

**CITIZENS UNION
NEW YORK PUBLIC INTEREST RESEARCH GROUP (NYPIRG)**

Amy Loprest
Executive Director
New York City Campaign Finance Board
40 Rector Street, 7th Floor
New York, NY 10006

December 11, 2012

Dear Amy:

The Council on Monday introduced [Int. No. 978](#), a bill that would amend the city's campaign finance law by enabling a candidate for elected office to coordinate in furtherance of his or her campaign with membership organizations, unions and corporations in communicating to their members without such coordination being considered an in-kind contribution to or expenditure by the candidate.

Citizens Union is seriously troubled by this legislation and believes it is overly broad in addressing concerns voiced by SEIU32BJ and 1199 regarding to what extent it is able to communicate with candidates without such communication being considered an in-kind contribution.

While Advisory Opinion 2012-1 makes clear that the Campaign Finance Board, "in assessing whether an expenditure constitutes an in-kind contribution, the Board must determine whether the candidate has 'undertaken, authorized, requested, suggested, fostered, or otherwise cooperated in' the expenditure, as well as whether the expenditure was made 'for the purpose or facilitating' the candidate's nomination or election," according to a series of enumerated factors, the 8th footnote in the same advisory seems inconsistent and has apparently caused concern as to what constitutes "coordination."

The 8th footnote states, "Generally, any communication between an entity and a candidate would suffice to make an expenditure by that entity non-independent and thus a potential in-kind contribution, but the Board acknowledges that in scheduling a candidate to appear at an event, some communication may be necessary. Such communication is limited to discussions of logistics such as date, time, and location required to arrange the candidate's appearance."

We suggest that the footnote be changed to clarify that an expenditure by an entity concerning a candidate does not constitute coordination (or "is not non-independent") by virtue of the mere fact of a communication between the entity and the candidate.

To bring greater clarity as to what is permissible, we additionally request that the Campaign Finance Board clarify that coordination does not, for example, consist of communications between a member organization and a candidate, his or her agents or authorized political committee merely to:

- i. schedule or discuss logistics;

- ii. request a photograph of the candidate;
- iii. obtain information about a candidate's position on policies in response to a member organization's questionnaire; or
- iv. republish a brief quotation of campaign materials that demonstrate a candidate's position as part of an expression of his or her own views.

Thank you for your consideration of this request. We hope clarifying footnote 8 and providing examples as to which communications between a candidate and membership organization do not themselves constitute coordination will alleviate concerns that communications unrelated to campaigning will be considered an in-kind contribution.

Regards,

Dick Dadey
Executive Director
Citizens Union

Gene Russianoff
Senior Attorney
NYPIRG