



CITIZENS UNION OF THE CITY OF NEW YORK
Testimony to the New York City Campaign Finance Board
2024 Rule Amendments

September 27, 2024

Dear members of the New York City Campaign Finance Board (CFB). My name is Ben Weinberg, and I am the Director of Public Policy at Citizens Union. Citizens Union is an independent and nonpartisan good government group dedicated to making democracy work for all New Yorkers. Thank you for holding this public hearing on a package of proposed amendments to the CFB's rules.

Citizens Union is broadly supportive of the 2024 Campaign Finance Board Rule Amendments proposed in the August 27, 2024 Notice of Public Hearing.

The proposed rules address a variety of topics. Several amendments would make technical changes to ensure rules align with state and city law concerning contributions and payment methods, expenditure limits, loans, and other issues. Other amendments clarify sections of the rules to keep them up to date with how campaigns operate today. That includes reorganizing definitions of campaign communications (form and size of communications), making digital assets like cryptocurrencies not matchable, and applying the "paid for by" disclosure when campaigns use social media "influencers." The proposed rules also make changes and clarifications to the Board's powers, allowing it to drop moot and meritless complaints more quickly and detailing when it has and does not have the discretion to determine public funds' ineligibility.

Citizens Union submits the following three comments to the Board.

Section 14: Strong support for improving the factors determining Independent Expenditure

The amount of dollars Independent Expenditures (IE) spend on municipal elections has increased significantly in the last decade: IEs spent \$15.9 million in the 2013 election and over \$40 million in the 2021 election. Much of that growth came from the mayoral race; in the most recent citywide election, every leading mayoral candidate had a dedicated IE that supported them.

In recent years, campaigns have attempted to use legal loopholes to skirt the ban on "coordination" between campaign committees and IEs. In the 2021 election, an IE supporting a mayoral candidate was heavily funded by the candidate's father.¹ In the 2022 election, the State Board of Election opened an

¹ 'Climate mayor' bankrolled by dad with massive carbon footprint. New York Post, May 2021.
<https://nypost.com/2021/05/31/climate-mayor-bankrolled-by-dad-with-massive-carbon-footprint/>

investigation after it was discovered that an IE supporting a gubernatorial candidate employed the candidate's campaign committee co-chair and contracted his pollster.²

Citizens Union has long supported strengthening rules and regulations to cover such cases, especially concerning the involvement of candidates' family members and their former government or campaign staff in an IE.³ We thank the Board for adopting those suggestions, and we express our strong support for the proposed new factors for determining whether an expenditure is independent (amendments to §6-04(a) of CFB rules). Adopting these rules is especially critical as we enter a citywide election year.

Section 14: Make the 10% ownership interest of IE by family members apply in the aggregate

The proposed new paragraph §6-04(a)(xiii) would ensure an entity making an expenditure in which a candidate's family member holds or held a 10% or more ownership interest would not be considered independent. However, the proposed threshold applies to each family member listed in the paragraph individually. For example, if a candidate's sibling, parent, and spouse each hold 9% ownership in the entity, it would still be considered independent.

To prevent IE entities from skirting the new proposed factor, Citizens Union recommends that the 10% threshold be defined to apply to all family members listed in paragraph (xiii) in the aggregate.

Section 5: Requirement to maintain a website and social media site applies only to certain candidates

The Campaign Finance Act §3-705(10) requires a candidate who loses in the primary election but remains on the ballot for the general election to certify they will actively campaign for office, including by "broadly soliciting votes." The CFB has applied the same language into §3-01(d) of its rules, which discussed the basis for public funds ineligibility.

The proposed rules would explicitly define what constitutes evidence of "broadly soliciting votes," including, in §3-01(d)(ii)(A)(7)(III), "links to a campaign website and any campaign social media sites that have been updated to reflect the ballot line the candidate is running on in the general election."

Although Citizens Union supports clarifying the intent of this proposed rule, we note that this new addition constitutes a de facto requirement to maintain websites and social media pages that's applied to only a specific group of candidates – those who lost their primary but remain on the ballot for the general election. Other candidates are not required to maintain websites under city law or CFB Rules.

We recommend rules regarding maintaining websites and social media sites be harmonized across all campaigns. Alternatively, we recommend the language defining "broadly soliciting votes" be amended to make the website and social media requirement optional, in tandem with other evidence in the proposed paragraph, such as campaign literature, events, and advertisements.

²Zeldin Campaign Investigated Over Charge of Coordinating With Super PACs. The New York Times, October 2022. <https://www.nytimes.com/2022/10/27/nyregion/zeldin-super-pac.html>

³ Citizens Union Testimony to the New York City Campaign Finance Board Post-Election Hearing, 2021 Election Cycle <https://citizensunion.org/wp-content/uploads/2021/12/Citizens-Union-testimony-CFB-post-election-hearing-Dec-16-2021.pdf>