

November 9, 2021 – Open Meeting Matter
May 18, 2021 – Open Meeting Matter
July 14, 2020 – Open Meeting Matter

To: The Board
From: Chad H. Gholizadeh 
Date: November 1, 2021
Re: Proposed Amendments to Board Rules §§ 1-01(a) to 1-01(c)

The proposed amendments to Board Rules §§ 1-01(a), (b), and (c) in the attached Notice of Public Hearing and Opportunity to Comment constitute the last set of planned substantive revisions to Board Rules § 1-01 (the “Valuable Gifts Rule”) as part of the Board’s review of its rules, practices, advisory opinions, and enforcement dispositions in accordance with the mandate of City Charter § 2603(c)(4). Proposed Board Rules §§ 1-01(a), (b), and (c) define “valuable gift;” codify exemptions to that definition; define other terms used in the Valuable Gifts Rule; and set forth the standard for the exception for the acceptance for gifts from family members or close personal friends. In its review of the proposed amendments in May 2021, the Board requested two substantive changes. First, the Board sought clarification on the inclusion of a lender’s “forbearance” in the collection of an outstanding debt in the definition of valuable gift. Second, the Board requested additional safeguards on a proposed exception to the Valuable Gifts Rule that would permit public servants to accept reasonable travel-related expenses in connection with an interview process. The Board also requested non-substantive revisions to the Statement of Basis and Purpose and to the formatting of the rules.

To implement these changes, proposed Board Rules § 1-01(a)(1) now uses simpler wording; the proposed rule defines a “lender’s decision to postpone collection of a debt that has become due” as a valuable gift but excludes delays in the collection of a debt from the definition of valuable gift when those delays are in connection with “an established debt forbearance policy

available to the general public” (Exhibit 2 at 5, ll 7-9). The Statement of Basis and Purpose reflects this change, explains the rationale behind this inclusion, and references a similar provision in the definition of gift promulgated by the United States Office of Government Ethics (Exhibit 2 at 2, l 25 – 3, l 4). Additionally, proposed Board Rules § 1-01(a)(2)(iv) includes a requirement that any public servant accepting reimbursement for travel-related expenses in connection with a job interview must receive agency head approval in advance of such acceptance (Exhibit 2 at 5, l 23), similar to how public servants are required to receive agency head approval in connection with the acceptance of travel-related expenses in connection with City travel (Board Rules § 1-01(h)).

Attached are the following:

1. Minutes of the July 2020 and May 2021 Open Meetings (**Exhibit 1**);
2. Notice of Public Hearing and Opportunity to Comment (**Exhibit 2**); and
3. Notice of Public Hearing and Opportunity to Comment tracked to the version reviewed by the Board in May 2021 (**Exhibit 3**).

With the Board’s approval, Staff will formally submit the proposed amendments to the Law Department and Mayor’s Office of Operations, as required by the City Administrative Procedure Act. See City Charter § 1043(d).

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

Date: July 14, 2020

Present:

Board Members: Chair Jeffrey D. Friedlander and Members Fernando A. Bohorquez, Jr., Anthony Crowell, Wayne Hawley, and Nisha Agarwal

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

Guests: None

The Board and Staff participated by videoconference pursuant to Executive Order No. 202 issued on March 7, 2020. The meeting was called to order by the Chair at approximately 9:32 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 Board Rules §§ 4-01, 4-02, 4-03, 1-01(c), and 1-07.

Board Rules §§ 4-01 to 4-03

After a brief introduction, the Chair asked for any comments by the Board or Staff. The following constitutes the changes agreed upon by the Board and Staff:

- Statement of Basis & Purpose, p. 4, ln. 2: change “a report filed in 2014” to “a 2013 report”
- Statement of Basis & Purpose, p. 4, ln. 4: change “would permit” to “would require”
- § 4-01: No comments
- § 4-02(a): Insert “close of” before “calendar year”
- § 4-02(b): Change “the enforcement of criminal laws” to “law enforcement”
- § 4-03: No comments

The Board unanimously agreed to adopt the proposed amendments incorporating the proposed changes as the final rule to be sent to the Law Department and the Mayor’s Office of Operations for review.

