Testimony to the New York City Campaign Finance Board
By Arthur Cheliotes

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Thank you for the opportunity to offer comments about proposed independent expenditure regulations.

My name is Arthur Cheliotes, President of The Communications Workers of America Local 1180. We have 15,000 members and retirees.

Local 1180 supports the intent of the November 2010 amendment to the City Charter – to require the disclosure of independent expenditures by individuals and groups attempting to persuade voters on candidates and referenda on the ballot. But we believe the rules you've presented go well beyond the mandate of the Charter amendment and run counter to your mission of increasing citizen participation in the political process.

Instead of simply regulating speech intended to sway the public and directly affect an election, you are regulating speech intended to educate the public on the decisions and policies of elected officials and communication by organizations with their own members.

The rule can't be defended as simply requiring "more disclosure" – it would also limit or prohibit much of our membership and public advocacy, and our normal engagement with public officials, by treating it as a so-called "in-kind contribution" to a "candidate."

Moving forward with this threatens the ability of a wide range of non-partisan and not-for-profit organizations to communicate with the public about legislative issues, participating effectively in policy debates, and communicating with their own members and supporters about politics. If the CFB believes it's important to regulate member communications and issue advocacy – which infringes on our First Amendment right to communicate with members of our local union - then voters or our elected representatives ought to have a right to vote on it. Because that is surely not the result City residents intended when they voted for the Charter amendment.

When union members communicate with each other about politics, it increases participation in the political process. Several recent studies have shown that when unions communicate with their members about politics – and why elections matter – those members are more likely to participate in the electoral process. The same is no doubt true of other membership organizations as well.

Treating membership organizations as if we were actual political campaign committees is misguided. If we spend as little as $1,000 communicating with the public about an elected official's stance on legislative issues (if the elected official happens to be a candidate), we would have to file extensive financial reports for the first time. The same would be true if we were communicating with our own members about an election.

Reporting is not a simple process that our staffs would have to add to their current responsibilities. There would be as many as 12 scheduled reports, plus up to 14 more just before the primary or general election. Each report would require a great deal of information and documentation. Failure to report, or reporting incorrectly, could lead to lengthy investigations, $10,000 fines and even criminal prosecution. All of this means, in practice, that nearly all groups subject to the new rules would either forgo speaking out or, if they can afford it and are willing to take the risks, incur significant new accounting and legal costs just to comply in the first place.

And these disclosures are in many cases duplicative. If we spend money to influence policy decisions we already file lobbying disclosure reports.

Strict rules and meaningful punishments associated with these new rules are entirely appropriate for the independent PACs and expressly political groups whose spending the Charter amendment was meant to shine a light on. But the same regulation becomes onerous when applied to groups whose clear intention is public education, advocacy, or member service and representation.

The proposed rule is especially onerous because it goes beyond simply requiring new disclosures. If a covered communication were "coordinated" with an elected official, it would be deemed an "in-kind contribution" and, if it cost at least $2,750, $3,850 or $4,950 (depending on the office the elected official were running for), it would be illegal and prohibited. (And, each amount is cumulative per "candidate" throughout a 4-year election cycle.)

There can be little question that given the high costs -- both in the complexity of CFB filing and the need to retain accounting and legal counsel – and the risks of erroneous reporting, that many groups would respond to these proposed rules by limiting their own speech, including to their own members – an outcome at odds with the CFB's broad goal of increasing participation in the democratic process.

In contrast, the proposed rule gives even greater advantage to elite candidates from the top 1% who can readily fund an army of attorneys and accountants that would overwhelm the CFB's staff. Recent history has shown us that an elite candidate from the top 1% spent unlimited funds and could easily pay any fines. The proposed rule gives these organized moneyed interests even greater advantage against organized citizens and workers contrary to the mission of the CFB. This proposed rule only burdens the organized 99% by effectively abridging their speech and the right of organized people to petition the government for a redress of grievances.

Recent revelations on income inequality can be traced back to the domination of our political process by the elite 1% that perpetuates a cycle of public policy changes making the rich richer and more money pouring into political campaigns. In sum, the proposed rule further slants the political playing field in favor of the elite 1%. It promotes one dollar one vote, not one person one vote, turning the mission and purpose of the CFB on its head.

Smaller unions and groups would be especially hard hit and deterred. That would be an unacceptable consequence of a City law that was designed instead to inform the general public about the identities and funders of secretive groups that are trying to persuade them how to vote.

The CFB can fulfill the City Charter amendment's goal of bringing transparency and accountability to independent political expenditures without stifling speech that is critical to the democratic process by limiting its proposed rules to "express advocacy," the spending that targets the *public* with speech that clearly supports or opposes candidates in elections.

When organizations and wealthy people spend money communicating with the general public and say "Vote for Candidate X" or "Defeat Candidate Y," they should disclose who they are, how much they spent, and who else financed that advertising. And, the rule should focus on disclosure of funding that actually relates to the communications themselves. That's what the Charter amendment was aimed at.

The CFB should not interfere with membership relationships, impose onerous and chilling requirements on legislative and issue advocacy, or force organizations to report irrelevant private information just because they exercise their First Amendment rights.