

April 14, 2022 – Open Meeting Matter

March 14, 2022 – Public Hearing


January 11, 2022 – Open Meeting

November 9, 2021 – Open Meeting

May 18, 2021 – Open Meeting

July 14, 2020 – Open Meeting

To: The Board

From: Chad H. Gholizadeh 

Date: March 29, 2022

Re: Proposed Amendments to Board Rules §§ 1-01(a)-(c)

At its January 2022 open meeting, the Board authorized Staff to submit proposed Amendments to Board Rules §§ 1-01(a), (b), and (c) to the New York City Law Department and Mayor's Office of Operations ("MOO") for formal review, and, with their certification, to hold a public hearing. Having received the certification from the Law Department and MOO pursuant to the City Administrative Procedure Act with no substantive edits, Staff published the proposed amendments in the City Record on February 9, 2022. A public hearing was held on March 14, 2022, at which no members of the public testified or submitted comments, nor were any comments received during the comment period. Staff recommends that the Board adopt the text of the proposed amendments to Board Rules §§ 1-01(a), (b), and (c).

Attached are the following:

1. Minutes of the July 2020, May 2021, November 2021, and January 2021 Open Meetings (**Exhibit 1**);
2. Proposed Notice of Adoption (**Exhibit 2**); and
3. Proposed Notice of Adoption tracked to the version reviewed by the Board in January 2022 (**Exhibit 3**).

City Charter § 2604(b)(5) prohibits public servants from accepting “any valuable gift” from firms engaged in business with any City agency and requires the Board to define the term “valuable gift” by rule.¹ Board Rules § 1-01 (the “Valuable Gifts Rule”) was the first rule promulgated by the Board in 1990, and it defines “valuable gift” as any gifts to a public servant having an aggregate value of \$50.00 or more in any twelve-month period. The Valuable Gifts Rule also enumerates exceptions to the valuable gifts rule, permitting public servants to accept otherwise prohibited gifts under specific circumstances or because acceptance furthers some identified City purpose.

In 2019, the Board began a review of its rules, practices, advisory opinions, and enforcement dispositions in accordance with the mandate of City Charter § 2603(c)(4). As part of this process, the Board has amended most of the subsections of the Valuable Gifts Rule to clarify the language of the rules and incorporate the Board’s long-standing interpretations of Chapter 68 as applied to gifts. These proposed amendments to Board Rules §§ 1-01(a), (b), and (c) constitute the last set of planned substantive revisions to the Valuable Gifts Rule in connection with this expansive review.

As explained in greater detail in the proposed Statement of Basis and Purpose (**Exhibit 2**), proposed Board Rules §§ 1-01(a)(1) and 1-01(a)(3) are substantively the same as existing Board Rules § 1-01(a), with non-substantive changes to word choice and the insertion of line breaks. Proposed Board Rules § 1-01(a)(2) would incorporate four exceptions to the definition of “valuable gift” from the Board’s advisory opinions, stating that public servants are not prohibited from:

¹ City Charter § 2604(b)(5) states: “No public servant shall accept any valuable gift, as defined by rule of the board, from any person or firm which such public servant knows is or intends to become engaged in business dealings with the city, except that nothing contained herein shall prohibit a public servant from accepting a gift which is customary on family and social occasions.”

- utilizing discounts available to the general public, including discounts for all government employees (Proposed Board Rules § 1-01(a)(2)(i));
- accepting prizes from raffles or giveaways that are available without respect to whether the participants are public servants and where participation in the raffle or giveaway does not use City resources or identify the participant as a public servant (Board Rules § 1-01(a)(2)(ii));
- accepting free attendance at union conferences in order to conduct union business (Board Rules § 1-01(a)(2)(iii)); and
- accepting travel expenses from a prospective employer in order to conduct an interview, provided that the travel expenses are reasonable and the trip is no longer than necessary to complete the interview (Board Rules § 1-01(a)(2)(iv)).

Proposed Board Rules § 1-01(b) would reorganize of the text of that provision with two substantive changes. First the term “relative” would be replaced with the term “family member” to make consistent the usage of that term with other sections of the Board Rules. Second, steprelatives would be expressly included in the term “family member,” consistent with the Board’s long-standing application of Chapter 68.

Finally, proposed Board Rules § 1-01(c) is identical to existing to Board Rules § 1-01(c), except for the addition of a header.

