costs Study of a Full Public Financing Program*, p. 6.

Figure 2: Candidate Spending and Independent Expenditures in San Francisco's 2011 Mayoral Election

CANDIDATE	CANDIDATE SPENDING	INDEPENDENT EXPENDITURES (SUPPORT)	INDEPENDENT EXPENDITURES (OPPOSE)
Jeff Adachi*	\$197,238	\$63,006	–
Michela Alioto-Pier	\$769,739	\$13,996	–
John Avalos	\$649,777	\$68,001	\$30,763
David Chiu	\$1,240,919	\$197,942	–
Bevan Dufty	\$1,389,393	\$63,841	–
Tony Hall	\$595,825	–	–
Dennis Herrera	\$1,563,664	\$269,758	\$10,172
Ed Lee*	\$1,888,968	\$945,480	\$419,969
Joanna Rees	\$948,523	\$92,082	–
Phil Ting	\$528,167	\$13,342	–
Leland Yee	\$1,475,423	\$383,664	–
TOTAL	\$11,247,638	\$2,111,112	\$460,904

Source: San Francisco Ethics Commission, <http://www.sfethics.org>
 * Did not participate in SF's public matching funds program.

WHY DISCLOSURE MATTERS

Public disclosure of spending on elections provides voters with important information about candidates and elections. Most candidates for public office must ask supporters for money in order to run effective campaigns. The general public — and the law — recognizes the potential temptation inherent in each of those transactions. By exposing these exchanges to the light of day, disclosure provides an important safeguard against corruption.

Disclosure is a fundamental part of our nation's campaign finance system. The Supreme Court has long affirmed the public's right to information about money in politics. The Court's 1976 decision in *Buckley v. Valeo*, which still provides the basic constitutional framework for campaign finance regulation, referred to three essential public purposes for disclosure of candidates' fundraising:

- Disclosure provides voters with information about “[t]he sources of a candidate’s financial support,” which may “alert the voter to the interests to which a candidate is most likely to be responsive, and thus facilitate predictions of future performance in office.”¹⁹

19 *Buckley v. Valeo*, 424 U.S. 1 at 67.

- Disclosure requirements “deter actual corruption and avoid the appearance of corruption by exposing large contributions and expenditures to the light of publicity... A public armed with information about a candidate’s most generous supporters is better able to detect any post-election special favors that may be given in return.”²⁰
- Recordkeeping and reporting requirements “are an essential means of gathering the data necessary to detect violations” of campaign finance laws.²¹

In short, disclosure of election-related spending helps our democracy function properly. Disclosure helps potential voters evaluate candidates for office, empowers the public to act as watchdogs, and ensures that all actors in the electoral system are playing by the rules. While the Court’s stance on campaign finance has evolved over the years since *Buckley* was decided, the one constant has been the essential nature of disclosure to the American democratic process.

Even as the Court struck down limits on the way independent expenditures are funded in *Citizens United*, eight of the nine justices agreed that disclosure remains crucial to the conduct of elections. The majority decision explicitly recognized the “essential public policy purpose” of public disclosure for independent expenditures.

In proposing disclosure of independent expenditures, New York City followed similar reasoning.

As it described the requirement for “public disclosure of expenditures made by entities and individuals independent from candidates to influence the outcome of a city election or referendum,”²² the Final Report of the 2010 New York City Charter Revision Commission echoed *Buckley* and *Citizens United* in suggesting a rationale for providing New Yorkers with more details about election-related spending.

- The Final Report suggests that disclosure of independent expenditures will “provide critical information and context for members of the public and help them to evaluate advertising messages aimed at influencing their votes.”²³
- Yet another passage quotes the *Citizens United* decision, suggesting the purpose of disclosure is to provide citizens with the information to hold elected officials “accountable for their positions and supporters.”²⁴
- The Report also suggests that disclosure of independent expenditures would help ensure that candidates are all playing by the rules and “enhance CFB’s ability to enforce expenditure and contribution limits under current law by providing CFB with real-time data.”²⁵

Thus the Commission, following well-established models, proposed a range of policy purposes for public disclosure of independent expenditures meant to influence the outcome of elections: 1) to help members of the public evaluate messages aimed at influencing their votes; 2) to provide the public with information about candidates’ supporters; and 3) to help ensure candidates are complying with current law.

20 *Id.*

21 *Id.* at 68.

