



New York City Campaign Finance Board

40 Rector Street, 7th Floor, New York, NY 10006

tel. 212.306.7100 fax 212.306.7143

www.nyccfb.info info@nyccfb.info

Testimony of Amy Loprest Executive Director, New York City Campaign Finance Board

City Council Committee on Governmental Operations November 21, 2013

Chair Brewer and members of the Committee, my name is Amy Loprest, Executive Director of the New York City Campaign Finance Board. With me today are Sue Ellen Dodell, General Counsel; Eric Friedman, Director of External Affairs; and Onida Coward Mayers, Director of Voter Assistance.

Thank you for the invitation to testify today, as the committee prepares to consider the future of run-off elections in New York City. The Campaign Finance Board has long supported the concept of instant run-off voting (IRV). The Board endorsed IRV for New York City elections in our report following the 2009 elections, and also in our most recent Voter Assistance Report, for the year 2012-13.

The bills before the committee represent a range of approaches to this issue, and the Board takes no position today on the specific legislation before the Council. In your deliberations, you will decide whether the best approach is to move forward with IRV for all elections, or to begin by providing absentee and military voters with the ability to participate fully in primary elections. There are questions about whether state law provides the flexibility to design ballots appropriate for instant run-off elections, or whether it allows the Council to act in this area at all. The Board of Elections has also noted the operational issues that would be implicated by the adoption of IRV in New York City.

However, the Board continues to believe that instant run-off voting is an important reform to New York City's outdated system of run-off primary elections. Each of the past two citywide election cycles has featured run-off elections for one or both of the non-mayoral citywide offices. We know that voter turnout—which is already low in regular elections—is minimal in these runoffs.

Instant run-off elections would maximize voter participation.

Only 206,367 voters cast a ballot in the October 1 run-off for public advocate—less than seven percent of active, registered Democrats. More than 60 percent of New Yorkers who cast a vote for public advocate in the September 15 primary stayed away from the polls on October 1.

The winner of the primary is often the presumptive winner of the general election, even if he or she fails to gain a majority of primary voters. Instead of choosing the eventual victor of close, multi-candidate elections in a low-turnout run-off, the winner of an IRV election will be the candidate with the broadest support among a larger pool of interested voters. IRV can ensure more voters participate meaningfully in citywide elections, and ensure all elected officials have the legitimacy that comes with the expressed preference of a majority of voters.

From the perspective of the Board's administration of the Campaign Finance Program, there appear to be several advantages to eliminating traditional run-off elections and instituting IRV.

Instant run-off elections could reduce the cost of the Campaign Finance Program.

In addition to the significant costs of administering a citywide run-off election—the runoff for Public Advocate cost the city Board of Elections a reported \$13 million to administer—candidates who participate in the Campaign Finance Program receive an additional public funds payment to conduct a run-off campaign equal to 25 percent of the funds they received in the

primary.

Over the past four citywide election cycles (2001-13), the Board has paid a total of \$4.35 million to 12 candidates for runoff elections. With instant run-off voting, those payments would not be necessary.

Instant run-off elections eliminate an avenue for large campaign contributions.

New York City's reasonable contribution limits are a significant and useful safeguard against real and received corruption. The limits constrain the ability of wealthy donors to exercise influence over the political system through large campaign contributions. For citywide offices, the contribution limit is \$4,950. However, the Campaign Finance Act permits candidates to accept additional contributions for a run-off election. If a run-off has been declared "reasonably anticipated" by the Board, this means a candidate may return to his or her maxed-out contributors to request another contribution of up to one-half of the applicable contribution limit, or \$2,475, for a total of \$7,425.¹

In practice, run-off fundraising is largely dominated by candidates' largest contributors. In the 2013 election cycle, nearly half (47.9 percent) of the funds raised by citywide candidates for run-off accounts came from contributors who had already given the maximum for the primary and general election.²

Additionally, IRV could simplify compliance requirements for candidates. Board rules require that any funds raised for a potential run-off election be deposited into a separate bank account, from which no spending can be made prior to the primary election.³ Additional disclosure statements for the run-off are required. Additional rules govern candidates' use of run-off accounts, to ensure the funds remain separate from primary/general election funds.