Staff recommends that the Board adopt the text of amended Board Rules § 1-01(a) through (c), incorporating the changes suggested by the Law Department and MOO as well as stylistic edits to the Statement of Basis and Purpose to reflect that the amended and new rules are no longer proposals. Once approved by the Board, the Notice of Adoption will be published in the City Record and will take effect 30 days after publication. See City Charter § 1043(f).

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

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

Date: November 9, 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 M. Hammer, Gavin Kendall, Carolyn Lisa Miller, Katherine J. Miller, Yasong Niu, Jeffrey Tremblay, and Clare Wiseman

Guests: Ken Brower

The Board and Staff participated by videoconference pursuant to 2021 Sess. Law News of N.Y. Ch. 417 (S. 50001). The meeting was called to order by the Chair at approximately 9:35 a.m.

Board Rules § 1-11

After a brief introduction by the Chair, the proposed amendment was approved without any changes. The proposed amendment will be sent to the New York City Law Department and New York City Mayor's Office of Operations for review.

Board Rules §§ 1-01(a), (b), and (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:

- § 1-01(a)(1): Remove “including a lender’s decision to postpone collection of a debt that has become due unless pursuant to an established debt forbearance policy available to the general public” and related discussion from Statement of Basis and Purpose.
- § 1-01(a)(2)(iv): Revise the restriction on the exception to be similar to that for City-related travel, found in § 1-01(h)(1), including the terms “reasonable” and “necessary.” Remove requirement of agency head approval. Revise related discussion in Statement of Basis and Purpose.
- § 1-01(a)(2)(i): Revise to clarify that it is permissible to accept unsolicited discounts that are available to government employees.
- § 1-01(b)(1)(i): Add “domestic partner.”
- § 1-01(b)(1)(ii): Remove the first “domestic partner.”

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

The open meeting was adjourned at approximately 10:20 a.m.

Respectfully submitted,
Katherine J. Miller
Recording Secretary

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

Date: January 11, 2022

Present:

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

Board Staff: Ethan Carrier, Chad Gholizadeh, Kevin Frick, Christopher M. Hammer, Gavin Kendall, Carolyn Lisa Miller, Katherine J. Miller, Jeffrey Nelson, Yasong Niu, Jeffrey Tremblay, Maryann White, and Clare Wiseman

Guests: NY1

The Board and Staff participated by videoconference pursuant to 2021 Sess. Law News of N.Y. Ch. 417 (S. 50001). The meeting was called to order by the Chair at approximately 9:32 a.m.

Board Rules § 1-11

After a brief introduction by Staff, the proposed amendment was approved without any changes. The proposed amendment was adopted as the final rule.

Board Rules §§ 1-01(a), (b), and (c)

After a brief introduction by Staff and discussion among the Board and Staff, the proposed amendment was approved with the following change:

- § 1-01(a)(2)(i): Replace “to any purchaser or to a category of people, including all City or government employees” with “to the general public, all government employees, or all City employees”

The proposed amendment will be sent to the New York City Law Department and New York City Mayor’s Office of Operations for review.

The open meeting was adjourned at approximately 9:45 a.m.

Respectfully submitted,
Katherine J. Miller
Recording Secretary

New York City Conflicts of Interest Board

Notice of Adoption of Final Rules

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED IN THE NEW YORK CITY CONFLICTS OF INTEREST BOARD by Sections 1043, 2603(a), 2603(c)(4), and 2604(b)(5) of the City Charter, that the Conflicts of Interest Board has adopted Board Rules amending its rules governing the acceptance of gifts by public servants.

The proposed Rules were published in the City Record on February 9, 2022, and a public hearing was held on March 14, 2022. No comments were received. The Conflicts of Interest Board now adopts the following Rules.

STATEMENT OF BASIS AND PURPOSE

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

a. What is a Valuable Gift (§ 1-01(a))

Board Rules § 1-01(a) reorganizes the text of previous Board Rules § 1-01(a) by adding line breaks to improve readability. Board Rules § 1-01(a)(1) amends the definition of “valuable gift” by replacing “thing” with the more illustrative, but substantively identical, term “item of value.”