22 Final Report of the 2010 Charter Revision Commission, August 23, 2010, p. 54.

23 Final Report, 13.

24 Final Report, 14.

25 Final Report, 13 – 14.

CHARTER REQUIREMENTS

The first part of Question 2 on the City ballot in November 2010 asked voters if they wished to “[r]equire public disclosure of expenditures made by entities and individuals independent from candidates to influence the outcome of a city election or referendum.”²⁶ New Yorkers overwhelmingly approved the ballot question, with 84 percent voting in the affirmative.

The New York City Charter, as amended, provides the broad outlines of the requirement to disclose independent expenditures in New York City elections.

- Individuals or entities making independent expenditures of \$1,000 or more to support or oppose a candidate or ballot proposal must disclose those expenditures.
- Entities making independent expenditures of \$5,000 or more to support or oppose a candidate must disclose the sources of the funds used to make the expenditures. Any contribution from an entity, and contributions of \$1,000 or more from individuals, must be disclosed.²⁷

The Charter also requires that any literature or advertisement paid for by an independent expenditure must include the name of the individual or entity making the expenditure.²⁸

INDEPENDENT EXPENDITURES IN NEW YORK CITY ELECTIONS

Express Advocacy & Electioneering Communications: Definitions

The Charter requires the Campaign Finance Board to promulgate rules governing the requirement to disclose independent spending meant to influence the outcome of City elections.²⁹

The proposed requirement to disclose is written broadly, to cover spending in two categories:

- **Express advocacy:** contains phrases like “vote for,” “re-elect,” “support,” “cast your ballot for,” “vote against,” “reject,” “defeat,” or any statements that in context and with limited reference to external events, such as the proximity to the election, can have no reasonable meaning other than to advocate the election or defeat of a candidate or ballot proposal.
- **Electioneering communication:** refers to a candidate or a ballot proposal within 30 days of a primary election, or within 60 days of a general election.³⁰

Advertisements that constitute “express advocacy” may be clear and straightforward in their intentions to influence voters. Disclosure of spending for express advocacy is an important starting point. But for disclosure to be meaningful, it should be as inclusive as possible. Voters who pay close attention during election season

26 Question 2 included six additional issues, all grouped together under the heading “Elections and Government Administration.” The ballot questions are posted at http://www.nyc.gov/html/charter/downloads/pdf/final_ballot_questions.pdf.

27 NYC Charter §1052(15)(b).

28 NYC Charter §1052(15)(c). This provision applies only to expenditures for communications that reference candidates — not to those referring to ballot proposals.

29 NYC Charter §1052(15)(e).

30 The proposed rules issued by the Board in September 2011 defined a broader “window” for electioneering communications: 90 days before both the primary and general election. In response to comments received during the Board’s October hearing, the CFB’s revised proposed rules adopt the federal standard: 30 days before the primary and 60 days before the general election. The Board may choose to revisit the issue of the electioneering window if the date of the primary election is changed.

know that some campaign messages do not rely on straightforward words like “vote for” or “defeat.” Disclosure requirements limited only to expenditures for “express advocacy” messages would allow significant spending to go undisclosed.

As do the federal regulations on independent spending, the proposed rules take a more inclusive view. To ensure that the public has a full view of money in City elections, as the Charter requires, it is important that disclosure be required for spending on “electioneering communications” — advertisements and mass mailings run close to an election that refer to candidates or ballot proposals.

During the CFB’s first hearing on independent expenditures in March 2011, representatives from the Brennan Center for Justice at NYU School of Law testified about the importance of a broad standard for disclosure:

*Sham issue ads have been widespread at the federal level and in many states for years. Typically, they are driven by a desire to avoid disclosure under narrow definitions of independent expenditure. Accordingly, federal law and the laws of seventeen states have created a new category of independent expenditures — electioneering communications... Disclosure of independent spending must include disclosure of electioneering communications in order to keep voters apprised of who has been attempting to influence their vote. Otherwise, it may be impossible for the electorate to exercise an informed vote on Election Day.*³¹

Though it may mention a public policy issue, a mailing sent just before an election declaring that “[Candidate X] is wrong on property taxes” or “[Candidate Y] is standing up for middle-class families” may be received as an attempt to influence voters. These are effective campaign messages. Any meaningful disclosure requirement should allow the public to see which interests are paying to broadcast them.

