

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

### **Notice of Adoption**

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED IN THE NEW YORK CITY CONFLICTS OF INTEREST BOARD by Sections 1043 and 2603 of the New York City Charter that the Conflicts of Interest Board has adopted Board Rules § 4-07 providing the procedures for setting and enforcing fines against late filers of annual disclosure reports.

The proposed rule was published in the City Record on April 25, 2023, and a public hearing was held on May 25, 2023. No comments were received. The Conflicts of Interest Board now adopts the following rule.

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

New York City's Annual Disclosure Law, found in New York City Administrative Code ("Admin. Code") § 12-110, requires certain individuals to file an annual disclosure report with the New York City Conflicts of Interest Board (the "Board") by a date set by the Board. Admin. Code § 12-110(g)(1) provides for penalties, specifically a fine, against required filers who submit their reports more than 7 calendar days after that date. Section 12-110(g)(1) sets a range for the fine (not less than \$250 and not more than \$10,000) and states that the factors to be considered by the Board in determining the fine include, but are not limited to: whether the filer submitted their report late in prior years and the length of the delay in filing. Board Rules § 4-07 provides notice and clarity regarding the amount of the fines imposed on late filers and the process by which the Board enforces that fine.

Specifically, the rule sets forth a fine schedule that takes into account the filer's history of late filing and how late the report at issue was submitted. The rule also sets forth the procedures for the enforcement of the fine, ensuring that late filers are provided

notice and an opportunity to challenge the assessment of a fine before the Board issues a public order imposing a fine.

New material is underlined.

Section 1. Chapter 4 of Title 53 of the Rules of the City of New York is amended by adding a new section 4-07 to read as follows:

**§ 4-07 Procedures for the Enforcement of Penalties Against Late Filers**

(a) Applicability.

Pursuant to paragraph (1) of subdivision (g) of section 12-110 of the administrative code, this section sets forth the procedures for setting and enforcing fines against late filers who are not subject to the jurisdiction of any state law or collective bargaining agreement that provides for the conduct of disciplinary proceedings.

(b) Definition.

The term “late filer” means a person who was required to submit an annual disclosure report pursuant to subdivision (b) of section 12-110 of the administrative code and submitted their report to the Board more than 7 calendar days after the filing deadline set by the Board.

(c) Fine schedule.

All late filers will be required to pay a fine of \$250, plus:

(1) An additional \$250 for every 30 calendar days after the filing deadline that the filer submitted their report.

(2) An additional \$250 if the filer was a late filer in any of the previous 6 years.

(d) Commencement of an enforcement action.

An enforcement action will be commenced by sending a written Late Filer Notice to the filer's last known email address. The Late Filer Notice will state:

- (1) the filing deadline set by the Board;
- (2) the date the filer submitted their report;
- (3) the amount of the fine, as determined by the fine schedule in this section;
- (4) the filer's right to be represented by an attorney or other person; and
- (5) that the filer has 30 calendar days from the date of the Late Filer Notice to either pay the fine or submit a response for consideration by the Board.

(e) *Representation by an attorney or other person.*

If a filer chooses to be represented by an attorney or any other person, the filer's representative must submit a written and signed Notice of Appearance to the Board. The appearance of a member in good standing of the bar of a court of general jurisdiction of any state or territory of the United States will be indicated by the designation "Attorney for (person represented)." The appearance of any other person will be indicated by the designation "Representative for (person represented)." The Board will not accept a response from or discuss the details of a notice or action under this section with a person who has not submitted a Notice of Appearance.

(f) *Response.*

A late filer has 30 calendar days from the date of the Late Filer Notice to pay the fine or submit a written response for consideration by the Board. The response is an opportunity for the late filer to provide an explanation of why they submitted the

report late that they believe justifies a reduction of the fine or dismissal of the enforcement action. The response should include any supporting documentation.

(g) Board order or dismissal.

- (1) The Board will review the Late Filer Notice, any written response submitted by the late filer, and other relevant information to determine whether a violation has occurred and, if so, the appropriate fine. The Board may, with good cause shown, forgive some of the fine, provided that imposition of a partially forgiven fine will not result in a fine of less than \$250.
- (2) If the Board determines that a violation has occurred, the Board will issue an order stating its final findings and imposing a fine. Such order will be made public, but all underlying records, reports, memoranda, and files will remain confidential in accordance with subdivision (k) of section 2603 of the charter, except that annual disclosure reports and the dates they are filed will be available for public inspection pursuant to subdivision (e) of section 12-110 of the administrative code.
- (3) The order will be sent by first class mail to the late filer's last known residential address or actual place of business and to the late filer's representative, if applicable.
- (4) If the order imposes a fine, payment is due to the Board within 30 calendar days of the date of service. If the late filer does not pay the full amount within 30 calendar days, the Board will pursue all remedies, which may include garnishment of City wages or referral to the New York City Law Department for collection.

(5) If the Board determines that the action should be dismissed, the Board will issue a written decision that dismisses the action. The decision will be sent to the filer and the filer's representative, if applicable, and will not be made public. All underlying records, reports, memoranda, and files will remain confidential in accordance with subdivision (k) of section 2603 of the charter, except that annual disclosure reports and the dates they are filed will be available for public inspection pursuant to subdivision (e) of section 12-110 of the administrative code.