


**September 21, 2018, Agenda – Open Meeting Matter**  
**August 22, 2018, Agenda – Open Meeting Matter**

To: The Board  
From: Chad H. Gholizadeh   
Date: September 4, 2018  
Re: Proposed Board Rules

In response to the discussion at the August 2018 Board meeting, Staff has made a number of changes to the original Draft Board Rules, conducted additional research into several areas, and now presents revised rules to the Board for its review with the recommendation that the Board reconsider its decision to remove proposed Board Rules § 1-10(a)(10). Upon Board approval of the proposed rules, Staff will formally submit them to the Law Department and Mayor's Office of Operations, as required by the City Administrative Procedure Act. See Charter § 1043(d).

Attached are the following:

- 1) Minutes of the August 22, 2018 Open Meeting (**Exhibit 1**);
- 2) Staff's August Memorandum to the Board (**Exhibit 2**); and
- 3) Staff's Proposed Draft Board Rules and Commentary, with changes tracked (**Exhibit 3**);
- 4) Staff's Proposed Draft Board Rules and Commentary (**Exhibit 4**).

**Analysis & Discussion**

In addition to the specific changes requested by the Board in its last meeting, Staff has further reviewed three areas on which it has additional revisions to the proposed Board Rules.

*(1) "Local Public Authorities"*

Proposed Board Rules § 1-08(c) originally specified "New York local public authorities" as exempted from the definition of "firm" as defined in Charter § 2601(11).<sup>1</sup> "Local authority" is a defined term in the New York State Public Authorities Law.<sup>2</sup> The proposed commentary has been amended to reference this definition. The commentary also clarifies that whether an entity is a firm for the purposes of Charter § 2601(11) is a separate determination from whether an entity qualifies for the "government-to-government" exception in Charter § 2604(d)(6).

*(2) Proposed Definition of Local Development Corporation*

Staff proposes adding a new § 1-08(b) clarifying which "local development corporations" are to be considered exempt from the definition of "firm" in Charter § 2601(11). "Local development corporations" are not-for-profit corporations created pursuant to Section § 1411 of the New York Not-For-Profit Law. While many, perhaps the majority, of local development corporations are created by municipalities or other government entities, any group of private individuals can create a "local development corporation." The Board has issued waivers to public servants seeking positions at local development corporations controlled by private interests. See, e.g., COIB Case No. 2003-240 (2003) (granting a waiver to a public servant to hold a position as a consultant to the Local Development Corporation of East New York, a

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<sup>1</sup> Charter § 2601(11) states: "'Firm' means sole proprietorship, joint venture, partnership, corporation and any other form of enterprise, but shall not include a public benefit corporation, local development corporation or other similar entity as defined by rule of the board."

<sup>2</sup> The New York State Public Authorities Law defines a "local authority" as "(a) a public authority or public benefit corporation created by or existing under this chapter or any other law of the state of New York whose members do not hold a civil office of the state, are not appointed by the governor or are appointed by the governor specifically upon the recommendation of the local government or governments; (b) a not-for-profit corporation affiliated with, sponsored by, or created by a county, city, town or village government; (c) a local industrial developmental agency or authority or other local public benefit corporation; (d) an affiliate of such local authority; or (e) a land bank corporation created pursuant to article sixteen of the not-for-profit corporation law." N.Y. PUB. AUTH. LAW § 2.

private local development corporation that had three City contracts). Because these private local development corporations are neither public nor quasi-public entities, that is, the types of entities the Board interpreted “other similar entities” to include in Advisory Opinion 1994-10,<sup>3</sup> Staff proposes that the Board codify this understanding as Board Rules § 1-08(b).

### *(3) Cooperative Housing Corporations*

Staff proposes retaining Board Rules § 1-10(a)(10) concerning superiors and subordinates owning shares in a cooperative apartment development with fewer than six units. A review of previous Board matters reveals that the Board has found that two public servants are associated with each other within the meaning of Chapter 68 when they owned shares in a cooperative apartment building with five shareholders. See COIB Case No. 2006-805 (2007) (finding that two public servants who are among five shareholders in a cooperative apartment building were associated for the purposes of Charter § 2604(b)(14) and granting a waiver permitting one to serve as the other’s Executive Assistant).<sup>4</sup> In keeping with the principle of codifying its prior statements and advisory opinions, Staff recommends that the Board retain this provision.

### Recommendation

Staff recommends that the Board approve the proposed Board Rules and Commentary for submission to the Law Department and the Mayor’s Office of Operations for review and approval pursuant to Charter § 1043(d).

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<sup>3</sup> In Advisory Opinion No. 1994-10, the Board found that the public servant’s ownership of bond issues in public entities, including the Commonwealth of Puerto Rico, the United Nations Development Corporation, the New York State Power Authority, and the Metropolitan Transit Authority, were not prohibited ownership interests in firms, Advisory Opinion No. 1994-10 at 5.

<sup>4</sup> Charter § 2604(b)(14) states: “No public servant shall enter into any business or financial relationship with another public servant who is a superior or subordinate of such public servant.”

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

**Date:** August 22, 2018

**Location:** Baker Hostetler, 45 Rockefeller Plaza, 14<sup>th</sup> 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: Evan Berkow, Ethan Carrier, Chad Gholizadeh, Amber Gonzalez, Chris Hammer, Gavin Kendall, Julia Lee, Carolyn Miller, Katherine Miller, Summer Payton, Jeff Tremblay, Michele Weinstat, and Clare Wiseman.

**Guests:** None

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The meeting was called to order by the Chair at approximately 9:45 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 consider Staff's proposed amendments to Title 53 of the Rules of the City of New York.

After a brief introduction by a member of the Board Staff on the proposed amendments to the rules, the Chair then asked for any comments by the Board or Staff concerning the proposed amendment to Title 53 of the Rules of the City of New York.

**Comments:**

The following comments constitute the changes as agreed upon by the Board and Staff:

- Creation of Chapter 4 in the Rules of the Board titled "Annual Disclosure" and the renumbering of Board Rules §§ 1-08, 1-10, 1-14, and 1-15 to Board Rules §§ 4-01, 4-02, 4-03, and 4-04: No comments.
- Proposed Board Rules § 1-08: To modify introduction of § 1-08 to read: "For the purposes of Charter § 2601(11), the term "other similar entity" includes, but is not limited to, any of the following entities:"; Staff to provide more information on the definition of New York local public authorities in § 1-08(c).
- Proposed Board Rules § 1-10: To modify title to: "Prohibited Business or Financial Relationships between Superior and Subordinate"; to modify § 1-10(a)(7) to read "shared ownership of real property or any other property valued at \$100.00 or more"; to delete § 1-10(a)(10); to modify § 1-10(a)(12) to read "establishing a trust or serving as a trustee of a trust in which one of the public servants or a person associated with one of the public servants is a beneficiary"; in § 1-10(a)(13), to replace "another public servant's" with "each other's"; to delete "communally" in § 1-10(b)(1)
- Proposed reserving of Board Rules §§ 1-14 and 1-15 for future use: No comments.

The Board also requested that Staff amend the language in the Statement of Basis and Purpose to provide a better explanation for proposed Board Rules § 1-08.


Upon motion duly made and seconded, the Board unanimously voted to continue the discussion at the next Board meeting.

The open meeting was adjourned at approximately 10:35 a.m.

Respectfully submitted,

Julia H. Lee  
Recording Secretary

## August 22, 2018 Agenda – Open Meeting Matter

To: The Board  
From: Chad H. Gholizadeh   
Date: August 10, 2018  
Re: Proposed Board Rules

Pursuant to City Charter § 2603(a), the Board is empowered to “promulgate rules as are necessary to implement and interpret the provisions of this chapter, consistent with the goal of providing clear guidance regarding prohibited conduct.” However, despite having this rulemaking authority, the Board has infrequently promulgated new rules or amended its existing rules in recent decades. Instead, it has chosen to respond to requests for advice from public servants by issuing advisory opinions interpreting what Chapter 68 would require in specific scenarios. This Board practice is the subject of a proposed amendment to Charter § 2603(c) pending at the City Council. In response to the introduction of this legislation, Staff began reviewing the Board’s existing rules and advisory opinions with the goal of summarizing and consolidating into rules the Board’s already existing interpretations of Chapter 68. Here, Staff proposes to promulgate two new Board Rules codifying the Board’s long-standing interpretations in two subject areas and to create a new chapter for the Board’s Annual Disclosure rules. Staff has consulted informally with the New York City Law Department about the proposed rules and, with the Board’s approval, will formally submit them to the Law Department and Mayor’s Office of Operations, as required by the City Administrative Procedure Act. See Charter § 1043(d).

Attached are the following:

- 1) Staff’s Proposed Draft Board Rules and Commentary (**Exhibit 1**); and

2) Staff's Proposed Draft Board Rules without Commentary (**Exhibit 2**).