¹ NYC Admin Code §3-703(1)(f)

² The Board determined a runoff election to be "reasonably anticipated" in the Democratic primary for mayor on June 20, 2013, and made a similar determination in the Democratic primary for public advocate on August 15, 2013. Candidates reporting contributions for a run-off account included Bill de Blasio, Letitia James, Christine Quinn, Daniel Squadron, William Thompson, and Anthony Weiner.

³ CFB Rule 2-06(c)

Eliminating a separate, traditional run-off election would also eliminate these specific requirements.

Instant run-off elections would remove uncertainty in case the vote count is delayed.

With only two or three weeks between the primary and run-off elections, every day of campaigning counts. If the unofficial results of the primary election are inconclusive, decisions about public funds payments in a run-off election may need to be made before the official count is concluded.

One example: The first-place finisher in the September 2001 Democratic primary for public advocate, Betsy Gotbaum, finished well under the run-off threshold, with 24 percent of the vote in the unofficial count. However, the identity of the second candidate in the run-off was unclear; less than one percent separated the next four candidates. Three days after the election, before the official count was completed, the Board issued run-off payments to four of the five leading candidates.⁴

In a more recent instance, Bill de Blasio, who finished first in the September 2013 Democratic primary for mayor, received slightly more than 40 percent of the vote in the unofficial count. Second-place finisher William Thompson did not immediately concede. Because the unofficial count indicated a run-off had not been triggered, the Board declined to issue run-off payments. The official count, certified on September 30, showed that de Blasio received 40.8 percent of the vote.

Instant run-off voting would eliminate these difficult and time-sensitive determinations, and allow the winning candidates to begin their general election campaigns without delays or uncertainty.

⁴ The four candidates receiving payment were Gotbaum, Stephen DiBrienza, Norman Siegel, and Scott Stringer. The fifth candidate, Willie Colon, did not qualify for public funds for unrelated reasons. See "An Election Interrupted... An Election Transformed, The Campaign Finance Program and the 2001 New York City Elections," pp. 30-31.

If instant runoff elections are established, the Board is well-equipped to help educate voters.

If IRV is adopted, there will be an adjustment period as voters learn the new system. Helping encourage voting by all New Yorkers who are eligible is a key responsibility for the Board.⁵

The CFB conducts a broad voter education campaign before each citywide election, across multiple platforms. The City Charter requires the Board prepare, publish, and distribute a Voter Guide to every household with at least one registered voter.⁶ For the recently-concluded 2013 elections, the CFB mailed 3.3 million Guides to voters before the primary elections, and another 4.2 million before the general elections. Additionally, the Board prepares an online version of the Guide, as well as a Video Voter Guide and a mobile platform, NYCVotes.org, which makes voter information available by smartphone. Our Voter Assistance Unit conducts registration drives and voter outreach through partnerships with City agencies, neighborhood groups, and civic institutions. The CFB also administers a Debate Program for the citywide offices, which represents another opportunity to convey important information to voters.

Two of the bills before the Council envision a role for the Board to play in helping familiarize New York City voters with IRV. Through the various platforms we have available, we are confident the Board can be an effective partner in that effort.

Before I conclude, as this may be my last appearance here in 2013 I would like to take this opportunity to extend my deep appreciation to Chair Brewer for her leadership of the Committee on Governmental Operations. Throughout her career on the Council, she has been a thoughtful and engaged legislator, and a strong supporter of the Campaign Finance Program. We have enjoyed a collaborative and productive working relationship with her, with her staff, and with this committee during the current term, and I wish her much success as she moves on to higher office.

⁵ NYC Charter §1054(b)

⁶ NYC Charter §1052(b)

Again, thank you for the opportunity to testify today, and I welcome your questions.
