

March 12, 2019, Agenda – Open Meeting Matter

January 30, 2019, Agenda – Open Meeting Matter

To: The Board

From: Christopher M. Hammer

Date: March 6, 2019

Re: Proposed Amendments to Board Rules on Affiliated Not-for-Profit Organizations

As directed by the Board at its January 2019 meeting (**Exhibit 1**), and as required by the City Administrative Procedure Act, Staff formally submitted the proposed amendments to the Board Rules implementing Chapter 9 of Title 3 of the New York City Administrative Code, which regulates not-for-profit organizations affiliated with elected officials. During the course of the review process, minor stylistic changes were made to both the commentary and the text of the proposed amendments. None of these changes is substantive, as shown in the tracked changes version of the proposed Notice of Public Hearing (**Exhibit 2**). The Law Department and the Mayor's Office of Operations have provided their respective certifications to the proposed amendments (**Exhibit 3**).

Staff recommends that the Board approve the changes and authorize Staff to publish the proposed amendments in the City Record for public comment in advance of a public hearing, as required by the City Administrative Procedure Act. See Charter Section 1043(b).

Attached are the following:

1. Minutes of the January 30, 2019 Open Meeting (**Exhibit 1**);
2. Proposed draft Notice of Public Hearing, with changes tracked (**Exhibit 2**); and
3. Proposed draft Notice of Public Hearing, with certifications from the Law Department and Mayor's Office of Operations (**Exhibit 3**).

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

Date: January 30, 2019

Location: Baker Hostetler, 45 Rockefeller Plaza, 14th Fl., New York, New York

Present:

Board Members: Chair Richard Briffault and Members Fernando A. Bohorquez, Jr., Anthony Crowell, Jeffrey D. Friedlander, and Erika Thomas

Board Staff: Ethan Carrier, Grace Cho, Chad Gholizadeh, Christopher Hammer, Gavin Kendall, Julia Lee, Carolyn Miller, Katherine Miller, Ari Mulgay, Jeff Tremblay, Michele Weinstat, Clare Wiseman, and Juliya Ziskina.

Guests: None

The meeting was called to order by the Chair at approximately 10:12 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: (1) the adoption of Board Rules § 1-13(e); and (2) Staff's proposed amendments to Title 53 of the Rules of the City of New York, Board Rules Chapter 3.

Board Rules § 1-13(e):

After reporting that no comments had been submitted to the Board either before or at the public hearing held on January 18, 2019, the Chair asked for any comments by the Board or Staff. There were no comments.

Upon motion duly made and seconded, the Board unanimously voted to adopt Board Rules § 1-13(e) as the final rule.

Board Rules Chapter 3:

After a brief introduction by a member of Board Staff on the proposed amendments to Board Rules Chapter 3, the Chair asked for any comments by the Board or Staff.

The following comments constitute the changes as agreed upon by the Board and Staff to the proposed amendments to Board Rules Chapter 3:

- Board Rules § 3-03(a): No comments.
- Board Rules § 3-03(g): Include the word "policy" to state: "the political or policy interests of the elected official".
- Board Rules § 3-03(h): No comments.
- Board Rules § 3-04(a)(5)(iii): Reject the proposed amendment.
- Board Rules § 3-04(a)(5)(iv): No comments.
- Board Rules § 3-04(b)(2)(iii) and (iv): No comments.

Upon motion duly made and seconded, the Board unanimously voted to approve the proposed amendments incorporating the changes as discussed.

The open meeting was adjourned at approximately 10:43 a.m.

Respectfully submitted,

Julia Lee
Recording Secretary

New York City Conflicts of Interest Board

Notice of Public Hearing and Opportunity to Comment on Proposed Rule Regarding Not-for-Profit Organizations Affiliated with Elected Officials

What are we proposing? The Conflicts of Interest Board proposes to amend its rules regarding not-for-profit organizations affiliated with elected officials.

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 [time] on [date]. The hearing will be at [location].

This location has the following accessibility option(s) available: []

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.
- **Mail.** You can mail comments to Christopher M. Hammer, Deputy General 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 [date]. You can speak for up to three minutes.

Is there a deadline to submit comments? Yes; you must submit written comments by [date].

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) 437-0730. You must tell us by [date].