Analysis & Discussion

*(1) The Board's New Rules*

Staff initially identified two subjects amenable to rules that would gather all the Board's interpretations of Chapter 68, as reflected in its advisory opinions, into a single list. The first defines entities that are not "firms" for the purposes of Charter § 2601(11).<sup>1</sup> As described in greater detail in the commentary to the proposed rule, the term "firm" is present in several sections of Chapter 68. See Commentary at 3. Over the years the Board has advised numerous public servants that their proposed positions would not violate Chapter 68 because the prospective employer is not a "firm" for the purposes of Charter § 2604(a).<sup>2</sup> See, e.g., Advisory Opinion Nos. 1992-20, 1994-10, 1997-1, 1999-6, 2000-1, and 2005-2. Additionally, Charter § 2601(11) specifically invites the Board to issue a rule to define "other similar entity," which the Board has never done. Staff's proposed Rules §1-08 would encapsulate the Board's historic interpretations of the term "other similar entities." Rules §1-08 lists the entities the Board has previously exempted from the definition of "firm" in its advisory opinions in a format that public servants will be able to easily access and understand as part of their compliance with Chapter 68.

The second proposed rule defines "business or financial relationship" for the purposes of Charter § 2604(b)(14).<sup>3</sup> Charter § 2604(b)(14) seeks to eliminate the potential for coercion or

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<sup>1</sup> Charter § 2601(11) states: "'Firm' means sole proprietorship, joint venture, partnership, corporation and any other form of enterprise, but shall not include a public benefit corporation, local development corporation or other similar entity as defined by rule of the board."

<sup>2</sup> Charter § 2601(11) states: "[N]o public servant shall have an interest in a firm which such public servant knows is engaged in business dealings with the agency served by the public servant; provided, however, that, subject to paragraph one of subdivision b of this section, an appointed member of a community board shall not be prohibited from having an interest in a firm which may be affected by an action on a matter before the community or borough board[.]"

<sup>3</sup> Charter § 2604(b)(14) states: "No public servant shall enter into any business or financial relationship with another public servant who is a superior or subordinate of such public servant."

favoritism that exists when co-workers who occupy different positions in a City government office hierarchy, in which one person has authority over another, enter into business or financial relationships with each other. The Board has frequently advised public servants about whether certain relationships with their superior or subordinate are “business or financial relationships” for purposes of Charter § 2604(b)(14) and has fined public servants for entering into such relationships. See Commentary at 5-6 (citing and describing advisory opinions and enforcement dispositions). The proposed rule would codify these existing Board interpretations regarding prohibited relationships between superiors and their subordinates, enabling public servants to consult a single rule if they are unclear if their proposed conduct with a superior or subordinate complies with Charter § 2604(b)(14).

#### *(2) Creation of Chapter 4*

Finally, Staff proposes creating a new Chapter 4 in the Rules of the Board titled “Annual Disclosure” and relocating the existing four sections that deal exclusively with annual disclosure to this new Chapter. By relocating these annual disclosure rules to Chapter 4, the Board’s rules will be better organized, and each section of rules will be more clearly related to the other rules in its Chapter. The text of the four relocated sections remains otherwise unchanged. Staff proposes to reserve Sections 1-14 and 1-15 for future use.

#### Recommendation

Staff recommends that the Board approve the proposed Board Rules and Commentary for submission to the Law Department and the Mayor’s Office of Operations for review and approval pursuant to Charter § 1043(d).



**New York City Conflicts of Interest Board**

**Notice of Public Hearing and Opportunity to Comment on Proposed Rules Regarding Annual Disclosure, the Definition of "Firm", and Business or Financial Relationships**

**What are we proposing?** The Conflicts of Interest Board is proposing to amend its rules by: relocating its rules regarding annual disclosure to a new Chapter 4, adding a new definition for "other similar entity" as used in New York City Charter § 2601(11), which defines the term "firm," and adopting a rule defining business or financial relationship for the purposes of Charter § 2604(b)(14).

**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 [ ] at Rules@COIB.nyc.gov
- **Mail.** You can mail comments to Chad H. Gholizadeh, Assistant Counsel, Conflicts of Interest Board, 2 Lafayette Street, Suite #1010, New York, New York 10007.
- **Fax.** You can fax comments to the Conflicts of Interest Board at (212) 437-0705.
- **By Speaking at the Hearing.** Anyone who wants to comment on the proposed rule at the public hearing must sign up to speak. You can sign up before the hearing by calling (212) 437-xxxx. 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) 437-0723. 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.

1 What authorizes the Conflicts of Interest Board to make this rule? Sections 1043, 2601(11) and  
2 2603(a) of the City Charter authorize the Conflicts of Interest Board to make this proposed rule. This  
3 proposed rule was not included in the Conflicts of Interest Board's regulatory agenda for this Fiscal  
4 Year because it was not contemplated when the Conflicts of Interest Board published the agenda.

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

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

### 12 13 STATEMENT OF BASIS AND PURPOSE

14 City Charter § 2603(a) grants general rulemaking authority to the Conflicts of Interest  
15 Board (the "Board"):

16 [t]he [B]oard shall promulgate rules as are necessary to implement and  
17 interpret the provisions of this chapter, consistent with the goal of  
18 providing clear guidance regarding prohibited conduct.

19 In the Section One of this rulemaking, the Board proposes to move four sections of the  
20 Rules of the Board from Chapter 1, titled "Conflicts of Interest," to a new Chapter 4, titled  
21 "Annual Disclosure," to wit: Section 1-08: Procedures for Obtaining an Extension of Time  
22 within which to File a Financial Disclosure Report; Section 1-10: Retention of Financial  
23 Disclosure Reports; Section 1-14: City Employees Holding Policymaking Positions for Purposes  
24 of the Financial Disclosure Law; and Section 1-15: City Employees Whose Duties Involve the  
25 Negotiation, Authorization, or Approval of Contracts and of Certain Other Matters. The four  
26 sections, enacted in 1992, 1994, 2003, and 2005 respectively, are necessary for the  
27 administration of the Annual Disclosure Law contained in Section 12-110 of the New York City  
28 Administrative Code and not relevant to a determination about "conflicts of interest" under  
29 Chapter 68 of the City Charter. By creating a Chapter 4, the Board's rules will be better  
30 organized, and each chapter of rules will be more clearly related to the other rules in its chapter.

The text of the four relocated Board Rules remain otherwise unchanged. The Board proposes to reserve Sections 1-14 and 1-15 for future use.

Several provisions of the City Charter are relevant to the proposed rulemaking in Section

Two. At the threshold, City Charter § 2601(11) defines “firm” as follows:

‘Firm’ means sole proprietorship, joint venture, partnership, corporation and any other form of enterprise, but shall not include a public benefit corporation, local development corporation or other similar entity as defined by rule of the board.

Another key term, “interest”, is defined by §2601(12) to mean an “ownership interest in a firm or position with a firm.”

Moreover, the term “firm” is implicated by various provisions of City Charter §§ 2604(a) (“Prohibited interests”) and 2604(b) (“Prohibited conduct”). Charter § 2604(a)(1) proscribes a full-time public servant from having an interest in a firm which such person knows is engaged in business dealings with his or her agency (except as addressed by paragraph (3) of subdivision (a)). Charter § 2604(b)(1) addresses the issue of a public servant taking an action particularly affecting the interest of a firm in which they have an interest; paragraph (b)(3) prohibits a public servant from using or attempting to use his or her position to benefit himself or any person or firm associated with him or her; and paragraph (b)(5) bars a public servant from accepting any valuable gift (as defined by Board Rule § 1-01) from any person or firm which the public servant knows is or intends to become engaged in business dealings with the City.

As noted above, Charter § 2604(a)(1) prohibits a full-time public servant from having an ownership interest or position in a firm that is engaged in business dealings with the City. This means that any full-time public servant who wishes to have a second job with a firm that has business dealings with any City agency must obtain a waiver from the Board to have such an interest. Charter § 2601(11) already exempts public benefit corporations and local development

corporations from the definition of “firm” and grants the Board the authority to exempt “similar entities” that it defines by rule.

The Board proposes this new rule to clarify the entities at which public servants may take positions, such as by taking a second job at the entity, serving on its board, or teaching a class as an adjunct teacher, without requiring a waiver of Charter § 2604(a)(1). The Board is proposing this rule because over the years it has advised numerous public servants that their proposed activities would not violate Chapter 68 because their prospective employer or ownership interest does not fall within the ambit of “firm” for the purposes of City Charter § 2601(11). See, e.g., A.O. Nos. 1992-20, 1994-10, 1997-1, 1999-6, 2000-1, and 2005-2. However, public  
The Board proposes to include “New York State local public authorities,” as defined in the New York Public Authorities Law § 2(2), as entities exempted from the definition of “firm.” The Board also proposes to limit the definition of “local development corporation,” as used in Charter § 2601(11), to those local development corporations established by, affiliated with, sponsored by, or created by a unit of New York State government and not to include any private local development corporations.

Public servants who have second jobs with entities that are not “firms” remain subject to other fundamental requirements of Chapter 68, including, but not limited to: their work for the other employing entity must be conducted at times when they are not required to perform services for the City (Charter § 2604(b)(2), Board Rules § 1-13(a)); they may not use City equipment, letterhead, personnel, or other City resources in connection with their second jobs at the employing entity (Charter § 2604(b)(2), Board Rules § 1-13(b)); they may not use their official City positions or titles to obtain any private advantage for themselves, the employing entity, or any of such entity’s clients (Charter § 2604(b)(3)); they may not disclose or use for

1 private advantage any confidential information concerning the City (Charter § 2604(b)(4)); they  
2 may not make any appearances before the City on behalf of the employing entity (Charter §  
3 2604(b)(6)); and lastly, they may not be compensated by the employing entity for performing  
4 their official duties (Charter § 2604(b)(13)). Additionally, the Board will make a separate  
5 determination whether any given entity is a "local, state or federal agency" pursuant to Charter §  
6 2604(d)(6) and therefore a public servant's employment therein would be exempt from the post-  
7 employment restrictions of Chapter 68.