In addition to the proliferation of sham issue ads in federal and state elections, there are several examples of electioneering communications designed to influence voters during the most recent City elections, all of which were funded with contributions well in excess of the contribution limits that apply to City candidates.

Electioneering Communications in NYC Elections, Example 1: NYC Is Not For Sale

In the weeks before the 2009 mayoral election, Communications Workers of America, Local 1180 funded an advertising campaign opposing incumbent Mayor Michael Bloomberg’s candidacy. Run independently of challenger Bill Thompson’s campaign, the “NYC Is Not For Sale” committee spent more than \$500,000 to air television and radio ads that criticized Bloomberg’s wealth, his City budgets, his campaign spending, and his move to extend term limits. One of the “satirical” spots featured a man and woman “dressed for a black tie cocktail party.” (See Figure 3.) Another used “unflattering close-up photos of the mayor.”³²

The tag line of the commercials made reference to Bloomberg’s high-spending campaign (“Tell Republican Michael Bloomberg: NYC is not for sale”) but did not explicitly urge a vote against the incumbent mayor. Disclosure of the expenditures by the NYC Is Not For Sale committee was filed with the New York State Board of Elections — but because the spending was done within two weeks of the election, the first time the public had a chance to see the complete details was nearly a month after the election was decided.

31 “Testimony of Ciara Torres-Spelliscy and Mark Ladov submitted to the New York City Campaign Finance Board for the hearing on Promulgating Rules for the Disclosure of Independent Expenditures,” March 10, 2011. Posted at: <http://www.nycffb.info/press/news/testimony/pdf/post-election/2011-03-10-CT.pdf>

32 Michael Barbaro, “Union Local Pays for Anti-Bloomberg Ads,” *The New York Times*, October 19, 2009.

Figure 3: NYC Is Not For Sale Television Ad



Electioneering Communications in NYC Elections, Example 2: NYS Independence Party

In 2009, New York City’s real estate industry came together to plan an unprecedented independent expenditure campaign to counterbalance the success of candidates backed by the Working Families Party (WFP) and its allies in the labor movement.

To fund their efforts, the Real Estate Board of New York (REBNY) helped generate more than \$500,000 in contributions to the New York State Independence Party. Many of the city’s most powerful developers, including Tishman Speyer, Two Trees Management, and the Durst Organization, gave \$45,000 or more through corporate entities or limited liability companies.

The Independence Party took an active role in Democratic primary elections for the very first time, financing the production and distribution of mass mailings in support of City Council candidates facing WFP-backed opponents. The Independence Party mail campaign did not expressly urge a vote for its chosen candidates. (See Figure 4.) Instead, the mailings highlighted issues of concern to voters, such as:

- “The New York State Independence Party is fighting hard for our seniors. Join us in supporting that fight! We should thank [candidate] for her support of our seniors.”
- “The Independence Party and [candidate] are working to make our neighborhoods safe.”
- “When you see [candidate], thank him for his strong opposition to new taxes!”
- “The Independence Party and [candidate] support excellence and accountability in our school system.”

Figure 4: Independence Party Mailer



Disclosure of the sources of the funds behind these efforts was not available to the public until January 2010, when the Independence Party made its semi-annual filing to the State Board of Elections. To ensure that New Yorkers are empowered to cast an informed vote in these elections, recent experience clearly illustrates the need for rules that are written broadly, to require timely disclosure for spending on electioneering communications.

Outside spending is of special concern in an election among candidates in the public matching funds system because independent expenditures can make a big difference in a campaign among candidates who must observe a spending limit.³³ For that reason, it is important that New York City's proposed disclosure requirements will improve on the federal model in at least one area: existing law and Board rules will enable the CFB to ensure that independent expenditures remain truly independent.³⁴

Express Advocacy & Electioneering Communications: Delivery

As discussed, the proposed rules define two kinds of independent expenditures — *express advocacy* and *electioneering communications*. Spending to transmit the most explicitly political messages — express advocacy communications — will be subject to broad disclosure. The requirement to disclose spending on express advocacy communications across most forms of media will be consistent with federal regulations.³⁵

33 For candidates participating in the Campaign Finance Program, the spending limit for City Council elections in 2009 was \$161,000.

