



Guide to the CFB Independent Expenditure Disclosure Rules

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Reportable communications have been expanded to cover more internet activity, and electioneering communications now include phone calls and flyers.

When an organization or person not affiliated with a candidate (an **independent spender**) makes certain payments or provides certain services that refer to municipal candidates or ballot proposals, it has made an **independent expenditure**. Certain independent expenditures, as well as information about the independent spender and its source of funds, must be reported to the Campaign Finance Board (CFB). There are no limits on what may be raised or spent; the independent expenditure rules require disclosure only.

What makes an expenditure “independent”?

An independent expenditure is one that no candidate has authorized, requested, suggested, fostered, or cooperated in. An independent spender cannot coordinate with a candidate concerning an independent expenditure. An independent spender can be an individual, or an organization of any kind, including a political committee, union, or corporation.

Is any coordination between a candidate and an independent spender permitted?

The following interactions between a candidate and a third party are not considered to be coordinated activity:

- Appearing, or discussing the logistics of a candidate’s appearance, at an event that does not raise funds for the candidate or third party.
- Communications directly related to an organization’s endorsement process.
- Requesting, obtaining, or republishing a candidate’s photograph, biography, press releases, position papers, or similar materials available to the general public. This exemption does not apply to more substantial or promotional materials produced by candidates or campaigns.

What kinds of independent expenditures must be reported?

An independent spender must report any expenditure that meets all three of the following criteria:

- 1) The aggregate amount paid to a vendor is \$100 or more and, when combined with all other expenditures made by the independent spender concerning a given candidate or ballot proposal, reaches \$1,000.
- 2) The expenditure is for the design, production, or distribution of covered communications, including TV, radio, cable, internet, and satellite transmissions, all paid electoral advertising, and any communication served or delivered to 500 or more specific people in a 30-day period in any medium. If the communication is for express advocacy, then additional materials served or delivered to 500 or more non-specific people are also covered (see below). Personal phone calls, texts and emails, in-person communications, and non-promoted social media postings are not covered. See below for more information on internet and social media communication.

- 3) The expenditure is for an express advocacy communication made at any time during the election cycle, or an electioneering communication made within 60 days of a primary, general or special election.
- **Express advocacy communications** support or oppose a candidate or ballot proposal using “magic words” such as “vote for” or “reject,” or other phrases that can have no reasonable meaning other than advocating for or against the candidate or ballot proposal.
 - **Electioneering communications** mention the name of a clearly identified candidate or ballot proposal shortly before an election.

Chart: What communication methods are covered by the independent expenditure disclosure rules?

Communication Method	Express Advocacy Uses “magic words” or their equivalent at any time	Electioneering Communication Uses the name of a candidate or proposal shortly before the election
Cable, TV, satellite, radio & internet	Covered	Covered
Print ads, billboards	Covered	Covered
Mailings, flyers, calls, email, text, etc. to 500+ specific people in 30 days	Covered	Covered
Flyers and other delivery to 500+ non-specific people in 30 days	Covered	Not Covered
Posters, lawn signs	Covered	Not Covered
In-person conversation	Not Covered	Not Covered
Personal call, letter, email, text	Not Covered	Not Covered
Buttons, pens, clothing	Not Covered	Not Covered

Are there any exceptions to what is covered?

Yes. The following activities are not considered to be independent expenditures, and do not have to be reported.

- Communications made by an organization directly to its individual members or by a corporation directly to its stockholders. This exemption does not apply to entities organized primarily for the purpose of influencing elections, including party committees, constituted committees, and political clubs.
- Unreimbursed travel and event expenses (up to \$500 each) made by individuals.
- Expenditures made by media outlets in the normal course of business.
- Electioneering communications made by 501c3 non-profit organizations that refer to candidates.

What information is reported, and when?

Independent spenders use the Independent Expenditure Disclosure System (IEDS) to report information about themselves, their covered communications, and the sources of their funding. This information is available to the public via the [CFB’s website](#).

- **The Independent Spender:** Independent spenders that are organizations must disclose information about their leadership, including all officers, owners, partners and board members. Independent spenders who are individuals must disclose information about their employment.
- **Communications and Expenditures:** When a covered communication is first distributed,¹ an accurate copy of the communication as it was distributed to the public (not a draft) must be filed in the subsequent

¹ A communication that is mailed is considered to have been distributed on its initial postmark date.

disclosure report,² along with information about each expenditure to a vendor aggregating to \$100 or more³ directly related to its design, production, or distribution. An itemized invoice must be submitted, when it becomes available.⁴ Any future related expenditures, such as a reprint or re-airing, must be reported as they are incurred. Discounts and payments by third parties must be reported. If a communication refers to more than one candidate or ballot proposal, expenditures must be allocated among them (see below).

