Common Cause
New York
Holding Power Accountable

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TESTIMONY OF SUSAN LERNER, EXECUTIVE DIRECTOR COMMON CAUSE/NY BEFORE THE NYC CHARTER REVISION COMMISSION ISSUE FORUM ON ELECTION ADMINISTRATION AND VOTER PARTICIPATION

Common Cause is a nonpartisan, nonprofit organization founded to serve as a vehicle for citizens to make their voices heard in the political process. Orderly administration of elections and citizens' access to the polls is part of our core mission to promote civic engagement and accountability in government for all Americans. In New York, we work to achieve secure, fair and accessible elections that provide equal opportunity to all eligible voters to cast a ballot that will be reliably and accurately counted. Achieving that goal is unnecessarily difficult in a city and state that claims a progressive mantle.

The purpose of this written testimony is to summarize the issues which we believe the Charter Revision Commission should take up. Our research into how some of these issues should be addressed continues and we hope to supplement this summary testimony with more detailed recommendations in the near future.

A Right to Vote in the City Charter

An ongoing issue is the unresolved conflict between New York City's well-defined public policy interest in strengthening and protecting its residents' right to vote in New York City elections and the New York City Board of Elections public position that it is not subject to the city's oversight. Interestingly, that public position has been contradicted by the Board in at least one lawsuit. *Gonzalez v. City of New York,* 2014 N.Y. Misc. LEXIS 3368 ; 2014 NY Slip Op 31963(U) (2014). The Commission should consider adding an express right to vote for New York City eligible residents to the City Charter, as well as a mechanism for city residents to enforce that right directly.

Use the Budget Process to Insure Greater Accountability of the Board of Elections

While case law makes it clear that the Board of Elections has absolute discretion regarding the hiring and firing of Board employees, within the budget amounts allocated by the City Council, the statutory or case law authority for the proposition that the Board is free to ignore all requirements regarding accountability for the manner in which city taxpayers money is spent on non-personnel items is questionable. The commission should consider adding specific reporting requirements to the Charter which would require the Board of Elections to report its performance goals and whether they are met, not simply report "through-put" (i.e., how many people voted, how many machines broke down, etc.) as part of the city budget process. For instance, the Board could be required to report the number and location of polling places where voters experience waiting times in excess of 30 minutes for city elections. The Charter should expressly authorize the City Council to include terms and conditions to its funding allocations for the Board's operations other than employee hiring, firing and salaries.

Clarify That the City Conflicts of Interest Law Applies to the Board of Elections

We recommend that the Charter Revision Commission add a provision to the Charter to expressly clarify that the Board of Elections is subject to the charter's conflict of interest provisions, thus over-ruling the outdated and misguided opinion issued by the Corporation Counsel in 1996, Opinion 2-96, 1996 NYC Corp. Counsel Lexis 22.

Strengthen and Expand VAAC to Encompass All Civic Engagement and Volunteer Activities

There is much that the city is doing to encourage civic participation, both through Service NYC and the VAAC. We strongly believe that all civic engagement activities, including volunteering and voting, should be regarded as part of a continuum of engagement and coordinated accordingly. There is little practical justification for having multiple entities in different parts of city government addressing different aspects – or identical aspects – of civic participation. It is our recommendation that the city's efforts to encourage greater civic engagement should be coordinated by one agency, which should be independent and have a minimum guaranteed budget provided for in the Charter. We envision an agency similar to the Campaign Finance Board, but focused on coordinating all city activities, fostering a greater public understanding of the way in which all forms of engagement are related to the well-being of our city and the health of its democracy.

Introduce Only One Transformative Election Reform –Ranked Choice Voting

Common Cause/NY urges the Charter Revision Commission to resist the urge to load its proposed revision with a plethora of election reforms. Given the lack of virtually any modernized election procedures in New York State, loading up the city charter with numerous election reforms that are lacking at the state level seems overly ambitious from an election administration point of view.

Common Cause/NY strongly endorses adopting Rank Choice Voting for all New York City elections, not limiting the reform to run-offs, to garner the full benefits which the reform can provide to New York City's voters.