



Testimony to NYC Charter Commission on Strengthening Local Democracy

Re: Restoring Public Trust After Massive Scandals Requires a Commitment to Fairness with a New, Strong NYC Ethics Commission, Increased IE Transparency

March 5, 2025

Good evening, members and staff of the Charter Commission. My name is Rachael Fauss, the Senior Policy Advisor for Reinvent Albany. We advocate for transparent and accountable government in New York.

We appreciate that the Commission is committed to finding ways to strengthen our local democracy. New York City is doing great things to make its voting and campaign finance systems better and better. We strongly support Ranked Choice Voting, the public matching system, and the independent Campaign Finance Board. We also support you taking a close look at recall elections, which we think have great potential for New York City.

But democracy is much more than the right to vote. New York City has long seen a healthy democratic society as one that includes a commitment by government to foster civil liberties, human rights, the rule of law, and basic principles of fairness. Fairness and political equality mean striving to give everyone a fair shake. This is what gives our government its legitimacy. Corruption is the exact opposite of fairness, where some people get to cut to the front of the line because they know who to pay off. Corruption rewards the worst of us, and hurts the poor and vulnerable who are most dependent on the government for help.

New York City is being rocked by the biggest series of corruption scandals in many decades. This Commission has to rise to this moment, or risk losing a generation of New Yorkers to cynicism about whether the government can achieve good things, and apathy about their right to vote. You must set your sights high and champion the major reforms needed to restore public trust.

New York is on our own: the federal sheriff has ridden into the sunset. We have to strengthen the City's front line ethics and anti-corruption agencies.

We urge this commission to do the following five things:

1. Create a New York City independent ethics commission
2. Make ethics guidance far more transparent
3. Study and propose a removal mechanism for the mayor
4. Improve disclosure of Independent Expenditure (IE) Committees – known nationally as “Super PACs”
5. Support sensible reform measures proposed by [Citizens Union](#) and [Citizens Budget Commission](#), as outlined at the end of this testimony.

Create a New York City Independent Ethics Commission

Our main recommendation today is that you propose to voters the creation of a New York City independent ethics commission that: (1) puts the functions of the Conflicts of Interest Board (COIB) and Lobbying Bureau under one roof; (2) is funded via independent budgeting; and (3) is governed by an independently-appointed board. The basic idea is to create an ethics agency with roughly the same responsibilities as the state's Commission on Ethics and Lobbying in Government (COELIG), but with a more independent appointment process.

With other watchdog groups and ethics experts, we helped win improvements to New York State's ethics commission, the Commission on Ethics and Lobbying in Government (COELIG). We successfully upheld its constitutionality before the NYS Court of Appeals – [see our joint amicus brief](#). COELIG has a number of features that should be replicated and strengthened at the NYC level:

- 1. Lobbying and ethics regulated under one roof** – Lobbying and ethics are regulated together by the state commission. There is not only logic to this arrangement given the intersecting moonlighting, post-employment, and gift laws, but it also ensures that regulators have access to information necessary to conduct enforcement actions.
- 2. Independent budgeting** – Any NYC ethics commission must have a protected budget so that it can perform its mission with adequate resources and no fear of retaliation from the executive. Staffing at the Conflicts of Interest Board has declined by 20% over the last decade despite an expanded mission, including overseeing legal defense funds, and its budget has remained flat despite big increases in inflation. We strongly support providing COIB and any future ethics commissions an independent budget. See the Appendix at the end of this testimony regarding the staffing and budget of COIB.
 - a. COIB has [proposed past charter revisions](#) that would peg its budget to the total net expense budget of the city** – with a higher amount if it is given the authority to conduct investigations. Under the City Charter, the Independent Budget Office's appropriations must not be less than ten percent of the appropriations available to pay for the expenses of the Office of Management and Budget.
- 3. Independent, balanced appointments** – The NYS Commission on Ethics and Lobbying in Government has three main ways in which its appointment process increases independence:
 - a. Screening panel for nominations** – The state's law school deans approve nominations sent by the appointing authorities to ensure that candidates are qualified and will serve with independence and integrity.
 - b. Balanced appointments** – The Governor does not have a majority of appointments, but rather appoints 3 of the 11 members; the remainder are appointed by the legislative leaders, Comptroller, and Attorney General. The current Conflicts of Interest Board has a majority of mayoral appointments, with the mayor appointing 3 board members, with one each from the Comptroller and Public Advocate.

Improve Disclosure of Independent Expenditure (IE) Committees

Unfortunately, loopholes in New York State and City IE laws severely undermine New York's efforts to amplify small donors and increase transparency so as to reduce the influence of big money on elections.

These laws allow Independent Spenders to keep the existence of IEs and their contributors hidden until long after they start spending to produce communications, pay for airtime, or pay for social media placement. This means that an Independent Spender could unleash a surprise, last-minute barrage of media and keep hidden the identities of people or entities contributing less than \$25,000.

