

November 26, 2019, Agenda – Open Meeting Matter
September 17, 2019, Agenda – Open Meeting Matter

To: The Board

From: Christopher M. Hammer



Date: October 10, 2019

Re: Board Rules Chapter 3: Affiliated Not-for-Profit Organizations

As directed by the Board at its September 2019 meeting (**Exhibit 1**), Staff submitted the proposed amendments to Board Rules Chapter 3 to the New York City Law Department and Mayor's Office of Operations, as required by the City Administrative Procedure Act. See Charter Section 1043(d). During the course of this review, minor stylistic changes were made to the Statement of Basis and Purpose by the Mayor's Office of Operations. These changes are not substantive and are reflected in the tracked changes shown in **Exhibit 2** at 2. The rule returns to the Board with these edits. With the Board's approval, Staff will notice the rule for a public hearing and opportunity to comment. See City Charter § 1043(b).

Attached are the following:

1. Minutes of the September 17, 2019, Open Meeting (**Exhibit 1**);
2. Proposed Notice of Public Hearing, with changes tracked (**Exhibit 2**);
3. Proposed Notice of Public Hearing, with certifications from the Law Department and Mayor's Office of Operations (**Exhibit 3**).

Minutes of the Open Meeting of the New York City Conflicts of Interest Board

Date: September 17, 2019

Location: Conflicts of Interest Board, 2 Lafayette Street, Suite 1010, New York, New York

Present:

Board Members: Chair Richard Briffault and Members Fernando A. Bohorquez, Jr., Anthony Crowell, Jeffrey D. Friedlander, and Erika Thomas.

Board Staff: Ethan Carrier, Christopher Hammer, Gavin Kendall, Julia Lee, Carolyn Miller, Katherine Miller, Ari Mulgay, Yasong Niu, Jeffrey Tremblay, Michele Weinstat, Clare Wiseman, and Juliya Ziskina.

Guests: None

The meeting was called to order by the Chair at approximately 9:45 a.m. The Chair stated that the meeting was being conducted pursuant to the New York State Open Meetings Law and designated the undersigned as the Recording Secretary for purposes of the meeting.

The Chair stated that the meeting was called to discuss proposed amendments to Title 53 of the Rules of the City of New York, Board Rules § 1-13(e) and Board Rules Chapter 3.

Board Rules § 1-13(e):

After a brief introduction on the proposed amendments to Board Rules § 1-13(e), the Chair asked for any comments by the Board or Staff.

There were no comments on the proposed amendments. Upon motion duly made and seconded, the Board unanimously voted to approve the proposed amendments as the final rule.

Board Rules Chapter 3:

After a brief introduction on the proposed amendments to Board Rules Chapter 3, the Chair asked for any comments by the Board or Staff.

There were no comments on the proposed amendments. Upon motion duly made and seconded, the Board unanimously voted to approve the proposed amendments as the final rule.

The open meeting was adjourned at approximately 9:56 a.m.

Respectfully submitted,

Julia Lee
Recording Secretary

New York City Conflicts of Interest Board

Notice of Public Hearing and Opportunity to Comment on Proposed Rule Regarding Not-for-Profit Organizations Affiliated with Elected Officials

What are we proposing? The Conflicts of Interest Board proposes to amend its rules regarding not-for-profit organizations affiliated with elected officials to reflect recent legislative changes to the New York City Administrative Code.

When and where is the hearing? The Conflicts of Interest Board will hold a public hearing on the proposed rule. The public hearing will take place at [time] on [date]. The hearing will be at [location].

This location has the following accessibility option(s) available: []

How do I comment on the proposed rules? Anyone can comment on the proposed rules by:

- **Website.** You can submit comments to the Conflicts of Interest Board through the NYC rules website at <http://rules.cityofnewyork.us>.
- **Email.** You can email comments to rules@coib.nyc.gov.
- **Mail.** You can mail comments to Christopher M. Hammer, Deputy General Counsel, Conflicts of Interest Board, 2 Lafayette Street, Suite 1010, New York, New York 10007.
- **Fax.** You can fax comments to the Conflicts of Interest Board at (212) 437-0705.
- **By speaking at the hearing.** Anyone who wants to comment on the proposed rule at the public hearing must sign up to speak. You can sign up before the hearing by calling (212) 437-0730. You can also sign up in the hearing room before the hearing begins on [date]. You can speak for up to three minutes.

Is there a deadline to submit comments? Yes; you must submit written comments by [date].

Do you need assistance to participate in the hearing? You must tell the Conflicts of Interest Board if you need a reasonable accommodation of a disability at the hearing. You must tell us if you need a sign language interpreter. You can tell us by mail at the address given above. You may also tell us by telephone at (212) 437-0730. You must tell us by [date].