8 Regarding the proposed changes in Section 3, New York City Charter § 2604(b)(14)  
9 provides: "No public servant shall enter into any business or financial relationship with another  
10 public servant who is a superior or subordinate of such public servant." Charter § 2604(b)(14)  
11 recognizes the potential for coercion or favoritism that exists when co-workers who occupy  
12 different positions in a City government office hierarchy, in which one person has authority over  
13 another, enter into business or financial relationships. The Board has repeatedly been asked to  
14 provide advice about whether public servants may enter into certain relationships with their co-  
15 workers, supervisors, and subordinates. Its numerous advisory opinions on this topic include  
16 A.O. Nos. 1992-28 (prohibiting a subordinate from representing a superior as his attorney);  
17 1998-12 (prohibiting superiors from selling anything to subordinates but permitting subordinates  
18 to sell a limited amount of commercial and charitable projects to a superior); 2001-3 (reiterating  
19 that a subordinate and a superior may not enter into an attorney-client relationship); 2003-6  
20 (advising that a public servant may be compensated for voluntarily working on his or her  
21 superior's political campaign); 2004-2 (advising that a superior and subordinate cannot  
22 participate in the same savings club); 2004-3 (advising that any financial relationship between a  
23 community board member and a member of the community board's staff is prohibited); 2012-5

(reiterating that a public servant may be compensated for voluntarily working on his or her superior's political campaign and advising that a superior and subordinate may volunteer on the same campaign and in that capacity one may supervise the other); 2013-1 (advising that while it generally violates Chapter 68 for superiors to solicit or accept gifts from their subordinates, superiors can do so long as such gift-giving is not extremely frequent or extravagant; furthermore, public servants can accept gifts from their peers); 2017-5 (advising that participation by a superior and subordinate in the same lottery pool was an impermissible financial relationship).

Moreover, numerous enforcement actions have been initiated over the years that have resulted in fines for public servants found to have violated this prohibition. Examples include COIB Case Nos. 2016-057 (2017) (a New York City Department of Education ("DOE") Superintendent paid a \$3,000 fine for having sold her house to a teacher she supervised as her Principal); 2016-600 (2017) (a DOE Principal was issued a public warning letter for being regularly driven to and from work by a subordinate); 2015-858(a) (2017) (a former Director of Contracts and Construction in the New York City Department of Transportation's Traffic Division paid a \$4,000 fine for, over the course of three years, lending and repaying his subordinate more than \$40,000); and 2016-902 and 902a (2017) (a DOE Assistant Principal and a teacher whom he supervised at the school found to have entered into an impermissible financial relationships by cohabitating and were fined \$3,750 and \$1,752, respectively).

The Board therefore proposes this new rule to clarify which relationships between superiors and their subordinates are deemed to be business or financial relationships for the purposes of Charter § 2604(b)(14) and are therefore prohibited. This section would prohibit a public servant from entering into any of the enumerated relationships with any other public

servant who either is supervised by him/her or is supervising his/her work, or who has the power to direct his/her work, or whose work he/she directs, or whose terms and conditions of employment the superior public servant has the power to affect or who could affect the terms and conditions of the subordinate public servant's employment.

New material is underlined.

[Deleted material is in brackets.]

**Section 1.** Title 53 of the Rules of the City of New York is amended by adding a Chapter 4 to read as follows:

§4-01 Procedures for Obtaining an Extension of Time within which to File a Financial Disclosure Report

(a) Bases for obtaining an extension of time to file.

(1) A person required to file a financial disclosure report with the Conflicts of Interest Board (the "Board") pursuant to §12-110 of the Administrative Code of the City of New York (the "Administrative Code") may be granted an extension of time within which to file a report or portion thereof upon a showing of justifiable cause or undue hardship.

(2) A finding of justifiable cause or undue hardship shall not be based on periods of annual leave, attendance at conferences or meetings, or other pre-scheduled or voluntary absences from work.

(b) General procedures.

(1) A request for an extension of time within which to file a financial disclosure report or portions thereof which is due by May first shall be postmarked, or

1 delivery made to the Board, no later than April fifteenth of the year in which such  
2 report is to be filed. Where Administrative Code §12-110 requires the filing of  
3 such report at a time other than on or before May first, a request for extension of  
4 time within which to file shall be postmarked, or delivery made to the Board, no  
5 later than fifteen days prior to such filing deadline.

6 (2) The request for an extension of time shall be mailed to the Board by certified mail  
7 or shall be delivered by hand and, upon request, a receipt may be issued upon  
8 acceptance of such delivery.

9 (3) The request for an extension of time within which to file a financial disclosure  
10 report or portions thereof due to justifiable cause or undue hardship shall contain  
11 the following information:

12 i. The name of the person making such request and his or her home address  
13 and work address;

14 ii. The title of the position or job classification and name of the agency by  
15 which he or she is employed;

16 iii. Explanation of justifiable cause or undue hardship in the form of a written  
17 statement with copies of any necessary supporting documents such person  
18 wishes the Board to consider;

19 iv. Where the filer is seeking an extension to answer a portion of the report on  
20 the grounds that certain information is not yet available, the request shall  
21 state what information is not available. Documentation, if available, shall  
22 be provided in support of such request (for example, a copy of an

application to the Internal Revenue Service for an automatic extension of  
time within which to file one's income tax return); and

- v. The additional time requested and the date by which such person intends  
to comply with the filing requirements.

(c) Time limitations upon extensions.

(1) The Board shall not grant an extension of time to file a financial disclosure report  
or portions thereof due to justifiable cause or undue hardship for a period greater  
than four months from the original date the report was due.

(2) An individual who is seeking an extension of time to answer a portion of the  
financial disclosure report shall nevertheless file his or her report on or before  
May first, or at such other time required by Administrative Code §12-110,  
containing all the information required by such report, except for that information  
which is not available. A supplemental statement providing information not  
previously available shall be filed on the date set by the Board. Failure to file such  
supplemental statement, or the filing of an incomplete or deficient supplemental  
statement, shall subject the reporting person to the penalties set forth in  
Administrative Code §12-110(h).

(d) Board action.

(1) Upon receipt of a timely request for an extension of time within which to file a  
financial disclosure report or portions thereof, the Board shall review the material  
filed to determine whether an extension is appropriate.

(2) The Board may in its discretion request, in writing, additional information from  
the person making the request. Such additional information shall be submitted to

1 the Board within ten business days of the date of the Board's request. In the event  
2 the Board does not receive the additional information within ten business days, it  
3 may make a determination on the basis of the information it has available.

4 (3) The Board shall give written notice of its determination to the person making the  
5 request.

6 i. In the event the request for an extension of time within which to file a  
7 financial disclosure report or portions thereof is approved, such report  
8 shall be filed on or before the date indicated by the Board in its  
9 determination.

10 ii. In the event the request for an extension of time within which to file a  
11 financial disclosure report or portions thereof is denied, such report shall  
12 be filed before or on the due date set forth in Administrative Code §12-  
13 110 or such date as may thereafter be established by the Board in its  
14 determination.

15 (4) The Board may delegate to its Executive Director the authority to act pursuant to  
16 this rule.

17 §4-02 Retention of Financial Disclosure Reports

18 (a) Definitions. As used in this Rule, the following terms shall have the respective  
19 meanings set forth below:

20 (1) "Administrative Code" shall mean the Administrative Code of the City of  
21 New York.

22 (2) "Board" shall mean the New York City Conflicts of Interest Board,  
23 established pursuant to §2602 of the New York City Charter.

(3) "Financial Disclosure Report" shall mean any financial disclosure report filed or on file with the Board pursuant to §12-110 of the Administrative Code, including reports previously filed with the Office of the City Clerk and transferred to the Board's custody.

(4) "Prior Financial Disclosure Report" shall mean any Financial Disclosure Report which, as of the effective date of this Rule, has been retained by the Board for a period in excess of six years from December 31 of the calendar year to which such Report relates.

(b) Retention of Financial Disclosure Reports.

(1) Whenever a Financial Disclosure Report is filed with the Board, it shall be retained by the Board for a period commencing on the date such Report was filed with the Board and expiring on the sixth anniversary of December 31 of the calendar year to which such Report relates. The period during which the Board is required to retain a Financial Disclosure Report, pursuant to this paragraph (1), is hereinafter referred to as the "Required Retention Period" for such Report.

(2) (i) Except as provided in subparagraphs (ii) and (iii) below, upon expiration of the Required Retention Period for a Financial Disclosure Report, pursuant to paragraph (1) above, the Board shall either (i) destroy such report, or (ii) if requested by the individual who filed such report, return such report to such individual. Any request that the Board return such report must be made in writing to the Board not later than 10 days prior to the expiration of such period.

1           i. Notwithstanding the provisions of subparagraph (i), if a law  
2           enforcement agency requests that the Board retain a Financial  
3           Disclosure Report for an additional period of time beyond the  
4           expiration of its required retention period, for purposes of an ongoing  
5           investigation, the Board shall retain such report for such additional  
6           period, provided the request is made in writing and is submitted to the  
7           Board not later than 10 days prior to the expiration of such required  
8           retention period. Upon expiration of such additional period of time, the  
9           Board shall either (i) destroy such report, or (ii) if requested by the  
10          individual who filed such report, return such report to such individual.  
11          Any such request must be made in accordance with the provision of  
12          subparagraph (i) above.