34 See Admin. Code §3-702(8); Campaign Finance Board Rule *1-08 (f)*.

35 See 11 CFR 100.26, which defines *public communication* as “any broadcast, cable, or satellite communication, newspaper, magazine, outdoor advertising facility, mass mailing, or telephone bank, or any other form of general public political advertising.” The definition also includes “communications placed for a fee on another person’s website.”

Disclosure of spending on *express advocacy communications* will include:

- radio, television, cable, or satellite broadcasts;
- telephone communications (of 500 or more calls within a 30-day period, live or recorded, of an identical or substantially similar nature);
- mass mailings (of 500 pieces or more within a 30-day period, of an identical or substantially similar nature);
- other printed material (for instance, literature or palm cards);
- other forms of paid political advertising;
- ads placed for a fee on an Internet site; and
- material placed on web sites formed primarily for the election, passage, or defeat of a candidate or ballot proposal.

The rules will not require disclosure of spending for other modes of communication, such as email, SMS messages, social media postings, individual phone calls and letters, and in-person communication.

Because they are more broadly defined to include messages that mention the name of a clearly identified candidate, federal regulations for disclosure of spending on *electioneering communications* are more limited by modes of delivery.³⁶ The CFB's proposed rules take a similar approach. Disclosure of spending on *electioneering communications* will include:

- radio, television, cable, or satellite broadcasts;
- paid advertisements, such as in a periodical or on a billboard; and
- mass mailings (of 500 pieces or more within a 30-day period, of an identical or substantially similar nature).

The Board heard several concerns that an overly broad definition of electioneering communications would force individuals or organizations that engage in genuine issue advocacy or grass-roots lobbying activities to report their financial information to the public. For that reason, the rules, as drafted, use the federal regulations — which cover broadcast communications and paid advertising only — as a baseline. The CFB's proposed rules for disclosure of spending for electioneering communications go beyond the federal standard to cover mass mailings like the Independence Party mailing shown above.

To provide useful information to the voters, it is important that the rules reflect the way people and organizations communicate about elections in New York City. In the absence of existing disclosure for independent expenditures, it is impossible to do a detailed study of independent spending in previous City elections. A review of spending by candidates, however, should give an approximate look at the way that groups communicate with voters about elections. An analysis of candidates' expenditures during the 2009 election shows that mail is a significant portion of election-related communication.

³⁶ See 11 CFR 100.29, which defines *publicly distributed* as “aired, broadcast, cablecast or otherwise disseminated through the facilities of a television station, radio station, cable television system, or satellite system.”

With a broader electorate to reach, the average candidate for citywide office spent the largest portion of his or her communications budget on broadcast media — more than 60 percent.³⁷ Still, the average citywide candidate dedicated almost 30 percent of his or her spending to mass mailings.

Figure 5:
Average Spending on Voter Communications,
Citywide Candidates, 2009 Elections

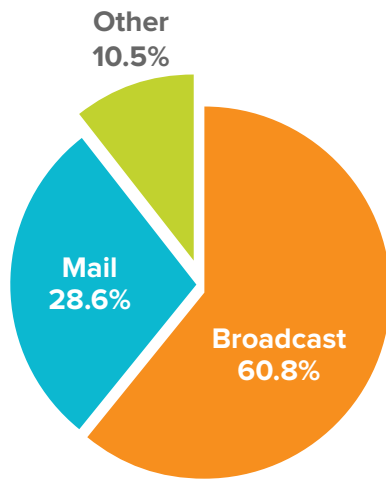
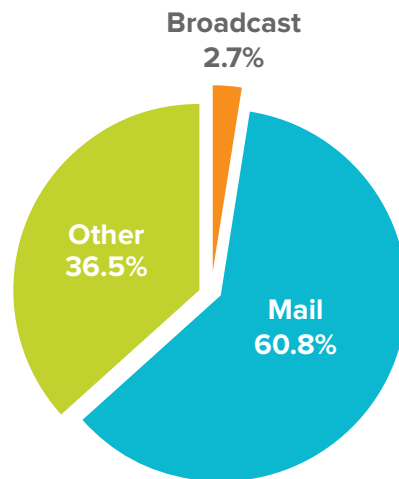


Figure 6:
Average Spending on Voter Communications,
City Council Candidates, 2009 Elections



For City Council candidates, who target much smaller constituencies, mailings are by far the preferred mode of voter communication. Among a representative sample of ten Council campaigns — two from each borough — the average candidate devoted almost two-thirds of his or her communications budget to mass mailings. A much smaller portion, only three percent, went to broadcast advertising.³⁸ [A more complete review of this analysis is attached as Appendix B.]

