

TO: New York Public Campaign Financing Commission
FROM: The Brennan Center for Justice
DATE: November 9, 2019
RE: **Analysis of 12/9/8:1 in-district-only match proposal for legislative candidates.**

We write to share our analysis of the tiered in-district-only matching plan you have proposed for legislative offices and to recommend improvements. Generally, we support a policy that enhances the importance of community-based donors. We previously recommended to you a legislative matching plan of 8:1 in-district and 6:1 out-of-district. No matter the design, it is important that your ultimate plan provide matching funds in a way that will allow quality candidates in all districts to rely on small donations to run competitive campaigns.

We find that, under your proposed in-district-only matching plan, candidates in lower-income districts would have more difficulty raising competitive sums than under a 6:1 statewide match. This is because there are fewer available donors in lower-income districts, and they tend to give less money. We recommend three alternative amendments that would mitigate this problem.

Our key findings and recommendations are:

- 1) Under the tiered in-district-only match, legislative candidates would earn far less in matching funds than under a uniform 6:1 match, without major increases in the numbers of donors in-district who are able to give significant sums. Candidates in lower-income districts would tend to be worse off than those in higher-income districts.
- 2) To make up for matching funds lost out of district, even with the higher in-district match, candidates would have to find significantly more donors in their districts. In below-median income districts, 62% of candidates would have to at least double their number of in-district donors giving \$10 and \$50; 38% would need at least 200 more in-district donors; and 18% would need more than 300 additional in-district donors. (Professor Malbin's forthcoming analysis assumes all new donors in all districts will give an average of \$50, while we assume this is more challenging in lower-income districts, partly explaining our different results.¹)
- 3) Lower-income districts have fewer donors, who also tend to give smaller amounts, so a sufficient number of new donors will be hardest to find where it is needed the most.
- 4) To mitigate the particular difficulty in lower-income districts when you restrict matching to in-district, we recommend the following amendments to your proposal:
 - A. The best improvement would be to add an out-of-district match to the tiered in-district match. Even a small match of 4:1 on the first \$100 out-of-district would significantly improve outcomes in lower-income districts.

¹ We reviewed a draft of the analysis by Campaign Finance Institute's Michael Malbin.

- B. Barring an out-of-district match, increasing the match ratio on the first \$50 in your current plan, from 12:1 to 15:1, would make it easier for candidates in lower-income districts to earn as much as under a broader 6:1 match.
- C. A third option is to expand the pool of matchable donors for legislative candidates beyond district-only to county-only. This option provides candidates in lower-income districts better chances for raising matching funds. It also treats communities as one when district lines may artificially divide them, better serving the community-based purpose of the in-district-only matching idea.

I. The Commission's Proposed Matching Plan

You have proposed that contributions to legislative candidates be eligible for matching only if they come from residents of the district. In-district contributions would be matched up to \$250 according to a tier of ratios: the first \$50 at 12:1, the next \$100 at 9:1, and the next \$100 at 8:1. For a \$250 contribution, this tiered match works out to a 9.2:1 match.

No public financing system in the country restricts matching to in-district donors only, except the not yet implemented program in Suffolk County. Even Montgomery County, Maryland, which has a tiered match with higher ratios on smaller contributions, matches donations from anywhere in the county for council candidates rather than just from the candidate's district. The same is true of the other tiered match programs in Maryland's Howard County and Prince George's County, which have not yet been implemented.

II. Methodology

A. Questions Explored

We used fundraising data from 2017 New York City Council elections to model the effects of the tiered in-district match on candidates' ability to earn matching funds. We compared the proposed tiered in-district match system with a uniform 6-to-1 match for the first \$250 of in-city donations regardless of whether they come from the candidate's district. We wanted to assess:

- 1) Would candidates be able to raise as much under a tiered in-district only match of 12/9/8:1 as under a 6:1 citywide match?
- 2) If not, how many new in-district donors would candidates need to find under the tiered in-district only match system to make up the difference from a 6:1 citywide match?

B. Benefits of Looking to New York City

As with our October examination of qualifying thresholds, testing how the policy would affect New York City Council candidates is useful because those candidates—unlike past candidates for state office—raised money under incentives similar to those that would be created by the system under consideration. The city program’s requirement that candidates must raise 75 in-district contributions to qualify gives an incentive to seek in-district donors, and the match gives them an incentive to seek large numbers of small donors.

C. Data Analyzed

- 1) We looked at City Council districts, because they are similar in size to Assembly districts. The average voting age population of City Council districts is about 1.2 times that of Assembly districts.
- 2) We looked at the most recent (2017) fundraising records of viable publicly financed City Council candidates. For each council district where a publicly financed candidate won the general election, we looked at the winner and the two highest-raising publicly financed candidates among the losers. For the remaining districts, we included the two highest-raising publicly financed candidates.²
- 3) Since city candidates typically raise many contributions at the highest matched amount under the city system (\$175), we changed all \$175 donations to the proposed highest matched amount for the state of \$250.
- 4) We estimated each City Council district’s median income, so that we could check for any differences in outcomes according to the income levels of districts. We focused on districts with median incomes below the state median income.³
- 5) We assumed that the new in-district donors that candidates would need to attract would be a mix of \$10 and \$50 donors. Ten dollars is, by far, the most common donation amount in city council races—especially in lower income districts, where more than 4 in 10 donors give \$10. But we conservatively assume that quality candidates will be able to raise some donations in higher amounts. We assume half of new donors will give \$10, and half will give \$50. (Professor Malbin of the Campaign Finance Institute assumed a higher average donation of \$50 from new donors.)