Board Rules § 1-01(c)

After a brief introduction, the Chair asked for any comments by the Board or Staff. The following constitute the changes agreed upon by the Board and Staff:

- § 1-01(c)(1): include additional safeguards or restrictions on gifts that may be accepted from a “family member.”
- § 1-01(c)(3): revise so as not to preclude friendships made during City service; and to clarify what is meant by “independent”.

The Board agreed to continue discussions at a future open meeting.

Board Rules § 1-07

After a brief introduction, the Chair asked for any comments by the Board or Staff. The following comments constitute the changes agreed upon by the Board and Staff:

- § 1-07(a)(1): revise to clarify that prohibition applies to an appearance only before a representative of the former agency who sits on a board, commission, or other governmental entity other than the former agency
- § 1-07(b)(1): revise definition of the date of termination by replacing “or” with an inclusive conjunction to incorporate last day of official duties and the cessation of benefits and removing the phrase “after resigning, retiring, or being terminated”

The Board agreed to continue discussions at a future open meeting.

The open meeting was adjourned at approximately 10:36 a.m.

Respectfully submitted,
Julia H. Lee
Recording Secretary

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

Date: May 18, 2021

Present:

Board Members: Chair Jeffrey D. Friedlander and Members Fernando A. Bohorquez, Jr., Anthony W. Crowell, Wayne G. Hawley, and Nisha Agarwal

Board Staff: Ethan Carrier, Chad Gholizadeh, Ana Gross, Christopher Hammer, Gavin Kendall, Carolyn Miller, Katherine Miller, Ari Mulgay, Yasong Niu, Jeffrey Tremblay, and Juliya Ziskina.

Guests: None.

The Board and Staff participated by videoconference pursuant to Executive Order No. 202 issued on March 7, 2020. The meeting was called to order by the Chair at approximately 9:34 a.m.

Board Rules §§ 1-01(i) to 1-01(m)

After a brief introduction by the Chair and discussion among the Board and Staff, the following change was agreed to by the Board and Staff:

- Remove unnecessary “is” in § 1-01(k)(2)(ii).

The Board unanimously agreed to adopt the proposed amendments to Board Rules §§ 1-01(i) to 1-01(k) and proposed new Board Rules §§ 1-01(l) and 1-01(m) as the final rule.

Board Rules §§ 1-01(a) to 1-01(c)

After a brief introduction by Staff and discussion among the Board and Staff, the following changes were agreed to by the Board and Staff:

- Clarify rationale and meaning of “forbearance” in § 1-01(a)(1).
- Change “which” to “that” in § 1-01(a)(2)(iv).
- Consider rationale and/or additional safeguards for § 1-01(a)(2)(iv).
- Correct line breaks and numbering of § 1-01(a)(3).

The Board agreed to continue discussions at a future open meeting.

The open meeting was adjourned at approximately 9:54 a.m.

Respectfully submitted,
Christopher M. Hammer
Recording Secretary

1 **New York City Conflicts of Interest Board**

2
3 **Notice of Public Hearing and Opportunity to Comment on Proposed Rules Regarding Gifts**

4
5 **What are we proposing?** The Conflicts of Interest Board is proposing to amend its rule governing the
6 acceptance of valuable gifts by public servants.

