



December 12, 2019

Office of the Mayor
City of Chicago
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Chicago, IL 60602

Via E-mail to Rachel Leven, Deputy Policy Director: Rachel.Leven@cityofchicago.org

Steven Berlin, Executive Director
City of Chicago Board of Ethics
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Via E-mail: Steve.Berlin@cityofchicago.org

Dear Mayor Lightfoot and Executive Director Berlin,

Thank you to the City and its representatives for participating in a meeting at the office of Chicago Lawyers' Committee for Civil Rights on Monday, December 9 with representatives from more than twenty community organizations and nonprofit organizations. The meeting discussed the new legal requirements regarding lobbyist registration as applied to nonprofit organizations (SO2019-5305, or "the Ordinance").

The representatives included organizations from across the city, bringing perspectives from neighborhood organizations, community advocacy organizations, and organizations focused on broad social issues. These organizations work directly with communities of color and communities that face more barriers to participating in the political process. Many of the leaders of these organizations participated enthusiastically in the Mayor's transition committees earlier this year. They are eager for stronger mechanisms that promote racial equity and create a process to meaningfully engage the communities most impacted by policy decisions prior to those policies being decided and implemented.

The attendees brought meaningful and relevant issues to the conversation that must be addressed through legislative amendments – not merely discretion and interpretation. In particular, the attendees underscored the core problem that the stated intention of the law (transparency and good governance) does not match the requirements and impact of the law. In its implementation, the law will undermine the good governance goal of equalizing political access by instead increasing barriers for communities, with a particular impact on communities of color.

Attendees expressed that this new law will result in organizations and individuals being less likely to engage in political advocacy. Many stated that because of the way the law applies to their group, they will have to take significant time and resources away from other community work in order to meet the compliance requirements.

In addition to the concern about the mismatch of intent and impact, the group collectively identified many specific concerns about the text of the law. Some of those specific concerns are listed at the end of this letter. Most immediately, the group noted that the process of creating the law lacked any equity analysis or input from those who are most likely to be burdened by the law. While this

might have merely been an oversight at the time of drafting, with the information that has now been presented, continuing to implement a law without such a process would demonstrate an acceptance of the clear limitation that this imposes on individuals and organizations engaging in the political process through their constitutional rights.

To address these issues, any process to amend the legislation should meaningfully include the organizations and communities most affected by these rules. By necessity, this requires a delay in implementation of the law. Further, this process requires engagement beyond simply soliciting comments from the public.

We ask and expect that this law is delayed for at least six months and that the City specifies a process for drafting the new law that meaningfully includes the groups and communities impacted. The resulting law and the process to construct that law should follow the principles identified in the [Report of the Transition Committee](#) submitted to the Mayor regarding good governance practices on equity, accountability, and transparency (page 8); meaningful community engagement (pages 96 and 97); and how to equitably include those racial groups that will be most affected by a policy (page 101).

We understand that an ordinance that delays the law must be introduced at City Council by next Wednesday, December 18. We therefore request a response to this and our December 6 letter by no later than Monday, December 16 at 4:00 p.m. We look forward to hearing from you. We request that you direct any responses to Ami Gandhi of Chicago Lawyers' Committee for Civil Rights at agandhi@clccrul.org or (312) 888-4193.

Sincerely,

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Many problems with the Ordinance were raised by community organizations at the December 9 meeting. Included among those issues were the following:

- The ordinance fails to understand and interact with common ways that community organizations provide support for residents who are advocating for themselves – but are supported by a nonprofit organization that enables them to advocate for themselves. In many cases, identifying where someone is advocating “individually” or advocating “on behalf of an organization” is an impossible or meaningless distinction. This is especially problematic given the lack of a time or money threshold, as it opens the door for someone violating the law even by having a one-off interaction with an alderman or other government official.
- The definitions are broad and vague, particularly concerning what an “administrative action” covers and whether or not the new exemptions will be applied.
- There is too much discretion given to public officials at every stage of the registration process, including for waivers of fees and penalties.
- It potentially opens the door for political retaliation via investigation of entirely proper civic engagement by community-based organizations.
- The definition of lobbying is different than the federal rules, requiring additional burdensome tracking, which influences communities’ decisions of what strategies to pursue.
- There is no minimum time or money threshold for whether an individual is required to register.
- People who work for coalitions or organizations that are part of coalitions (or people with multiple jobs) might not be eligible for fee waivers.
- There is no age threshold in the registration rules.
- The rules waive fees only for 501(c)(3) organizations, but not (c)(4) organizations. Many groups have cost sharing agreements with an appropriately set up and similarly staffed (c)(4) organization.
- The penalty for noncompliance (\$1,000 per day) is far too high. Relying on a process to create a “settlement” for any fines for noncompliance is an inherently inequitable system that favors people with access to resources.
- Many organizations are worried that various types of funders will not be able to fund organizations that have to register with the City as lobbyists – even though the City’s definition of lobbying differs from what the funder’s restrictions on lobbying are.
- Because this is an individual registration issue and not an entity registration, many people who are vulnerable will be impacted in a manner that is not considered within this law – including undocumented and other immigrant community members.
- The law could apply to people that are attending a protest – if they happen to be paid staff of an organization that is supporting the protest.

- Many organizations would have dozens of people that would be required to register, even though they are fundamentally advocating for their own self-interest and even though many of these organizations have limited capacity.
- The law puts the burden on low-capacity community-based organizations to proactively contact Chicago Board of Ethics numerous times regarding areas of the law that are overbroad and unclear.
- The law places unreasonably onerous registration and reporting requirements on community members who are paid a small amount to help increase their capacity for civic engagement because they cannot afford to volunteer, particularly impacting people of color and low-income individuals.