

**Supplemental Testimony of Joanna Zdanys, Deputy Director, and Marina Pino, Counsel
Elections and Government Program
Brennan Center for Justice at NYU School of Law¹**

**Before the New York City Campaign Finance Board
RE: Proposed 2024 Campaign Finance Board Rule Amendments
October 25, 2024**

The Brennan Center for Justice appreciates the opportunity to supplement its September 27, 2024 testimony on the New York City Campaign Finance Board’s (CFB) proposed rule changes.² Our September testimony focused on updates to strengthen coordination rules, modernize the definitions of electioneering communications and express advocacy, and address the rise of paid influencers. We now write to provide feedback on additional measures to safeguard the integrity of New York City’s public campaign financing system in light of recent allegations of abuse of the program, most notably those outlined in the September 26, 2024 federal indictment of Mayor Eric Adams.

Detailed oversight is critical to effective enforcement, and New York City already has a strong record in this regard. The city’s public financing program has long been credited with helping stem corruption in local politics. Its success in doing so led the 2013 New York State Moreland Commission to Investigate Public Corruption to recommend a state public financing program modeled on New York City’s to address an epidemic of political corruption in state government.³ The program also has an overall strong track record of detecting potential abuse and ensuring that the proper authorities address it.⁴ Nevertheless,

¹ The Brennan Center is a nonpartisan public policy and law institute that focuses on the fundamental issues of democracy and justice. For nearly 30 years, the Brennan Center’s nonpartisan expertise has informed policies that protect and expand democracy at the state, local, and federal levels. Since the Center’s inception, our staff have studied, litigated, and drafted legislative solutions regarding money in politics and have advised on the development, implementation, and improvement of public campaign financing systems and transparency policies nationwide. The opinions expressed in this testimony are only those of the Brennan Center and do not necessarily reflect the opinions of the NYU School of Law.

² New York City Campaign Finance Board, “Notice of Public Hearing and Opportunity to Comment on Proposed Rules,” accessed October 23, 2024, <https://www.nyccfb.info/media/2121/notice-of-public-hearing-september-2024-oct-deadline.pdf>.

³ The Commission to Investigate Public Corruption, *Preliminary Report*, December 2, 2013, <https://www.documentcloud.org/documents/871995-preliminary-report-of-the-commission-to>.

⁴ See, e.g., U.S. Attorney’s Office for the Eastern District of New York, “Campaign Treasurer for Candidate for Brooklyn Borough President Charged with Scheme to Defraud New York City’s Campaign Finance Board,” October 2,

the Adams indictment and his campaign's reported actions leading up to it provide the CFB with an important opportunity to reexamine and update its procedures for identifying and responding to straw donor activity, failures to respond to the CFB's requests for information, and other types of misconduct.

First, we support the CFB's proposal to clarify existing rules regarding eligibility for public matching funds payments (proposed amendment § 5). This amendment would require the CFB to withhold a payment from a candidate under certain circumstances, such as if a campaign fails to respond to agency requests for information or does not file a required disclosure report. These factors are currently discretionary bases for withholding payments under current rules.⁵ Shifting these factors from discretionary to mandatory is a sensible step forward in serving the CFB's mandate to responsibly administer public funds. And the proposal complements other existing rules that deem certain acts – such as submitting false information or falsifying documentation – fundamental breaches that require complete disqualification from the program.⁶

Of course, oversight of the program must remain both efficient *and* fair, to serve the program's goal of enabling a diverse array of candidates to run for office. In implementing this rule change, the CFB must take care to ensure due process for all candidates and to respond proportionally to violations, especially when they are inadvertent. We urge you to be mindful of the reality that complying with program rules can be far more challenging for campaigns with fewer resources, who may not be able to afford the same types of professional assistance accessible to campaigns of greater means. This is especially important because the loss of a matching funds payment can be far more devastating for these lesser resourced campaigns. That is why safeguards affording campaigns the right to appeal and remedy a withheld payment – like the notice of appeal process set forth in current rules – remain essential.⁷

Second, the CFB should more clearly notify donors that straw donations are illegal. A more robust warning is an important step to deter fraud in the program, which already has strict controls.⁸ The CFB currently requires certain donors to sign a contribution card that states, "I understand that state law requires that a contribution be in my name and be from my own funds" and affirm that they have not been reimbursed.⁹ This language should be sharpened to explicitly and plainly put donors on notice that it is illegal to give someone else's money and that doing so can carry penalties. The CFB should also make plain in its Campaign Finance Handbook that campaigns may not accept contributions made in another

2024, <https://www.justice.gov/usao-edny/pr/campaign-treasurer-candidate-brooklyn-borough-president-charged-scheme-defraud-new> ("The CFB ultimately determined that the campaign submitted fictitious records and did not pay any public matching funds to the campaign.").

⁵ 52 RCNY § 3-01(d).

⁶ *Id.* § 3-01(e).

⁷ *Id.* § 3-02.

⁸ See Joanna Zdanys and Marina Pino, "Public Campaign Financing and the Indictment of NYC Mayor Eric Adams," October 3, 2024, <https://www.brennancenter.org/our-work/research-reports/public-campaign-financing-and-indictment-nyc-mayor-eric-adams>.

⁹ New York City Campaign Finance Board, "Contribution Card," August 11, 2022, https://www.nycffb.info/PDF/templates/contribution_english.pdf.

person's name. Other jurisdictions include such language in their candidate handbooks, including New York State.¹⁰

Third, the CFB should continue its efforts to ensure timelier post-election audits. The Brennan Center commends the CFB for recently exploring technology solutions to enhance its auditing process.¹¹ Prompt action is critical, as the CFB's audits have garnered a reputation for persistent delays.¹² To ensure the CFB is meeting the important goal of ensuring compliance with agency rules and requirements, it must continue to assess how it can move the auditing process more efficiently while still guaranteeing a thorough and fair review for every campaign.

To be sure, these recommendations are not exhaustive. The CFB must continue to evaluate its rules and procedures to maintain the program's integrity and enhance public confidence. The proposals are, however, critical steps the CFB can take at this moment to strengthen its landmark public campaign financing system.

The Brennan Center stands ready to assist the CFB in its work to empower New Yorkers to more meaningfully participate in the political process.

¹⁰ New York State Public Campaign Finance Board, "New York State Public Campaign Finance Handbook," 29, December 1, 2023, <https://pcfb.ny.gov/system/files/documents/2023/12/pcfb-handbook-final-accessible-and-secured-12012023.pdf>.

¹¹ New York City Campaign Finance Board, "Testimony of Paul Seamus Ryan, Executive Director of the New York City Campaign Finance Board to the New York City Council Committee on Governmental Operations Committee," June 14, 2024, <https://www.nycfb.info/media/testimony/testimony-of-paul-seamus-ryan-executive-director-of-the-new-york-city-campaign-finance-board-to-the-new-york-city-council-committee-on-governmental-operations-committee/>.

¹² Brigid Bergin, "Meet NYC's new campaign finance watchdog, arriving amid probe into Mayor Adams' campaign," *Gothamist*, March 27, 2024, <https://gothamist.com/news/amid-adams-fundraising-probe-new-campaign-finance-watchdog-head-charts-path-forward>.