7
8 **When and where is the Hearing?** The Conflicts of Interest Board will hold a public hearing on the
9 proposed rule. The public hearing will take place by video conference at **** on **** and is accessible
10 by:

- 11
- 12 • **Internet Video and Audio.** To access the hearing by Zoom, use the following URL: ****
- 13
- 14 • **Telephone.** To access the hearing by telephone, dial ****. When prompted, use the following
15 access code **** and password ****.
- 16

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

- 18
- 19 • **Website.** You can submit comments to the Conflicts of Interest Board through the NYC rules
20 website at <http://rules.cityofnewyork.us>.
- 21
- 22 • **Email.** You can email comments to Rules@COIB.nyc.gov.
- 23
- 24 • **By Speaking at the Hearing.** Anyone who wants to comment on the proposed rule at the public
25 hearing may speak for up to three minutes. Please access the public hearing by Internet Video and
26 Audio or by Telephone using the instructions above. It is recommended, but not required, that
27 commenters sign up prior to the hearing by contacting the Conflicts of Interest Board by phone at
28 (212) 437-0721 or by email at hammer@coib.nyc.gov.
- 29

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

31 **This hearing has the following accessibility option(s) available:** The Zoom platform
32 accommodates screen reader software. Simultaneous transcription or a sign-language interpreter
33 are available upon request.

34 **Do you need assistance to participate in the hearing?** You must tell the Conflicts of Interest
35 Board if you need a reasonable accommodation of a disability at the hearing, including if you need
36 a sign language interpreter or simultaneous transcription. You can advise us by email at
37 hammer@coib.nyc.gov or by telephone at (212) 437-0721. You must tell us by [].

38 **Can I review the comments made on the proposed rules?** You can review the comments made
39 online on the proposed rules by going to the website at <http://rules.cityofnewyork.us/>. Copies of all
40 comments submitted online, copies of all written comments, and a summary of oral comments
41 concerning the proposed rule will be available to the public on the Conflicts of Interest Board’s website
42 (<https://www1.nyc.gov/site/coib/public-documents/open-meetings-and-public-hearings.page>) as soon
43 as practicable.

1
2 **What authorizes the Conflicts of Interest Board to make this rule?** Sections 1043, 2603(a),
3 2603(c)(4), and 2604(b)(5) of the City Charter authorize the Conflicts of Interest Board to make this
4 proposed rule. This proposed rule was included in the Conflicts of Interest Board’s regulatory agenda
5 for this Fiscal Year.

6
7 **Where can I find the Conflicts of Interest Board’s rules?** The Conflicts of Interest Board’s rules
8 are in Title 53 of the Rules of the City of New York.

9
10 **What rules govern the rulemaking process?** The Conflicts of Interest Board must meet the
11 requirements of Section 1043 of the City Charter when creating or changing rules. This notice is made
12 according to the requirements of Section 1043 of the City Charter.
13

14 **STATEMENT OF BASIS AND PURPOSE**

15 In accordance with the mandate of City Charter § 2603(c)(4) for the Board to review all its
16 advisory opinions and initiate rulemaking to adopt those with “interpretative value in construing
17 provisions” of Chapter 68, the Board has been reviewing the 29 advisory opinions it has issued
18 concerning public servants’ acceptance of gifts. In connection with this comprehensive review,
19 the Board proposes to amend Board Rules §§ 1-01(a) through 1-01(c) to provide additional clarity.

20 **a. What is a Valuable Gift**

21 Proposed Board Rules § 1-01(a) would primarily reorganize the text of existing Board
22 Rules § 1-01(a), adding line breaks to improve readability. Proposed Board Rules § 1-01(a)(1)
23 would substantively amend the definition of “valuable gift” in two ways. First, proposed Board
24 Rules § 1-01(a)(1) would replace “thing” with the more illustrative, but substantively identical,
25 term “item of value.” Second, proposed Board Rules § 1-01(a)(1) would add to the list of “valuable
26 gifts” the decision by a lender to postpone a collection of a debt that has become due. This
27 proposed addition recognizes that a lender’s decision to delay collection of debts that have become
28 due presents a financial benefit to a public servant as significant as the provision of a new loan or
29 a straightforward cash gift. In making this addition, the Board’s Valuable Gift Rule would more

1 closely comport with the definition of a prohibited gift promulgated by the United States Office of
2 Government Ethics, which includes “forbearance” in its examples of valuable gifts. See 5 CFR §
3 2635.203(b). The Board’s rule would explicitly exempt delays in the collection of debts when
4 such delay is pursuant to a generally available debt forbearance or restructuring policy.