13          ii. Notwithstanding the provisions of subparagraph (i), all reports shall be  
14          retained by the Board for a period of not less than one year from the  
15          date such report was filed with the Board.

16          (3) In accordance with the provisions of subdivision (e) of Administrative Code  
17          §12-110, as amended by Local Law No. 93 of 1992, the retention period  
18          established in paragraph (1) is intended to supersede, and shall be observed by  
19          the Board in lieu of, the retention periods set forth in such subdivision (e).

20          (4) Notwithstanding any other provision of this section, the Board shall be  
21          entitled, upon the effective date of the Rule, to destroy immediately all Prior  
22          Financial Disclosure Reports then in its possession.

§4-03 City Employees Holding Policymaking Positions for Purposes of the Financial

Disclosure Law

- (a) For purposes of Administrative Code §12-110(b)(3)(a)(3), a City employee shall be deemed to hold a policymaking position, and therefore be required to file a Financial Disclosure Report, if such employee is charged with substantial policy discretion within the meaning of Section 1-02 of Title 53 of the Rules of the City of New York.

§4-04 City Employees Whose Duties Involve the Negotiation, Authorization, or

Approval of Contracts and of Certain Other Matters

- (a) For purposes of Administrative Code §12-110(b)(3)(a)(4), a City employee shall be deemed to have duties that involve the negotiation, authorization, or approval of contracts, leases, franchises, revocable consents, concessions, and applications for zoning changes, variances, and special permits if the employee performs any of the following duties:

- (1) Determines the substantive content of a request for proposals or other bid request or change order;
- (2) Makes a determination as to the responsiveness of a bid or the responsibility of a vendor or bidder;
- (3) Evaluates a bid;
- (4) Negotiates or determines the substantive content of a contract, lease, franchise, revocable consent, concession, or application for a zoning change, variance, or special permit or change order

(5) Recommends or determines whether or to whom a contract, lease, franchise, revocable consent, concession, or application for a zoning change, variance, or special permit or change order should be awarded or granted;

(6) Approves a contract, lease, franchise, revocable consent, or concession or change order on behalf of the City or any agency subject to Administrative Code §12-110; or

(7) Determines the content of or promulgates City procurement policies, rules, or regulations.

(b) Clerical personnel and other public servants who, in relation to the negotiation, authorization, or approval of contracts, leases, franchises, revocable consents, concessions, and applications for zoning changes, variances, and special permits, perform only ministerial tasks shall not be required to file a Financial Disclosure Report pursuant to Administrative Code §12-110(b)(3)(a)(4). For example, public servants who are under the supervision of others and are without substantial personal discretion, and who perform only clerical tasks (such as typing, filing, or distributing contracts, leases, franchises, revocable consents, concessions, or zoning changes, variances, or special permits or calendaring meetings or who identify potential bidders or vendors) shall not, on the basis of such tasks alone, be required to file a financial disclosure report. Similarly, public servants who write a request for proposals, bid request, change order, contract, lease, franchise, revocable consent, concession, or application for a zoning change, variance, or special permit or procurement policy, rule, or regulation under the direction of a superior but who do not determine the substantive content of the document

1 shall not, on the basis of such tasks alone, be required to file a Financial Disclosure  
2 Report.

3  
4  
5 Section 2. Chapter 1 of Title 53 of the Rules of the City of New York is amended by  
6 amending § 1-08 to read as follows:

7 § 1-08 [Procedures for Obtaining an Extension of Time within which to File a Financial  
8 Disclosure Report

9 (a) Bases for obtaining an extension of time to file.

10 (1) A person required to file a financial disclosure report with the Conflicts of Interest  
11 Board (the "Board") pursuant to § 12-110 of the Administrative Code of the City  
12 of New York (the "Administrative Code") may be granted an extension of time  
13 within which to file a report or portion thereof upon a showing of justifiable cause  
14 or undue hardship.

15 (2) A finding of justifiable cause or undue hardship shall not be based on periods of  
16 annual leave, attendance at conferences or meetings, or other pre-scheduled or  
17 voluntary absences from work.

18 (b) General procedures.

19 (1) A request for an extension of time within which to file a financial disclosure  
20 report or portions thereof which is due by May first shall be postmarked, or  
21 delivery made to the Board, no later than April fifteenth of the year in which such  
22 report is to be filed. Where Administrative Code § 12-110 requires the filing of  
23 such report at a time other than on or before May first, a request for extension of

time within which to file shall be postmarked, or delivery made to the Board, no later than fifteen days prior to such filing deadline.

(2) The request for an extension of time shall be mailed to the Board by certified mail or shall be delivered by hand and, upon request, a receipt may be issued upon acceptance of such delivery.

(3) The request for an extension of time within which to file a financial disclosure report or portions thereof due to justifiable cause or undue hardship shall contain the following information:

i. The name of the person making such request and his or her home address and work address;

ii. The title of the position or job classification and name of the agency by which he or she is employed;

iii. Explanation of justifiable cause or undue hardship in the form of a written statement with copies of any necessary supporting documents such person wishes the Board to consider;

iv. Where the filer is seeking an extension to answer a portion of the report on the grounds that certain information is not yet available, the request shall state what information is not available. Documentation, if available, shall be provided in support of such request (for example, a copy of an application to the Internal Revenue Service for an automatic extension of time within which to file one's income tax return); and

v. The additional time requested and the date by which such person intends to comply with the filing requirements.

(c) Time limitations upon extensions.

(1) The Board shall not grant an extension of time to file a financial disclosure report or portions thereof due to justifiable cause or undue hardship for a period greater than four months from the original date the report was due.

(2) An individual who is seeking an extension of time to answer a portion of the financial disclosure report shall nevertheless file his or her report on or before May first, or at such other time required by Administrative Code §12-110, containing all the information required by such report, except for that information which is not available. A supplemental statement providing information not previously available shall be filed on the date set by the Board. Failure to file such supplemental statement, or the filing of an incomplete or deficient supplemental statement, shall subject the reporting person to the penalties set forth in Administrative Code §12-110(h).

(d) Board action.

(1) Upon receipt of a timely request for an extension of time within which to file a financial disclosure report or portions thereof, the Board shall review the material filed to determine whether an extension is appropriate.

(2) The Board may in its discretion request, in writing, additional information from the person making the request. Such additional information shall be submitted to the Board within ten business days of the date of the Board's request. In the event the Board does not receive the additional information within ten business days, it may make a determination on the basis of the information it has available.

(3) The Board shall give written notice of its determination to the person making the request.

i. In the event the request for an extension of time within which to file a financial disclosure report or portions thereof is approved, such report shall be filed on or before the date indicated by the Board in its determination.

ii. In the event the request for an extension of time within which to file a financial disclosure report or portions thereof is denied, such report shall be filed before or on the due date set forth in Administrative Code §12-110 or such date as may thereafter be established by the Board in its determination.

(4) The Board may delegate to its Executive Director the authority to act pursuant to this rule.]

§1-08 Definition of "other similar entity" within the definition of "firm".

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

~~(a)~~(1) local, state, and federal governments and their agencies;

~~(b)~~(2) New York State public authorities;

~~(c)~~(3) New York local public authorities;

~~(d)~~(4) the United Nations;

~~(e)~~(5) the United States Postal Service;

~~(f)~~(6) the State University of New York;

~~(g)~~(7) the City University of New York;

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~~(b)(8)~~ the Brooklyn Public Library;

~~(b)(9)~~ the Queens Public Library; and

~~(b)(10)~~ charter schools created pursuant to New York State Education Law Article

56.

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

Section 3. Chapter 1 of Title 53 of the Rules of the City of New York is amended by  
amending § 1-10 to read as follows:

§ 1-10 [Retention of Financial Disclosure Reports]

(a) Definitions. As used in this Rule, the following terms shall have the respective  
meanings set forth below:

(1) "Administrative Code" shall mean the Administrative Code of the City of  
New York.

(2) "Board" shall mean the New York City Conflicts of Interest Board,  
established pursuant to § 2602 of the New York City Charter.

(3) "Financial Disclosure Report" shall mean any financial disclosure report filed  
or on file with the Board pursuant to § 12-110 of the Administrative Code,  
including reports previously filed with the Office of the City Clerk and  
transferred to the Board's custody.

(4) "Prior Financial Disclosure Report" shall mean any Financial Disclosure  
Report which, as of the effective date of this Rule, has been retained by the

Board for a period in excess of six years from December 31 of the calendar year to which such Report relates.

(b) Retention of Financial Disclosure Reports.

(1) Whenever a Financial Disclosure Report is filed with the Board, it shall be retained by the Board for a period commencing on the date such Report was filed with the Board and expiring on the sixth anniversary of December 31 of the calendar year to which such Report relates. The period during which the Board is required to retain a Financial Disclosure Report, pursuant to this paragraph (1), is hereinafter referred to as the "Required Retention Period" for such Report.

