



American Cancer Society
Cancer Action Network
555 11th Street, NW
Suite 300
Washington, DC 20004
www.acscan.org

December 14, 2011

New York City Campaign Finance Board
40 Rector Street, 7th Floor
New York, NY 10006

Dear New York City Campaign Finance Board:

We are writing to comment on the New York City Campaign Finance Board's proposed independent expenditure disclosure rules. The American Cancer Society Cancer Action Network, the nonpartisan advocacy affiliate of the American Cancer Society, is the nation's leading cancer advocacy organization that is working every day to make cancer issues a national priority. Part of our work includes hosting candidate forums and producing voter guides in an effort to get candidates on the record in support of laws and policies that help people fight cancer and save lives.

We have reviewed the proposed independent expenditure disclosure rules, and believe the proper application of "Non-Independent Expenditures" in section 13-06 should be clarified. Under the current version of this proposed definition, candidates must report expenditures made by other individuals or entities that were "in support of or in opposition to a candidate" and "authorized, requested, suggested, fostered by, or otherwise cooperated in by" the candidate. Without further clarification, some could conclude that certain traditional nonpartisan voter guides constitute "non-independent expenditures," and therefore are contributions to political candidates under New York City law.

For example, in order to publish our voter guides on cancer-related issues, we, like many nonpartisan organizations, send identical questions to candidates in a particular race and then publish the candidates' responses verbatim. Arguably, these questionnaires require the candidates to "cooperate[] in" the creation of the voter guide. While the Campaign Finance Board has issued Advisory Opinions that provide some guidance on the meaning of cooperation,¹ it is not immediately clear whether publishing a candidate's response to questions would be an unacceptable level of cooperation with a candidate.

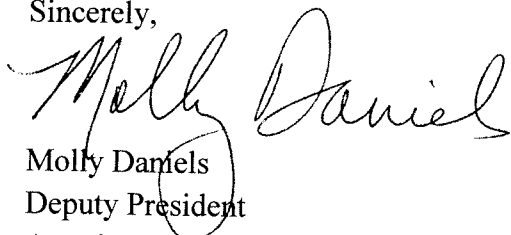
¹ See, e.g., Advisory Opinion 1989-34 (July 19, 1989).

Moreover, some might perceive voter guides compiled by a single issue organization, such as ourselves, as supporting or opposing a particular candidate when his or her response to questions align or conflict with the organization's position on the issue. While a reportable independent expenditure must contain express advocacy or be an electioneering communication—both concepts that are clearly defined in the proposed rules—a reportable non-independent expenditure does not have this clarity.

Because of the existing ambiguity, candidates might decide not to participate in such a voter guide, rather than risk running afoul of the campaign finance laws. And some organizations might not produce such voter guides for the same reason. This would be detrimental to the voting public, as voter guides are an important educational tool for voters.

We therefore request that the Campaign Finance Board provide more guidance within the proposed rules—either by issuing sharpened definitions for terms like “cooperated in” or perhaps providing an exemption for non-partisan voter guides. By more clearly explaining the proposed rules' application to non-partisan voter guides, the Campaign Finance Board will receive the information it seeks without discouraging candidates and outside parties from fully participating in the political process and informing voters of candidates' stances on significant public policy issues.

Sincerely,

A handwritten signature in cursive script that reads "Molly Daniels". The signature is written in black ink and is positioned above the printed name and title.

Molly Daniels
Deputy President

American Cancer Society Cancer Action Network