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? Section 1043 of the City Charter and Section 3-907 of the Administrative Code 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~~amending its rules. This notice is made according to the requirements of Section 1043 of the City Charter.

Statement of Basis and Purpose of the Proposed Rule

~~In 2018~~After the enactment of Local Law 181 of 2016, the Conflicts of Interest Board adopted Board Rules to implement the new Chapter 9 of Title 3 of the Administrative Code ("Chapter 9"), which regulates not-for-profit organizations affiliated with elected officials by, among other things, requiring an affiliated organization to report certain of its donations. The Board has since received substantial feedback about these Rules. First, some not-for-profit organizations have expressed uncertainty about how the Board determines whether an organization is "affiliated with an elected official" and therefore subject to Chapter 9. Second, some affiliated organizations have suggested that the donation reporting process is needlessly complicated. This feedback, as well as the Board's experience in implementing Chapter 9, has ~~shown~~led to the ~~need~~decision to clarify and simplify these two aspects of the Board Rules.

The Board therefore proposes to amend Board Rules § 3-03 to clarify the factors by which the Board determines whether an organization is affiliated with an elected official. Because the determination is made based on the totality of the circumstances, this amendment would make clear that the Board must consider each of the individual factors listed in that

section. The amendment would also clarify the meaning of two of the existing seven factors and add an eighth factor, as follows:

- Amended factor (a) would clarify that the Board will look to whether the organization was founded by the person *currently* holding office as Mayor, Comptroller, Public Advocate, Borough President, or member of the Council, or that elected official's agent. An organization founded by a former elected official, or by the agent of a former elected official, does not, without more, suggest control by a *current* elected official or agent of a current elected official.
- Amended factor (g) would clarify that the organization's purpose is relevant to the Board's review insofar as an organization whose purpose advances either the mission of a City agency under the control of the elected official or the elected official's political or policy interests makes it more likely that the elected official or his or her agent controls the organization.
- The addition of factor (h) would permit the Board to consider whether multiple elected officials serve on the board of the organization. Where multiple elected officials serve on the board of an organization, it would be less likely that any one elected official exercises control over that organization.

The Board proposes to amend Board Rules § 3-04(b) to simplify the reporting process for unrestricted organizations. At present, an unrestricted organization (as defined in Board Rules § 3-01(k)) must both review its records and consult with its controlling elected official or agent, board members, and principal officers to determine whether any of its donors is the household member—defined as the spouse, domestic partner, or unemancipated child of the donor—of a person listed in the City's doing business database. In listening to the unrestricted organizations, the Board has learned that this requirement, as a day-to-day matter, will be unduly burdensome. In order to create a regulatory regime that balances the need for transparency with the need for practical administration, the Board now views the unrestricted organization's records as containing information sufficient to make this determination without consulting these organizational leaders.

Text of the Proposed Rule

New material is underlined.

[Deleted material is in brackets.]

Sections 3-03 and 3-04 of Title 53 of the Rules of the City of New York are amended to read as follows:

§ 3-03. Factors by which the Board Will Determine Whether an Entity is Affiliated with an Elected Official.

For purposes of Administrative Code § 3-901, in determining whether a person holding office as Mayor, Comptroller, Public Advocate, Borough President or member of the Council, or an agent or appointee of such a person, exercises control over a non-profit entity, the Board will consider the totality of the circumstances[, including] by weighing each of the following individual factors:

- (a) whether the organization was created by [such an elected official] a person currently holding office as Mayor, Comptroller, Public Advocate, Borough President, or member of the Council, ~~[such an elected official]~~, or [the {official's}] an agent of such official, or by an individual who was previously employed by, or was a paid political consultant of, the elected official, and, if so, how recently such organization was created;
- (b) whether the board of the organization is chaired by such an elected official or the official's agent;
- (c) whether board members are appointed by such an elected official or the official's agent or only upon nomination of other individuals or entities that are not agents of such elected official;
- (d) whether board members serve for fixed terms or can be removed without cause by an elected official or the official's agent;
- (e) the degree of involvement or direction by such an elected official or the official's agent in such organization's policies, operations, and activities;
- (f) the degree to which public servants, acting under the authority or direction of the elected official or an agent of the elected official, perform duties on behalf of the organization as part of their official City employment; [and]
- (g) whether the purpose of the organization ~~[.]~~ advances either the mission of a City agency under the control of the elected official or the political or policy interests of the elected official; and
- (h) whether ~~multiple~~more than one elected officials serve on the board of the organization.