(2) (i) Except as provided in subparagraphs (ii) and (iii) below, upon expiration of the Required Retention Period for a Financial Disclosure Report, pursuant to paragraph (1) above, the Board shall either (i) destroy such report, or (ii) if requested by the individual who filed such report, return such report to such individual. Any request that the Board return such report must be made in writing to the Board not later than 10 days prior to the expiration of such period.

i. Notwithstanding the provisions of subparagraph (i), if a law enforcement agency requests that the Board retain a Financial Disclosure Report for an additional period of time beyond the expiration of its required retention period, for purposes of an ongoing investigation, the Board shall retain such report for such additional period, provided the request is made in writing and is submitted to the

Board not later than 10 days prior to the expiration of such required retention period. Upon expiration of such additional period of time, the Board shall either (i) destroy such report, or (ii) if requested by the individual who filed such report, return such report to such individual. Any such request must be made in accordance with the provision of subparagraph (i) above.

ii. Notwithstanding the provisions of subparagraph (i), all reports shall be retained by the Board for a period of not less than one year from the date such report was filed with the Board.

(3) In accordance with the provisions of subdivision (e) of Administrative Code §12-110, as amended by Local Law No. 93 of 1992, the retention period established in paragraph (1) is intended to supersede, and shall be observed by the Board in lieu of, the retention periods set forth in such subdivision (e).

(4) Notwithstanding any other provision of this section, the Board shall be entitled, upon the effective date of the Rule, to destroy immediately all Prior Financial Disclosure Reports then in its possession.]

§1-10 Prohibited Business or Financial Relationships Between a Superior and a Subordinate

(a) For purposes of Charter § 2604(b)(14), the term "business or financial relationship" between a superior and subordinate includes but is not limited to:

(1) outstanding loans collectively amounting to \$25.00 or more;

(2) a purchase or sale of any property valued at \$25.00 or more within a 12-month period;

(3) the leasing of any property;

- (4) cohabitation;
  - (5) participation in a lottery pool;
  - (6) participation in a savings club;
  - (7) shared ownership of real property or any other property worth more than \$100.00;
  - (8) shared ownership of financial instruments;
  - (9) shared ownership interest in a firm other than a publicly traded company;
  - (10) shared ownership interest in a housing cooperative or condominium apartment building with fewer than six units;
  - (11) employer-employee, consultant, contractor, attorney-client, agent-principal, brokerage, or other similar relationships;
  - (12) establishing a trust or serving as a trustee of a trust established by another public servant or in which another public servant one of them or a public servant's person associated person with one of them has a beneficial interest; and
  - (13) payment of another public servant's each other's recurring expenses such as rent or payments for a vehicle.
- (b) Expenses for activities related to public servants' City jobs which are shared between public servants, including superiors and subordinates, such as expenses related to a carpool or a coffee club, will not be deemed a "business or financial relationship" within the meaning of Charter § 2604(b)(14) if:
- (1) the benefit is shared communally by the participants; and
  - (2) each public servant bears a fair proportion of the expense or effort involved for the activity.

Section 4. Chapter 1 of Title 53 of the Rules of the City of New York is amended by amending § 1-14 to read as follows:

§ 1-14 Reserved. [City Employees Holding Policymaking Positions for Purposes of the Financial Disclosure Law

(a) For purposes of Administrative Code § 12-110(b)(3)(a)(3), a City employee shall be deemed to hold a policymaking position, and therefore be required to file a Financial Disclosure Report, if such employee is charged with substantial policy discretion within the meaning of Section 1-02 of Title 53 of the Rules of the City of New York.]

Section 5. Chapter 1 of Title 53 of the Rules of the City of New York is amended by amending § 1-15 to read as follows:

§ 1-15 Reserved. [City Employees Whose Duties Involve the Negotiation, Authorization, or Approval of Contracts and of Certain Other Matters

(c) For purposes of Administrative Code § 12-110(b)(3)(a)(4), a City employee shall be deemed to have duties that involve the negotiation, authorization, or approval of contracts, leases, franchises, revocable consents, concessions, and applications for zoning changes, variances, and special permits if the employee performs any of the following duties:

(1) Determines the substantive content of a request for proposals or other bid request or change order;

(2) Makes a determination as to the responsiveness of a bid or the responsibility of a vendor or bidder;

(3) Evaluates a bid;

(4) Negotiates or determines the substantive content of a contract, lease, franchise, revocable consent, concession, or application for a zoning change, variance, or special permit or change order

(5) Recommends or determines whether or to whom a contract, lease, franchise, revocable consent, concession, or application for a zoning change, variance, or special permit or change order should be awarded or granted;

(6) Approves a contract, lease, franchise, revocable consent, or concession or change order on behalf of the City or any agency subject to Administrative Code §12-110; or

(7) Determines the content of or promulgates City procurement policies, rules, or regulations.

(d) Clerical personnel and other public servants who, in relation to the negotiation, authorization, or approval of contracts, leases, franchises, revocable consents, concessions, and applications for zoning changes, variances, and special permits, perform only ministerial tasks shall not be required to file a Financial Disclosure Report pursuant to Administrative Code §12-110(b)(3)(a)(4). For example, public servants who are under the supervision of others and are without substantial personal discretion, and who perform only clerical tasks (such as typing, filing, or distributing contracts, leases, franchises, revocable consents, concessions, or zoning changes, variances, or special permits or calendaring meetings or who identify potential bidders or vendors) shall not, on the basis of such tasks alone, be required to file a financial disclosure report. Similarly, public servants who write a request for proposals, bid request, change order,

1 contract, lease, franchise, revocable consent, concession, or application for a zoning  
2 change, variance, or special permit or procurement policy, rule, or regulation under the  
3 direction of a superior but who do not determine the substantive content of the document  
4 shall not, on the basis of such tasks alone, be required to file a Financial Disclosure  
5 Report.]  
6



**New York City Conflicts of Interest Board**

**Notice of Public Hearing and Opportunity to Comment on Proposed Rules Regarding Annual Disclosure, the Definition of “Firm”, and Business or Financial Relationships**

**What are we proposing?** The Conflicts of Interest Board is proposing to amend its rules by: relocating its rules regarding annual disclosure to a new Chapter 4, adding a new definition for “other similar entity” as used in New York City Charter § 2601(11), which defines the term “firm,” and adopting a rule defining business or financial relationship for the purposes of Charter § 2604(b)(14).

**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 [ ] at Rules@COIB.nyc.gov
- **Mail.** You can mail comments to Chad H. Gholizadeh, Assistant Counsel, Conflicts of Interest Board, 2 Lafayette Street, Suite #1010, New York, New York 10007.
- **Fax.** You can fax comments to the Conflicts of Interest Board at (212) 437-0705.
- **By Speaking at the Hearing.** Anyone who wants to comment on the proposed rule at the public hearing must sign up to speak. You can sign up before the hearing by calling (212) 437-xxxx. 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) 437-0723. 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.

1 **What authorizes the Conflicts of Interest Board to make this rule?** Sections 1043, 2601(11) and  
2 2603(a) of the City Charter authorize the Conflicts of Interest Board to make this proposed rule. This  
3 proposed rule was not included in the Conflicts of Interest Board's regulatory agenda for this Fiscal  
4 Year because it was not contemplated when the Conflicts of Interest Board published the agenda.

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

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

12

### 13 **STATEMENT OF BASIS AND PURPOSE**

14 City Charter § 2603(a) grants general rulemaking authority to the Conflicts of Interest  
15 Board (the "Board"):

16 [t]he [B]oard shall promulgate rules as are necessary to implement and  
17 interpret the provisions of this chapter, consistent with the goal of  
18 providing clear guidance regarding prohibited conduct.

19 In the Section One of this rulemaking, the Board proposes to move four sections of the  
20 Rules of the Board from Chapter 1, titled "Conflicts of Interest," to a new Chapter 4, titled  
21 "Annual Disclosure," to wit: Section 1-08: Procedures for Obtaining an Extension of Time  
22 within which to File a Financial Disclosure Report; Section 1-10: Retention of Financial  
23 Disclosure Reports; Section 1-14: City Employees Holding Policymaking Positions for Purposes  
24 of the Financial Disclosure Law; and Section 1-15: City Employees Whose Duties Involve the  
25 Negotiation, Authorization, or Approval of Contracts and of Certain Other Matters. The four  
26 sections, enacted in 1992, 1994, 2003, and 2005 respectively, are necessary for the  
27 administration of the Annual Disclosure Law contained in Section 12-110 of the New York City  
28 Administrative Code and not relevant to a determination about "conflicts of interest" under  
29 Chapter 68 of the City Charter. By creating a Chapter 4, the Board's rules will be better  
30 organized, and each chapter of rules will be more clearly related to the other rules in its chapter.

1 The text of the four relocated Board Rules remain otherwise unchanged. The Board proposes to  
2 reserve Sections 1-14 and 1-15 for future use.

3 Several provisions of the City Charter are relevant to the proposed rulemaking in Section  
4 Two. At the threshold, City Charter § 2601(11) defines “firm” as follows:

5 ‘Firm’ means sole proprietorship, joint venture, partnership, corporation  
6 and any other form of enterprise, but shall not include a public benefit  
7 corporation, local development corporation or other similar entity as  
8 defined by rule of the board.

9 Another key term, “interest,” is defined by §2601(12) to mean an “ownership interest in a firm or  
10 position with a firm.”