Board Rules § 1-01(a)(2) codifies four exceptions to the definition of “valuable gift”:

First, Board Rules § 1-01(a)(2)(i) codifies the Board’s longstanding advice that public servants may utilize discounts available to the general public, including discounts for government employees. See Advisory Opinion (“A.O.”) No. 1995-14 (advising that public servants may utilize a special offer extended by a bank to both City employees and many businesses and organizations in a geographic area); A.O. No. 2006-4 (advising that public servants may utilize generally available government employee discounts); but see A.O. No. 1995-5 (advising that soliciting a discount for a subset of City employees would violate Charter § 2604(b)(3)).

Second, Board Rules § 1-01(a)(2)(ii) codifies the Board’s longstanding advice that public servants may accept prizes from raffles or giveaways that are available without respect to whether the participants are public servants and where participation in the raffle or giveaway does not use City resources or identify the participant as a public servant. See A.O. No. 1991-20 (advising that a public servant may accept a prize from a competition because, in part, he did not identify himself as a public servant in his

submission); A.O. No. 2012-3 (advising that a public servant may accept a raffle prize exceeding \$50 where no City resources were used in the raffle entry).

Third, Board Rules § 1-01(a)(2)(iii) codifies the Board's determination that public servants may accept free attendance at union conferences in order to conduct union business. See A.O. No. 2006-3 (advising that public servants may accept free food and accommodation from a union to attend that union's conference on their own time).

Finally, Board Rules § 1-01(a)(2)(iv) permits public servants to accept travel expenses from a prospective employer in order to conduct an interview, provided that the travel expenses are reasonable and the trip is no longer than necessary to complete the interview. Because a public servant seeking employment is already prohibited by Charter § 2604(d)(1) from participating in any particular matter involving the potential employer, the acceptance of reasonable travel expenses poses a diminished risk of any actual or perceived impropriety.

Board Rules § 1-01(a)(3) is substantively the same as prior Board Rules § 1-01(a), and revisions are proposed for clarification of the text.

b. Definitions (§1-01(b))

Board Rules § 1-01(b) reorganizes the text of prior Board Rules § 1-01(b) by adding paragraphs, with two substantive changes:

First, Board Rules § 1-01(b) replaces the term "relative" with "family member" to make consistent the usage of that term with other sections of the Board Rules.

Second, Board Rules § 1-01(b)(2) expressly includes step-relatives, consistent with the Board's longstanding interpretation of Chapter 68. See, e.g., COIB v. J. Purvis, COIB Case No. 2012-898a (2013) (finding that an Associate Job Opportunity Specialist with the New York City Human Resources Administration ("HRA") misused his position in the HRA Rental Assistance Unit to issue an assistance check from HRA to his stepdaughter); COIB v. G. Jones, COIB Case No. 2012-458 (2013) (finding that a New York City Housing Authority ("NYCHA") Construction Project Manager misused his position when he recommended his stepson for a job with a vendor that the Construction Project Manager supervised as part of his official NYCHA duties).

c. Gifts from Family Members or Close Personal Friends (§1-01(c))

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

New material is underlined.

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

(a) What is a Valuable Gift

- (1) For the purposes of Charter § 2604(b)(5), a “valuable gift” is any gift to a public servant that has a value of \$50.00 or more, whether in the form of money, service, loan, travel, entertainment, hospitality, promise, or item of value in any other form.
- (2) For the purposes of Charter § 2604(b)(5), a “valuable gift” does not include:
 - i. An unsolicited discount available to the general public, all government employees, or all City employees.
 - ii. A prize from raffles or giveaways made available irrespective of whether the participants are public servants and where participation in the raffle or giveaway does not use City resources or identify the participant as a public servant.
 - iii. Free attendance at labor union conferences and events, and any attendant meals or refreshments, offered by such union for the purposes of conducting union business.
 - iv. Travel expenses paid by a prospective employer for a public servant to interview for a position, provided that the travel expenses are reasonable and the trip is no longer than necessary to complete the interview.
- (3) For the purposes of Charter § 2604(b)(5), two or more gifts to a public servant shall be considered a single gift if they are given to the public servant within a twelve-month period by the same person or persons who the public servant knows or should know are:
 - i. family members of one another; or
 - ii. directors, trustees, or employees of the same firm or affiliated firms.