This review of spending by campaigns shows that mailings are an important mode of communication in City elections — especially for Council races. A requirement to disclose spending on electioneering communications that fails to include mass mailings would likely allow a significant amount of spending in New York City elections to go undetected. In order to give voters a complete view of independent expenditures in City elections, spending for electioneering communications mailed to voters should be disclosed, and will be covered under the CFB’s proposed rules.

Express Advocacy & Electioneering Communications: Exemptions

Membership Communications: Many of those who delivered testimony to the Board argued that organizations should not be required to disclose spending for communications with their membership. Supporters of a blanket exemption for “membership communications” argued that an exemption should apply to any and all communications between an organization and its members, up to and including campaign-style mailings that

37 The analysis reviewed disclosures and other documentation submitted to the CFB from the following candidates: William Thompson (Mayor); Bill de Blasio, Eric Gioia, Mark Green, Norman Siegel (Public Advocate), Melinda Katz, John Liu, David Weprin, and David Yassky (Comptroller).

38 The analysis reviewed disclosures and other documentation submitted to the CFB during the 2009 election from the following candidates for Council: Anthony Cassino, Fernando Cabrera (Bronx), Margaret Chin, Yetta Kurland (Manhattan), Daniel Dromm, Deirdre Feerick (Queens), Kenneth Mitchell, Vincent Ignizio (Staten Island), Josh Skaller, and Albert Vann (Brooklyn).

qualify as express advocacy. Those arguing for a blanket membership communication exemption included representatives from labor unions, elected officials, and civic groups.³⁹

However, the language of the Charter does not suggest a broad “carve-out” for any entity or group based on the intended audience for a communication. Taken together, the clear public policy goals outlined by the Charter Revision Commission in its report provide no basis for broadly exempting spending from disclosure requirements because its message is targeted at a particular group.

For instance, an independent group may choose for strategic reasons to transmit an election-related message only to some clearly defined subset of the general public. It might be a mailing to women between the ages of 30 – 49 who voted in the last election, or a commercial on a Russian-language television station available only in some neighborhoods. No provision of the Charter supports exempting those expenditures from disclosure based on the fact that the message was not transmitted to all potential voters. Similarly, a blanket exemption for groups that spend significant funds on campaign messages targeted to their members simply does not conform to the spirit or letter of the Charter.

The nature of some organizations requires a thoughtful approach to disclosure, however. As such, the proposed rules include a limited exemption for some regular communications from an organization to its membership.⁴⁰ Spending to print and send routine newsletters, or conduct phone banks to members, will be exempt from disclosure, and an organization will not need to disclose spending on communications among its membership that are part of its internal deliberations about which candidate to endorse.

As stated earlier, in order to provide useful information to the public, the rules need to paint a complete and accurate picture of spending in New York City elections. While unions and other groups engage in grass-roots lobbying, and communicate with their members about civic issues, they also make expenditures to influence the outcome of elections. To illustrate the point, in a newspaper profile, one union president described a “revelation” he’d recently had. His union, the story said, “had long had an active membership, and had given a lot of money to political candidates. But he realized that in order to secure the futures of his mostly low-income membership, they needed to be the union directly responsible for getting politicians elected.”⁴¹

501(c)(3) organizations: During its October hearing, the Board received testimony from several non-profits concerned their activities would be subject to disclosure requirements for electioneering communications. Their concerns were echoed by Council Speaker Christine Quinn, who urged an exemption for certain non-profit organizations: “[M]any organizations, including 501(c)(3) non-profit organizations that are prohibited from engaging in political campaign activity, educate and mobilize members of the public regarding concerns about the proposed budget... [This] budget advocacy is, however, genuine issue advocacy that is not intended to influence elections and is not an attempt to influence an election, and the rules should not treat it as such.”⁴²

39 A list of those who testified before the Board on the proposed rules is attached as Appendix A.

40 Some of these exemptions were written in response to specific concerns raised in testimony before the Board. See, e.g., “Testimony to the New York City Campaign Finance Board, Terry McGinnis, General Counsel, SEIU 32BJ, March 10, 2011.” Posted at: <http://www.nycfcfb.info/press/news/testimony/pdf/post-election/2011-03-10-TM.pdf>