11 Moreover, the term “firm” is implicated by various provisions of City Charter §§ 2604(a)  
12 (“Prohibited interests”) and 2604(b) (“Prohibited conduct”). Charter § 2604(a)(1) proscribes a  
13 full-time public servant from having an interest in a firm which such person knows is engaged in  
14 business dealings with his or her agency (except as addressed by paragraph (3) of subdivision  
15 (a)). Charter § 2604(b)(1) addresses the issue of a public servant taking an action particularly  
16 affecting the interest of a firm in which they have an interest; paragraph (b)(3) prohibits a public  
17 servant from using or attempting to use his or her position to benefit himself or any person or  
18 firm associated with him or her; and paragraph (b)(5) bars a public servant from accepting any  
19 valuable gift (as defined by Board Rule § 1-01) from any person or firm which the public servant  
20 knows is or intends to become engaged in business dealings with the City.

21 As noted above, Charter § 2604(a)(1) prohibits a full-time public servant from having an  
22 ownership interest or position in a firm that is engaged in business dealings with the City. This  
23 means that any full-time public servant who wishes to have a second job with a firm that has  
24 business dealings with any City agency must obtain a waiver from the Board to have such an  
25 interest. Charter § 2601(11) already exempts public benefit corporations and local development

1 corporations from the definition of “firm” and grants the Board the authority to exempt “similar  
2 entities” that it defines by rule.

3         The Board proposes this new rule to clarify the entities at which public servants may take  
4 positions, such as by taking a second job at the entity, serving on its board, or teaching a class as  
5 an adjunct teacher, without requiring a waiver of Charter § 2604(a)(1). The Board is proposing  
6 this rule because over the years it has advised numerous public servants that their proposed  
7 activities would not violate Chapter 68 because their prospective employer or ownership interest  
8 does not fall within the ambit of “firm” for the purposes of City Charter § 2601(11). See, e.g.,  
9 A.O. Nos. 1992-20, 1994-10, 1997-1, 1999-6, 2000-1, and 2005-2. The Board proposes to  
10 include “New York State local public authorities,” as defined in the New York Public  
11 Authorities Law § 2(2), as entities exempted from the definition of “firm.” The Board also  
12 proposes to limit the definition of “local development corporation,” as used in Charter §  
13 2601(11) , to those local development corporations established by, affiliated with, sponsored by,  
14 or created by a unit of New York State government and not to include any private local  
15 development corporations.

16         Public servants who have second jobs with entities that are not “firms” remain subject to  
17 other fundamental requirements of Chapter 68, including, but not limited to: their work for the  
18 other employing entity must be conducted at times when they are not required to perform  
19 services for the City (Charter § 2604(b)(2), Board Rules § 1-13(a)); they may not use City  
20 equipment, letterhead, personnel, or other City resources in connection with their second jobs at  
21 the employing entity (Charter § 2604(b)(2), Board Rules § 1-13(b)); they may not use their  
22 official City positions or titles to obtain any private advantage for themselves, the employing  
23 entity, or any of such entity’s clients (Charter § 2604(b)(3)); they may not disclose or use for

1 private advantage any confidential information concerning the City (Charter § 2604(b)(4)); they  
2 may not make any appearances before the City on behalf of the employing entity (Charter §  
3 2604(b)(6)); and lastly, they may not be compensated by the employing entity for performing  
4 their official duties (Charter § 2604(b)(13)). Additionally, the Board will make a separate  
5 determination whether any given entity is a “local, state or federal agency” pursuant to Charter §  
6 2604(d)(6) and therefore a public servant’s employment therein would be exempt from the post-  
7 employment restrictions of Chapter 68.

8       Regarding the proposed changes in Section 3, New York City Charter § 2604(b)(14)  
9 provides: “No public servant shall enter into any business or financial relationship with another  
10 public servant who is a superior or subordinate of such public servant.” Charter § 2604(b)(14)  
11 recognizes the potential for coercion or favoritism that exists when co-workers who occupy  
12 different positions in a City government office hierarchy, in which one person has authority over  
13 another, enter into business or financial relationships. The Board has repeatedly been asked to  
14 provide advice about whether public servants may enter into certain relationships with their co-  
15 workers, supervisors, and subordinates. Its numerous advisory opinions on this topic include  
16 A.O. Nos. 1992-28 (prohibiting a subordinate from representing a superior as his attorney);  
17 1998-12 (prohibiting superiors from selling anything to subordinates but permitting subordinates  
18 to sell a limited amount of commercial and charitable projects to a superior); 2001-3 (reiterating  
19 that a subordinate and a superior may not enter into an attorney-client relationship); 2003-6  
20 (advising that a public servant may be compensated for voluntarily working on his or her  
21 superior’s political campaign); 2004-2 (advising that a superior and subordinate cannot  
22 participate in the same savings club); 2004-3 (advising that any financial relationship between a  
23 community board member and a member of the community board’s staff is prohibited); 2012-5

1 (reiterating that a public servant may be compensated for voluntarily working on his or her  
2 superior's political campaign and advising that a superior and subordinate may volunteer on the  
3 same campaign and in that capacity one may supervise the other); 2013-1 (advising that while it  
4 generally violates Chapter 68 for superiors to solicit or accept gifts from their subordinates,  
5 superiors can do so long as such gift-giving is not extremely frequent or extravagant;  
6 furthermore, public servants can accept gifts from their peers); 2017-5 (advising that  
7 participation by a superior and subordinate in the same lottery pool was an impermissible  
8 financial relationship).

9       Moreover, numerous enforcement actions have been initiated over the years that have  
10 resulted in fines for public servants found to have violated this prohibition. Examples include  
11 COIB Case Nos. 2016-057 (2017) (a New York City Department of Education ("DOE")  
12 Superintendent paid a \$3,000 fine for having sold her house to a teacher she supervised as her  
13 Principal); 2016-600 (2017) (a DOE Principal was issued a public warning letter for being  
14 regularly driven to and from work by a subordinate); 2015-858(a) (2017) (a former Director of  
15 Contracts and Construction in the New York City Department of Transportation's Traffic  
16 Division paid a \$4,000 fine for, over the course of three years, lending and repaying his  
17 subordinate more than \$40,000); and 2016-902 and 902a (2017) (a DOE Assistant Principal and  
18 a teacher whom he supervised at the school found to have entered into an impermissible  
19 financial relationships by cohabitating and were fined \$3,750 and \$1,752, respectively).

20       The Board therefore proposes this new rule to clarify which relationships between  
21 superiors and their subordinates are deemed to be business or financial relationships for the  
22 purposes of Charter § 2604(b)(14) and are therefore prohibited. This section would prohibit a  
23 public servant from entering into any of the enumerated relationships with any other public

1 servant who either is supervised by him/her or is supervising his/her work, or who has the power  
2 to direct his/her work, or whose work he/she directs, or whose terms and conditions of  
3 employment the superior public servant has the power to affect or who could affect the terms and  
4 conditions of the subordinate public servant's employment.

5  
6 New material is underlined.

7 [Deleted material is in brackets.]

8 **Section 1.** Title 53 of the Rules of the City of New York is amended by adding a Chapter  
9 4 to read as follows:

10 §4-01 Procedures for Obtaining an Extension of Time within which to File a Financial  
11 Disclosure Report

12 (a) Bases for obtaining an extension of time to file.

13 (1) A person required to file a financial disclosure report with the Conflicts of Interest  
14 Board (the "Board") pursuant to §12-110 of the Administrative Code of the City  
15 of New York (the "Administrative Code") may be granted an extension of time  
16 within which to file a report or portion thereof upon a showing of justifiable cause  
17 or undue hardship.

18 (2) A finding of justifiable cause or undue hardship shall not be based on periods of  
19 annual leave, attendance at conferences or meetings, or other pre-scheduled or  
20 voluntary absences from work.

21 (b) General procedures.

22 (1) A request for an extension of time within which to file a financial disclosure  
23 report or portions thereof which is due by May first shall be postmarked, or

delivery made to the Board, no later than April fifteenth of the year in which such report is to be filed. Where Administrative Code §12-110 requires the filing of such report at a time other than on or before May first, a request for extension of time within which to file shall be postmarked, or delivery made to the Board, no later than fifteen days prior to such filing deadline.

(2) The request for an extension of time shall be mailed to the Board by certified mail or shall be delivered by hand and, upon request, a receipt may be issued upon acceptance of such delivery.

(3) The request for an extension of time within which to file a financial disclosure report or portions thereof due to justifiable cause or undue hardship shall contain the following information:

i. The name of the person making such request and his or her home address and work address;

ii. The title of the position or job classification and name of the agency by which he or she is employed;

iii. Explanation of justifiable cause or undue hardship in the form of a written statement with copies of any necessary supporting documents such person wishes the Board to consider;

iv. Where the filer is seeking an extension to answer a portion of the report on the grounds that certain information is not yet available, the request shall state what information is not available. Documentation, if available, shall be provided in support of such request (for example, a copy of an

application to the Internal Revenue Service for an automatic extension of time within which to file one's income tax return); and

v. The additional time requested and the date by which such person intends to comply with the filing requirements.

(c) Time limitations upon extensions.

(1) The Board shall not grant an extension of time to file a financial disclosure report or portions thereof due to justifiable cause or undue hardship for a period greater than four months from the original date the report was due.

(2) An individual who is seeking an extension of time to answer a portion of the financial disclosure report shall nevertheless file his or her report on or before May first, or at such other time required by Administrative Code §12-110, containing all the information required by such report, except for that information which is not available. A supplemental statement providing information not previously available shall be filed on the date set by the Board. Failure to file such supplemental statement, or the filing of an incomplete or deficient supplemental statement, shall subject the reporting person to the penalties set forth in Administrative Code §12-110(h).