§ 3-04. Annual Reporting by Organizations Affiliated with an Elected Official.

Pursuant to Administrative Code § 3-902, all organizations affiliated with an elected official must submit the reporting required pursuant to Administrative Code § 3-902(a) on the Board's website, no later than August 1 for the previous calendar year, as follows.

(a) Reporting Requirements for Restricted Organizations

- ~~(1) A restricted organization must submit the information listed in Administrative Code §§ 3-902(a)(1) to 3-902(a)(8):~~
- ~~(2) To comply with the reporting requirement of Administrative Code §§ 3-902(a)(6) and 3-902(a)(7), a restricted organization must report for each donation received during the previous calendar year:~~
 - ~~(i) the name of any donor who, as of the date of such donation, was either listed in the City's Doing Business Database or who was a household member of a person listed in the City's Doing Business Database;~~
 - ~~(ii) the name of any donor who was added to the City's Doing Business Database within 180 days after the receipt of such donation or who was a household member of a person added to the City's Doing Business Database within 180 days after the receipt of such donation;~~
 - ~~(iii) if the donor was the household member of a person listed in the City's Doing Business Database as of the date of such donation, or added to the City's Doing Business Database within 180 days after the receipt of such donation, the name of the person listed in the City's Doing Business Database;~~
 - ~~(iv) the name of any donor who made a donation with a reasonable value of \$1,000 or more;~~
 - ~~(v) the city and state of residence of the donor;~~
 - ~~(vi) the date of each donation;~~
 - ~~(vii) the value of each donation;~~
 - ~~(viii) the value of any excess donation refunded pursuant to Administrative Code §§ 3-903(a) or 3-903(b); and~~
 - ~~(ix) the date of any excess donation refunded pursuant to Administrative Code §§ 3-903(a) or 3-903(b).~~

~~(3) Multiple donations made by a person listed in the City's Doing Business Database and that person's household members in the same calendar year are considered in the aggregate for purposes of Administrative Code §§ 3-903(a), and 3-903(b). Multiple donations made by an individual in the same calendar year are considered in the aggregate for purposes of Administrative Code § 3-902(a)(7) and for purposes of obtaining the individual donor's written submission pursuant to Administrative Code § 3-903(d).~~

~~(4) In determining whether and when a donation must be returned pursuant to Administrative Code § 3-903(b), where a person is added to the City's Doing Business Database in a calendar year and the donor or household members of the donor make multiple donations to the organization that in the aggregate exceed \$400 in that calendar year, the date of receipt will be deemed to be the date that the aggregate donations for the calendar year among the donor and household members of the donor exceed \$400.~~

~~- * * *~~

(5) To determine whether a donation may be accepted pursuant to Administrative Code §§ 3-903(a) and (b), and to comply with the reporting requirement of Administrative Code § 3-902(a)(6), a restricted organization must take the following steps to determine whether a donor was listed in the City's Doing Business Database or was a household member of a person listed in the City's Doing Business Database, either on the date of the donation or as of 180 days after the date of the donation:

- (i) check the name of the donor against the City's Doing Business Database both at the time of the donation and as of 180 days after the date of the donation;
- (ii) consult the organization's records, including but not limited to donors' written submissions collected pursuant to Administrative Code § 3-903(d), if any, to determine whether the donor was a household member of a person listed in the City's Doing Business Database;
- (iii) consult each of the following people: (a) the organization's affiliated elected official or the agent of the organization's affiliated elected official who exercises control over the organization; (b) each board member of the organization; and (c) each principal officer of the organization. The organization must request that each person consulted pursuant to this subparagraph review a list of the organization's most recent donors and inform the organization if such person believes that a donor is the household member of a person listed in the Doing Business Database. The organization must obtain the names of the spouse or domestic partner of any such donor (or, if the donor is an unemancipated child, his or her parent) and check those names against the Doing Business Database; and

- (iv) if an organization [concludes]believes that a donor, a donor's spouse or domestic partner (or, if a donor is an unemancipated child, his or her parent), is not a person with business dealings with the City, despite such person's name matching the name of an individual in the Doing Business Database, the organization must submit information supporting that conclusion to the Board. The Board will review the submission and determine whether the donation may be accepted pursuant to Administrative Code §§ 3-903(a) or 3-903(b) and if it must be reported pursuant to Administrative Code § 3-902(a)(6).

