

NEW YORK CITY BUSINESS INTEGRITY COMMISSION

NOTICE OF ADOPTION OF FINAL RULE REGARDING PETITIONS FOR RULEMAKING

NOTICE IS HEREBY GIVEN in accordance with the requirements of section 1043 of the New York City Charter and exercising the authority vested in the New York City Business Integrity Commission (“BIC” or the “Commission”) by sections 1043(a) and 2101(b) of the New York City Charter that the Commission adopts the following rules concerning petitions for rulemaking. BIC published a Notice of Public Hearing and Opportunity to Comment on the proposed rules in the *City Record* on January 17, 2023. On February 22, 2023, BIC held a public hearing on the proposed rules. BIC received no comments in connection with the hearing and has determined that no changes to the rules are necessary.

Statement of Basis and Purpose of Final Rule

Under section 2100 of the New York City Charter, the chair of the Business Integrity Commission has charge of the organization of the Commission and has authority to employ, assign, and superintend the duties of such officers and employees as may be necessary to carry out the Commission’s regulatory duties. In 2017, the Commission delegated to the chair the authority to draft or direct to be drafted such proposed rules of the Commission as the chair may deem necessary and to carry out the associated rulemaking process.

The Commission is proposing to add new rules to implement Section 1043(g) of the New York City Charter, which permits any person to petition a city agency to consider the adoption of any rule and requires each agency to have rules creating a procedure for such petitions.

Specifically, these proposed rules would set forth the procedures that petitioners must follow in petitioning the Commission to consider a new rule. These proposed rules would also set forth the procedure the Commission must follow in considering and responding to petitions. The Commission, as it has previously done with the authority to draft proposed rules, would delegate to the chair of the Business Integrity Commission the authority to reject such petitions. If the chair wishes to adopt a petition, the chair will draft or direct to be drafted the rule proposed in the petition in accordance with the authority delegated in Section 15-01 of Chapter 3 of Title 17 of the Rules of the City of New York. Additionally, these rules would require the chair to deny or approve petitions within 60 days and would set forth a procedure for rejecting or adopting petitions. However, the Commission must still approve, by majority vote, any new rule before it is promulgated.

BIC’s authority for these rules is found in Sections 1043(a) and 2101(b) of the New York City Charter.

New material is underlined; deleted text is in [] brackets.

Section 1. Chapter 3 of Title 17 of the Rules of the City of New York is amended by adding Subchapter A, entitled Proposed Rules, to include section 15-01 of chapter 3 of Title 17 of the Rules of the City of New York.

Section 2. Chapter 3 of Title 17 of the Rules of the City of New York is amended by adding subchapter B entitled Petitions for Rulemaking, to read as follows:

Subchapter B: Petitions for Rulemaking

§ 16-01 Definitions.

For the purposes of this chapter, the following terms have the following meanings:

(a) Person. "Person" means a natural person or a business entity, including but not limited to a corporation, trust, estate, partnership, cooperative, association, firm, club or society.

(b) Petition. "Petition" means a request or application for the chair or Commission to adopt a Rule.

(c) Petitioner. "Petitioner" means the person who files a Petition.

(d) Rule. "Rule" shall have the meaning set forth in section 1041 of the City Administrative Procedure Act.

§ 16-02 Procedures for Submitting Petitions.

(a) Any Person may petition the chair to consider the adoption of a Rule. The Petition may be denied if it fails to include the following information:

(1) The Rule to be considered, with proposed language for adoption;

(2) Petitioner's arguments in support of adoption of the Rule;

(3) Petitioner's proposal for the time period the Rule should be in effect, if applicable;

(4) The name, address, telephone number, and email address of the Petitioner or his or her authorized representative;

(5) The signature of Petitioner or his or her representative.

(b) Any change in the name, address, telephone number, or email address of the Petitioner or his or her authorized representative must be reported to the Commission.

(c) All Petitions should be typewritten, if possible, but handwritten Petitions will be accepted provided they are legible.

(d) Petitions must be submitted via the email address identified on the Commission's website for the purpose of filing such Petitions, or by mailing or delivering the Petition to the Commission's General Counsel, 100 Church St., 20th Fl., New York, NY 10007.

§ 16-03 Procedures for Consideration of and Responses to Petitions.

If a Petition is submitted in proper form, the chair may, at the chair's discretion, deny the Petition, grant the Petition in Part or grant the Petition in its entirety. The chair's determination will be in writing to the Petitioner within 60 days from the date the Petition was received. If the Petition is granted entirely or in part, the chair's determination will state the Commission's intention to initiate rulemaking by a specified date. The chair is not bound by the language proposed by Petitioner but may amend or modify such proposed language at the chair's discretion. No rule of the Commission will be promulgated except by vote of a majority of the Commission, in accordance with Section 1119 of the Charter.