(d) Board action.

(1) Upon receipt of a timely request for an extension of time within which to file a financial disclosure report or portions thereof, the Board shall review the material filed to determine whether an extension is appropriate.

(2) The Board may in its discretion request, in writing, additional information from the person making the request. Such additional information shall be submitted to

1 the Board within ten business days of the date of the Board's request. In the event  
2 the Board does not receive the additional information within ten business days, it  
3 may make a determination on the basis of the information it has available.

4 (3) The Board shall give written notice of its determination to the person making the  
5 request.

6 i. In the event the request for an extension of time within which to file a  
7 financial disclosure report or portions thereof is approved, such report  
8 shall be filed on or before the date indicated by the Board in its  
9 determination.

10 ii. In the event the request for an extension of time within which to file a  
11 financial disclosure report or portions thereof is denied, such report shall  
12 be filed before or on the due date set forth in Administrative Code §12-  
13 110 or such date as may thereafter be established by the Board in its  
14 determination.

15 (4) The Board may delegate to its Executive Director the authority to act pursuant to  
16 this rule.

17 §4-02 Retention of Financial Disclosure Reports

18 (a) Definitions. As used in this Rule, the following terms shall have the respective  
19 meanings set forth below:

20 (1) "Administrative Code" shall mean the Administrative Code of the City of  
21 New York.

22 (2) "Board" shall mean the New York City Conflicts of Interest Board,  
23 established pursuant to §2602 of the New York City Charter.

1           (3) "Financial Disclosure Report" shall mean any financial disclosure report filed  
2           or on file with the Board pursuant to §12-110 of the Administrative Code,  
3           including reports previously filed with the Office of the City Clerk and  
4           transferred to the Board's custody.

5           (4) "Prior Financial Disclosure Report" shall mean any Financial Disclosure  
6           Report which, as of the effective date of this Rule, has been retained by the  
7           Board for a period in excess of six years from December 31 of the calendar  
8           year to which such Report relates.

9           (b)     Retention of Financial Disclosure Reports.

10          (1) Whenever a Financial Disclosure Report is filed with the Board, it shall be  
11          retained by the Board for a period commencing on the date such Report was  
12          filed with the Board and expiring on the sixth anniversary of December 31 of  
13          the calendar year to which such Report relates. The period during which the  
14          Board is required to retain a Financial Disclosure Report, pursuant to this  
15          paragraph (1), is hereinafter referred to as the "Required Retention Period" for  
16          such Report.

17          (2) (i) Except as provided in subparagraphs (ii) and (iii) below, upon expiration of  
18          the Required Retention Period for a Financial Disclosure Report, pursuant to  
19          paragraph (1) above, the Board shall either (i) destroy such report, or (ii) if  
20          requested by the individual who filed such report, return such report to such  
21          individual. Any request that the Board return such report must be made in  
22          writing to the Board not later than 10 days prior to the expiration of such  
23          period.

1           i. Notwithstanding the provisions of subparagraph (i), if a law  
2           enforcement agency requests that the Board retain a Financial  
3           Disclosure Report for an additional period of time beyond the  
4           expiration of its required retention period, for purposes of an ongoing  
5           investigation, the Board shall retain such report for such additional  
6           period, provided the request is made in writing and is submitted to the  
7           Board not later than 10 days prior to the expiration of such required  
8           retention period. Upon expiration of such additional period of time, the  
9           Board shall either (i) destroy such report, or (ii) if requested by the  
10          individual who filed such report, return such report to such individual.  
11          Any such request must be made in accordance with the provision of  
12          subparagraph (i) above.

13          ii. Notwithstanding the provisions of subparagraph (i), all reports shall be  
14          retained by the Board for a period of not less than one year from the  
15          date such report was filed with the Board.

16          (3) In accordance with the provisions of subdivision (e) of Administrative Code  
17          §12-110, as amended by Local Law No. 93 of 1992, the retention period  
18          established in paragraph (1) is intended to supersede, and shall be observed by  
19          the Board in lieu of, the retention periods set forth in such subdivision (e).

20          (4) Notwithstanding any other provision of this section, the Board shall be  
21          entitled, upon the effective date of the Rule, to destroy immediately all Prior  
22          Financial Disclosure Reports then in its possession.

1        §4-03 City Employees Holding Policymaking Positions for Purposes of the Financial

2        Disclosure Law

- 3        (a) For purposes of Administrative Code §12-110(b)(3)(a)(3), a City employee shall be  
4        deemed to hold a policymaking position, and therefore be required to file a Financial  
5        Disclosure Report, if such employee is charged with substantial policy discretion within  
6        the meaning of Section 1-02 of Title 53 of the Rules of the City of New York.

7  
8        §4-04 City Employees Whose Duties Involve the Negotiation, Authorization, or

9        Approval of Contracts and of Certain Other Matters

- 10       (a) For purposes of Administrative Code §12-110(b)(3)(a)(4), a City employee shall be  
11       deemed to have duties that involve the negotiation, authorization, or approval of  
12       contracts, leases, franchises, revocable consents, concessions, and applications for zoning  
13       changes, variances, and special permits if the employee performs any of the following  
14       duties:

- 15           (1) Determines the substantive content of a request for proposals or other bid request  
16           or change order;

- 17           (2) Makes a determination as to the responsiveness of a bid or the responsibility of a  
18           vendor or bidder;

- 19           (3) Evaluates a bid;

- 20           (4) Negotiates or determines the substantive content of a contract, lease, franchise,  
21           revocable consent, concession, or application for a zoning change, variance, or  
22           special permit or change order

1           (5) Recommends or determines whether or to whom a contract, lease, franchise,  
2           revocable consent, concession, or application for a zoning change, variance, or  
3           special permit or change order should be awarded or granted;

4           (6) Approves a contract, lease, franchise, revocable consent, or concession or change  
5           order on behalf of the City or any agency subject to Administrative Code §12-  
6           110; or

7           (7) Determines the content of or promulgates City procurement policies, rules, or  
8           regulations.

9       (b) Clerical personnel and other public servants who, in relation to the negotiation,  
10       authorization, or approval of contracts, leases, franchises, revocable consents,  
11       concessions, and applications for zoning changes, variances, and special permits, perform  
12       only ministerial tasks shall not be required to file a Financial Disclosure Report pursuant  
13       to Administrative Code §12-110(b)(3)(a)(4). For example, public servants who are under  
14       the supervision of others and are without substantial personal discretion, and who  
15       perform only clerical tasks (such as typing, filing, or distributing contracts, leases,  
16       franchises, revocable consents, concessions, or zoning changes, variances, or special  
17       permits or calendaring meetings or who identify potential bidders or vendors) shall not,  
18       on the basis of such tasks alone, be required to file a financial disclosure report.  
19       Similarly, public servants who write a request for proposals, bid request, change order,  
20       contract, lease, franchise, revocable consent, concession, or application for a zoning  
21       change, variance, or special permit or procurement policy, rule, or regulation under the  
22       direction of a superior but who do not determine the substantive content of the document

1        shall not, on the basis of such tasks alone, be required to file a Financial Disclosure  
2        Report.

3  
4  
5        **Section 2.** Chapter 1 of Title 53 of the Rules of the City of New York is amended by

6        amending § 1-08 to read as follows:

7        §1-08 [Procedures for Obtaining an Extension of Time within which to File a Financial  
8        Disclosure Report

9        (a) Bases for obtaining an extension of time to file.

10        (1) A person required to file a financial disclosure report with the Conflicts of Interest  
11        Board (the "Board") pursuant to §12-110 of the Administrative Code of the City  
12        of New York (the "Administrative Code") may be granted an extension of time  
13        within which to file a report or portion thereof upon a showing of justifiable cause  
14        or undue hardship.

15        (2) A finding of justifiable cause or undue hardship shall not be based on periods of  
16        annual leave, attendance at conferences or meetings, or other pre-scheduled or  
17        voluntary absences from work.

18        (b) General procedures.

19        (1) A request for an extension of time within which to file a financial disclosure  
20        report or portions thereof which is due by May first shall be postmarked, or  
21        delivery made to the Board, no later than April fifteenth of the year in which such  
22        report is to be filed. Where Administrative Code §12-110 requires the filing of  
23        such report at a time other than on or before May first, a request for extension of

1 time within which to file shall be postmarked, or delivery made to the Board, no  
2 later than fifteen days prior to such filing deadline.

3 (2) The request for an extension of time shall be mailed to the Board by certified mail  
4 or shall be delivered by hand and, upon request, a receipt may be issued upon  
5 acceptance of such delivery.

6 (3) The request for an extension of time within which to file a financial disclosure  
7 report or portions thereof due to justifiable cause or undue hardship shall contain  
8 the following information:

9 i. The name of the person making such request and his or her home address  
10 and work address;

11 ii. The title of the position or job classification and name of the agency by  
12 which he or she is employed;

13 iii. Explanation of justifiable cause or undue hardship in the form of a written  
14 statement with copies of any necessary supporting documents such person  
15 wishes the Board to consider;

16 iv. Where the filer is seeking an extension to answer a portion of the report on  
17 the grounds that certain information is not yet available, the request shall  
18 state what information is not available. Documentation, if available, shall  
19 be provided in support of such request (for example, a copy of an  
20 application to the Internal Revenue Service for an automatic extension of  
21 time within which to file one's income tax return); and

22 v. The additional time requested and the date by which such person intends  
23 to comply with the filing requirements.

