



Lawyers Alliance for New York

Connecting lawyers, nonprofits, and communities

Lawyers Alliance for New York's Comments to New York City Campaign Finance Board on Revised Proposed Rules for the Disclosure of Independent Expenditures in New York City Municipal Elections

March 1, 2012

Lawyers Alliance for New York ("Lawyers Alliance") comments on the revised proposed independent expenditure rules issued by the New York City Campaign Finance Board ("CFB") on February 16, 2012.

Lawyers Alliance is the leading provider of business and transactional legal services to nonprofit organizations that are improving the quality of life in New York City ("NYC") neighborhoods. As community-based and other nonprofit organizations increasingly seek to improve public policies through permissible advocacy activities, Lawyer Alliance regularly advises such organizations about applicable lobbying reporting requirements.

Lawyers Alliance applauds the CFB's constructive process in revising the independent expenditure rules and appreciates its careful consideration of comments submitted in response to the proposed rules. We look forward to continuing an open dialogue with CFB staff once the rules are implemented and as questions and concerns by nonprofit organizations arise.

Lawyers Alliance supports CFB's modification of the proposed rules to exempt 501(c)(3) organizations from disclosure requirements for electioneering communications. Specifically, the definition of electioneering communication under the revised proposed rules does not include candidate-related communications made by a 501(c)(3) organization. In creating this exemption, CFB recognized that 501(c)(3) organizations are prohibited by the Internal Revenue Code from engaging in partisan political activities to support or oppose candidates of office. The revision is responsive to Lawyers Alliance's concern that the definition of electioneering in the original proposed rules might subject 501(c)(3) organizations engaged in legislative advocacy to duplicative or onerous reporting. Similarly, we appreciate that disclosure of contributions is now limited to candidate-related activity, which we understand to be a response to concerns raised about the original proposed rules being overbroad in their required disclosures by 501(c)(3) organizations of contribution information.

Additionally, Lawyers Alliance supports the changes that clarify and narrow the content of covered communications that must be reported as independent expenditures as well as the narrowing of the window of time such communications are considered electioneering communications. Lawyers Alliance understands that the CFB is attempting to issue rules that reflect New York City voters' desire for public disclosure of independent expenditures without restricting the ability of groups to communicate about significant issues being debated by elected officials within 60 days of a general election and 30 days before a primary election. We appreciate that the CFB revised its rules to bring the timeframe embodied in the definition of

electioneering communication more in line with federal standards. We request that CFB monitor the effectiveness of this window and revisit the timing if necessary to ensure appropriate transparency without onerous reporting.

We understand that spending by 501(c)(3) groups meant to influence the outcome of a city ballot proposal is subject to disclosure under the revised proposed rules. This reporting requirement is consistent with voter and CFB intent to capture independent spending on NYC ballot initiatives because advocacy surrounding ballot initiatives is permissible for 501(c)(3) organizations and is not currently reportable to other governmental agencies. We encourage CFB to implement the specific disclosure rules for ballot-related spending in a manner that ensures that they are sufficiently tailored to achieve appropriate transparency without undue burden.

Education and outreach are valuable to ensuring that all nonprofit organizations are aware of the applicability and scope of the CFB's disclosure rules. Nonprofit organizations are unfamiliar with CFB's reporting scheme and may need training and support to ensure compliance. Lawyers Alliance appreciates ongoing guidance from the CFB to help organizations comply and offers its assistance to CFB and the nonprofit sector in carrying out this task.

Thank you for the opportunity to comment. Please contact Staff Attorney Elizabeth Perez, Senior Policy Counsel Irum Taqi or Deputy Executive Director Elizabeth Guggenheimer for further information at (212) 219-1800.