5 Proposed Board Rules § 1-01(a)(2) would codify four exceptions to the definition of
6 “valuable gift.” First, proposed Board Rules § 1-01(a)(2)(i) would codify the Board’s longstanding
7 advice that public servants may utilize discounts available to the general public. See Advisory
8 Opinion (“A.O.”) No. 1995-5 (advising that soliciting a discount for a subset of City employees
9 would violate Charter § 2604(b)(3)); A.O. No. 1995-14 (advising that public servants may utilize
10 a special offer extended by a bank to both City employees and many businesses and organizations
11 in a geographic area); A.O. No. 2006-4 (advising that public servants may utilize generally
12 available government employee discounts). Second, proposed Board Rules § 1-01(a)(2)(ii) would
13 codify the Board’s longstanding advice that public servants may accept prizes from raffles or
14 giveaways that are available without respect to whether the participants are public servants and
15 where participation in the raffle or giveaway does not use City resources or identify the participant
16 as a public servant. See A.O. No. 1991-20 (advising that a public servant may accept a prize from
17 a competition because, in part, he did not identify himself as a public servant in his submission);
18 A.O. No. 2012-3 (advising that a public servant may accept a raffle prize exceeding \$50 where no
19 City resources were used in the raffle entry). Third, proposed Board Rules § 1-01(a)(2)(iii) would
20 codify the Board’s determination that public servants may accept free attendance at union
21 conferences in order to conduct union business. See A.O. No. 2006-3 (advising that public
22 servants may accept free food and accommodation from a union to attend that union’s conference
23 on their own time). Finally, proposed Board Rules § 1-01(a)(2)(iv) would permit public servants

1 interviewing for a job opening to accept reasonable travel expenses in the course of that interview
2 process provided that they receive agency head approval in advance. Because a public servant
3 seeking employment is prohibited from participating in any particular matter involving the
4 potential employer, and because the agency would be made aware of this acceptance by requiring
5 agency head approval, the acceptance of reasonable travel expenses poses a diminished risk of any
6 actual or perceived impropriety. See Charter § 2604(d)(1).

7 **b. Definitions**

8 Proposed Board Rules § 1-01(b) would reorganize the clauses and add sub-sections to
9 existing Board Rules § 1-01(b) with two substantive changes. First, proposed Board Rules § 1-
10 01(b) would replace the term “relative” with “family member” to harmonize the usage of that term
11 with other sections of the Board Rules. Second, proposed Board Rules § 1-01(b)(2) would
12 expressly include step-relatives, consistent with the Board’s longstanding interpretation of Chapter
13 68. See, e.g., *COIB v. J. Purvis*, COIB Case No. 2012-898a (2013) (finding that an Associate Job
14 Opportunity Specialist with the New York City Human Resources Administration (“HRA”)
15 misused his position in the HRA Rental Assistance Unit to issue an assistance check from HRA to
16 his stepdaughter), *COIB v. G. Jones*, COIB Case No. 2012-458 (2013) (finding that a New York
17 City Housing Authority (“NYCHA”) Construction Project Manager misused his position when he
18 recommended his stepson for a job with a vendor that the Construction Project Manager supervised
19 as part of his official NYCHA duties).

