



**Testimony to the New York City Council
Committee on Governmental Operations, State & Federal Legislation**

Re: City Council Should Require Paid Influencer Disclosures and Ensure City Electronic Messaging Complies With FOIL and Records Laws

September 22, 2026

Thank you for the opportunity to provide testimony. My name is Rachael Fauss, and I am a Senior Policy Advisor for Reinvent Albany. Reinvent Albany advocates for transparent and accountable government in New York.

We are here today to ask the Council to do four things:

- 1. Pass legislation clarifying that all electronic communications that result in the creation of a public record must be archived and easily retrievable by agency FOIL officers.** (Please see our [draft bill](#) based in part on the Department of Records and Information Services May 2, 2025 Policy on Instant Electronic Messaging Records.)
- 2. Move forward a new influencer disclosure bill modeled after current FTC rules** that influencers already follow regarding disclaimers – simplifying compliance while still meeting the Council’s disclosure goals (see [proposal at end of testimony](#)); and
- 3. Revise [T2026-2555](#) (adding social media posts to the 90-day pre-election blackout) and [T2026-1440](#) (reporting on third-party communications)** to incorporate the perspective of experts at the implementing agencies. We support the intent of both bills but believe they can be improved.
- 4. Not move forward [T2026-2554](#)** (requiring disclosures on third-party public communications paid and adding penalties) and [T2026-2553](#) (changing definitions of communications in IE “paid for by” disclosures).

Civic Engagement by City of New York and Use of Signal

Regarding the overall topic of today’s hearing on the City’s civic engagement strategy, Reinvent Albany supports innovative government and the efficient use of taxpayer funds. Accordingly, we support the use of paid social media influencers by city agencies as part of their efforts to effectively market agency programs and policies to the public. Indeed, city agencies have successfully used influencers for years, including the Health Department to promote disease screening and the Campaign Finance Board to encourage people to register and vote.

However, we oppose city officials using instant messaging apps, including Signal — especially for all communications with the public — consistent with the concerns raised in the [2025 Department of Records Policy On Instant Electronic Messaging Records](#).

As part of our long-time advocacy for a strong Freedom of Information Law (FOIL) and government transparency, Reinvent Albany has commented many times on the problems created by government officials using instant messaging apps like Signal, whose messages are stored on third-party servers. Even now in 2026, the City of New York has not developed a practical way for official records created by these apps to be archived or retrieved by agency FOIL officers, who cannot search them by keywords like they can city emails. From the outside, the public cannot tell if a city official is using an instant messaging app because they are poorly trained and know nothing about the official records archiving requirements in the City Charter, or they are deliberately breaking the law and trying to hide or destroy city records.

Ensure City Electronic Messaging Complies With FOIL and Records Laws

While we are disappointed that no legislation on records retention was introduced in time for today's hearing, we hope that the Council will hold a separate hearing on this topic. This legislation could fit nicely in an oversight hearing of the Department of Records and Information Services (DORIS) OpenRecords Law Implementation Report that is forthcoming, given that it would also affect DORIS.

We have shared with Chair Brewer and council staff draft legislation (see our [proposal at the end of this testimony](#)) that we developed jointly with Citizens Union that would do the following:

- Amend Section 3011 of Chapter 72 of the New York City Charter **to clarify the definition of “records” to include electronic and instant formats**, and to **add a new definition of “electronic instant messages,”** as currently only described in DORIS policy.
- Amend Section 1133 of Chapter 49 of the New York City Charter to **clarify that electronic instant messages may not be destroyed without prior approval**, to **prohibit the use of auto-deletion functions**, and specify that the commissioner of DORIS must issue a binding policy regarding the retention of electronic instant messaging records.

Influencer Disclosure

Additionally, we have shared with Chair Brewer and council staff draft legislation developed jointly with Citizens Union that adds a new subdivision to Title 6, Chapter 1 of the Administrative Code (see the [proposal at the end of this testimony](#)). This is the chapter on Contracts and Purchases, where the Council adds substantive conditions to City contracts, like wage requirements and nondiscrimination rules.

The bill mirrors FTC's rules for influencer sponsored content disclosures and applies them to government advertising campaigns (FTC's rules only apply to commercial advertising). The bill includes the following provisions:

- **Disclosure trigger:** a disclosure is required whenever the audience would not reasonably expect a city-paid ad. The goal is to catch situations where sponsorship is hidden, like a paid social media post that looks like organic content, not advertising that's already obviously city-branded. The bill explicitly references persons on social media to make sure influencers are included.
- **Form of disclosure:** paid content must “clearly and conspicuously” state it is paid for by the city. To leave room for flexibility in a changing technological space, the City Chief Procurement Officer is empowered to set the exact form of disclosure. FTC rules similarly do not mandate specific wording, but FTC endorsement guidance includes examples.

