



**CITIZENS UNION OF THE CITY OF NEW YORK**  
**Testimony to the Assembly Standing Committees on Governmental Operations,**  
**Election Law and Ethics and Guidance on New York State Government Ethics**  
**June 8, 2009**

---

Good afternoon Chairs Destito, Millman, and Magnarelli and members of the Assembly Standing Committees on Governmental Operations, Election Law and Ethics and Guidance. My name is Dick Dadey, and I am the Executive Director for Citizens Union of the City of New York. Citizens Union is an independent, non-partisan, civic organization of New Yorkers who promote good government and advance political reform in our city and state. For more than a century, Citizens Union has served as a watchdog for the public interest and an advocate for the common good. I thank you for holding this hearing and giving me an opportunity to present Citizens Union's views on this important topic.

New York's ethics laws and structures are in a state of major disrepair, and if left unattended threaten to lead to continued and arguably even more lax oversight of lobbying activities, the ethical conduct of our state's public officials, and the influence of campaign contributions. This mix of unchecked influence could further the public perception that too many elected officials in New York State are not only beholden to special interest groups but, even worse, are beyond the jurisdiction of the law's current enforcement authority – meaning these individuals can betray the public's trust and not be held accountable for their actions. Citizens Union applauds the Assembly for seizing on this critical opportunity to engage the public in a discussion about how best to reform the state's ethics laws. Citizens Union's testimony today will focus on the importance of two key components to any ethics reform package:

- 1. A singular, strong and independent oversight agency with jurisdiction over:**
  - a. Monitoring ethics compliance for the executive and legislative branches; and**
  - b. Analyzing all intersections of money in politics, including lobbying and campaign finance.**
- 2. A simple, broad-based appointed structure with clear jurisdiction.**

New York's ethics oversight structure is antiquated and in need of immediate and meaningful reform, despite recent reforms to the law in 2007. While Citizens Union supported the reforms in 2007 which lead to the creation of the Commission on Public Integrity (CPI) and the Legislative Ethics Commission (LEC), we at that time also cautioned against creating bodies that would effectively police themselves. We were apprehensive that the creation of the CPI could result in a less independent and effective body, as one elected official, the Governor, controlled a majority of appointments to the CPI, potentially threatening its needed independence. We also expressed concern that the CPI may ultimately eliminate some of the best attributes of the Lobbying Commission, which at the time, was the most effective government watchdog agency in Albany, and served the public well by investigating abuses and holding lobbyists and elected officials accountable for improper activity and malfeasance.

The current bifurcated system, where the CPI is comprised mostly of gubernatorial appointees that oversees the executive branch, and a separate LEC comprised only of legislative appointees that oversees the legislative branch, is the minority approach in ethics oversight nationwide. As we feared,

the problem with this structure is that the CPI's majority-gubernatorial control and the legislature's policing itself, and its staff, is that it has proven not to work. In fact, the Inspector General's release of his report about the mishandling of the CPI's investigation of the "Troopergate," only brought to light a long dormant issue that continues to plague the public's perception about the lack of effective state ethics oversight. Moreover, the string of questionable ethics issues and the long-pending vacancy in the LEC only further necessitates immediate action to revamp state ethics oversight.

The former New York Temporary State Lobbying Commission (Lobbying Commission) provided a workable appointment structure because no one elected official controlled a majority of the appointments and it had jurisdiction over executive, legislative and procurement lobbying, which ensured a certain level of independence that allowed the executive director to act without fear of reprisal. The major problem with the Lobbying Commission, however, was that it was not empowered institutionally to allow the public to follow the effect of money on the various entities related but not subject to its jurisdiction.

It is for this reason that Citizens Union strongly believes that a successful ethics proposal can build upon the strengths of the Lobbying Commission by replicating its structure on a larger scale through the creation of a singular, strong and independent oversight body with a simple, broad-based appointment mechanism with clear authority to execute its mandate. Like the majority of states nationwide – approximately thirty – New York must reform its ethics oversight to ensure that the agency ultimately responsible for monitoring this important issue is truly independent and that both branches of government are overseen equally by the law.

Citizens Union believes this is an opportunity for New York to also build upon the lessons learned nationwide to create a robust ethics oversight entity that will be a model reform in this area. In particular, based on our research, while many states have ethics bodies that oversee the executive and legislative branches, these bodies either lack meaningful enforcement power or have concurrent jurisdiction with other oversight bodies which makes it difficult to ascertain which body is clearly responsible for resolving a particular type of ethical issue. Citizens Union recommends that New York empower one agency to be responsible for analyzing all intersections of influence, money and politics and, therefore, supports the approach taken in Governor Paterson and Senator Squadron's bills, which are very similar to a proposal assembled by the Citizens Union, Common Cause, the League of Women Voters and the New York Public Interest Research Group, because it would eliminate the CPI and LEC and replace these structures with a new, unified ethics oversight entity, the Commission on Governmental Ethics (Commission).

This new Commission would have jurisdiction for monitoring and enforcing the state's ethics laws for both the legislative and executive branches, as well as jurisdiction over the lobbying law, Article 14 of the Election Law relating to campaign finance, financial disclosure rules and some portions of the open meetings laws. This unified approach, when vested in a truly independent body, will ensure that the laws are interpreted and applied consistently to all subject to its jurisdiction, but also that the commissioners do not feel so indebted to their appointing authority that they make decisions contrary to the public interest.

With respect to the composition of this Commission, we recommend that there be broad-based appointments that comply with the following guidelines:

- No one elected official would control a majority of appointments, which would more fairly balance the interests of all parties subject to oversight by the Commission and hopefully address any separation of powers arguments put forth in opposition to this proposal.
- No current legislator can serve on the commission;
- No commissioner can be a registered lobbyist;
- Depending on the size of the body, no more than two members may be from the same political party;
- No commissioner can serve as a party official or seek a leadership position with a state or local political party;
- No commissioner may hold any public office; and
- No commissioner may hold a paid position with a campaign for elective office.

Citizens Union acknowledges that one of the advantages of the former Lobbying Commission is that the law gave power to the executive director to meaningfully enforce the law. We believe it is critical for any future oversight agency to have a strong executive director who can on his or her own initiative be empowered to investigate and enforce the law. Specifically, we recommend that there be an executive director with a fixed term who would be appointed by the joint agreement of the chair and the vice chair of the commission, both of whom must be of different political parties, without regard to political affiliation. This would ensure that the executive director has the latitude necessary to fully enforce the law.

In conclusion, Citizens Union strongly supports the pending proposals to reform state ethics oversight by incorporating executive and legislative ethics in to one comprehensive agency, so long as it done in a way to ensure the body's independence of the appointing authorities, as well as that the body has clear authority to enforce the law. We would recommend that any final ethics reform package, in addition to creating an independent and robust commission, must also:

1. Institute contribution restrictions to avoid "pay-to-play" issues, which would be applicable to lobbyists, placement agents who should be required to register as lobbyists, state contractors, and certain business entities, as well as the senior managerial employees and immediate family of such persons or entities;
2. Restrict the personal use of campaign contributions;
3. Require candidates or political committees to dispose of their excess campaign contributions within a set period of time after an election;
4. Conduct random audits of financial disclosure forms required to be filed by public officers; and
5. Require public officers who retain, employ, designate or otherwise do business with a lobbyist to file a disclosure report with the ethics oversight body once the business begins.

We look forward to working with the Assembly, the Senate and the Governor to accomplish meaningful and much-needed ethics reform before the end of June. Chairs Destito, Millman and Magnarelli, Citizens Union again thanks you for holding this important hearing and for making it possible for us to express our views.