

**** For Immediate Release ****

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OVER 30 NONPROFITS & MEMBERSHIP ORGANIZATIONS SEND CFB LETTER: DON'T DECIMATE CIVIC PARTICIPATION

Groups Warn of “Unintended Consequences” Of CFB’s “Independent Expenditure” Regulations

Urge CFB To Reconsider Regulating Grassroots Political Participation and Instead Focus on Charter Mandate of Requiring Wealthy Individuals and Organizations to Disclose Political Communications to the Public

New York – In advance of today’s New York City Campaign Finance Board meeting, nonprofits and membership organizations issued a warning to the Board about the destructive “unintended consequences” of their proposed new independent expenditure regulations. Leaders also released a letter outlining their concerns that included over 30 signatures from major nonprofits.

“While we support the Charter amendment requiring disclosures for election related independent expenditures, there are serious unintended consequences in the CFB’s rules that must be addressed,” said Michael Stoller, Executive Director of the Human Services Council. “As drafted, the regulations threaten the ability of a wide range of organizations to participate effectively in policy debates and communicate with the public about legislative issues.”

In the CFB’s [published guidelines](#) explaining the new rules, they state: "Electioneering refers to the personal qualities, character, or fitness of a candidate, or supports or condemns that candidate's public record or position on issues, such as 'Tell Candidate X that her position on budget cuts is wrong.'" Under these rules, if an organization spends as little as \$1,000 asking voters to tell their Council Member to restore Senior Center funding, then the nonprofit would be subject to Campaign Finance Board regulations enforceable with \$10,000 fines and even criminal prosecution.

Nonprofit leaders believe these new rules go above and beyond simple disclosure of election related independent expenditures directed at the public and instead threaten the ability of a wide range of organizations to communicate with the public about legislative issues, participate in policy debates, and communicate with their own members and supporters about politics.

“Our advocacy played an instrumental role in this year’s fight to save child care for working families and efforts over the years to pass local child care and earned income tax credits – exactly the kind of activity threatened by these new regulations,” said Jennifer March-Joly,

Executive Director of Citizens' Committee for Children. *"Now more than ever nonprofits fighting for the New Yorkers most in need should be encouraged to speak up - not subjected to rules limiting our speech."*

"Our work isn't about promoting candidates, it's about making sure that the voices of working class New Yorkers are part of important policy debates" said Oona Chatterjee, Co-Executive Director of Make the Road New York. *"But the way these regulations are written, when a non-profit 501c3 organization communicates information about a particular policy, it could be interpreted as a de facto endorsement of a candidate, and it would put a community organization like ours in violation of the law."*

Membership organizations also highlighted ways the regulations would decrease participation in the political process.

"Our internal advocacy program is designed to educate our members, train them as leaders, and provide them with the tools to participate in the democratic process – not to sway the general public on an election," said Jesse Laymon of Citizen Action of New York. *"Trying to regulate our program as an independent expenditure goes above and beyond the Charter amendment passed by New Yorkers; the CFB should focus on the original Charter mandate requiring wealthy individuals and organizations to disclose political communications to the public, not infringe on communications with our own members."*

"I'm a member of a small union and I depend on my local to keep me informed and engaged in important issues, said John Maugeri of CWA Local 1102, a 300 member Staten Island local. *"I'm worried that these rules would make it harder for me to make an informed choice about politics. Isn't the CFB supposed to be encouraging political participation, not discouraging it? The Board should focus on what the Charter amendment was designed to do: ensure that when wealthy people spend money communicating with the general public they have to disclose it."*

Background

These rules are part of the Campaign Finance Board's attempt to carry out the November 2010 Charter amendment requiring the disclosure of expenditures by individuals and groups to persuade voters on candidates and referenda on the ballot.

Letter

October 27, 2011

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

Dear New York City Campaign Finance Board:

In November of 2010 New York City voters approved an amendment to the City Charter requiring the disclosure of independent expenditures by individuals and groups to persuade voters on candidates and referenda on the ballot.

But we believe your proposed rules go well beyond the mandate and intent of the Charter amendment and run counter to your mission of increasing citizen participation in the political process.

Rather than simply regulating speech by wealthy individuals and groups intended to sway the public and directly affect an election, you are also regulating speech intended to educate the public on the decisions and policies of elected officials and communication by organizations with their own members. And, 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."

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. And that is surely not the result City residents intended when they voted for the Charter amendment.

How We're Affected

This rule treats non-profit advocacy and membership organizations as if we were the same as political candidates in the current system. Under this rule, if our organizations spend as little as \$1,000 communicating with the public about an elected official's stand 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 our often small staffs can 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. 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.

Organizations that spend 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."

Organizations that spent money on legislative advocacy would also be forced to declare their spending as in support or opposition to particular candidates, *even for organizations that do not currently make such endorsements*.

The same rule would even apply to 501c(3) organizations who are barred from making endorsements by the IRS, putting them 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.

Notably, such disclosure is in many cases duplicative, as organizations that spend money to influence policy decisions must already file lobbying disclosure reports (though such reports are far less complex and difficult to file than the proposed filing system).

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.

There can be little question that 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 the CFB's broad goal of increasing participation in the democratic process.

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. 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.

Sincerely,

*Human Services Council
New York Nonprofit Coordinating Committee
A Better Balance: The Work & Family Legal Center
Habitat for Humanity – New York City
Alliance for Justice
Alliance for Quality Education
Alliance of Retired Americans
Citizen Action
Citizens' Committee for Children of New York, Inc.
Community Voices Heard
Federation of Protestant Welfare Agencies, Inc.
Make the Road New York
Naral Pro-Choice New York
New York Communities for Change
New York League of Conservation Voters
New Yorkers for Clean Livable & Safe Streets Inc.
Statewide Senior Action
United Neighborhood Houses of New York
VOCAL-NY (Voices of Community Activists & Leaders)
La Fuente
Coalition for the Homeless
Tenants Political Action Committee
Paid Leave Coalition
Families United for Racial and Economic Equality
Neighborhood Family Services Coalition
Supportive Housing Network of NY
Brooklyn Community Services
Brooklyn-Wide Interagency Council of the Aging
Association for Neighborhood and Housing Development
Fifth Avenue Committee
Neighbors Helping Neighbors
Urban Justice Center
New Settlement Apartments
Asian Americans for Equality
New Destiny Housing*

Cc: Mayor Michael Bloomberg
City Council Speaker Christine Quinn

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