Can I review the comments made on the proposed rules? You can review the comments made online on the proposed rules by going to the website at <http://rules.cityofnewyork.us/>. A few days after the hearing, copies of all comments submitted online, copies of all written comments, and a summary of oral comments concerning the proposed rule will be available to the public at the Conflicts of Interest Board, 2 Lafayette Street, Suite 1010, New York, New York 10007.

What authorizes the Conflicts of Interest Board to make this rule? Section 1043 of the City Charter and Section 3-907 of the Administrative Code authorize the Conflicts of Interest Board to make this proposed rule. This proposed rule was not included in the Conflicts of Interest Board's regulatory agenda for this Fiscal Year because it was not contemplated when the Conflicts of Interest Board published the agenda.

Where can I find the Conflicts of Interest Board's rules? The Conflicts of Interest Board's rules are in Title 53 of the Rules of the City of New York.

What rules govern the rulemaking process? The Conflicts of Interest Board must meet the requirements of Section 1043 of the City Charter when creating or changing rules. This notice is made according to the requirements of Section 1043 of the City Charter.

Statement of Basis and Purpose of the Proposed Rule

Chapter 9 of Title 3 of the New York City Administrative Code ("Chapter 9") regulates not-for-profit organizations affiliated with elected officials by, among other things, requiring such organizations to report certain ~~of their~~ donations. Local Law 153 of 2019 amended Chapter 9 ~~in three ways: by:~~

- (1) ~~by~~ clarifying that a donor's donations are aggregated throughout the calendar year ~~for purposes of triggering to trigger~~ the donation reporting thresholds;
- (2) ~~by~~ relaxing the reporting requirements on unrestricted organizations (as defined in Board Rules § 3-01(k)); and
- (3) ~~by~~ permitting donors to unrestricted organizations to request anonymity from the organizations themselves instead of the unrestricted organizations requesting permission from the Conflicts of Interest Board to offer their donors anonymity when reporting their donations.

The proposed amendments to Board Rules § 3-04 would implement these legislative changes and omit duplicative rule language that is now contained in Chapter 9.

Text of the Proposed Rule

New material is underlined.

[Deleted material is in brackets.]

Section 3-04 of Title 53 of the Rules of the City of New York is amended to read as follows:

§ 3-04. Annual Reporting by Organizations Affiliated with an Elected Official.

Pursuant to Administrative Code § 3-902, all organizations affiliated with an elected official must submit the reporting required pursuant to Administrative Code § 3-902(a) on the Board's website, no later than August 1 for the previous calendar year, as follows.

(a) Reporting Requirements for Restricted Organizations

* * *

(2) [To comply with] In addition to the reporting requirements of Administrative Code §§ 3-902(a)(6) and 3-902(a)(7), a restricted organization must report for each donation received during the previous calendar year:

(i) the name of any donor who, as of the date of such donation, was either listed in the City's Doing Business Database or who was a household member of a person listed in the City's Doing Business Database;

(ii) the name of any donor who was added to the City's Doing Business Database within 180 days after the receipt of such donation or who was a household member of a person added to the City's Doing Business Database within 180 days after receipt of such donation;

(iii) (i) if the donor was the household member of a person listed in the City's Doing Business Database as of the date of such donation, or added to the City's Doing Business Database within 180 days after the receipt of such donation, the name of the person listed in the City's Doing Business Database;

[(iv) the name of any donor who made a donation with a reasonable value of \$1,000 or more;

(v) the city and state of residence of the donor;

(vi) the date of each donation;

(vii) the value of each donation;

(viii)] (ii) the value of any excess donation refunded pursuant to Administrative Code §§ 3-903(a) or 3-903(b); and

[(ix)](iii) the date of any excess donation refunded pursuant to Administrative Code §§ 3-903(a) or 3-903(b).

- (3) Multiple donations made by a person listed in the City's Doing Business Database and that person's household members in the same calendar year are considered in the aggregate for purposes of Administrative Code §§ 3-903(a), and 3-903(b). Multiple donations made by an individual in the same calendar year are considered in the aggregate [for purposes of Administrative Code § 3-902(a)(7) and] for purposes of obtaining the individual donor's written submission pursuant to Administrative Code § 3-903(d).

* * *

(b) Reporting Requirements for Unrestricted Organizations.

[(1)] An unrestricted organization must submit the information listed in Administrative Code §§ 3-902[(a)(1) to (a)(9)] (b)(1) to (b)(8).