~~(5) To comply with the reporting requirement of Administrative Code § 3-902(a)(8), a restricted organization must submit to the Board a list of each elected official communication created or distributed, which list must include a description, the date, and the total cost of each such communication. In calculating the total cost of an elected official communication, a restricted organization must include the value of all goods and services paid by the organization to create and distribute the elected official communication, including without limitation the value of the time of its employees and the value of all goods and services donated by a non-governmental source for the communication's creation or distribution.~~

* * *

(b) *Reporting Requirements for Unrestricted Organizations*

~~(1) An unrestricted organization must submit the information listed in Administrative Code §§ 3-902(a)(1) to (a)(9).~~

* * *

- (2) To comply with the reporting requirement of Administrative Code § 3-902(a)(6), an unrestricted organization must take the following steps to determine whether a donor was listed in the City's Doing Business Database or was a household member of a person listed in the City's Doing Business Database, either on the date of the donation or within 180 days after the date of the donation:

- (i) check the name of the donor against the City's Doing Business Database both at the time of the donation and as of 180 days after the date of the donation;
- (ii) consult the organization's records, including but not limited to donors' written submissions collected pursuant to Administrative Code § 3-903(d), to determine whether the donor was a household member of a person listed in the City's Doing Business Database; and
- (iii) [consult each of the following people: (a) the organization's affiliated elected official or the agent of the organization's affiliated elected official who exercises control over the organization; (b) each board member of the organization; and (c) each principal officer of the

organization. The organization must request that each person consulted pursuant to this subparagraph review a list of the organization's most recent donors and inform the organization if such person believes that a donor is listed in the Doing Business Database, or is the domestic partner, spouse, or unemancipated child of a person listed in the Doing Business Database. The organization must obtain the names of the spouse or domestic partner of any such donor (or, if the donor is an unemancipated child, his or her parent) and check those names against the Doing Business Database; and

- (iv)]if an organization [concludes] believes that a donor, a donor's spouse or domestic partner (or, if a donor is an unemancipated child, his or her parent), is not a person with business dealings with the City, despite such person's name matching the name of an individual in the Doing Business Database, the organization must submit information supporting that conclusion to the Board. The Board will review the submission and determine whether the donation must be reported pursuant to Administrative Code § 3-902(a)(6).

~~(3) To comply with the reporting requirement of Administrative Code § 3-902(a)(7), an unrestricted organization must submit to the Board the names of any individuals who or entities that made a donation with a reasonable value of \$1,000 or more, whether in a single donation or in multiple donations. If an unrestricted organization receives multiple donations from the same individual or entity, the aggregate value of which has a reasonable value of \$1,000 or more, the organization must report the date and value of every donation from that individual or entity.~~

~~(4) To comply with the reporting requirement of Administrative Code § 3-902(a)(8), an unrestricted organization must submit to the Board a list of each elected official communication created or distributed, which list must include a description, the date, and the total cost of each such communication. In calculating the total cost of an elected official communication, an unrestricted organization must include the value of all goods and services paid by the organization to create and distribute the elected official communication, including without limitation the value of the time of its employees and the value of all goods and services donated by a non-governmental source for the communication's creation or distribution.~~

~~(5) To comply with the reporting requirement of Administrative Code § 3-902(a)(9), an unrestricted organization must report its total expenditures for the previous calendar year and, for the current calendar year, both total budgeted expenditures and budgeted expenditures for elected official communications.~~

~~(c) *Privacy, Safety, and Security Requests*~~

~~(1) Pursuant to Administrative Code § 3-902(b), an organization affiliated with an elected official may submit a request to the Board that disclosure of one or more of its donors~~

~~and/or the amount of donation not be made public. The organization must make such a request in writing no later than April 1 for the previous calendar year and must explain why the release of such information to the public may cause harm, threats, harassment, or reprisals to the donor, or to individuals or property affiliated with the donor.~~

~~(2) Whether or not a reporting entity has submitted a request pursuant to this subdivision, the Board may upon its own initiative grant privacy as to any information submitted by an organization affiliated with an elected official, upon a finding by the Board that the release of such information would constitute a risk to the safety or security of any person.~~

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New York City Conflicts of Interest Board

Notice of Public Hearing and Opportunity to Comment on Proposed Rule Regarding Not-for-Profit Organizations Affiliated with Elected Officials

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What authorizes the Conflicts of Interest Board to make this rule? Section 1043 of the City Charter and Section 3-907 of the Administrative Code 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.