20 **c. Gifts from Family Members or Close Personal Friends**

21 Proposed Board Rules § 1-01(c) is identical to existing Board Rule § 1-01(c) except for the
22 addition of a header.

23 New material is underlined.

1 Section 1. Sections 1-01(a) through (c) of Chapter 1 of Title 53 of the Rules of the City of
2 New York is REPEALED and new Sections 1-01(a) through (c) are added to read as follows:

3 (a) What is a Valuable Gift

4 (1) For the purposes of Charter § 2604(b)(5), a “valuable gift” is any gift to a public
5 servant that has a value of \$50.00 or more, whether in the form of money, service,
6 loan, travel, entertainment, hospitality, promise, or item of value in any other
7 form including a lender’s decision to postpone collection of a debt that has
8 become due unless pursuant to an established debt forbearance policy available to
9 the general public.

10 (2) For the purposes of Charter § 2604(b)(5), a “valuable gift” does not include:

- 11 i. Unsolicited discounts available to any purchaser, including City or
12 government employees, or to a category of people, irrespective of whether
13 the recipients are public servants.
- 14 ii. Prizes from raffles or giveaways made available irrespective of whether
15 the participants are public servants and where participation in the raffle or
16 giveaway does not use City resources or identify the participant as a public
17 servant.
- 18 iii. Free attendance at labor union conferences and events, and any attendant
19 meals or refreshments, offered by such union for the purposes of
20 conducting union business.
- 21 iv. Reasonable travel expenses incurred by a public servant in the course of
22 an interview for a job that are reimbursed by the prospective employer
23 provided that the public servant receives agency head approval in advance.

1 (3) For the purposes of Charter § 2604(b)(5), two or more gifts to a public servant
2 shall be considered a single gift if they are given to the public servant within a
3 twelve-month period by the same person or persons who the public servant knows
4 or should know are:

- 5 i. family members of one another; or
- 6 ii. directors, trustees, or employees of the same firm or affiliated firms.

7 (b) Definitions

8 As used in this section:

9 (1) “family member” means:

- 10 i. a spouse, child, grandchild, parent, sibling, and grandparent;
- 11 ii. any parent, domestic partner, child, or sibling of a spouse or domestic
12 partner; and
- 13 iii. a spouse or domestic partner of a parent, child, or sibling.

14 (2) “child,” “grandchild,” “parent,” “grandparent,” and “sibling” includes a step-
15 child, step-grandchild, step-parent, step-grandparent, and step-sibling

16 (3) firms are “affiliated” if:

- 17 i. one is a subsidiary of the other; or
- 18 ii. a single person or firm owns at least 25 percent of each firm

19 (c) Gifts from Family Members or Close Personal Friends

20 For the purposes of Charter § 2604(b)(5), a public servant may accept gifts that are
21 customary on family or social occasions from a family member or close personal friend
22 who the public servant knows is or intends to become engaged in business dealings with
23 the City, when:

1 (1) it can be shown under all relevant circumstances that it is the family or personal
2 relationship rather than the business dealings that is the controlling factor; and

3 (2) the public servant's receipt of the gift would not result in or create the appearance
4 of:

- 5 i. using his or her office for private gain;
- 6 ii. giving preferential treatment to any person or entity;
- 7 iii. losing independence or impartiality; or
- 8 iv. accepting gifts or favors for performing official duties.

1 New York City Conflicts of Interest Board

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6 acceptance of valuable gifts by public servants.

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8 **When and where is the Hearing?** The Conflicts of Interest Board will hold a public hearing on the
9 proposed rule. The public hearing will take place by video conference at [redacted] on [redacted] and is
10 accessible by:

- 11
12 • **Internet Video and Audio.** To access the hearing by Zoom, use the following URL: [redacted]
- 13
14 • **Telephone.** To access the hearing by telephone, dial [redacted]. When prompted, use the
15 following access code [redacted] and password [redacted].

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

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19 • **Website.** You can submit comments to the Conflicts of Interest Board through the NYC rules
20 website at <http://rules.cityofnewyork.us>.
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24 • **By Speaking at the Hearing.** Anyone who wants to comment on the proposed rule at the public
25 hearing may speak for up to three minutes. -Please access the public hearing by Internet Video and
26 Audio or by Telephone using the instructions above. It is recommended, but not required, that
27 commenters sign up prior to the hearing by contacting the Conflicts of Interest Board by phone at
28 (212) 437-~~07300721~~ or by email at lee@coib.nyc.gov or hammer@coib.nyc.gov.

