



CITIZENS UNION OF THE CITY OF NEW YORK

Testimony before the City Council Committee on Governmental Operations, State & Federal Legislation: *Mayor's Office of Ethnic & Community Media and Government Spending on Advertisements*

250 Broadway – October 28, 2026

Good morning, Council Members. My name is Ben Weinberg, and I am the Director of Public Policy at Citizens Union, a nonpartisan good government group that has worked to advance honest and accountable government and fair and open elections in New York for nearly 130 years.

Thank you for the opportunity to testify before you today. We make three recommendations for the Council as it considers the topic of government spending on advertisements and the bills before the Committee today.

1. Government spending on advertisements using social media influencers should be clearly disclosed

This issue came up at the Committee's September hearing. The growing use of social media influencers in government communications – from public health materials to election information and access to government services – suggests this is an area in need of clear rules. That's because with influencer advertising, it may not be apparent to the audience that the content is an advertisement paid for by the government. That needs to change.

The Council should follow federal guidelines on commercial endorsements online¹ and establish that whenever the City pays for content to be created or distributed in communication formats where the audience would not expect paid content, a clear and conspicuous disclosure should be included.

¹ FTC's Endorsement Guides: What People Are Asking <https://www.ftc.gov/business-guidance/resources/ftcs-endorsement-guides-what-people-are-asking>

That requirement should be incorporated into the City's advertising contracts. The Council routinely establishes substantive conditions on City contracts in Title 6, Chapter 1 of the Administrative Code, which governs Contracts and Purchases, like requirements regarding wages and nondiscrimination. Paid influencer content is a form of advertising, typically purchased through advertising agencies that hold City contracts. It should be regulated through the City's procurement system in the same way, rather than through restrictions on individual public servants.

We have submitted proposed language for a new section on disclosure of payment for advertising, and are willing to assist in further developing such policy.

2. Limit government spending on advertisements used for political and electioneering purposes

Since 1998, the New York City Charter has prohibited the use of government resources to distribute messages urging the public to elect or defeat candidates, support or oppose political parties, or support or oppose a referendum question, also known as “electioneering message” (Charter § 1136.1(2)(c)). This provision has helped level the playing field in elections and prevent taxpayers’ dollars from going into political campaigns that masquerade as government advertisements.

However, the ban on using City resources for electioneering has eroded in recent years, particularly when the legislative and executive branches are on opposing sides of a ballot referendum. Under the current legal loophole, no regulator enforces these electioneering rules, making every City Charter ballot question a potential target of publicly funded campaigns by the administration, the City Council, and other City agencies.

This lack of enforcement, combined with unclear guidelines, has resulted in an electioneering arms race on the public dime. This has happened repeatedly in the past few years. Even when City agencies use government advertising to properly inform voters about a ballot question, questions arise as to whether an ad crossed a line or not, because no government agency has issued rules or guidelines that explain what constitutes a violation of the electioneering ban.

The Conflicts of Interest Board (COIB) is best-suited to issue rules, provide guidance, and enforce restrictions in this area. COIB already regulates Charter-mandated prohibitions on the conduct of public servants, including restrictions on using City personnel, time, or resources for non-City purposes, as well as prohibitions on engaging in political or campaign activity using City resources. In addition, COIB serves as the primary authority to which public servants turn for

guidance on permissible conduct and provides training to tens of thousands of employees each year. COIB has stated it believes it does not currently have the legal authority to enforce the existing ban on referendum electioneering and that a change in enforcement must be enacted through a Charter amendment.

The Council should make COIB the regulating agency for the legal limitations on use of governmental funds or resources for an electioneering message, outlined in Charter Section 1136.1, and update the definition of an electioneering message to meet current best practices.

Another way to strengthen the limits on government advertising for political purposes would be to prohibit public servants who are candidates from appearing in government communications in the days before an election. This approach has proven useful under the City's "mailer blackout" law, which forbids elected officials running for office from sending out a government-funded mass mailer to their constituents during the 90-day period before an election, and should be expanded further.

Intro 1075-2026 by Council Member David Carr gets at this problem by forbidding public servants from appearing in influencer-based government campaigns (called "third-party public communication" in the bill) during the same period.

We support that idea but believe it should be expanded to other forms of government communications, including advertising and public service announcements, with appropriate exceptions for legitimate appearances, like news articles or official websites. New York State ethics rules prohibit certain state officials from appearing in a public service announcement within 90 days of any election in which they are a candidate.²

3. Ban the use of auto-delete functions from government communications and codify instant messaging record retention policy in the Charter

This issue is tangentially related to government spending on advertising, since it was reported that City Hall officials used instant messaging app Signal to communicate with influencers about public messaging, but it goes beyond this case.

The City has a record retention policy on instant messaging, but the Committee's hearing on this topic in September made clear that current policy is insufficient.

Responses from the administration and the Department of Records and Information

² 19 NYCRR Part 940 Public Service Announcements with Covered Officials: Permissible and proper usage.

See: <https://ethics.ny.gov/public-service-announcements>

Services (DORIS) at that hearing seemed to imply that public servants are free to choose for themselves whether messages on third-party apps should be retained, what messages constitute substantive communications, and what apps to use for communication. Despite having a policy in place that “strongly discourages” using instant messaging for substantive communications, the agency implied it sees no role in regulating the policy. Definition and guidelines are clearly confusing for public servants and external stakeholders.

A recent whistleblower lawsuit by a former Department of Citywide Administrative Services (DCAS) underscores the prevalence of this problem. The official alleges that senior managers used personal phones, private email and hand-delivered memos to keep sensitive talk out of the public record. One text message presented in full showed a top DCAS official starting a message with “Hey - didn’t want this in Teams” – a reference to Microsoft Teams, the City’s internal communication platform.³

Without clear limits on the use of instant messaging and auto-delete functions and firm rules on their record retention, the City would begin losing substantial parts of its internal and external communications. That presents a major risk for transparency and accountability. It may erode compliance with current law, which prohibits City employees from destroying records except under specific circumstances, and prevent the public from accessing public records through Freedom of Information requests.

The bill by Council Member Gale Brewer (Preconsidered T2026-2722) is a first step in that direction. It would require DORIS to establish a working group to study the use of instant electronic messages by City agencies and recommend how best to retain such messages, amend the Department’s policy on the topic, and train city employees on guidelines.

We appreciate the effort to align the modern use of instant messaging with the city’s needs for record retention, transparency, and public accountability, and to encourage the administration to rethink its position on enforcement.

We also believe the Council should make direct Charter amendments to address these challenges.

³ Greg B. Smith, The City Reporter, Oct. 14, 2026, City Agency Sought to Hide Nepotism Hire Through Private Messages, Lawsuit Alleges <https://www.thecityreporter.nyc/2026/10/14/dcas-lawsuit-private-text-messages-emails-mamdani-signal/>

We encourage the Council to prioritize legislation that codifies electronic instant message retention policies, and explicitly prohibits use of auto-deletion functions across city government communications.

This is a rather simple legislative fix which could prove very impactful.

It would amend Section 3011 of the City Charter to clarify the definition of “records” to include electronic and instant formats, and to add a new definition of “electronic instant messages.” It would also amend Charter Section 1133, which deals with record retention, transmission, and destruction, to establish a binding policy on the retention of instant electronic messages and forbid public servants from using, causing or permitting to be used any function that automatically deletes or destroys a record after a fixed period of time or after such record has been viewed or transmitted.

Thank you for the opportunity to testify, and I would be happy to answer any questions.