41 Chris Bragg, “*New York City’s 12 Most Effective Labor Leaders*,” *City Hall News*, May 31, 2010, p. 17.

42 Testimony of Christine C. Quinn, Speaker, New York City Council, Proposed Rules for Disclosure of Independent Expenditures in City Elections, New York City Campaign Finance Board, October 27, 2011. Posted at: <http://www.nycfcfb.info/PDF/IE/cQuinn.pdf>

There is a compelling basis to create an exemption for certain non-profits. 501(c)(3) organizations must refrain from activities that explicitly support candidates for public office. Federal regulations state that an organization may not claim tax-exempt status under section 501(c)(3) if it “participates or intervenes, directly or indirectly, in any political campaign on behalf of or in opposition to any candidate for public office.”⁴³

The Internal Revenue Service advises campaigns to interpret this prohibition on political activity broadly. An IRS guidance document warns, “Even if a statement does not expressly tell an audience to vote for or against a specific candidate, an organization delivering the statement is at risk of violating the political campaign intervention prohibition if there is any message favoring or opposing a candidate.”⁴⁴

With these existing constraints, it is unlikely that 501(c)(3) groups will engage in the sort of activity that is more clearly intended to influence elections. Other jurisdictions have reached the same conclusion. Both Illinois⁴⁵ and West Virginia⁴⁶ exempt communications made by 501(c)(3) organizations from their definition of electioneering communication.

The CFB’s proposed rules include a similar exemption: 501(c)(3) organizations will not be required to report their spending on communications that would otherwise be considered electioneering communications — if they relate to a candidate for office. 501(c)(3) groups are permitted by the Internal Revenue Code to engage in advocacy relating to ballot questions. As such, any spending meant to influence the outcome of a ballot referendum, whether it is considered to be express advocacy or electioneering communication, is subject to disclosure under the proposed rules.

CONCLUSION

The Board has made an unprecedented effort to solicit feedback during its rule-making on this important topic, and comments from the public have helped to make these rules stronger and better. As it considered the issues during the course of the past several months, the Board has worked hard to ensure that New Yorkers are given access to the information they expected when they voted to require disclosure of independent expenditures in City elections.

Recent experience across the nation suggests that outside spending in elections will continue to increase in the coming years. Recent experience in New York City shows a clear need for disclosure requirements that are broad enough to encompass spending on “sham issue ads” as well as those that expressly advocate for a candidate.

The spending limits that candidates accept as a condition of the public matching funds program magnify the impact of spending by outside groups. With a Supreme Court that has proven hostile to further regulation on campaign spending, strong disclosure rules may be the voters’ last, best defense against the impact of independent, big-money spending in politics.

43 26 CFR 1.501(c)(3)-1.

44 “*Election Year Activities and the Prohibition on Political Campaign Intervention for Section 501(c)(3) Organizations*,” Fact Sheet 2006-17, February 2006.

45 IL ST CH 10 § 5/9-1.14.

46 W. Va. Code § 3-8-1a.



APPENDIX A: TESTIMONY SUBMITTED TO THE NYC CAMPAIGN FINANCE BOARD ON DISCLOSURE OF INDEPENDENT EXPENDITURES

March 10, 2011 Public Hearing on Disclosure of Independent Expenditures

A video recording and transcript of the hearing are available on the [CFB website](#).

[Marcy Benstock](#), Clear Air Campaign Inc

[Bill de Blasio](#), Public Advocate for the City of New York

[Gale A. Brewer](#), New York City Council

[Alex Camarda & Rachael Fauss](#), Citizens Union of the City of New York

[Walter Cooper](#), SEIU 32BJ

[Robin Frith](#), SEIU 32BJ

[Josh Gold](#), NY Hotel & Motel Trades Council

[Laurence D. Laufer](#), Genova, Burns & Giantomasi

[Susan Lerner & Deanna Bitetti](#), Common Cause/NY

[Terry Meginniss](#), SEIU 32BJ

[Barbara T. Rochman](#), Women's City Club of New York

[Gene Russianoff](#), New York Public Interest Research Group

[Ciara Torres-Spelliscy & Mark Ladov](#), Brennan Center for Justice

October 27, 2011 Public Hearing on Proposed Rules for Disclosure of Independent Expenditures

A video recording and transcript of the hearing are available on the [CFB website](#).