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

31 **This hearing has the following accessibility option(s) available:** The Zoom platform
32 accommodates screen reader software. Simultaneous transcription or a sign-language interpreter
33 are available upon request.

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35 Board if you need a reasonable accommodation of a disability at the hearing, including if you need
36 a sign language interpreter or simultaneous transcription. You can advise us by email at
37 leehammer@coib.nyc.gov or by telephone at (212) 437-~~07300721~~. You must tell us by [].

38 **Can I review the comments made on the proposed rules?** You can review the comments made
39 online on the proposed rules by going to the website at <http://rules.cityofnewyork.us/>. Copies of all
40 comments submitted online, copies of all written comments, and a summary of oral comments
41 concerning the proposed rule will be available to the public on the Conflicts of Interest Board’s website
42 (<https://www1.nyc.gov/site/coib/public-documents/open-meetings-and-public-hearings.page>) as soon
43 as practicable.

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3 2603(c)(4), and 2604(b)(5) of the City Charter authorize the Conflicts of Interest Board to make this
4 proposed rule. This proposed rule was included in the Conflicts of Interest Board’s regulatory agenda
5 for this Fiscal Year.

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8 are in Title 53 of the Rules of the City of New York.

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11 requirements of Section 1043 of the City Charter when creating or changing rules. This notice is made
12 according to the requirements of Section 1043 of the City Charter.
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14 **STATEMENT OF BASIS AND PURPOSE**

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16 advisory opinions and initiate rulemaking to adopt those with “interpretative value in construing
17 provisions” of Chapter 68, the Board has been reviewing the 29 advisory opinions it has issued
18 concerning public servants’ acceptance of gifts. In connection with this comprehensive review,
19 the Board proposes to amend Board Rules §§ 1-01(a) through 1-01(c) to provide additional clarity.

20 **a. What is a Valuable Gift**

21 Proposed Board Rules § 1-01(a) would primarily reorganize the text of existing Board
22 Rules § 1-01(a), ~~providing~~adding line breaks to improve readability. Proposed Board Rules § 1-
23 01(a)(1) would substantively amend the definition of “valuable gift” in two ways. First, proposed
24 Board Rules § 1-01(a)(1) would ~~incorporate “forbearance” alongside examples of valuable gifts,~~
25 ~~in line with definition promulgated by the United States Office of Government Ethics in its~~
26 ~~regulations. See 5 CFR § 2635.203(b). Including “forbearance” alongside other types of financial~~
27 ~~arrangements would recognize that a decision by a firm with City business dealings to delay~~
28 ~~enforcement of a debt when that debt is due presents a financial benefit to a public servant similar~~
29 ~~to the creation of a new loan or a straightforward cash gift. Second, proposed Board Rules § 1-~~

1 ~~01(a)(1) would remove reference to “thing” and replace it with the more illustrative, but~~
2 ~~substantively identical, term “item of value.”—replace “thing” with the more illustrative, but~~
3 ~~substantively identical, term “item of value.”~~ Second, proposed Board Rules § 1-01(a)(1) would
4 ~~add to the list of “valuable gifts” the decision by a lender to postpone a collection of a debt that~~
5 ~~has become due. This proposed addition recognizes that a lender’s decision to delay collection of~~
6 ~~debts that have become due presents a financial benefit to a public servant as significant as the~~
7 ~~provision of a new loan or a straightforward cash gift. In making this addition, the Board’s~~
8 ~~Valuable Gift Rule would more closely comport with the definition of a prohibited gift~~
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10 ~~its examples of valuable gifts. See 5 CFR § 2635.203(b). The Board’s rule would explicitly~~
11 ~~exempt delays in the collection of debts when such delay is pursuant to a generally available debt~~
12 ~~forbearance or restructuring policy.~~

