

Brooklyn Community Services
Testimony to the Campaign Finance Board

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

My name is Barry Newmark and I am the Interim Executive Director for Brooklyn Community Services, one of Brooklyn's first and largest providers of social services to 10,000 children, families and adults with disabilities.

Advocacy is one of our most effective tools to achieve our organization's goals. It's critical for nonprofits like ours to take part in the democratic process - alongside business and other private interests. This is not only our First Amendment right - it is our responsibility to the individuals and communities we serve and represent.

Through our advocacy work, we help ensure the public interest is represented in critical debates that determine public policy and help shape the kind of City we live in. Our advocacy leads to more effective policies enacted to address the underlying causes of societal problems. We are in the best position to provide guidance to City leaders because we are direct service providers and have close relationships with our clients and other direct service agencies.

We strongly believe these new rules will decimate non-profit advocacy that have successfully rescued childcare and preventive services funding for thousands of working families, in addition to other critical programs and services.

It would also make it hard for non-profit membership organizations, that we belong to, be able to communicate with its members about politics and thus, may reduce our participation in the political process.

The rules 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 everyday engagement with public officials, by treating it as a so-called "in-kind contribution" to a "candidate."

Advocacy allows organizations to serve their constituencies and promote their causes through educating the public and policymakers, conducting research, litigating, organizing,

lobbying, and more. City Council members depend on nonprofits (often experts in their fields) to surface the impacts of proposed legislation, policies and budgeting on New York City communities.

Reporting is not a simple process our nonprofit staff can add to current responsibilities. We're looking at as many as 12 scheduled reports, plus up to 14 more just before the primary or general election. Failure to report, or reporting incorrectly, could lead to lengthy investigations, \$10,000 fines and even criminal prosecution, which in practice would mean nearly all groups subject to the new rules that are willing to take these risks would need to pay for legal counsel to ensure proper filing. We can't afford to damage our reputation by subjecting ourselves to a potential CFB investigation.

Another concern is the requirement that organizations spending more than \$5,000 would have to report and make public almost all of their sources of funding, including foundation grants, previously anonymous charitable giving, investment earnings and even membership dues as campaign "contributions." Many of our contributors would stop supporting our work if we made their names public.

And we already disclose money we spend to influence policy decisions through lobbying disclosure reports (though such reports are far less complex and difficult to file than the proposed filing system). This is the proper place for nonprofits to disclose lobbying expenditures – not through the campaign finance board.

One especially troubling requirement that we would have to contend with in complying with these regulations is the requirement to declare our advocacy spending as "supporting" or "opposing" particular candidates. Again, we are not political campaigns or committees and we do not make such endorsements.

501 c(3) organizations are barred from making endorsements by the IRS, which would mean we would be in the difficult position of either having to violate City law, violate Federal Law or stop informing the public about important issues if the issue happens to be discussed by the City Council within three months of an election.

In summary, nonprofit organizations have a unique and essential role to play in the policy process. The CFB should not interfere with our right to participate in legislative and issue advocacy. The consequences of these actions run counter to the CFB's broad goal of increasing participation in the democratic process.

Thank you again for the opportunity to offer testimony.