[American Federation of State, County and Municipal Employees, AFL-CIO](#)

[Angel Aybar](#)

[Rick Berg](#), Actors' Equity Association

[Richard Berlin](#), Harlem RBI

[Robert Bishop](#), Pitta Bishop Del Giorno & Giblin LLC

[Deanna Bitetti](#), Common Cause/New York

[Gregory Brender](#), United Neighborhood Houses

[Gale A. Brewer](#), New York City Council Member

[Philmore Brown](#), Insulators Local 12

[Arthur Cheliotis](#), The Communications Workers of America Local 1180

[Michael E. Clark](#), Nonprofit Coordinating Committee of New York

[Arthur Clements](#), Transit Workers Union Local 100

[Walter Cooper](#), Service Employees International Union Local 32BJ
[Dick Dadey](#), Citizens Union of the City of New York
[Bill de Blasio](#), New York City Public Advocate
[Demos Demopoulos](#), Teamsters Local 553
[Benjamin Dulchin](#), Association for Neighborhood and Housing Development, Inc.
[Arthur Eisenberg](#), New York Civil Liberties Union
[Althea Erickson](#), Freelancers Union
[Desiree Fraser](#)
[Robin Frith](#), Service Employees International Union Local 32BJ
[Josh Gold](#), NY Hotel & Motel Trades Council
[Laurence Gold](#), Service Employees International Union Local 32BJ
[Michelle Jackson](#), Human Services Council
[Ketny Jean-Francois](#), Community Voices Heard
[Serge Jeudy](#)
[Gary S. Karter](#), LSA Family Health Service
[Gigi Li & Sierra Stoneman-Bell](#), Neighborhood Family Services Coalition
[Carly Knudson](#), New Yorkers for Clean, Livable & Safe Streets
[Harry M. Kresky](#), Election Law Committee, New York County Lawyers' Association
[Mark Ladov](#), Brennan Center for Justice
[Laurence D. Laufer](#), Genova, Burns & Giantomasi
[Jennifer March-Joly](#), Citizens' Committee for Children
[Joan Malin](#), Planned Parenthood of New York City
[Patrick Markee](#), Coalition for the Homeless
[Juan Martinez](#), Transportation Alternatives
[Barry Newmark](#), Brooklyn Community Services
[Aleksandra Nosel](#)
[Elizabeth Perez](#), Lawyers Alliance for New York
[Christine Quinn](#), New York City Council Speaker
[Barbara T. Rochman](#), Women's City Club of New York
[Santos Rodriguez](#), Insulators Local 12
[Gene Russianoff](#), New York Public Interest Research Group
[Doug Sauer](#), New York Council of Nonprofits, Inc.
[Judith Seemungal](#)
[Wayne Shephard](#), Transit Workers Union Local 100
[Ronald Soloway & Cara Berkowitz](#), UJA Federation of New York

Yanela Tamayo

United Federation of Teachers

Peter Ward, Hotel Trades Council

Wanda Williams, District Council 37

Assemblyman Keith Wright, Congressman Joseph Crowley, Assemblyman Carl Heastie, Assemblyman Vito Lopez

Ha Chhao Yi

Ariel Zwang, Safe Horizon

The Board also received written statements from:

Campaign Legal Center

Molly Daniels, American Cancer Society Cancer Action Network



APPENDIX B: CANDIDATE SPENDING ON VOTER COMMUNICATIONS, 2009 ELECTIONS

The Board's proposed rules require disclosure for *electioneering communications* conducted through broadcast media, paid advertisements, or mass mailing. Federal regulations require disclosure for the first two of those, but not the third. To best capture the activity that takes place in New York City elections, however, the Board's proposed definition of *electioneering communications* includes mass mailing.

As noted in the earlier discussion, a study of campaign spending provides a useful look at the methods used generally to communicate with voters in City elections. While spending for broadcast media dominates among candidates for citywide office, mailings are a significant (28.6 percent) part of their overall communications spending. For Council candidates, mail dominates (60.8 percent). Generally, it is clear that mail is a common method of advocacy in City elections.