To close major loopholes in IE law, new laws should require:

- 1. Earlier disclosure triggers for IEs** that are based on when an Independent Spender encumbers or spends on a communication, rather than when the public sees a communication.
- 2. Disclosure of contributors of \$1,000 or more to entities giving to the Major Contributors** of Independent Spenders (addressing the dark money nesting doll problem).
- 3. Disclosure of contributors to Independent Expenditures and entities contributing to them further back than twelve months before an election.** Contributors to political committees for candidates for office are disclosed when the contribution is made.
- 4. Allowing imposition of penalties on an Independent Spender of up to three times the amount of a contribution or expense that was misrepresented** in a Verification Report. Currently, the maximum penalty is \$10,000 (14-02(e)), which is absurdly low given known contributions to IEs of half a million to a million dollars. This level of penalty would create parity with some of the current penalties for campaign finance violations, such as going over expenditure limits.

A summary of the current loopholes is below. Note that the corresponding sections of the [CFB's rules](#) are provided below, given that they are the most comprehensive regarding the current requirements for IEs. Independent expenditure disclosure is covered under [Chapter 46, §1052\(a\)\(15\) of the City Charter](#).

- **No expenditure disclosure until IE communication is distributed, broadcast, or published.** Independent Expenditures do not have to report their support for a candidate or expenditures and contributions until after the first communication they pay for is seen by the public. *Therefore, an IE's contributions are not subject to the disclosure requirement until covered communications totaling \$5,000 or more are seen by the public.* (§14-02(C))
- **“Major Contributor” Loophole.** An IE does not have to disclose contributions to an entity it is receiving contributions of \$50,000 or more from unless those contributions are for \$25,000 or more a year for a covered election (§14-02(d)ii.b contributions).
- **Expenditure Disclosures.** Each covered communication must be disclosed in the reporting period in which it is first published, aired, or otherwise distributed (§14-02(B)). Each expenditure must be disclosed in the reporting period in which the

expenditure is incurred, except that *no expenditure is required to be disclosed prior to the reporting of its associated communication* (§14-02(c)).

- **Contribution Disclosures.** An IE triggers contribution disclosure if it makes “covered expenditures” (totaling) \$5,000 or more for a single candidate in the twelve months prior to an election (§14-02(D)). However, *the expense for a covered communication does not have to be disclosed until the communication is seen by the public* (§14-02(c)).

Support for Additional Charter Reform Measures

We support the following proposals from Citizens Union as noted in their [February 2025 Report on Charter Reforms](#):

- 1. Moving NYC Election to Even-Numbered Years**
- 2. Establish Minimum Timeframes for Future Charter Revision Commissions and Local Laws Sent to a Referendum**
- 3. Make the Police Commissioner Subject to Advice and Consent**
- 4. Forbid Public Servants to Work on Matters Relating to Former Interest**

We also support the proposals put forward by Citizens Budget Commission to the Mayoral Charter Commission, as discussed in their [February 24, 2025 testimony](#):

- 1. Create Rainy Day Fund Deposit, Withdrawal, and Balance Rules.** CBC recommends that at minimum, the local law should:
 - a. require mandatory formula-determined deposits;
 - b. limit withdrawals to a recession or severe emergency; and
 - c. set a target size.
- 2. Improve the Accuracy of Financial Plan Estimates.** CBC specifically recommended that there be explanation of the causes of significant annual changes or estimation differences when:
 - a. tax revenues or major program expenditures are projected to change more than 10 percent in any year; and
 - b. executive expense budget estimates vary more than 20 percent from estimates by the City or State Comptrollers.

Appendix - 10-Year Analysis of Budget of NYC Conflicts of Interest Board

Reinvent Albany Analysis of NYC Conflicts of Interest Board Budget and Staff (FTE), FY 2017- FY 2026				
Fiscal Year	Appropriation	Inflation Adjusted from FY17	Staff (FTE)	Source
FY26 (Prelim)	\$2,760,750	\$3,450,867	21	https://www.nyc.gov/assets/omb/downloads/pdf/jan25/perc1-25.pdf
FY25 (Mod)	\$2,681,491	\$3,350,341	21	https://www.nyc.gov/assets/omb/downloads/pdf/jan25/perc1-25.pdf
FY24 (Mod)	\$2,811,286	\$3,252,743	21	https://www.nyc.gov/assets/omb/downloads/pdf/adopt24/erc6-24.pdf
FY23 (Mod)	\$2,642,753	\$3,155,219	24	https://www.nyc.gov/assets/omb/downloads/pdf/erc6-23.pdf
FY22 (Mod)	\$2,417,773	\$2,965,149	25	https://www.nyc.gov/assets/omb/downloads/pdf/erc6-22.pdf
FY21 (Mod)	\$2,528,196	\$2,758,794	25	https://www.nyc.gov/assets/omb/downloads/pdf/erc6-21.pdf
FY20 (Mod)	\$2,558,291	\$2,720,711	26	https://www.nyc.gov/assets/omb/downloads/pdf/erc6-20.pdf
FY19 (Mod)	\$2,716,011	\$2,654,700	26	https://www.nyc.gov/assets/omb/downloads/pdf/erc6-19.pdf
FY18 (Mod)	\$2,580,410	\$2,614,148	26	https://www.nyc.gov/assets/omb/downloads/pdf/erc6-18.pdf
FY17 (Mod)	\$2,561,120	\$2,561,120	26	https://www.nyc.gov/assets/omb/downloads/pdf/erc6-17.pdf

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