[(2)] To comply with the reporting requirement of Administrative Code § 3-902(a)(6), an unrestricted organization must take the following steps to determine whether a donor was listed in the City's Doing Business Database or was a household member of a person listed in the City's Doing Business Database, either on the date of the donation or within 180 days after the date of the donation:

(i) check the name of the donor against the City's Doing Business Database both at the time of the donation and as of 180 days after the date of the donation;

(ii) consult the organization's records, including but not limited to donors' written submissions collected pursuant to Administrative Code § 3-903(d), to determine whether the donor was a household member of a person listed in the City's Doing Business Database; and

(iii) if an organization believes that a donor, a donor's spouse or domestic partner (or, if a donor is an unemancipated child, his or her parent), is not a person with business dealings with the City, despite such person's name matching the name of an individual in the Doing Business Database, the organization must submit information supporting that conclusion to the Board. The Board will review the submission and determine whether the donation must be reported pursuant to Administrative Code § 3-902(a)(6).

(3) To comply with the reporting requirement of Administrative Code § 3-902(a)(7), an unrestricted organization must submit to the Board the names of any individuals who

or entities that made a donation with a reasonable value of \$1,000 or more, whether in a single donation or in multiple donations. If an unrestricted organization receives multiple donations from the same individual or entity, the aggregate value of which has a reasonable value of \$1,000 or more, the organization must report the date and value of every donation from that individual or entity.

- (4) To comply with the reporting requirement of Administrative Code § 3-902(a)(8), an unrestricted organization must submit to the Board a list of each elected official communication created or distributed, which list must include a description, the date, and the total cost of each such communication. In calculating the total cost of an elected official communication, an unrestricted organization must include the value of all goods and services paid by the organization to create and distribute the elected official communication, including without limitation the value of the time of its employees and the value of all goods and services donated by a non-governmental source for the communication's creation or distribution.
- (5) To comply with the reporting requirement of Administrative Code § 3-902(a)(9), an unrestricted organization must report its total expenditures for the previous calendar year and, for the current calendar year, both total budgeted expenditures and budgeted expenditures for elected official communications.]

(c) *Privacy, Safety, and Security Requests*

- (1) Pursuant to Administrative Code § 3-902[(b)](c), [an] a restricted organization [affiliated with an elected official] may submit a request to the Board that disclosure of one or more of its donors and/or the amount of donation not be made public. The organization must make such a request in writing no later than April 1 for the previous calendar year and must explain why the release of such information to the public may cause harm, threats, harassment, or reprisals to the donor, or to individuals or property affiliated with the donor.

* * *

New York City Conflicts of Interest Board

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[(iv) the name of any donor who made a donation with a reasonable value of \$1,000 or more;

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* * *

(b) *Reporting Requirements for Unrestricted Organizations.*

[(1)] An unrestricted organization must submit the information listed in Administrative Code §§ 3-902[(a)(1) to (a)(9)] (b)(1) to (b)(8).

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(3) To comply with the reporting requirement of Administrative Code § 3-902(a)(7), an unrestricted organization must submit to the Board the names of any individuals who or entities that made a donation with a reasonable value of \$1,000 or more, whether in a single donation or in multiple donations. If an unrestricted organization receives

multiple donations from the same individual or entity, the aggregate value of which has a reasonable value of \$1,000 or more, the organization must report the date and value of every donation from that individual or entity.

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* * *

**NEW YORK CITY LAW DEPARTMENT
DIVISION OF LEGAL COUNSEL
100 CHURCH STREET
NEW YORK, NY 10007
212-356-4028**

**CERTIFICATION PURSUANT TO
CHARTER §1043(d)**

RULE TITLE: Amendment of Rules Governing Not-for-Profit Organizations Affiliated with Elected Officials

REFERENCE NUMBER: 2019 RG 081

RULEMAKING AGENCY: Conflicts of Interest Board

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

- (i) is drafted so as to accomplish the purpose of the authorizing provisions of law;
- (ii) is not in conflict with other applicable rules;
- (iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and
- (iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN
Acting Corporation Counsel

Date: October 8, 2019

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS
253 BROADWAY, 10th FLOOR
NEW YORK, NY 10007
212-788-1400**

**CERTIFICATION / ANALYSIS
PURSUANT TO CHARTER SECTION 1043(d)**

**RULE TITLE: Amendment of Rules Governing Not-for-Profit Organizations
Affiliated with Elected Officials**

REFERENCE NUMBER: COIB-12

RULEMAKING AGENCY: Conflicts of Interest Board

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

- (i) Is understandable and written in plain language for the discrete regulated community or communities;
- (ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and
- (iii) Does not provide a cure period because it does not establish a violation, modification of a violation, or modification of the penalties associated with a violation.

/s/ Francisco X. Navarro
Mayor's Office of Operations

October 8, 2019
Date