

CITY OF NEW YORK CONFLICTS OF INTEREST BOARD

Notice of Adoption of Final Rule Governing Retention of Financial Disclosure Reports

NOTICE IS HEREBY GIVEN that, pursuant to the authority vested in the Conflicts of Interest Board by Section 12-110(e) of the Administrative Code of the City of New York and in accordance with the requirements of Section 1043 of the New York City Charter, the Conflicts of Interest Board has adopted a new final rule, Section 1-10 of Title 53 of the Rules of the City of New York, governing the retention of financial disclosure reports. Pursuant to a notice published on May 23, 1994, in The City Record, a public hearing on the proposed rule was held on June 30, 1994, at 2 Lafayette Street. The Board did not receive any comments on the proposed rule and, without change, adopted it as final. The text of the new final rule is underlined below. The rule shall become effective 30 days after publication of this notice in The City Record.

Dated: July 8, 1994

SECTION 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 Section 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 Section 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) (a) Except as provided in subparagraph (b) 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.

(b) Notwithstanding the provisions of subparagraph (a), 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 (a) above.

(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.

STATEMENT OF BASIS AND PURPOSE OF PROPOSED RULE: In 1975, the City of New York (the "City") adopted a financial disclosure law, requiring that certain public servants file detailed reports concerning their incomes, investments, outside positions, and other assets and liabilities. The law has been amended several times and is currently codified at Section 12-110 of the Administrative Code.

Prior to 1990, the financial disclosure law was administered by the City Clerk. Since 1990, it has been administered by the

Conflicts of Interest Board (the "Board").

The Board currently collects approximately 12,000 financial disclosure reports each year, from the following categories of individuals required to file:

(a) holders of Citywide elective offices (Mayor, Comptroller, City Council President, Borough Presidents, and Members of the City Council);

(b) holders of political party office, as defined in the law;

(c) candidates for Citywide elective office or political party office;

(d) agency heads, deputy agency heads, assistant agency heads, members of City boards or commissions (other than members serving without compensation), and City employees who are members of the City's management pay plan or whose salary on April 30 of the year in which a report is to be filed is \$62,300 or more; and

(e) City employees whose duties directly involve the negotiation, authorization, or approval of contracts, leases, franchises, revocable consents, concessions, and applications for zoning changes, variances, and special permits.

See Sections 12-110(a)(1) through (3) of the Administrative Code.

The Board has a total of over 140,000 reports on file, including reports collected by the City Clerk during the period 1978 through 1988.

Financial disclosure reports are utilized by the Board to detect actual or potential conflicts between a public servant's official duties and his or her private interests or affiliations. In addition, reports are utilized by the City's Department of Investigation to facilitate inquiries into actual or potential cases of fraud, waste, and abuse, or other wrongful conduct on the part of City officials or employees.

Until December 7, 1992, the financial disclosure law required that the Board retain all reports filed with it by a public servant until the expiration of two years after that public servant has separated from City service (or, in the case of reports filed by an unsuccessful candidate for office, until the expiration of two years from the date of the election at which the candidate was defeated). After the two-year period has elapsed, the Board is obligated to destroy the reports or, in the alternative, return them to the individual who filed the reports.

The two-year retention period, tied to separation from City service, has posed both administrative and legal difficulties for

the Board.

In any given year, large numbers of City employees transfer to different agencies or leave City service entirely. The City's records are sometimes outdated or inaccurate, and it is often difficult to obtain precise information on the status of a City employee. As a result of these uncertainties, the Board, for all practical purposes, has been forced to retain many reports for an indefinite period of time. This, in turn, has required ever increasing amounts of storage space, filing cabinets, supplies, and staff time to insure that all files are properly arranged and maintained. Indeed, because of the number of reports already on hand, the Board has been forced to store a portion of its financial disclosure files off-site, making access and security arrangements far more difficult.

In addition, the Board receives approximately 900 requests each year for copies of financial disclosure reports. These requests are made by the media, law enforcement agencies, and members of the public.

Because of the uncertainties surrounding the exact date of separation for many former City employees, and the resulting retention of many reports for indefinite periods of time (see above), the Board runs the risk of inadvertently disclosing the contents of a report to a third party, after the date on which the report should have been destroyed. This risk was highlighted in an Article 78 proceeding brought against the Board in the Fall of 1992, in which the Board was informed, long after the fact but just prior to the release of a report, that the individual who filed the report had retired from City service more than two years previously.

