

## New York City Conflicts of Interest Board

### **Notice of Public Hearing and Opportunity to Comment on Proposed Rules Regarding Conduct Prohibited by City Charter § 2604(b)(2)**

**What are we proposing?** The Conflicts of Interest Board intends to amend Board Rules Section 1-13(e) by clarifying which documents will be publicly posted.

**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 11:30 a.m. on Friday, October 25, 2019. The hearing will be at Spector Hall, 22 Reade Street, New York, New York.

This location has the following accessibility option(s) available: wheelchair accessible.

**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 Chad H. Gholizadeh at [Rules@COIB.nyc.gov](mailto:Rules@COIB.nyc.gov).
- **Mail.** You can mail comments to Chad H. Gholizadeh, Assistant 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 October 25, 2019. You can speak for up to three minutes.

**Is there a deadline to submit comments?** Yes, you must submit written comments by October 25, 2019.

**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) 437-0723. You must tell us by Wednesday, October 23, 2019.

**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?** Sections 1043 and 2603(a) of the City Charter and 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

The Conflicts of Interest Board (the "Board") is proposing to amend subdivision (e) of Board Rules § 1-13.

### Proposed Revisions to Board Rules § 1-13(e)

The process set forth in subdivision (e) was recently incorporated into a rule that went into effect on March 10, 2019. This subdivision provides a mechanism for an agency to assign a public servant: (a) to use City time and City resources to perform work for a not-for-profit entity that serves a City purpose; and (b) to be involved, if approved by the Board, in that not-for-profit's City business. As part of this process, for each designation or request, the Board will post one document on its website; the proposed revisions would clarify which of two possible documents will be posted.

If the public servant is designated by an agency head pursuant to Board Rules § 1-13(e)(1) to use City time and City resources to perform work for a not-for-profit, but the public servant will not be involved in the not-for-profit's City business, then the Board will post only the agency head's letter making that designation. If the agency head's designation under Board Rules § 1-13(e)(1) also requests approval from the Board for the public servant to be involved in the City business dealings of a not-for-profit pursuant to Board Rules § 1-13(e)(2), then only the Board's letter approving that request will be posted by the Board on its website. The agency

head's letter to the Board requesting that approval pursuant to Section 1-13(e)(2) would remain confidential for two reasons: first, the Board would be treating these requests the same as it does similar requests from agency heads for waivers of the moonlighting restrictions for agency employees; second, the Board's determination would include all relevant information, including, of necessity, a statement of the agency head's designation made pursuant to Section 1-13(e)(1).

### **Text of the Proposed Rule**

New material is underlined.

[Deleted material is in brackets.]

Section 1. Subdivision (e) of Section 1-13 of Chapter 1 of Title 53 of the Rules of the City of New York is amended to read as follows:

(e) (1) An agency head may designate a public servant to perform work on behalf of a not-for-profit corporation, association, or other such entity that operates on a not-for-profit basis, including serving as a board member or other position with fiduciary responsibilities provided that:

(i) there is a demonstrated nexus between the proposed [activity] work, the public servant's City job, and the mission of the public servant's agency; [and]

(ii) such work furthers the agency's mission and is not undertaken primarily for the benefit or interests of the not-for-profit;

[(ii)] (iii) the designated public servant takes no part in the entity's business dealings with the City at the entity or at his or her agency, except that Council Members may sponsor and vote on discretionary funding for the entity; and

[(iii)] (iv) within 30 days the written designation is disclosed to the Conflicts of Interest Board [and will be posted on the Board's website].

(2) A public servant designated in accordance with paragraph (1) of this subdivision may take part in such entity's business dealings with the City at the entity and/or at his or her agency if, after written approval [of] by the agency head, the Board determines that there is a demonstrated nexus between the proposed [participation] work, the public servant's City job, and the mission of the public servant's agency[;] and that such participation furthers the agency's mission and is not undertaken primarily for the benefit or interests of the not-for-profit entity.

(3) The Board will post designations of public servants made pursuant to paragraph (1) on its website. When an agency makes a request pursuant to paragraph (2) of this subdivision for a public servant both to perform work on behalf of a not-for-profit entity and be involved in that entity's City business, only the Board's determination will be posted on its website.

[(3)] (4) The designation made pursuant to paragraph (1) and approval made pursuant to paragraph (2) of this subdivision must be by the head of the agency served by the public servant, or by a deputy mayor if the public servant is an agency head. A public servant who is an elected official, including a district attorney, is the agency head for the public servants employed by the official's agency or office. A public servant who is an elected official, including a district attorney, may provide the designation pursuant to paragraph (1) and the agency head approval pursuant to paragraph (2) for him or herself.

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS**

**253 BROADWAY, 10<sup>th</sup> FLOOR  
NEW YORK, NY 10007  
212-788-1400**

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

**RULE TITLE: Publication of Documents Relating to Work by Public Servants in Support  
of Not-for-Profit Entities**

**REFERENCE NUMBER: COIB-11**

**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

August 16, 2019  
Date

**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:** Publication of Documents Relating to Work by Public Servants in Support of Not-for-Profit Entities

**REFERENCE NUMBER:** 2019 RG 056

**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: August 16, 2019