

## **December 17, 2020 Agenda – Open Meeting Matter**

To: The Board

From: Chad H. Gholizadeh

Date: November 17, 2020

Re: Proposed Amendments to Board Rules § 1-08

City Charter § 2604(a)(1) prohibits full-time public servants from having an ownership interest in or position at a firm that is engaged in business dealings with the City. This means that any full-time public servant who wishes to have a second job with a firm that has business dealings with any City agency must obtain a waiver from the Board. City Charter § 2601(11) defines “firm” as a “sole proprietorship, joint venture, partnership, corporation and any other form of enterprise,” but excludes governmental or quasi-governmental entities such as a “public benefit corporation, local development corporation or other similar entity as defined by rule of the board.” Board Rules § 1-08, effective January 20, 2019, defines the term “other similar entity.”

When initially promulgated, Board Rules § 1-08 included as “other similar entities” the State University of New York (“SUNY”) and the City University of New York (“CUNY”), codifying the Board’s narrow determination in Advisory Opinion No. 1999-6 that waivers of City Charter § 2604(a)(1) were not required to hold positions at those entities. Since January 2019, Staff has received frequent requests for advice about the applicability of Board Rules § 1-08 to other public universities, such as Rutgers, the State University of New Jersey. The proposed amendments to Board Rules § 1-08 would extend the Board’s determination that SUNY and CUNY are not firms within the meaning of Charter § 2601(11) to the public university systems of other United States states, territories, and municipalities. This extension is consistent with the Board’s approach to other domestic government institutions, which are included at Board Rules §

1-08(a)(1). With this amendment, public servants would be permitted to teach a class as an adjunct professor, or hold another second job, at public universities without requiring a Board waiver.

Attached are:

- 1) Draft Notice of Public Hearing and Opportunity to Comment for Board Rules § 1-08 (**Exhibit 1**); and
- 2) Existing Board Rules § 1-08 alongside Proposed Board Rules § 1-08 (**Exhibit 2**).

1 New York City Conflicts of Interest Board

2  
3 **Notice of Public Hearing and Opportunity to Comment on Proposed Rule Amendment Regarding**  
4 **the Definition of “Firm”**  
5

6 **What are we proposing?** The Conflicts of Interest Board is proposing to amend its rule concerning the  
7 definition of “other similar entity” in City Charter § 2601(11).  
8

9 **When and where is the Hearing?** The Conflicts of Interest Board will hold a public hearing on the  
10 proposed rule amendment. The public hearing will take place by videoconference at [time] on [date] and  
11 is accessible by:

- 12  
13 • **Internet Video and Audio.** To access the hearing by Zoom, use the following URL: [].  
14  
15 • **Telephone.** To access the hearing by telephone, dial []. When prompted, use the following  
16 access code [] and password [].  
17

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

- 19  
20 • **Website.** You can submit comments to the Conflicts of Interest Board through the NYC rules  
21 website at <http://rules.cityofnewyork.us>.  
22  
23 • **Email.** You can email comments to Chad H. Gholizadeh at Rules@COIB.nyc.gov.  
24  
25 • **By Speaking at the Hearing.** Anyone who wants to comment on the proposed rule at the  
26 public hearing may speak for up to three minutes. Please access the public hearing by internet  
27 video and audio or by telephone using the instructions above. It is recommended, but not  
28 required, that commenters sign up prior to the hearing by contacting the Conflicts of Interest  
29 Board by phone at (212) 437-0730 or by email at [lee@coib.nyc.gov](mailto:lee@coib.nyc.gov).  
30

31 **Is there a deadline to submit comments?** Yes, you must submit written comments by [date].  
32

33 **Do you need assistance to participate in the hearing?** You must tell the Conflicts of Interest Board if  
34 you need a reasonable accommodation of a disability at the hearing, including if you need a sign language  
35 interpreter or simultaneous transcription. You can advise us by email at [lee@coib.nyc.gov](mailto:lee@coib.nyc.gov) or by telephone  
36 at (212) 437-0730. You must tell us by [date].  
37

38 **Can I review the comments made on the proposed rules?** You can review the comments made online  
39 on the proposed rules by going to the website at <http://rules.cityofnewyork.us/>. A few days after the  
40 hearing, copies of all comments submitted online, copies of all written comments, and a summary of oral  
41 comments concerning the proposed rule will be available to the public at the Conflicts of Interest Board,  
42 2 Lafayette Street, Suite #1010, New York, New York 10007.  
43

44 **What authorizes the Conflicts of Interest Board to make this rule?** Sections 1043, 2601(11) and  
45 2603(a) of the City Charter authorize the Conflicts of Interest Board to make this proposed rule  
46 amendment. This proposed amendment was not included in the Conflicts of Interest Board’s regulatory

1 agenda for this Fiscal Year because it was not contemplated when the Conflicts of Interest Board published  
2 the agenda.