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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 amending its rules. This notice is made according to the requirements of Section 1043 of the City Charter.

Statement of Basis and Purpose of the Proposed Rule

After the enactment of Local Law 181 of 2016, the Conflicts of Interest Board adopted Board Rules to implement the new Chapter 9 of Title 3 of the Administrative Code (“Chapter 9”), which regulates not-for-profit organizations affiliated with elected officials by, among other things, requiring an affiliated organization to report certain of its donations. The Board has since received substantial feedback about these Rules. First, some not-for-profit organizations have expressed uncertainty about how the Board determines whether an organization is “affiliated with an elected official” and therefore subject to Chapter 9. Second, some affiliated organizations have suggested that the donation reporting process is needlessly complicated. This feedback, as well as the Board’s experience in implementing Chapter 9, has led to the decision to clarify and simplify these two aspects of the Board Rules.

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section. The amendment would also clarify the meaning of two of the existing seven factors and add an eighth factor, as follows:

- Amended factor (a) would clarify that the Board will look to whether the organization was founded by the person *currently* holding office as Mayor, Comptroller, Public Advocate, Borough President, or member of the Council, or that elected official's agent. An organization founded by a former elected official, or by the agent of a former elected official, does not, without more, suggest control by a *current* elected official or agent of a current elected official.
- Amended factor (g) would clarify that the organization's purpose is relevant to the Board's review insofar as an organization whose purpose advances either the mission of a City agency under the control of the elected official or the elected official's political or policy interests makes it more likely that the elected official or his or her agent controls the organization.
- The addition of factor (h) would permit the Board to consider whether multiple elected officials serve on the board of the organization. Where multiple elected officials serve on the board of an organization, it would be less likely that any one elected official exercises control over that organization.

The Board proposes to amend Board Rules § 3-04(b) to simplify the reporting process for unrestricted organizations. At present, an unrestricted organization (as defined in Board Rules § 3-01(k)) must both review its records and consult with its controlling elected official or agent, board members, and principal officers to determine whether any of its donors is the household member—defined as the spouse, domestic partner, or unemancipated child of the donor—of a person listed in the City's doing business database. In listening to the unrestricted organizations, the Board has learned that this requirement, as a day-to-day matter, will be unduly burdensome. In order to create a regulatory regime that balances the need for transparency with the need for practical administration, the Board now views the unrestricted organization's records as containing information sufficient to make this determination without consulting these organizational leaders.

Text of the Proposed Rule

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§ 3-03. Factors by which the Board Will Determine Whether an Entity is Affiliated with an Elected Official.

For purposes of Administrative Code § 3-901, in determining whether a person holding office as Mayor, Comptroller, Public Advocate, Borough President or member of the Council, or an agent or appointee of such a person, exercises control over a non-profit entity, the Board will consider the totality of the circumstances[, including] by weighing each of the following individual factors:

- (a) whether the organization was created by [such an elected official] a person currently holding office as Mayor, Comptroller, Public Advocate, Borough President, or member of the Council, or [the official's] an agent of such official, or by an individual who was previously employed by, or was a paid political consultant of, the elected official, and, if so, how recently such organization was created;
- (b) whether the board of the organization is chaired by such an elected official or the official's agent;
- (c) whether board members are appointed by such an elected official or the official's agent or only upon nomination of other individuals or entities that are not agents of such elected official;
- (d) whether board members serve for fixed terms or can be removed without cause by an elected official or the official's agent;
- (e) the degree of involvement or direction by such an elected official or the official's agent in such organization's policies, operations, and activities;
- (f) the degree to which public servants, acting under the authority or direction of the elected official or an agent of the elected official, perform duties on behalf of the organization as part of their official City employment; [and]
- (g) whether the purpose of the organization advances either the mission of a City agency under the control of the elected official or the political or policy interests of the elected official; and
- (h) whether more than one elected officials serve on the board of the organization.