Effective December 7, 1992, the financial disclosure law was amended to allow the Board, in consultation with the Department of Records and Information Services ("DORIS") and the Department of Investigation ("DOI"), to establish by rule a different period or periods for the retention of financial disclosure reports, taking into account the need for efficient records management and the need to retain such reports for a reasonable period for investigatory and other purposes. See Local Law No. 93 of 1992, amending Section 12-110(e) of the Administrative Code.

The rule set forth above establishes a uniform retention period for all financial disclosure reports. Each report is to be retained for a fixed period commencing on the date it is filed, and expiring on the sixth anniversary of December 31 of the calendar year to which it relates. Since most reports are due on May 1, and cover the preceding calendar year, this rule will insure that the vast majority of reports which are filed with the Board will be retained for at least five full years.

This rule was developed in consultation with DORIS, DOI, and the Office of the Corporation Counsel, and seeks to carefully balance the following considerations:

(1) the statute of limitations for misconduct in public office (see Criminal Procedure Law, Section 30.10(3)(b));

(2) the need to retain financial disclosure reports for a reasonable period of time, in order to facilitate an inquiry into allegations of conflict of interest or other wrongful conduct;

(3) the desire to conform any rule to existing City record retention policies, to the extent possible; and

(4) the practical benefits of a fixed retention period, tied to a date certain, allowing the Board to manage its space requirements more efficiently and avoid the risk of inadvertently disclosing reports that should have been destroyed or returned.

AGENCY RULES

CONFLICTS OF INTEREST BOARD

■ NOTICE

Notice of Adoption of Amendment to the Rule Governing Retention of Financial Disclosure Reports Pursuant to Section 12-110 of the Administrative Code and Section 2603(a) of the New York City Charter

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED IN THE Conflicts of Interest Board by Section 12-110 (e) of the Administrative Code of the City of New York and Section 2603(a) of the New York City Charter that the Conflicts of Interest Board has adopted an amendment to its rule on retention of financial disclosure reports, Section 1-10 (b) (2) of Title 53 of the Rules of the City of New York, requiring that such reports be maintained on file for at least one year. Pursuant to a notice published on December 28, 2000, in *The City Record*, a public hearing was held on February 1, 2001, at 2 Lafayette Street, Suite 1010, New York, New York. The Board received no comments on the proposed amendment and adopted the proposed amendment as final. The text of the amendment is set forth below.

SECTION 1-10 RETENTION OF FINANCIAL DISCLOSURE REPORTS.

[Subdivision (a) and paragraph (1) of subdivision (b) remained unchanged.]

(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.

(ii) 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.

(iii) 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.

[Paragraphs (3) and (4) of subdivision (b) remain unchanged.]

STATUTORY AUTHORITY: Section 12-110 (e) of the Administrative Code of the City of New York and Section 2603(a) of the New York City Charter.

STATEMENT OF BASIS OF PURPOSE OF THE AMENDMENT: Section 1-10 (b) (1) of Title 53 of the Rules of the City of New York provides:

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.

The amendment addresses the situation where a report is filed less than a year before it is scheduled to be destroyed pursuant to section 1-10(b)(1). Although infrequent, such situations have occurred where the public servant's obligation to file, or his or her failure to file, must be litigated. If, for example, a report for calendar year 1994 is not filed until December 20, 2000, the retention rule would require the report to be destroyed less than two weeks after it was filed. Destroying a report almost immediately upon filing makes little sense and undermines the purpose of financial disclosure. The amendment requires that every financial disclosure report be maintained on file by the Board for at least one year.

telephone number and email address information are submitted by your company/messenger service when picking up bid documents.

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/blueprints; other information; and for opening and reading of bids at date and time specified above.

Parks and Recreation, Olmsted Center, Room 64, Flushing Meadows - Corona Park, Flushing, NY 11368. Kylie Murphy (718) 760-6855; kylie.murphy@parks.nyc.gov

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SANITATION

AGENCY CHIEF CONTRACTING OFFICE

■ AWARD

Goods and Services

GENERATORS, PORTABLE, AND ENGINE DRIVEN - Innovative Procurement - Other - PIN# 20195090214 - AMT: \$22,000.00 - TO: Finesse Creations, 3004 Avenue J, Brooklyn, NY 11210. MWBE Award Kohler Automotive Replacement Parts.
● STAINLESS AND ALUMINUM EXPANDED METAL - Innovative Procurement - Other - PIN# 20195090217 - AMT: \$100,000.00 - TO: Moore Metals, 2 Kuniholm Drive, Holliston, MA 01810. MWBE Award.