- **Contributions Received:** If an organizational spender makes \$5,000 in expenditures that refer to a single candidate during the 12 months before the election, it must report the source of contributions it receives, both retroactively and for the remainder of the election cycle, from *organizations* starting January 1 of the year before the election, and from *individuals* if they total \$1,000 or more and were received within the 12 months before the election. Membership dues from individuals and revenue from goods and services are not reportable, nor are earmarked contributions that cannot be spent on municipal elections. Organizations that make contributions must disclose their officers, owners, partners, and board members. Contribution reporting is required through the final disclosure period of the election cycle. A spender that, as of the date of the general or special election, has reported total contributions greater than or equal to its total expenditures, is not required to report contributions received on or after Election Day, unless subsequent expenditures cause total expenditures to exceed reported contributions.
 - **Contributions of \$50,000 or more:** When an organization gives \$50,000 or more to an independent spender (a “major contributor”), the independent spender must disclose additional information about the major contributor’s “major funders.” A major funder is an individual or organization that has given \$25,000 or more to the major contributor in the 12 months preceding the election.

[Disclosure deadlines](#) for independent spenders occur weekly in the year of the election, due each Monday and covering the prior seven days (through Sunday). Independent spenders also file weekly reports in special elections. Reporting begins when independent expenditures referring to a specific candidate or ballot proposal total \$1,000. Expenditures made within two weeks of an election must be reported within 24 hours.

The IEDS advises spenders of what information needs to be reported. If during a given reporting period no reportable expenditures have been made nor reportable contributions received, no report needs to be filed.

What if a communication features more than one candidate?

The cost of communications that feature more than one candidate must be allocated between them. You may propose your own methodology, but here are two approaches that will almost always work.

If the candidates are running for different offices, allocate the cost based on the approximate share of the communication devoted to each candidate. For example, if one candidate’s name or picture is twice the size of another’s, allocate twice as much to the larger one.

If the candidates are running against each other (Ranked Choice Voting), size may be less important than rank. Since the #1 ranked candidate receives most of the benefit, the largest share should be allocated to that candidate. Here are suggested allocations based on how many candidates you feature:

# of Candidates	Rank #1	Rank #2	Rank #3	Rank #4	Rank #5
2	65%	35%			
3	60%	30%	10%		
4	50%	25%	15%	10%	
5	50%	20%	15%	10%	5%

² Communication documentation should be submitted electronically. CFB accepts aac, flv, jpg, jpe, mov, m4a, mp3, mp4, mpg, pdf, png, qt, ra, rv, tif, tiff, txt, wma, and wmv formats. Do not submit zips.

³ Expenditures to the same vendor are aggregated to determine whether the \$100 threshold has been met.

⁴ Expenditure documentation should be submitted electronically. CFB accepts doc, docx, htm, html, mht, mhtml, pdf, rtf, txt, xls, and xlsx formats. Do not submit zips.

What about outside communications that *aren't* independent?

Independent spenders cannot coordinate with candidates concerning an independent expenditure. Discussions between a candidate and an outside group about the content or distribution of a leaflet, or the involvement of a candidate's staff member or agent in planning an outside advertisement, are examples of factors that would make an expenditure not independent, and therefore not covered by the independent expenditure rules. Such *coordinated* activities may be subject to CFB rules and limits on in-kind contributions. There are serious potential consequences to a candidate's campaign for not reporting all of the relevant activity with which it was involved, including penalties for non-reporting and/or overspending. If you are unsure whether an expenditure is independent or coordinated, please contact the CFB – preferably prior to making it.

Does an independent spender need to register with the CFB in advance?

No. The spender can submit all required information about itself at the time of its first report. However, we encourage spenders to establish an IEDS account ahead of time so they can become familiar with the app and obtain any needed guidance. Once you've set up your account, you can enter all information about yourself or your organization, and enter your communications, expenditures and contributions. This information is encrypted and is not sent to CFB until you file. However, there is one paper form that must be completed and notarized, and it must be received by the CFB before you can file for the first time. So please don't wait until the last minute to set up your account.

What materials require a “paid for by” notice?

Once \$1,000 has been spent on any combination of expenditures that refer to any candidates, all future communications that refer to any candidates, including those costing less than \$100, must include a “paid for by” identification notice.⁵ Different communication methods require different content to be displayed in the notice, and spenders that are organizations must list their CEO, principal owner, and top donors. Spenders can use the IEDS to generate a “paid for by” notice that will reflect the communication method and all contributions entered into the system as having been received by the communication distribution date. If the spender anticipates receiving additional large contributions before the communication distribution date, the generated notice should be revised to add those contributions.