(b) Definitions

As used in this section:

- (1) The term “family member” means:
 - i. a spouse, domestic partner, child, grandchild, parent, sibling, and grandparent;
 - ii. a parent, child, or sibling of a spouse or domestic partner; and
 - iii. a spouse or domestic partner of a parent, child, or sibling.
- (2) The terms “child,” “grandchild,” “parent,” “grandparent,” and “sibling” include a step-child, step-grandchild, step-parent, step-grandparent, and step-sibling.
- (3) Firms are “affiliated” if:
 - i. one is a subsidiary of the other; or
 - ii. a single person or firm owns at least 25 percent of each firm.

(c) Gifts from Family Members or Close Personal Friends

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

- (1) it can be shown under all relevant circumstances that it is the family or personal relationship rather than the business dealings that is the controlling factor; and
- (2) the public servant's receipt of the gift would not result in or create the appearance of:
 - i. using their office for private gain;
 - ii. giving preferential treatment to any person or entity;
 - iii. losing independence or impartiality; or
 - iv. accepting gifts or favors for performing official duties.

New York City Conflicts of Interest Board

Notice of ~~Public Hearing and Opportunity to Comment on Proposed~~ Adoption of Final Rules Regarding Gifts

~~What are we proposing?~~ The NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED IN THE NEW YORK CITY CONFLICTS OF INTEREST BOARD by Sections 1043, 2603(a), 2603(c)(4), and 2604(b)(5) of the City Charter, that the Conflicts of Interest Board is proposing to amend has adopted Board Rules amending its rules governing the acceptance of ~~valuable~~ gifts by public servants.

~~When~~ The proposed Rules were published in the City Record on February 9, 2022, and ~~where is the Hearing?~~ a public hearing was held on March 14, 2022. No comments were received. The Conflicts of Interest Board ~~will hold a public hearing on the proposed rule. The public hearing will take place by video conference at **** on **** and is accessible by:~~

- ~~• **Internet Video and Audio.** To access the hearing by Zoom, use~~ now adopts the following URL: ****
- ~~• **Telephone.** To access the hearing by telephone, dial ****. When prompted, use the following access code **** and password ****.~~

~~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.~~
- ~~• **By Speaking at the Hearing.** Anyone who wants to comment on the proposed rule at the public hearing may speak for up to three minutes. Please access the public hearing by Internet Video and Audio or by Telephone using the instructions above. It is recommended, but not required, that commenters sign up prior to the hearing by contacting the Conflicts of Interest Board by phone at (212) 437-0730 or by email at kmiller@coib.nyc.gov.~~

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

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

~~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, including if you need a sign language interpreter or simultaneous transcription. You can advise us by email at kmiller@coib.nyc.gov or by telephone at (212) 437-0730. You must tell us by [].

~~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/>. 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 on the Conflicts of Interest Board's website (<https://www1.nyc.gov/site/coib/public-documents/open-meetings-and-public-hearings.page>) as soon as practicable.

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

~~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

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

a. What is a Valuable Gift (§ 1-01(a))

~~Proposed~~

Board Rules § 1-01(a) ~~would reorganize~~reorganizes the text of ~~existing~~previous Board Rules § 1-01(a) by adding line breaks to improve readability. ~~Proposed~~ Board Rules § 1-01(a)(1) ~~would amend~~amends the definition of "valuable gift" by replacing "thing" with the more illustrative, but substantively identical, term "item of value."

~~Proposed~~

Board Rules § 1-01(a)(2) ~~would codify~~codifies four exceptions to the definition of "valuable gift."":

First, ~~proposed~~ Board Rules § 1-01(a)(2)(i) ~~would codify~~codifies the Board's longstanding advice that public servants may utilize discounts available to the general public, including discounts for government employees. See Advisory Opinion ("A.O.") 1995-14 (advising that public servants may utilize a special offer extended by a bank to both City employees and many businesses and organizations in a geographic area); A.O. No. 2006-4 (advising that public servants may utilize generally available government

employee discounts); but see A.O. 1995-5 (advising that soliciting a discount for a subset of City employees would violate Charter § 2604(b)(3)).

Second, ~~proposed~~ Board Rules § 1-01(a)(2)(ii) ~~would codify~~codifies the Board's longstanding advice that public servants may accept prizes from raffles or giveaways that are available without respect to whether the participants are public servants and where participation in the raffle or giveaway does not use City resources or identify the participant as a public servant. See A.O. No. 1991-20 (advising that a public servant may accept a prize from a competition because, in part, he did not identify himself as a public servant in his submission); A.O. No. 2012-3 (advising that a public servant may accept a raffle prize exceeding \$50 where no City resources were used in the raffle entry).