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TRANSPORTATION

TRAFFIC

■ SOLICITATION

Construction / Construction Services

PROACTIVE FURNISHING, INSTALLATION AND REMOVAL OF ELECTRICAL TRAFFIC SIGNAL EQUIPMENT TO CONTROL TRAFFIC AT SPECIFIC LOCATIONS - Competitive Sealed Bids - PIN# 84119MBTR305 - Due 1-24-19 at 11:00 A.M.

The MBE goal for this contract is 12 percent. The WBE goal for this contract is 18 percent. A printed copy of the bid can also be purchased. A deposit of \$50.00 is required for the bid documents in the form of a Certified Check or Money Order payable to: New York City Department of Transportation. NO CASH ACCEPTED. Company address, telephone and fax numbers are required when picking up contract documents. (Entrance is located on the South Side of the Building facing the Vietnam Veterans Memorial). Proper government issued identification is required for entry to the building (driver's license, passport, etc.). A Pre-Bid Meeting (Optional) will be held on January 7, 2019, at 2:30 P.M., at 55 Water Street, Ground Floor, Conference Room, New York, NY 10041. For additional information, please contact Sharif Choudhry, at (212) 839-4370.

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/blueprints; other information; and for opening and reading of bids at date and time specified above.

Transportation, Contract Management Unit, 55 Water Street, Ground Floor, New York, NY 10041. Bid Window (212) 839-9435;

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CONTRACT AWARD HEARINGS

NOTE: LOCATION(S) ARE ACCESSIBLE TO INDIVIDUALS USING WHEELCHAIRS OR OTHER MOBILITY DEVICES. FOR FURTHER INFORMATION ON ACCESSIBILITY OR TO MAKE A REQUEST FOR ACCOMMODATIONS, SUCH AS SIGN LANGUAGE INTERPRETATION SERVICES, PLEASE CONTACT THE MAYOR'S OFFICE OF CONTRACT SERVICES (MOCS) VIA EMAIL AT DISABILITYAFFAIRS@MOCS.NYC.GOV OR VIA PHONE AT (212) 788-0010. ANY PERSON REQUIRING REASONABLE

ACCOMMODATION FOR THE PUBLIC HEARING SHOULD CONTACT MOCS AT LEAST THREE (3) BUSINESS DAYS IN ADVANCE OF THE HEARING TO ENSURE AVAILABILITY.



CAMPAIGN FINANCE BOARD

■ PUBLIC HEARINGS

NOTICE IS HEREBY GIVEN that a Contract Public Hearing, will be held at the Campaign Finance Board, 100 Church Street, 12th Floor, New York, NY 10007, on January 7, 2019, commencing at 10:00 A.M. on the following:

IN THE MATTER OF the following two proposed contract awards:

A proposed contract between the New York City Campaign Finance Board (CFB) and the Contractor listed below, for the provision of Printing, Binding, and Mailing Services for Voter Guides and Other Projects (RFP PIN# 004201900002). The term of the contract shall be three years from the date of registration, with the possibility of a two-year renewal.

Contractor/Address	PIN #	Amount
Unimac Graphics 350 Michelle Place Carlstadt, NJ	004201900002	Not to exceed \$12,000,000

A proposed contract between the New York City Campaign Finance Board (CFB) and the Contractor listed below, for the provision of Design, Formatting, and Prepress Production Services for NYC Voter Guides 2019-2022 and Other Projects (RFP PIN# 004201900003). The term of the contract shall be three years from the date of registration, with the possibility of a two-year renewal.

Contractor/Address	PIN #	Amount
212/Harakawa Inc DBA Two Twelve 236 West 27th Street, Suite 802 New York, NY 10001	004201900003	Not to exceed \$1,300,000

Both proposed Contractors were selected by means of a Request for Proposals (RFP), pursuant to Section 3-03 of the Procurement Policy Board Rules.

A draft copy of each contract is available for inspection at the CFB, 100 Church Street, 12th Floor, New York, NY 10007, on business days (excluding legal holidays) from December 21, 2018 to January 7, 2019, between 9:00 A.M. and 5:00 P.M.