3  
4 **Where can I find the Conflicts of Interest Board's rules?** The Conflicts of Interest Board's rules are  
5 in Title 53 of the Rules of the City of New York.

6  
7 **What rules govern the rulemaking process?** The Conflicts of Interest Board must meet the  
8 requirements of Section 1043 of the City Charter when creating or changing rules. This notice is made  
9 according to the requirements of Section 1043 of the City Charter.

## 11 **STATEMENT OF BASIS AND PURPOSE**

12 The Board proposes to amend Board Rules § 1-08 to include all public universities of the  
13 United States and its states and territories, rather than only the State University of New York  
14 ("SUNY") and the City University of New York ("CUNY").

15 Board Rules § 1-08, effective on January 20, 2019, listed a subset of entities that are not  
16 "firms" and at which public servants may take positions without requiring a waiver of Charter §  
17 2604(a)(1), which generally prohibits a public servant from having an ownership interest or  
18 position in a firm that is engaged in business dealings with the City. Since promulgating this rule,  
19 the Board has received a number of inquiries as to whether public servants would require a waiver  
20 to hold positions as adjunct professors at nearby public universities such as Rutgers, the State  
21 University of New Jersey. The Board proposes to expand the list of entities in Board Rules § 1-  
22 08 beyond CUNY and SUNY to include domestic public university systems, thus treating these  
23 public universities in the same way as all other domestic government institutions pursuant to Board  
24 Rules § 1-08(a)(1). This amendment would permit a public servant to teach a class as an adjunct  
25 professor, or take any kind of second job, at those public universities, without requiring a waiver  
26 of Charter § 2604(a)(1). The inclusion of domestic public universities would be consistent with  
27 the Board's historic handling of SUNY and CUNY as entities that are not "firms" as defined in  
28 City Charter § 2601(11).

1 New material is underlined.

2  
3 [Deleted material is in brackets.]  
4

5 § 1. Section 1-08 of Chapter 1 of Title 53 of the Rules of the City of New York is amended  
6 as follows:

7 § 1-08 Definition of “other similar entity” within the definition of “Firm”.

8 (a) For the purposes of Charter § 2601(11), the term “other similar entity” includes, but is  
9 not limited to, any of the following entities:

10 (1) Local, state, and federal governments and their agencies;

11 (2) New York State public authorities;

12 (3) New York local public authorities;

13 (4) the United Nations;

14 (5) the United States Postal Service;

15 (6) the State University of New York, the City University of New York, and the  
16 public university systems of the United States or any United States state,  
17 municipality, or territory;

18 [(7) the City University of New York];

19 [(8)7] the Brooklyn Public Library;

20 [(9)8] the Queens Public Library; and

21 [(10)9] charter schools created pursuant to New York State Education Law  
22 Article 56.

23 (b) For the purposes of Charter § 2601(11), the term “local development corporation”  
24 includes only local development corporations affiliated with, sponsored by, or created by New  
25 York State government or by a New York county, city, town, or village.

**Existing Board Rules § 1-08**

(a) For the purposes of Charter § 2601(11), the term “other similar entity” includes, but is not limited to, any of the following entities:

- (1) Local, state, and federal governments and their agencies;
- (2) New York State public authorities;
- (3) New York local public authorities;
- (4) the United Nations;
- (5) the United States Postal Service;
- (6) the State University of New York;
- (7) the City University of New York;
- (8) the Brooklyn Public Library;
- (9) the Queens Public Library; and
- (10) charter schools created pursuant to New York State Education Law Article 56.

(b) For the purposes of Charter § 2601(11), the term “local development corporation” includes only local development corporations affiliated with, sponsored by, or created by New York State government or by a New York county, city, town, or village.

**Proposed Board Rules § 1-08**

(a) For the purposes of Charter § 2601(11), the term “other similar entity” includes, but is not limited to, any of the following entities:

- (1) Local, state, and federal governments and their agencies;
- (2) New York State public authorities;
- (3) New York local public authorities;
- (4) the United Nations;
- (5) the United States Postal Service;
- (6) the State University of New York, the City University of New York, and the public university systems of the United States or any United States state, municipality, or territory;
- (7) the Brooklyn Public Library;
- (8) the Queens Public Library; and
- (9) charter schools created pursuant to New York State Education Law Article 56.

(b) For the purposes of Charter § 2601(11), the term “local development corporation” includes only local development corporations affiliated with, sponsored by, or created by New York State government or by a New York county, city, town, or village.