² To ensure we only looked at viable candidates, we excluded five challengers who raised less than \$11,000 each in private funds.

³ It is worth noting that New York City’s median income is \$57,782, just about \$5,000 less than the state median income – so, in terms of the spread of districts’ median incomes, the two jurisdictions are comparable.

III. **Findings**

A. The Commission's Tiered In-district Match Proposal

Under the tiered in-district-only match, legislative candidates would earn far less in matching funds than a under a broader 6:1 match, without major increases in the numbers of donors in-district who are able to give significant sums. The loss of matching funds due to a zero match on out-of-district contributions is not compensated for by the higher in-district match. Of the 72 candidates in our sample—who are the best fundraisers in each council district—52 would be worse off in their level of public funding. More than half of the sample—36 candidates—would lose more than \$50,000 in matching funds. Candidates in lower-income districts are more likely to lose the most matching funds.

In order to make up these matching funds deficits, many candidates would have to find hundreds of new in-district donors, assuming half were able to give \$10 and half \$50. The majority of candidates in our sample—42—would need 100 or more new in-district donors. Almost half, or 34, would need at least twice as many in-district donors as they actually had.

Further, candidates in lower income districts tend to be worse off: candidates in districts below the median income need an average of 170 new in-district donors while their counterparts above the median income need 97 new donors. To put these numbers in context, the average number of *actual* in-district donations across our entire sample is 169 per candidate. And the candidates in the worst shape are almost all in the lower half of district incomes.

In **below-median income** districts (34 candidates):

- 62% need at least twice as many new in-district donors.
- 29% need at least three times as many new in-district donors.
- 38% need at least 200 new in-district donors.
- 18% need at least 300 new in-district donors.

In **above-median income** districts (38 candidates):

- 34% need at least twice as many new in-district donors.
- 5% need at least three times as many new in-district donors.
- 16% need at least 200 new in-district donors.
- 3% need at least 300 new in-district donors.

B. Lower-income Districts Have Fewer Donors, Who Give in Smaller Amounts

These extra donors will be hardest to find where they are needed most. This is because there are fewer available donors in lower income districts, and they tend to give less money. We analyzed all donors to all candidates in 2017 city council races by their district of residence. Although there is variation, on average districts with incomes below the median district income have hundreds fewer active donors. The average number of donors giving to all council candidates (whether in- or out-of-district) in the lower-income half of council districts was 721, and the average in the upper-income half was 1156. The median donor in the lower-income districts gives just half the amount of the median donor in wealthier districts.

C. An Out-of-district Match Would Best Improve Candidates' Ability to Earn Matching Funds

The simplest and most powerful way to remedy the loss of matching funds we find with the tiered in-district match is to match out-of-district contributions. Even a smaller match ratio on a smaller amount—such as the 4:1 match on \$100 that was suggested at one of the commission's meetings—would make a significant difference.

With an out-of-district match in addition to the 12/9/8:1 in-district match, 25 of 34 candidates in below-median income districts would face a matching funds deficit compared to a uniform 6:1 match, and 15 out of 38 candidates in above-median income districts would earn less matching funds. But the amounts lost by those candidates would all be much smaller. Only five candidates would lose more than \$50,000 funds.

Combining a 4:1 match on \$100 with the proposed 12/9/8:1 in-district match would dramatically improve the position of candidates in lower-income districts. They would have much more achievable numbers of new in-district donors to find.

In **below-median income** districts, **with an out-of-district match**:

- 21% need at least twice as many new in-district donors.
- 0% need at least three times as many new in-district donors.
- 3% need at least 200 new in-district donors.
- 0% need at least 300 new in-district donors.

In above-median income districts, only one candidate would meet any of the above criteria; that candidate would need twice as many new in-district donors (or 105 donors).

D. A Higher Match on the First \$50 Would Also Improve Candidates' Ability to Earn Matching funds

Although an out-of-district match is the best way of improving the proposed match scheme, a higher in-district match ratio would also help. We modeled a system with zero match on out-of-district contributions and 15:1 on the first \$50 of in-district contributions in addition to the commission proposal's 9:1 on the next \$100 and 8:1 on the \$100 after that.

On the 15/9/8:1 in-district match, 28 of 34 candidates in below-median income districts would lose matching funds, and 21 out of 38 in above-median income districts would be worse off. The amounts lost tend to be in-between those of the commission's 12/9/8:1 plan and the version with the out-of-district match. Across the sample, 27 candidates would lose more than \$50,000 in matching funds.

Candidates would have to find substantial numbers of new in-district donors, but less than under the commission's proposal.

In **below-median income** districts, under a **15/9/8:1 in-district match**:

- 50% need at least twice as many new in-district donors.
- 21% need at least three times as many new in-district donors.
- 29% need at least 200 new in-district donors.
- 15% need at least 300 new in-district donors.

In **above-median income** districts, under a **15/9/8:1 in-district match**:

- 24% need at least twice as many new in-district donors.
- 3% need at least three times as many new in-district donors.
- 11% need at least 200 new in-district donors.
- 0% need at least 300 new in-district donors.