Anyone who wishes to speak at this public hearing should request to do so in writing. The written request must be received by the Campaign Finance Board within five business days after publication of this notice. Written requests should be sent to Chandler Hart-McGonigle, Campaign Finance Board, 100 Church Street, 12th Floor, New York, NY 10007, or CHart-McGonigle@nyccfb.info. If the CFB receives no written requests to speak within the prescribed time, the CFB reserves the right not to conduct the public hearing, pursuant to Section 2-11(c)(3) of the Procurement Policy Board Rules. In such case, a notice will be published in The City Record canceling the public hearing.

Accessibility questions: Chandler Hart-McGonigle, (212) 409-1745, by: Monday, December 31, 2018, 5:00 P.M.



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AGENCY RULES

CONFLICTS OF INTEREST BOARD

■ NOTICE

Notice of Adoption of Final Rules

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED IN THE NEW YORK CITY CONFLICTS

OF INTEREST BOARD by Section 1043 of the City Charter and Section 3-907 of the New York City Administrative Code, that the Conflicts of Interest Board has adopted Board Rules that (1) move its Rules regarding annual disclosure to a new Chapter 4; (2) adopt a new rule defining "other similar entity" as used in New York City Charter § 2601(11), which defines the term "firm"; and (3) adopt a new rule defining business or financial relationship for the purposes of Charter § 2604(b)(14).

The proposed Rules were published in the *City Record* on November 1, 2018, and a public hearing was held on December 5, 2018. No testimony or comments were received. The Conflicts of Interest Board now adopts the following Rules, including a conforming amendment in the text of the new § 1-10(a)(2) regarding the limit on purchases and sales of property between superiors and subordinates.

Statement of Basis and Purpose

Reorganization of Rules

In the Section 1 of this rulemaking, the Board moves four sections of the Rules of the Board from Chapter 1, entitled "Conflicts of Interest," to a new Chapter 4, entitled "Annual Disclosure": Section 1-08, "Procedures for Obtaining an Extension of Time Within Which to File a Financial Disclosure Report"; Section 1-10, "Retention of Financial Disclosure Reports"; Section 1-14, "City Employees Holding Policymaking Positions for Purposes of the Financial Disclosure Law"; and Section 1-15, "City Employees Whose Duties Involve the Negotiation, Authorization, or Approval of Contracts and of Certain Other Matters". These four sections, promulgated in 1992, 1994, 2003, and 2005 respectively, are an integral part of the administration of the Annual Disclosure Law set forth in Section 12-110 of the New York City Administrative Code and not relevant to determinations made about "conflicts of interest" under Chapter 68 of the City Charter. By creating a new Chapter 4, the Board's Rules will be better organized, and each chapter of rules will be more clearly related to the other rules within such chapter. The text of the four relocated Board Rules remain otherwise unchanged.

New Definition of "Other Similar Entity" within the definition of "Firm"

The Board adopts a new definition of "other similar entity" within the definition of "firm," to be numbered § 1-08. Several provisions of the City Charter are relevant to the new definition. 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 or position. 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's new Rule in § 1-08 clarifies the entities with 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 adopts 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. The Board includes "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 limits 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. As stated in the Rule, the term "other similar entity" includes, but is not limited to, the listed entities; this list is not exclusive.

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

New Definition of "Business or Financial Relationship" as Used in City Charter § 2604(b)(14)

City Charter § 2604(b)(14) provides as follows: "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." Charter § 2604(b)(14) recognizes the potential for coercion or 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.

The Board has repeatedly been asked to provide advice about whether public servants may enter into certain relationships with their co-workers, supervisors, and subordinates. Its numerous advisory opinions on this topic include A.O. Nos. 1992-28 (prohibiting a subordinate from representing a superior as his attorney); 1998-12 (prohibiting superiors from selling anything to subordinates but permitting subordinates to sell a limited amount of commercial and charitable projects to a superior); 2001-3 (reiterating that a subordinate and a superior may not enter into an attorney-client relationship); 2003-6 (advising that a public servant may be compensated for voluntarily working on his or her superior's political campaign); 2004-2 (advising that a superior and subordinate cannot participate in the same savings club); 2004-3 (advising that any financial relationship between a 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 has made one small substantive change to Board Rules § 1-10(a)(2) since its publication in the *City Record*. In this paragraph, it was the Board's intention to codify the advice given in Advisory Opinion No. 1998-12 regarding the sale of property. In keeping with that intention, and in order to be more consistent with the other provisions of the Rule, Board Rules § 1-10(a)(2) has been revised to remove the one-year cap.