13 Proposed Board Rules § 1-01(a)(2) would codify four exceptions to the definition of
14 “valuable gift.” First, proposed Board Rules § 1-01(a)(2)(i) would codify the Board’s longstanding
15 advice that public servants may utilize discounts available to the general public. See Advisory
16 Opinion (“A.O.”) No. 1995-5 (advising that soliciting a discount for a subset of City employees
17 would violate Charter § 2604(b)(3)); A.O. No. 1995-14 (advising that public servants may utilize
18 a special offer extended by a bank to both City employees and many businesses and organizations
19 in a geographic area ~~was a permissible gift~~); A.O. No. 2006-4 (advising that public servants may
20 utilize generally available government employee discounts). Second, proposed Board Rules § 1-
21 01(a)(2)(ii) would codify the Board’s longstanding advice that public servants may accept prizes
22 from raffles or giveaways ~~whiehat~~ are available without respect to whether the participants are
23 public servants and where participation in the raffle or giveaway does not use City resources or

1 identify the participant as a public servant. See A.O. No. 1991-20 (advising that a public servant
2 may accept a prize from a competition because, in part, he did not identify himself as a public
3 servant in his submission); A.O. No. 2012-3 (advising that a public servant may accept a raffle
4 prize exceeding \$50 ~~from a raffle attended as part of the public servant's City job~~ where no City
5 resources were used in the raffle entry). Third, proposed Board Rules § 1-01(a)(2)(iii) would
6 codify the Board's determination that public servants may accept free attendance at union
7 conferences in order to conduct union business. See A.O. No. 2006-3 (advising that public
8 servants may accept free food and accommodation from a union to attend that union's conference
9 on their own time). Finally, proposed Board Rules § 1-01(a)(2)(iv) would permit public servants
10 interviewing for a job opening to accept reasonable travel expenses in the course of that interview
11 process: provided that they receive agency head approval in advance. Because a public servant
12 seeking employment is prohibited from participating in any particular matter involving the
13 potential employer, and because the agency would be made aware of this acceptance by requiring
14 agency head approval, the acceptance of reasonable travel expenses poses a diminished risk of any
15 actual or perceived impropriety. See Charter § 2604(d)(1).

16 **b. Definitions**

17 Proposed Board Rules § 1-01(b) would reorganize the clauses and add sub-sections to
18 existing Board Rules § 1-01(b) with two substantive changes. First, proposed Board Rules § 1-
19 01(b) would replace the term "relative" with "family member²²²" to harmonize the usage of that
20 term ~~in~~with other sections of the Board Rules. Second, proposed Board Rules § 1-01(b)(2) would
21 expressly include step-relatives, consistent with the Board's longstanding interpretation of Chapter
22 68. See, e.g., COIB v. J. Purvis, COIB Case No. 2012-898a (2013) (finding that an Associate Job
23 Opportunity Specialist with the New York City Human Resources Administration ("HRA")

1 ~~accepted a 60-day suspension in a settlement with the Board and HRA, valued at \$9,972, for~~
2 ~~misusing~~misused his position in the HRA Rental Assistance Unit to issue an assistance check from
3 HRA to his stepdaughter ~~and for repeatedly misusing confidential information from his~~
4 ~~stepdaughter's public assistance records~~), *COIB v. G. Jones*, COIB Case No. 2012-458 (2013)
5 (finding that a New York City Housing Authority (“NYCHA”) Construction Project Manager
6 ~~accepted a five-work-day suspension, valued at \$1,393.61, a \$1,250 fine in a settlement with the~~
7 ~~Board and NYCHA because~~misused his position when he recommended his stepson for a job with
8 a vendor that the Construction Project Manager supervised as part of his official NYCHA duties),
9 ~~COIB v. Stark, COIB Case No. 2011-480 (2012) (the former Commissioner of the New York City~~
10 ~~Department of Finance agreed to pay a \$22,000 fine for multiple violations of Chapter 68,~~
11 ~~including sending an e-mail from her Finance e-mail account to the Senior Vice President of a~~
12 ~~trade association representing real estate interests in New York State, with whom and with which~~
13 ~~entity she had dealt in her official capacity, requesting assistance for her step-sister in finding a~~
14 ~~new job).~~

