



THE PUBLIC ADVOCATE FOR THE CITY OF NEW YORK

Bill de Blasio - PUBLIC ADVOCATE

## Campaign Finance Board – Hearing on Proposed Rules on Independent Expenditures

Statement by Bill de Blasio,  
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*Thursday, October 27, 2011*

Good morning. I would like to thank the New York City Campaign Finance Board for addressing this critical issue of independent expenditures in elections. I appreciate the opportunity to present to you on this important matter.

As a vocal opponent of the Supreme Court's decision in *Citizens United v. Federal Election Commission*, I applaud the bulk of these proposed rules as a way to lend more transparency to our city's election process. If corporations are permitted to spend unlimited amounts of money publicly expressing advocacy for, or against, a candidate for public office without disclosure to the Campaign Finance Board, it perverts our entire democracy.

Last December, my office produced a report looking the impact of the *Citizens United* decision on the 2010 midterm elections. The analysis offered a disturbing first glimpse of the potential impact of the *Citizens United* ruling on political spending. With more than \$4 billion in total spending, the 2010 election was the most expensive midterm election in U.S. history. Outside groups spent over \$290 million on federal independent expenditures with much of that spending taking advantage of changes in the law that open the door to anonymous corporate donations.

Of course, the proposed independent expenditure rules should only apply to public communications, and not private communications between individuals, or amongst members of an advocacy organization. Internal communication among members of advocacy organizations is necessary to combat a growing apathy towards civic engagement generally. There is a difference between speech intended for the general public and speech targeted to members of a specific organization. While this independent expenditure reporting law is intended to reveal the source of public messages, this intention is inapplicable to internal, members-only, communications within organizations.

The proposed rules call for communications such as discussions at member-meetings, information provided in routine newsletters, etc. not to be considered reportable as an



independent expenditure. I believe that all communications to members, including mailings to members, should be not considered reportable as independent expenditures. It is critical for nonprofit organizations, including labor unions, to be able to take part in the democratic process – it is their responsibility to the individuals and communities in which they serve and represent.

I am also concerned about the chilling effect that some of these proposed rules could have on non-profit entities rights to advocate on behalf of legislation. To curtail the rights of advocates for or against legislation – using language such as “reject” or “Proposal Y would be bad for our city” – is an impermissible reach of these proposed rules. Advocacy organizations – particularly not-for-profit entities exist to support their issues; many of these organizations operate on shoestring budgets and forcing them to file disclosure statements for communications could lead to an outright curtailment of their speech. Many such organizations are looked to for their deep knowledge on particular issues – knowledge that could potentially go unshared within 90 days of an election if these proposed rules are not improved.

Lastly, I am perhaps most troubled by the simple notion that in the Campaign Finance Board’s Guide to the Proposed Independent Expenditure Rules, the Board notes that “arranging with [a] candidate to pose for a picture” is an example of something that is not independent.<sup>1</sup> As someone who has been a candidate for office several times, I have literally taken hundreds of photos with supporters and well wishers on the campaign trail. I did not even know the names of many of these individuals – how could the simple act of posing for a photograph give rise to an expenditure that may not be independent and therefore subject to the limitations of New York’s campaign finance laws? Are future candidates simply supposed to decline requests for photos by saying: “I am sorry, but if I take a photograph I will need to report it is an expense on my campaign finance filing?” And what exactly is the value of such a photograph?

While the Board is to be commended on various parts of the Proposed Independent Expenditure Rules for New York City Elections, I urge the Board to take a hard look at some of the other proposals and the potential damage they could to well-intentioned candidate and other organizations.

Thank you for your time, and for allowing me to speak on this important topic.

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<sup>1</sup> [http://www.nycffb.info/PDF/rulemaking/Proposed\\_Rules\\_2011-09-08.pdf](http://www.nycffb.info/PDF/rulemaking/Proposed_Rules_2011-09-08.pdf)