The notices must contain the following information (*information in italics only applies to independent spenders that are organizations*):

For all visual, non-video materials, including static Internet ads:

- “Paid for by” [name of independent spender]
- *The name of the independent spender's CEO or equivalent, and principal (>50%) owner, if one exists*
- *“Top Three Donors:” [names of the spender's top three donors in descending order; see note]⁶*
- “Not expressly or otherwise authorized or requested by any candidate or the candidate's committee or agent. More information at nyc.gov/FollowTheMoney.”

⁵ For communications with the same vendor and distribution date, the paid for by notice requirement is based on the aggregate value of the expenditures. If this value exceeds \$1,000, all the communications must include a notice.

⁶ Top donors have made the largest aggregate contributions of at least \$5,000 in the 12 months preceding the election up to the day that the content of the communication is finalized. If there are only two such contributors, “top three donors” is replaced by “top donors”; if there is only one such contributor, “top donor.” If there are no such contributors, then the top donors section is omitted. If the third- and fourth-highest contributors have given the same amount, the spender may decide which of the contributors that contributed that amount (there could be more than two) to list. Top donors must be updated if there are any changes between the initial distribution date and any subsequent distribution expenditures.

For all video communications (both broadcast and online):

(Spoken) “Paid for by” [name of independent spender]

(Written)

- “Paid for by” [name of independent spender]
- *“The top three donors to the organization responsible for this advertisement are” [names of the spender’s top three donors in descending order; see note]*
- “Not expressly or otherwise authorized or requested by any candidate or the candidate’s committee or agent. More information at nyc.gov/FollowTheMoney.”

Radio and Internet audio lasting 30 seconds or less, emails, text messages, and other electronic messaging:

- “Paid for by” [name of independent spender] “and not expressly or otherwise authorized or requested by any candidate or the candidate’s committee or agent. More information at nyc.gov/FollowTheMoney.”

Radio and Internet audio ads of more than 30 seconds, and automated phone calls:

- “Paid for by” [name of independent spender]...
- *“...with funding provided by” [names of the spender’s top three donors in descending order; see note].*
- “Not expressly or otherwise authorized or requested by any candidate or the candidate’s committee or agent. More information at nyc.gov/FollowTheMoney.”

Live phone calls (non-automated) of more than ten seconds:

- “This call is paid for by” [name of independent spender] “...and is not expressly or otherwise authorized or requested by any candidate or the candidate’s committee or agent. More information at nyc.gov/FollowTheMoney.”

All text must be displayed in a conspicuous size and style, i.e., easy to read, and the entire notice must be contained in a box within the body of the communication. Spoken notices must be stated in a clear pitch and tone substantially similar to the rest of the advertisement. For video communications, the written and spoken notices must be featured simultaneously. For example, the notice on a printed communication might read:

Paid for by Independent Spender 123. CEO Jane Smith, Owner John Doe. Top Three Donors: Jason Rodriguez, Joe Catania, Francis Bartlet. Not expressly or otherwise authorized or requested by any candidate or the candidate’s committee or agent. More information at nyc.gov/FollowTheMoney.

When a communication is primarily in a language other than English, the notice must be in that language. However, the web address must be in English. There are no identification requirements for ballot proposal materials, although independent spenders are encouraged to include such notices.

What constitutes conspicuous size and style for the text of a “paid for by” notice?

The following design elements are considered in determining whether the text of a notice satisfies the conspicuous size and style requirements, i.e., it is easy to read:

- **Size:** The notice must be large enough that it is readily apparent to the reader. If the notice is the smallest thing on the page, be sure that it is easily readable.
- **Sufficient contrast from background:** If the notice is placed in front of a picture or other graphic element, the notice must have suitable contrast from the background that it is easily legible.
- **Orientation:** The notice must be oriented in the same direction as the text of the portion of the communication in which it appears, not at 90° or upside down.

In addition, the text must be in a box. For printed materials, the box must be in the body of the communication, not in the margins. For mailed materials, the box cannot be within the address panel.

Are ads featured on search engines or social media sites required to have a “paid for by” notice?

Yes. All paid ads, promoted, sponsored and branded content, and search engine marketing must include a notice as shown for printed materials above. The notice may be in either the text or image portion of the ad or content and are in addition to any identification requirement set by the platform, such as on Facebook.

If it is impractical to display a clearly readable notice in the ad, and if the ad includes a link to a destination you control, you can instead use a shortened notice (“Paid for by [name of independent spender]”) and place the full notice at the destination:

- If the ad links to the spender’s website, that page must have the notice.
- If the ad links to content on an external page, such as a YouTube video, the content must have the notice.
- If the ad links to the spender’s profile page on a free social media site, that page must have the notice (for example, the notice can be on the cover photo of a Facebook page, even though that page is free).