Comments on Legislation Noticed for Today’s Hearing Agenda

1. **[T2026-2555 \(Carr\)](#), prohibiting candidates from appearing in certain government-funded third-party communications during an election campaign** – This bill would clarify the current election “blackout period” law to prohibit a public servant running for office from appearing in paid social media or internet communications paid for with city funding.
 - **We support the intent of this bill**, but ask that the Council consult with the CFB, who would be charged with implementing it, and tighten the definitions. [Current CFB guidance](#) says that social media posts are not covered under the law, unless they are sent to specific addresses or accounts. Presumably, their guidelines would be updated if this bill were to pass.
2. **[T2026-1440 \(Carr\)](#), reporting on third-party public communications** – This bill would require any public servant that uses or authorizes the use of governmental funds or resources for a third-party public communication to report certain information regarding such communication to the Department of Records and Information Services (DORIS) within 60 days. Quarterly during an election year and twice a year during a non-election year, DORIS would be required to report to the Mayor and the Speaker of the Council, and post on the NYC Open Data portal, all information reported to it regarding the third-party public communications.
 - **We support the intent of this bill.** We note that it would require reporting to by public servants within 60 days to DORIS, but would require DORIS to publish the information on a separate schedule. We suggest that the bill be amended to require *agencies* to report rather than *individuals*. Additionally, rather than adding a new reporting requirement, we suggest that the Council consider adding this reporting to the existing Local Law 83 requirements reviewed by the Mayor’s Office of Ethnic and Community Media in the [Annual Advertising Spend Reports](#).
3. **[T2026-2554 \(Feliz\)](#), requiring disclosures on third-party public communications paid for with government resources.** This bill would prohibit any public servant from using or authorizing the use of governmental funds or resources for third-party public communications unless the communication includes a disclosure, and requires a “Paid Partnership” disclosures. It also makes an intentional or knowing violation of this requirement by a public servant punishable as a misdemeanor. The

Campaign Finance Board and the Conflicts of Interest Board would also have the power to investigate potential violations and assess civil penalties.

- **We ask the Council to not move this bill forward.** We prefer the approach laid out above, where influencers would be required to have disclaimers through the contracting process. We are also concerned that it is overly broad, and that the attached criminal penalty is overly harsh – particularly since we believe this should be mandated at the contract level rather than individual level.
4. **T2026-2553 (Wong), requiring campaign finance disclosures in content posted on internet websites, digital applications, and social media platforms** – This bill would require in-message “paid for by” disclosures in content posted on internet websites, digital applications, and social media platforms whenever such content is (i) paid for by a campaign or (ii) in support of or in opposition to a candidate or ballot measure and paid for by an independent spender that is required to report its expenditures to the Campaign Finance Board (CFB). The CFB would also be required to issue guidance regarding the disclosure, recordkeeping, and reporting requirements applicable to content posted on internet websites, digital applications, and social media platforms, including content posted by paid third parties.
- **We ask the Council to not move this bill forward.** We are concerned that it is making a number of changes to the City Charter that are not necessary. The CFB already requires disclosures for internet websites, digital applications, and social media platforms, as they are considered “paid internet video advertisements.” Additionally, removal of this language: “paid television advertisement or paid internet video advertisement” and substituting it with “video communication” is much more vague than the current language.

Thank you for your consideration. Should you have any questions, please email Rachael Fauss, Senior Policy Advisor, at rachael@reinventalbany.org.

Proposed bill codifying electronic instant message retention policies, and prohibiting use of auto-deletion

This bill amends Section 3011 of Chapter 72 of the New York City Charter to clarify the definition of “records” to include electronic and instant formats, and to add a new definition of “electronic instant messages,” as currently only described in DORIS policy.

It also amends Section 1133 of Chapter 49 of the New York City Charter to clarify that electronic instant messages may not be destroyed without prior approvals, to prohibit the use of auto-deletion functions, and specify that the commissioner of DORIS must issue a binding policy regarding the retention of electronic instant messaging records.

NYC Charter

Section 3011. Definitions.

As used in this chapter:

1. "Archives" means those official records which have been determined by the department to have sufficient historical or other value to warrant their continued preservation by the city;
2. "Records" means any documents, books, papers, photographs, sound recordings, machine readable materials or any other materials, regardless of physical form or characteristics, made or received pursuant to law or ordinance or in connection with the transaction of official city business, **including information created, manipulated, communicated, or stored in digital, instant, or electronic format.** Library and museum materials made or acquired and preserved solely for reference or exhibition purposes, extra copies of documents preserved only for convenience of reference and stocks of publications are not included within the definition of records as used in this chapter;
3. "Records management" means the planning, controlling, directing, organizing, training, promoting and other managerial activities involved in records creation, records maintenance and use and records disposition, including but not limited to, the management of correspondence, forms, directives, reports, machine readable records, microfilms information retrieval, files, mail, vital records, equipment and supplies, office copiers, word processing and source data automation techniques, records preservation, records disposal and records centers or other storage facilities;
4. "Records management practices" means any system, procedure or technique followed with respect to effective records creation, records maintenance and use and records disposition;
5. "Records disposition" means:
 - a. The removal by a city agency, in accordance with approved records retention schedules, of records no longer necessary for the conduct of business by such agency through removal methods which may include:

- (1) the disposal of temporary records by destruction or donation;
 - (2) the transfer of records to the department, and
 - (3) the transfer to the department of records determined to have historical or other sufficient value to warrant continued preservation and
- b. the transfer of records from one city agency to any other city agency;
6. "Records creation" means any process involved in producing any recorded information necessary to conduct the business of a city agency;
 7. "Records management division" means an establishment maintained by the department primarily for the storage, servicing, security and processing of records which must be preserved for varying periods of time and need not be retained in office equipment or space and
 8. "Servicing" means making information in records available to any city agency for official use or to the public.
 9. "Private entity" means a for-profit or not-for-profit corporation, or non-governmental organization, but shall not include the City and State Universities of New York, public libraries, including the New York Public Library, and any college or university in the city.
 10. "Social media platform" means a website or application that enables users to publish and share information.
 11. "Official government social media account" means any account provided to the department of records and information services pursuant to section [23-202](#) of the administrative code.

12. "Instant electronic messages" means messages other than electronic mail, sent via a messaging platform or mobile telephone service designed primarily for the exchange of short messages between two or more individuals in near-real time.

Section 1133. Transmission of reports; disposal of records; destruction of other materials.

f. No records, **including but not limited to instant electronic messages and other records as defined in section 3011 of the City Charter,** shall be destroyed or otherwise disposed of by an agency, officer or employee of the city unless approval has been obtained from the commissioner of records and information services, the corporation counsel and the head of the agency which created or has jurisdiction over the records who shall base their determinations on the potential administrative, fiscal, legal, research or historical value of the record. **No agency, officer, or employee of the city shall use, or cause or permit to be used, any function that automatically deletes or destroys a record after a fixed period of time or after such record has been viewed or transmitted.** Approval for records disposal shall be contained in an approved records disposal schedule and remain in

force until the status of the records changes. The commissioner of records and information services or the head of the agency which created or has jurisdiction over the records may initiate action to eliminate records eligible for disposal. The commissioner of records and information services shall insure the destruction of disposable records within six months of the date of eligibility.

g. The commissioner of records and information services shall formulate a binding policy on the retention of instant electronic messages, which shall distinguish between non-substantive transitory messages and substantive messages which must be retained and transferred to a format and platform that allows for their proper preservation. Non-substantive transitory electronic messages shall be those which do not document or relate to the decisions, actions, or policies of an agency, such as personal messages between co-workers and time-dependent communications regarding purely logistical matters. Substantive messages shall be those which document or relate to the decisions, actions, or policies of a City office or agency.

g.h. Records of historical, research, cultural or other important value shall be transferred to the municipal archives for permanent custody pursuant to a records disposition schedule approved by the commissioner of records and information services and, if applicable, the head of the agency which created or has jurisdiction over the records. Such schedule is subject to the conditions set forth herein. The city shall reserve and retain ownership, possession, and control of all records of historical, research, cultural or other important value in accordance with the provisions of this section and subdivision five of section [3003](#).

h.i. Other materials not included within the definition of records in this charter may be destroyed, if not otherwise prohibited by law, at any time by the agency in possession of such materials without the approval of the commissioner of records and information services. Such commissioner may, however, formulate procedures and interpretations to guide in the disposition of such materials.

Proposed Bill on Disclosure of Payment for Advertising Through Social Media Influencers

This bill adds a new subdivision to Title 6, Chapter 1 of the Administrative Code. This is the chapter on Contracts and Purchases, where the Council adds substantive conditions to City contracts, like wage requirements and nondiscrimination rules.

The bill mirrors [FTC's rules for influencer sponsored content disclosures](#) and applies them to government advertising campaigns (FTC's rules only apply to commercial advertising).

Disclosure trigger: a disclosure is required whenever the audience would not reasonably expect a city-paid ad. The goal is to catch situations where sponsorship is hidden, like a paid social media post that looks like organic content, not advertising that's already obviously city-branded. The bill explicitly references persons on social media, to make sure influencers are included.

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The New York City Administrative Code

Title 6: Contracts, Purchases and Franchises

Chapter 1: Contracts and Purchases

§ 6-152. Disclosure of payment for advertising.

a. For purposes of this section, the term "contracting agency" means a city, county, borough, or other office, position, administration, department, division, bureau, board or commission, or a corporation, institution or agency of government, the expenses of which are paid in whole or in part from the city treasury.

b. Any contract for advertising, and any advertising disseminated pursuant thereto, shall be subject to the following: whenever a significant portion of the audience for such advertising would not reasonably understand or expect that a contracting agency paid for such advertising, including but not limited to advertising through a person on a social media platform, such advertising shall clearly and conspicuously state that it is paid for by the contracting agency. The form and manner of such disclosure shall be set by the city chief procurement officer.