The Board therefore adopts this 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 prohibits 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. As stated in the Rule, the term "business or financial relationship" includes, but is not limited to, the listed relationships; this list is not exclusive.

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 new Chapter 4, entitled "Annual Disclosure".

§ 2. Section 1-08 of Title 53 of the Rules of the City of New York, entitled "Procedures for Obtaining an Extension of Time Within Which to File a Financial Disclosure Report", is renumbered as § 4-01 of Chapter 4 of such title, as added by section 1 of this rulemaking.

§ 3. Section 1-10 of Title 53 of the Rules of the City of New York, entitled "Retention of Financial Disclosure Reports", is renumbered as §4-02 of Chapter 4 of such title, as added by section 1 of this rulemaking.

§ 4. Section 1-14 of Title 53 of the Rules of the City of New York, entitled "City Employees Holding Policymaking Positions for Purposes of the Financial Disclosure Law", is renumbered as § 4-03 of Chapter 4 of such title, as added by section 1 of this rulemaking.

§ 5. Section 1-15 of Title 53 of the Rules of the City of New York, entitled "City Employees Whose Duties Involve the Negotiation, Authorization, or Approval of Contracts and of Certain Other Matters", is renumbered as § 4-04 of Chapter 4 of such title, as added by section 1 of this rulemaking.

§ 6. Chapter 1 of Title 53 of the Rules of the City of New York is amended by adding a new § 1-08 to read as follows:

§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.

§ 7. Chapter 1 of Title 53 of the Rules of the City of New York is amended by adding a new § 1-10 to read as follows:

§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;
- (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.

§ 8. The titles of Sections 1-14 and 1-15 of Chapter 1 of Title 53 of the Rules of the City of New York are amended to read, respectively, as follows:

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

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

• d21

SPECIAL MATERIALS

CITYWIDE ADMINISTRATIVE SERVICES

■ NOTICE

OFFICIAL FUEL PRICE (\$) SCHEDULE NO. 8252
FUEL OIL AND KEROSENE

CONTR. NO.	ITEM NO.	FUEL/OIL TYPE	DELIVERY	VENDOR	CHANGE (\$)	PRICE (\$) EFF. 12/17/2018
3687331	1.0	#2DULS	CITYWIDE BY TW	SPRAGUE	-0.0337 GAL.	2.0611 GAL.
3687331	2.0	#2DULS	PICK-UP	SPRAGUE	-0.0337 GAL.	1.9564 GAL.
3687331	3.0	#2DULS Winterized	CITYWIDE BY TW	SPRAGUE	-0.0337 GAL.	2.2594 GAL.
3687331	4.0	#2DULS Winterized	PICK-UP	SPRAGUE	-0.0337 GAL.	2.1546 GAL.
3687331	5.0	#1DULS	CITYWIDE BY TW	SPRAGUE	-0.0295 GAL.	2.3451 GAL.

New York City Conflicts of Interest Board

Notice of Adoption of Final Rule

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED IN THE NEW YORK CITY CONFLICTS OF INTEREST BOARD BY Sections 1043 and 2063 of the City Charter that the Conflicts of Interest Board has promulgated Board Rules Sections 4-01, 4-02, and 4-03 which contain the Board's rules on the retention and filing of annual disclosure reports.

The proposed Rules were published in the City Record on July 29, 2020, and a public hearing was held on August 28, 2020. No testimony or comments were received. The Conflicts of Interest Board now adopts the following Rules.

STATEMENT OF BASIS AND PURPOSE

New York City Administrative Code § 12-110, the City's Annual Disclosure Law, requires public servants who meet the filing criteria to file reports disclosing certain financial information as well as certain information of their spouse or domestic partner and unemancipated children. In 1992, 2001, and 2004, the Board promulgated Board Rules § 4-01 (to address how filers can obtain an extension of time to file the report); Board Rules § 4-02 (how long reports are retained by the Board); and Board Rules § 4-03 (defining the policymaker criteria for filing), respectively. In the intervening years since these rules were promulgated, the Board has, among other things, transitioned from paper filing to electronic filing of reports. Board Rules §§ 4-01, 4-02, and 4-03 reflect current annual disclosure filing procedures and terminology, including those resulting from the adoption of the electronic filing system.