15 **c. Gifts from Family Members or Close Personal Friends**

16 Proposed Board Rules § 1-01(c) is identical to existing Board Rule § 1-01(c) except for the
17 addition of a header.

18 New material is underlined.

19 Section 1. Sections 1-01(a) through (c) of Chapter 1 of Title 53 of the Rules of the City of
20 New York is REPEALED and new Sections 1-01(a) through (c) are added to read as follows:

21 (a) What is a Valuable Gift

22 (1) For the purposes of Charter § 2604(b)(5), a “valuable gift” is any gift to a public
23 servant that has a value of \$50.00 or more, whether in the form of money, service,

1 loan, ~~forbearance~~, travel, entertainment, hospitality, promise, or item of value in
2 any other form ~~including a lender's decision to postpone collection of a debt that~~
3 ~~has become due unless pursuant to an established debt forbearance policy~~
4 ~~available to the general public.~~

5 (2) For the purposes of Charter § 2604(b)(5), a “valuable gift” does not include:

6 i. Unsolicited discounts available to any purchaser, including City or
7 government employees, or to a category of people, irrespective of whether
8 the recipients are public servants.

9 ii. Prizes from raffles or giveaways made available irrespective of whether
10 the participants are public servants and where participation in the raffle or
11 giveaway does not use City resources or identify the participant as a public
12 servant.

13 iii. Free attendance at labor union conferences and events, and any attendant
14 meals or refreshments, offered by such union for the purposes of
15 conducting union business.

16 iv. Reasonable travel expenses incurred by a public servant in the course of
17 an interview for a job ~~which~~that are reimbursed by the prospective
18 employer ~~provided that the public servant receives agency head approval~~
19 ~~in advance.~~

20 ~~(3) For the purposes of Charter § 2604(b)(5), two or more gifts to a public servant~~
21 ~~shall be considered a single gift if they are given to the public servant within a~~
22 ~~twelve-month period by:~~

23 ~~i. the same person;~~

1 ~~(4)~~(3) or persons who the public servant knows or should know are:

- 2 i. family members of one another; or
3 ii. directors, trustees, or employees of the same firm or affiliated firms.

4 **(b) Definitions**

5 As used in this section:

6 (1) “family member” means:

- 7 i. a spouse, child, grandchild, parent, sibling, and grandparent;
8 ii. any parent, domestic partner, child, or sibling of a spouse or domestic
9 partner; and
10 iii. a spouse or domestic partner of a parent, child, or sibling.

11 (2) “child,” “grandchild,” “parent,” “grandparent,” and “sibling” includes a step-
12 child, step-grandchild, step-parent, step-grandparent, and step-sibling

13 (3) firms are “affiliated” if:

- 14 i. one is a subsidiary of the other; or
15 ii. a single person or firm owns at least 25 percent of each firm

16 **(c) Gifts from Family Members or Close Personal Friends**

17 For the purposes of Charter § 2604(b)(5), a public servant may accept gifts that are
18 customary on family or social occasions from a family member or close personal friend
19 who the public servant knows is or intends to become engaged in business dealings with
20 the City, when:

21 (1) it can be shown under all relevant circumstances that it is the family or personal
22 relationship rather than the business dealings that is the controlling factor; and

1 (2) the public servant's receipt of the gift would not result in or create the appearance

2 of:

3 i. using his or her office for private gain;

4 ii. giving preferential treatment to any person or entity;

5 iii. losing independence or impartiality; or

6 iv. accepting gifts or favors for performing official duties.