(c) Time limitations upon extensions.

(1) The Board shall not grant an extension of time to file a financial disclosure report or portions thereof due to justifiable cause or undue hardship for a period greater than four months from the original date the report was due.

(2) An individual who is seeking an extension of time to answer a portion of the financial disclosure report shall nevertheless file his or her report on or before May first, or at such other time required by Administrative Code §12-110, containing all the information required by such report, except for that information which is not available. A supplemental statement providing information not previously available shall be filed on the date set by the Board. Failure to file such supplemental statement, or the filing of an incomplete or deficient supplemental statement, shall subject the reporting person to the penalties set forth in Administrative Code §12-110(h).

(d) Board action.

(1) Upon receipt of a timely request for an extension of time within which to file a financial disclosure report or portions thereof, the Board shall review the material filed to determine whether an extension is appropriate.

(2) The Board may in its discretion request, in writing, additional information from the person making the request. Such additional information shall be submitted to the Board within ten business days of the date of the Board's request. In the event the Board does not receive the additional information within ten business days, it may make a determination on the basis of the information it has available.

(3) The Board shall give written notice of its determination to the person making the request.

i. In the event the request for an extension of time within which to file a financial disclosure report or portions thereof is approved, such report shall be filed on or before the date indicated by the Board in its determination.

ii. In the event the request for an extension of time within which to file a financial disclosure report or portions thereof is denied, such report shall be filed before or on the due date set forth in Administrative Code §12-110 or such date as may thereafter be established by the Board in its determination.

(4) The Board may delegate to its Executive Director the authority to act pursuant to this rule.]

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

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

(1) local, state, and federal governments and their agencies;

(2) New York State public authorities;

(3) New York local public authorities;

(4) the United Nations;

(5) the United States Postal Service;

(6) the State University of New York;

(7) the City University of New York;

(8) the Brooklyn Public Library;

(9) the Queens Public Library; and

(10) charter schools created pursuant to New York State Education Law Article 56.

(b) For the purposes of Charter § 2601(11), the term “local development corporation”

includes only local development corporations affiliated with, sponsored by, or created by

New York State government or by a New York county, city, town, or village..

**Section 3.** Chapter 1 of Title 53 of the Rules of the City of New York is amended by amending § 1-10 to read as follows:

§1-10 [Retention of Financial Disclosure Reports]

(a) Definitions. As used in this Rule, the following terms shall have the respective meanings set forth below:

(1) "Administrative Code" shall mean the Administrative Code of the City of New York.

(2) "Board" shall mean the New York City Conflicts of Interest Board, established pursuant to §2602 of the New York City Charter.

(3) "Financial Disclosure Report" shall mean any financial disclosure report filed or on file with the Board pursuant to §12-110 of the Administrative Code, including reports previously filed with the Office of the City Clerk and transferred to the Board's custody.

(4) "Prior Financial Disclosure Report" shall mean any Financial Disclosure Report which, as of the effective date of this Rule, has been retained by the Board for a period in excess of six years from December 31 of the calendar year to which such Report relates.

(b) Retention of Financial Disclosure Reports.

(1) Whenever a Financial Disclosure Report is filed with the Board, it shall be retained by the Board for a period commencing on the date such Report was filed with the Board and expiring on the sixth anniversary of December 31 of the calendar year to which such Report relates. The period during which the Board is required to retain a Financial Disclosure Report, pursuant to this paragraph (1), is hereinafter referred to as the "Required Retention Period" for such Report.

(2) (i) Except as provided in subparagraphs (ii) and (iii) below, upon expiration of the Required Retention Period for a Financial Disclosure Report, pursuant to paragraph (1) above, the Board shall either (i) destroy such report, or (ii) if requested by the individual who filed such report, return such report to such individual. Any request that the Board return such report must be made in writing to the Board not later than 10 days prior to the expiration of such period.

i. Notwithstanding the provisions of subparagraph (i), if a law enforcement agency requests that the Board retain a Financial Disclosure Report for an additional period of time beyond the expiration of its required retention period, for purposes of an ongoing investigation, the Board shall retain such report for such additional period, provided the request is made in writing and is submitted to the Board not later than 10 days prior to the expiration of such required retention period. Upon expiration of such additional period of time, the

Board shall either (i) destroy such report, or (ii) if requested by the individual who filed such report, return such report to such individual.

Any such request must be made in accordance with the provision of subparagraph (i) above.

ii. Notwithstanding the provisions of subparagraph (i), all reports shall be retained by the Board for a period of not less than one year from the date such report was filed with the Board.

(3) In accordance with the provisions of subdivision (e) of Administrative Code §12-110, as amended by Local Law No. 93 of 1992, the retention period established in paragraph (1) is intended to supersede, and shall be observed by the Board in lieu of, the retention periods set forth in such subdivision (e).

(4) Notwithstanding any other provision of this section, the Board shall be entitled, upon the effective date of the Rule, to destroy immediately all Prior Financial Disclosure Reports then in its possession.]

§1-10 Prohibited Business or Financial Relationships Between a Superior and a Subordinate

(a) For purposes of Charter § 2604(b)(14), the term “business or financial relationship” between a superior and subordinate includes but is not limited to:

(1) outstanding loans collectively amounting to \$25.00 or more;

(2) a purchase or sale of any property valued at \$25.00 or more within a 12-month period;

(3) the leasing of any property;

(4) cohabitation;

(5) participation in a lottery pool;

(6) participation in a savings club;

(7) shared ownership of real property or any other property worth more than \$100.00;

(8) shared ownership of financial instruments;

(9) shared ownership interest in a firm other than a publicly traded company;

(10) shared ownership interest in a cooperative apartment building with fewer than six units

(11) employer-employee, consultant, contractor, attorney-client, agent-principal, brokerage, or other similar relationships;

(12) establishing a trust or serving as a trustee of a trust in which one of them or a person associated with one of them has a beneficial interest; and

(13) payment of each other's recurring expenses such as rent or payments for a vehicle.

(b) Expenses for activities related to public servants' City jobs which are shared between public servants, including superiors and subordinates, such as expenses related to a carpool or a coffee club, will not be deemed a "business or financial relationship" within the meaning of Charter § 2604(b)(14) if:

(1) the benefit is shared by the participants; and

(2) each public servant bears a fair proportion of the expense or effort involved for the activity.

**Section 4.** Chapter 1 of Title 53 of the Rules of the City of New York is amended by amending § 1-14 to read as follows:

§1-14 Reserved. [City Employees Holding Policymaking Positions for Purposes of the  
Financial Disclosure Law

(a) For purposes of Administrative Code §12-110(b)(3)(a)(3), a City employee shall  
be deemed to hold a policymaking position, and therefore be required to file a  
Financial Disclosure Report, if such employee is charged with substantial policy  
discretion within the meaning of Section 1-02 of Title 53 of the Rules of the City  
of New York.]

**Section 5.** Chapter 1 of Title 53 of the Rules of the City of New York is amended by  
amending § 1-15 to read as follows:

§1-15 Reserved. [City Employees Whose Duties Involve the Negotiation, Authorization,  
or Approval of Contracts and of Certain Other Matters

(c) For purposes of Administrative Code §12-110(b)(3)(a)(4), a City employee shall be  
deemed to have duties that involve the negotiation, authorization, or approval of  
contracts, leases, franchises, revocable consents, concessions, and applications for zoning  
changes, variances, and special permits if the employee performs any of the following  
duties:

(1) Determines the substantive content of a request for proposals or other bid request  
or change order;

(2) Makes a determination as to the responsiveness of a bid or the responsibility of a  
vendor or bidder;

(3) Evaluates a bid;

(4) Negotiates or determines the substantive content of a contract, lease, franchise, revocable consent, concession, or application for a zoning change, variance, or special permit or change order

(5) Recommends or determines whether or to whom a contract, lease, franchise, revocable consent, concession, or application for a zoning change, variance, or special permit or change order should be awarded or granted;

(6) Approves a contract, lease, franchise, revocable consent, or concession or change order on behalf of the City or any agency subject to Administrative Code §12-110; or

(7) Determines the content of or promulgates City procurement policies, rules, or regulations.

(d) Clerical personnel and other public servants who, in relation to the negotiation, authorization, or approval of contracts, leases, franchises, revocable consents, concessions, and applications for zoning changes, variances, and special permits, perform only ministerial tasks shall not be required to file a Financial Disclosure Report pursuant to Administrative Code §12-110(b)(3)(a)(4). For example, public servants who are under the supervision of others and are without substantial personal discretion, and who perform only clerical tasks (such as typing, filing, or distributing contracts, leases, franchises, revocable consents, concessions, or zoning changes, variances, or special permits or calendaring meetings or who identify potential bidders or vendors) shall not, on the basis of such tasks alone, be required to file a financial disclosure report. Similarly, public servants who write a request for proposals, bid request, change order, contract, lease, franchise, revocable consent, concession, or application for a zoning

1 change, variance, or special permit or procurement policy, rule, or regulation under the  
2 direction of a superior but who do not determine the substantive content of the document  
3 shall not, on the basis of such tasks alone, be required to file a Financial Disclosure  
4 Report.]

5