Board Rules § 4-01: Procedure for Requesting Extensions

Filers have a four-week period within which to submit annual disclosure reports. Pursuant to Administrative Code § 12-110(c)(4), filers who are unable to submit their reports during this period can request an extension of time. Board Rules § 4-01 allows filers to submit extension requests in writing up to ten calendar days, rather than fifteen days, prior to the filing deadline. With the advent of electronic filing, communications with filers have been conducted by email, which has reduced the time needed to send, receive, review, and make determinations on extension requests. As a result of these more expedient procedures, Board Rules § 4-01 provides filers an additional five days to make an extension request.

Under Board Rules § 4-01, extensions will only be granted if there is a justifiable cause or undue hardship that would prevent filers from completing the report during the four-week filing period. For example, the Board may grant an extension of time to a filer who has requested an extension of time to file a tax return with the Internal Revenue Service or to a filer who has been on an extended medical leave of absence during the filing period. However, most scheduled absences from work, such as vacation and attendance at conferences, or increases in workloads do

not qualify as justifiable causes or undue hardships warranting an extension of time, unless there are extenuating circumstances. In the event that an extension is granted, the new filing deadline would not be more than four months from the original filing deadline.

Board Rules § 4-02: Retention of Annual Disclosure Reports

Board Rules § 4-02 maintains the current six-year retention period established by former Board Rules § 1-10, in accordance with Administrative Code § 12-110(f), for all annual disclosure reports. The retention period starts on the date the report was filed with the Board and ends on the sixth anniversary of December 31 of the calendar year to which the report relates. For example, a 2013 report is available for public inspection up to and including December 31, 2019. Board Rules § 4-02 requires the Board to retain reports beyond the six-year retention period only upon a timely request by a law enforcement agency. The retention period would only be extended as necessary or until the law enforcement matter is concluded.

Board Rules § 4-03: Definition of Policymaker

Following the amendment to Administrative Code § 12-110(b)(3)(a) by Local Law No. 43 of 2003 that added to the list of required filers those City employees holding a “policymaking position,” Board Rules § 4-03 was promulgated in January 2004 to specify that those holding a “policymaking position” are filers with substantial policy discretion as defined in Board Rules § 1-02. Board Rules § 4-03 includes a revised definition of that term for consistency and clarity.

New material is underlined

Section 1. Board Rules §§ 4-01, 4-02, and 4-03 of Title 53 of the Rules of the City of New York are REPEALED and new Board Rules §§ 4-01, 4-02, and 4-03 are added to read as follows:

§ 4-01 Procedures for Obtaining an Extension of Time to File an Annual Disclosure Report.

(a) For the purposes of Administrative Code § 12-110(c)(4), a request for an extension of time within which to file an annual disclosure report must be made in writing, including by email, and received by the Board no later than 10 calendar days prior to the filing deadline set by the Board.

(b) The request for an extension of time must include:

(1) The name of the filer and the filer’s City agency or public entity; and

(2) An explanation of justifiable cause or undue hardship that would warrant an extension, accompanied by any supporting documentation. A justifiable cause or undue hardship shall not be based on periods of annual leave, attendance at conferences or meetings, or other scheduled or voluntary absences from work, unless there are extenuating circumstances detailed in the request.

(c) The Board will review any timely request for an extension and give written notice to the filer of its determination.

(d) If the request for an extension of time is approved, such report must be filed on or prior to the new filing deadline set by the Board in its determination. The new filing deadline will not be greater than four months from the original filing deadline set by the Board.

(e) If the request for an extension of time is denied, such report must be filed by the original filing deadline set by the Board.

§4-02 Retention of Annual Disclosure Reports.

(a) For the purposes of Administrative Code § 12-110(f), the Board will retain each annual disclosure report filed with the Board for six years after the close of the calendar year to which such report relates.

(b) The Board will retain an annual disclosure report beyond the six-year retention period at the request of the Department of Investigation or any governmental unit, or component thereof, that performs as one of its principal functions any activity pertaining to law enforcement. Such request must be made in writing and received by the Board no later than 10 calendar days prior to the expiration of the six-year retention period. The Board will retain the report only for the additional time necessary or for the law enforcement matter identified in the request to be concluded.

§4-03 City Employees Holding Policymaking Positions for Purposes of the Annual Disclosure Law.

For purposes of Administrative Code § 12-110(b)(3)(a)(3), a person holds a “policymaking position” if they have been designated as having substantial policy discretion pursuant to Board Rules § 1-02.