



**Testimony before the Campaign Finance Board  
October 27, 2011  
Jennifer March-Joly**

Thank you for the opportunity to offer comments about proposed independent expenditure regulations. My name is Jennifer March-Joly and I'm the Executive Director of Citizen's Committee for Children of New York, Inc (CCC).

Since our founding in 1944, CCC has paired professional staff with citizen volunteers to document the facts, educate the community, and advocate for change– with a focus on ensuring that every New York City child is healthy, housed, educated and safe.

Our child advocacy is unique, fact-based, and combines the best features of public policy research with a tradition of citizen activism. We don't accept government resources nor do we provide direct services, rather we are advocates – and we weigh in constantly on policy, law, and budget matters. As a 501c3 we absolutely do not engage in campaign activity, nor do we endorse or donate to candidates.

Our work focuses on identifying the causes and effects of vulnerability and risk; recommending solutions to issues children and their families face; and making certain that public policies, legislation, budgets, programs and services are responsive to the needs of children.

We advance recommendations that are designed to effectively eliminate barriers, combat disparities, and create opportunities, so that it is possible for all children to grow into adulthood ready to meet the demands of society and fully engage in the 21st century economy.

Advocacy is our most effective tool 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.

CCC strongly believes these new rules could decimate non-profit, grassroots and member-to-member legislative advocacy programs across the city – a fundamental part of our mission.

Last year alone, our advocacy efforts successfully rescued childcare funding for thousands of working families and protected resources for child abuse and neglect prevention at the community level. In years past, our advocacy played an instrumental role on the passage of Green Carts legislation, and establishment of a local Child Care Tax Credit and Earned Income Tax Credit.

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.

Moving forward with these regulations threatens our ability to communicate with the public about legislative issues and participating effectively in policy debates. That is surely not the result City residents intended when they voted for the Charter amendment.

City leaders depend on nonprofits like CCC to surface the impacts of proposed legislation, policies and budgeting on New York City communities. Take our recent effort around Saving Child Care for working families in the City. The initial City budget proposed cutting child care for nearly 17,000 children – a devastating blow to the city's children and working families and the single biggest cut to child care since the 1970's. CCC led an effort to educate the public about the potential cuts and asked residents to contact Council members and the Mayor to demand a restoration. Through this vigorous effort we were able to get an \$82 million restoration – and save care for all children currently enrolled in programs and protect capacity moving forward.

Unfortunately in this budget climate these are fights we have to wage more and more often – and without advocacy groups leading the charge, there would be no one to fight for those most in need.

Our efforts aren't part of a political campaign – aimed at supporting or opposing a particular candidate. We advocate – and have a clear track record of advocating for issues. This activity should not trigger CFB campaign disclosures – as these rules would require if we spend as little as \$1,000 communicating with the public about an elected official's stand on legislative issues 90 days before an election (which happens to fall right in the middle of our most active advocacy period – the City budget process).

Given the high costs -- both in the complexity of CFB filing and the need to retain legal counsel – and the risks of erroneous reporting, that many groups would respond to the CFB's proposed rules by limiting their own speech – an outcome at odds with your broad goal of increasing participation in the democratic process.

Strict rules and meaningful punishments 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.

Reporting is not a simple process small nonprofit staffs 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 our general operating grants that we currently use to support our programs strictly prohibit campaign activity. So we'd be forced with either turning down a grant (which we couldn't do) – or simply not taking part in advocacy during an election year.

And again, reaching the \$1,000 / \$5,000 trigger is easy. When you consider the staff time in designing and distributing flyers to the public about an issue you're quickly at \$1,000 or nearly \$5,000. Plus we're now using Google search ads and Facebook ads as a way to engage New Yorkers that will be affected by a policy - that's easily \$1,000. Even just sending a special mailing to our board members and affiliates about a particular policy could trigger CFB disclosures.

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 – we do not make such endorsements.

In fact, 501c(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. Our counsel has advised us that even filing with the Campaign Finance Board could put our nonprofit status in jeopardy because of the IRS restrictions on nonprofits participating in campaign activity.

In summary, our nonprofit organizations play an important role 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.