§ 3-04. Annual Reporting by Organizations Affiliated with an Elected Official.

Pursuant to Administrative Code § 3-902, all organizations affiliated with an elected official must submit the reporting required pursuant to Administrative Code § 3-902(a) on the Board's website, no later than August 1 for the previous calendar year, as follows.

(a) Reporting Requirements for Restricted Organizations

* * *

- (5) To determine whether a donation may be accepted pursuant to Administrative Code §§ 3-903(a) and (b), and to comply with the reporting requirement of Administrative Code § 3-902(a)(6), a restricted organization must take the following steps to determine whether a donor was listed in the City's Doing Business Database or was a household member of a person listed in the City's Doing Business Database, either on the date of the donation or as of 180 days after the date of the donation:
- (i) check the name of the donor against the City's Doing Business Database both at the time of the donation and as of 180 days after the date of the donation;
 - (ii) consult the organization's records, including but not limited to donors' written submissions collected pursuant to Administrative Code § 3-903(d), if any, to determine whether the donor was a household member of a person listed in the City's Doing Business Database;
 - (iii) consult each of the following people: (a) the organization's affiliated elected official or the agent of the organization's affiliated elected official who exercises control over the organization; (b) each board member of the organization; and (c) each principal officer of the organization. The organization must request that each person consulted pursuant to this subparagraph review a list of the organization's most recent donors and inform the organization if such person believes that a donor is the household member of a person listed in the Doing Business Database. The organization must obtain the names of the spouse or domestic partner of any such donor (or, if the donor is an unemancipated child, his or her parent) and check those names against the Doing Business Database; and
 - (iv) if an organization [concludes]believes that a donor, a donor's spouse or domestic partner (or, if a donor is an unemancipated child, his or her parent), is not a person with business dealings with the City, despite such person's name matching the name of an individual in the Doing Business Database, the organization must submit information supporting that conclusion to the Board. The Board will review the submission and determine whether the donation may be accepted pursuant to

Administrative Code §§ 3-903(a) or 3-903(b) and if it must be reported pursuant to Administrative Code § 3-902(a)(6).

* * *

(b) Reporting Requirements for Unrestricted Organizations

* * *

- (2) To comply with the reporting requirement of Administrative Code § 3-902(a)(6), an unrestricted organization must take the following steps to determine whether a donor was listed in the City's Doing Business Database or was a household member of a person listed in the City's Doing Business Database, either on the date of the donation or within 180 days after the date of the donation:
- (i) check the name of the donor against the City's Doing Business Database both at the time of the donation and as of 180 days after the date of the donation;
 - (ii) consult the organization's records, including but not limited to donors' written submissions collected pursuant to Administrative Code § 3-903(d), to determine whether the donor was a household member of a person listed in the City's Doing Business Database; and
 - (iii) [consult each of the following people: (a) the organization's affiliated elected official or the agent of the organization's affiliated elected official who exercises control over the organization; (b) each board member of the organization; and (c) each principal officer of the organization. The organization must request that each person consulted pursuant to this subparagraph review a list of the organization's most recent donors and inform the organization if such person believes that a donor is listed in the Doing Business Database, or is the domestic partner, spouse, or unemancipated child of a person listed in the Doing Business Database. The organization must obtain the names of the spouse or domestic partner of any such donor (or, if the donor is an unemancipated child, his or her parent) and check those names against the Doing Business Database; and
 - (iv)]if an organization [concludes] believes that a donor, a donor's spouse or domestic partner (or, if a donor is an unemancipated child, his or her parent), is not a person with business dealings with the City, despite such person's name matching the name of an individual in the Doing Business Database, the organization must submit information supporting that conclusion to the Board. The Board will review the submission and determine whether the donation must be reported pursuant to Administrative Code § 3-902(a)(6).

* * *

**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: Amendment of Rules Relating to Not-for-Profit Organizations Affiliated with Elected Officials

REFERENCE NUMBER: 2019 RG 006

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: March 4, 2019

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS
253 BROADWAY, 10th FLOOR
NEW YORK, NY 10007
212-788-1400**

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

RULE TITLE: Amendment of Rules Relating to Not-for-Profit Organizations Affiliated with Elected Officials

REFERENCE NUMBER: COIB-6

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/ James Archer
Mayor's Office of Operations

March 6, 2019
Date