Figure B-1: Spending by Selected Citywide Candidates on Voter Communications

CANDIDATE	OFFICE	BROADCAST*		MAIL		OTHER†		ALL VOTER COMMUNICATIONS
		\$	%	\$	%	\$	%	
Bill de Blasio	Public Advocate	\$611,154	30.5%	\$1,178,237	58.7%	\$216,787	10.8%	\$2,006,178
Eric Gioia	Public Advocate	\$1,949,880	78.4%	\$490,877	19.7%	\$45,347	1.8%	\$2,486,104
Mark Green	Public Advocate	\$696,613	47.3%	\$716,318	48.6%	\$59,878	4.1%	\$1,472,809
Melinda Katz	Comptroller	\$1,309,725	66.4%	\$592,838	30.0%	\$71,140	3.6%	\$1,973,703
John Liu	Comptroller	\$2,139,758	72.6%	\$439,134	14.9%	\$367,937	12.5%	\$2,946,829
Norman Siegel	Public Advocate	\$290,020	41.9%	\$230,348	33.3%	\$171,605	24.8%	\$691,973
Bill Thompson	Mayor	\$3,295,050	77.9%	\$226,774	5.4%	\$706,357	16.7%	\$4,228,181
David Weprin	Comptroller	\$1,055,664	53.6%	\$747,700	38.0%	\$166,148	8.4%	\$1,969,512
David Yassky	Comptroller	\$3,051,490	79.0%	\$341,600	8.8%	\$471,068	12.2%	\$3,864,158
AVERAGE PERCENTAGE			60.8%		28.6%		10.5%	

Source: New York City Campaign Finance Board

* includes television and radio advertisements

† includes print advertisements, literature, paid phone calls or robo-calls, posters, lawn signs, campaign websites, paid web advertisements

Figure B-2: Spending by Selected City Council Candidates on Voter Communications

CANDIDATE	OFFICE	BROADCAST*		MAIL		OTHER†		ALL VOTER COMMUNICATIONS
Fernando Cabrera	CD#14 (BX)	\$9,358	16.2%	\$31,718	55.0%	\$16,604	28.8%	\$57,680
Anthony Cassino	CD#10 (BX)	\$0	0.0%	\$67,847	82.0%	\$14,853	18.0%	\$82,701
Margaret Chin	CD#1 (MN)	\$923	0.5%	\$130,592	73.9%	\$45,100	25.5%	\$176,615
Daniel Dromm	CD#25 (QN)	\$0	0.0%	\$107,453	79.7%	\$27,336	20.3%	\$134,789
Dierdre Feerick	CD#26 (QN)	\$0	0.0%	\$88,663	73.8%	\$31,509	26.2%	\$120,172
Vincent Ignizio	CD#51 (SI)	\$11,700	9.2%	\$45,361	35.5%	\$70,566	55.3%	\$127,626
Yetta Kurland	CD#3 (MN)	\$0	0.0%	\$71,319	60.3%	\$46,894	39.7%	\$118,213
Ken Mitchell	CD#49 (SI)	\$1,500	1.4%	\$71,862	68.9%	\$30,906	29.6%	\$104,268
Josh Skaller	CD#39 (BK)	\$0	0.0%	\$41,007	45.1%	\$49,860	54.9%	\$90,867
Albert Vann	CD#36 (BK)	\$0	0.0%	\$31,187	33.5%	\$61,926	66.5%	\$93,113
AVERAGE PERCENTAGE			2.7%		60.8%		36.5%	
<p>Source: New York City Campaign Finance Board</p> <p>* includes television and radio advertisements</p> <p>† includes print advertisements, literature, paid phone calls or robo-calls, posters, lawn signs, campaign websites, paid web advertisements</p>								

To start the analysis for citywide offices, we reviewed candidates for mayor, public advocate, and comptroller who spent more than \$1 million overall. (Michael Bloomberg’s re-election campaign for mayor was excluded from the analysis.) For City Council, we chose among candidates who spent more than \$150,000 overall; to encompass differences in campaigning among boroughs, we reviewed two candidates from each borough.

To compile the numbers for the analysis, we reviewed campaign disclosures filed with the CFB (and publicly available through the CFB’s [searchable database](#)), which indicate a purpose and explanation for each expenditure. (For a full list of expenditure purposes, visit the CFB’s [online help for the searchable database](#).) In most cases, the explanation given by the campaign as part of its disclosure filings provided information sufficient to place the expenditure in the correct category. In some other cases, we reviewed invoices provided by campaigns as part of the post-election audit to find costs related to voter communications and place them in the appropriate category.