Third, ~~proposed~~ Board Rules § 1-01(a)(2)(iii) ~~would codify~~codifies the Board's determination that public servants may accept free attendance at union conferences in order to conduct union business. See A.O. No. 2006-3 (advising that public servants may accept free food and accommodation from a union to attend that union's conference on their own time).

Finally, ~~proposed~~ Board Rules § 1-01(a)(2)(iv) ~~would permit~~permits public servants to accept travel expenses from a prospective employer in order to conduct an interview, provided that the travel expenses are reasonable and the trip is no longer than necessary to complete the interview. Because a public servant seeking employment is already prohibited by Charter § 2604(d)(1) from participating in any particular matter involving the potential employer, the acceptance of reasonable travel expenses poses a diminished risk of any actual or perceived impropriety.

b. Definitions

Proposed

Board Rules § 1-01(~~b~~) ~~would reorganize~~a(3) is substantively the ~~clauses and add sub-sections to existing~~same as prior Board Rules § 1-01(~~a~~), and revisions are proposed for clarification of the text.

b. Definitions (§1-01 (b))

Board Rules § 1-01(b) reorganizes the text of prior Board Rules § 1-01(b) and by adding paragraphs, with two substantive changes.:

First, ~~proposed~~ Board Rules § 1-01(b) ~~would replace~~replaces the term "relative" with "family member" to ~~harmonize~~make consistent the usage of that term with other sections of the Board Rules.

Second, ~~proposed~~ Board Rules § 1-01(b)(2) ~~would~~ expressly ~~include~~includes step-relatives, consistent with the Board's longstanding interpretation of Chapter 68. See, e.g., COIB v. J. Purvis, COIB Case No. 2012-898a (2013) (finding that an Associate Job Opportunity Specialist with the New York City Human Resources Administration ("HRA") misused his position in the HRA Rental Assistance Unit to issue an assistance check from

HRA to his stepdaughter); *COIB v. G. Jones*, COIB Case No. 2012-458 (2013) (finding that a New York City Housing Authority (“NYCHA”) Construction Project Manager misused his position when he recommended his stepson for a job with a vendor that the Construction Project Manager supervised as part of his official NYCHA duties).

c. Gifts from Family Members or Close Personal Friends (§1-01(c))

Proposed

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

New material is underlined.

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

(a) What is a Valuable Gift

(1) For the purposes of Charter § 2604(b)(5), a “valuable gift” is any gift to a public servant that has a value of \$50.00 or more, whether in the form of money, service, loan, travel, entertainment, hospitality, promise, or item of value in any other form.

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

- i. ~~Unsolicited discounts~~An unsolicited discount available to ~~any purchaser or to a category of people, including the general public, all City or government employees, or all City employees.~~
- ii. ~~Prizes~~A prize from raffles or giveaways made available irrespective of whether the participants are public servants and where participation in the raffle or giveaway does not use City resources or identify the participant as a public servant.
- iii. Free attendance at labor union conferences and events, and any attendant meals or refreshments, offered by such union for the purposes of conducting union business.
- iv. Travel expenses paid by a prospective employer for a public servant to interview for a position, provided that the travel expenses are reasonable and the trip is no longer than necessary to complete the interview.

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

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

(b) Definitions

As used in this section:

(1) ~~The term~~ “family member” means:

- i. a spouse, domestic partner, child, grandchild, parent, sibling, and grandparent;

- ii. a parent, child, or sibling of a spouse or domestic partner; and
 - iii. a spouse or domestic partner of a parent, child, or sibling.
 - (2) The terms “child,” “grandchild,” “parent,” “grandparent,” and “sibling” includesinclude a step-child, step-grandchild, step-parent, step-grandparent, and step-sibling.
 - (3) ~~firms~~Firms are “affiliated” if:
 - i. one is a subsidiary of the other; or
 - ii. a single person or firm owns at least 25 percent of each firm.
- (c) Gifts from Family Members or Close Personal Friends

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

 - (1) it can be shown under all relevant circumstances that it is the family or personal relationship rather than the business dealings that is the controlling factor; and
 - (2) the public servant's receipt of the gift would not result in or create the appearance of:
 - i. using ~~his or her~~their office for private gain;
 - ii. giving preferential treatment to any person or entity;
 - iii. losing independence or impartiality; or
 - iv. accepting gifts or favors for performing official duties.