If the ad uses the alternatives above and links to a page that contains the paid for by notice, the relevant links must be included in the communication documentation submitted to the CFB. If an ad cannot or does not link to a destination containing the full notice, the full notice must be placed on the ad.

Are promoted, sponsored and branded social media posts reportable communications?

Yes. Independent spenders must report all their paid social media advertising, including promoted, sponsored and branded content. There are two ways this information can be reported to the CFB:

1. Each promoted, sponsored or branded post, paid advertisement, promoted hash tag, promoted account, or similar paid content that is distributed through a social media site can be reported as an individual communication if it has met the reporting threshold. This method is often not practical due to the number of posts in a reporting period.
2. In each disclosure period, a single communication can be reported covering all paid material that was posted through a particular social media site. This includes but is not limited to promoted or suggested posts, paid advertisements, promoted hash tags, promoted accounts, and similar paid content. Independent spenders must also submit a link to the page that this information is being distributed from.

For example, if an independent spender opens a \$5,000 advertising campaign with Facebook to run a month-long campaign that calls for a daily budget of \$150 per day on various posts and runs five ads during the month, the independent spender would file one communication titled “Facebook Ads,” with a single PDF containing a copy or screen shot of all paid posts or ads, along with a link to the independent spender’s profile page. This communication would have one \$5,000 expense for online advertising associated with it.

In the situation described above, if the spender’s Facebook campaign ran through multiple disclosure periods with the same ads, the spender would report the communication in the first disclosure period, along with the amount spent in that period. In the second period, an additional expenditure would be reported for the existing communication. For example, if the overall campaign was \$5,000 and the spender spent \$3,000 in the first period and \$2,000 in the second period, the spender would report the communication and a \$3,000 expenditure in the first statement period, and add a \$2,000 expenditure to the existing communication in the second period.

These two options exist for daily disclosure as well, with each day being its own disclosure period.

How are discounted and in-house expenses reported?

All expenditures must be reported at their fair market value – what it would typically cost to obtain the good or service in the marketplace. If a firm or consultant charges an independent spender its standard rate to produce a flyer the amount charged is the fair market value. However, if the vendor gives a discount outside of the usual course of business, the amount of the discount must be reported as well. If the flyer is produced in-house, there may be no invoice because no money has changed hands. In this case, the independent spender must estimate the fair market value and report it. Note however, that 1) expenditures of less than \$100 (aggregate to a single vendor) do not have to be reported, and the cost of designing a simple flyer in-house may fall below this threshold, and 2) services provided by individuals who volunteer their time do not have to be reported.

Can a candidate also be an independent spender?

Yes, depending on how the candidate mentions another candidate. If a campaign engages in joint work with another campaign (where each campaign pays for its share of the benefit), or if a campaign lists other candidates as endorsers – without identifying them as candidates or promoting their election – then no independent expenditure has been made. But if a campaign independently uses the names or pictures of other candidates and identifies them by the office they are running for or promotes their candidacy, then an independent expenditure has been made and may have to be reported. In addition, independent expenditures by candidates can affect the amount of public funds the campaign can receive. Candidates should contact the CFB for more information.

What records must be kept?

Records of communications, expenditures, and contributions – particularly those that were not reported, in case any reportability questions arise – must be kept for three years to verify compliance with these rules. However, once a document has been submitted to and received by the CFB, it no longer needs to be kept.

How can an organization or person obtain guidance on whether an expenditure is reportable?

In addition to informal conversations with the CFB staff, if an organization or person is unsure whether these rules apply to a particular communication or circumstance, it may seek written guidance. Guidance must be provided within no more than seven days (and is likely to be provided by the next day); during the two weeks before the election, guidance must be provided within 24 hours. Obtaining guidance is voluntary and applies only to the exact communication submitted to the CFB and distributed exactly as described.

What are the penalties for non-compliance with these rules?

The City Charter authorizes the Board to assess civil penalties of up to \$10,000 for each violation of these regulations, and intentional or knowing violations may also be punishable as misdemeanors. Independent spenders are encouraged to consult with the CFB ahead of time if they are in doubt about the timing and content of reports, or to obtain guidance in advance as noted above.

Does reporting with the CFB satisfy the New York State Board of Elections reporting requirements?

Unfortunately not. The BOE and CFB have different reporting requirements for independent spenders, although much of the information overlaps. Please contact the [NYS Board of Elections](#) for additional information.

This guide summarizes and explains the independent expenditure provisions of the [New York City Charter](#) and the [CFB Rules](#); it does not replace or supersede them. For assistance, contact the CFB at IEMail@nyccfb.info or 212-409-1853.

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