

February 11, 2021, Agenda – Open Meeting Matter
February 4, 2021, Agenda – Public Hearing
December 17, 2020, Agenda – Open Meeting Matter

To: The Board
From: Chad H. Gholizadeh
Date: February 4, 2021
Re: Proposed Amendments to Board Rules § 1-08: Other Similar Entities

At its December 2020 Open Meeting, the Board authorized Staff to submit to the New York City Law Department and Mayor’s Office of Operations proposed amendments to Board Rules § 1-08, regarding the definition of “other similar entity” in City Charter § 2601(11). The minutes to the Open Meeting are attached as **Exhibit 1**. The proposed amendments were certified pursuant to the City Administrative Procedure Act and were published in the City Record on January 5, 2021. A public hearing was held on February 4, 2021. No comments were received in advance of the hearing, nor did any member of the public testify in person at the public hearing.

Staff recommends that the Board adopt the proposed amendments as published, with stylistic edits to the Statement of Basis and Purpose to reflect that the amended rule is no longer a proposal. A tracked version of the proposed Notice of Adoption is attached as **Exhibit 2**, and a clean version is attached as **Exhibit 3**. Once approved by the Board, the Notice of Adoption will be published in the City Record and will take effect 30 days after publication. See Charter Section 1043(f).

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

Date: December 17, 2020

Present:

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

Board Staff: Ethan Carrier, Chad Gholizadeh, Ana Gross, Christopher Hammer, Gavin Kendall, Julia Lee, Carolyn Miller, Katherine Miller, Ari Mulgay, Yasong Niu, Jeffrey Tremblay, Clare Wiseman, and Juliya Ziskina.

Guests: None

The Board and Staff participated by videoconference pursuant to Executive Order No. 202 issued on March 7, 2020. The meeting was called to order by the Chair at approximately 9:34 a.m. The Chair stated that the meeting was being conducted pursuant to the New York State Open Meetings Law to discuss proposed amendments to Board Rules § 1-08.

Board Rules § 1-08

After a brief introduction by Staff and upon motion duly made and seconded, the Board unanimously agreed to adopt the proposed amendments as the final rule.

The open meeting was adjourned at approximately 9:37 a.m.

Respectfully submitted,
Julia H. Lee
Recording Secretary

New York City Conflicts of Interest Board

Notice of ~~Public Hearing~~ Adoption of Final Rules

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED IN THE NEW YORK CITY CONFLICTS OF INTEREST BOARD by Sections 1043, 2603(a), 2603(c)(4), and ~~Opportunity to Comment on Proposed Rule Amendment Regarding~~ 2601(11) of the ~~Definition of “Firm”~~

~~What are we proposing?~~ The City Charter, that the Conflicts of Interest Board is proposing to amend ~~has adopted Board Rules amending~~ its rule concerning the definition of “other similar entity” in City Charter § 2601(11).

~~When~~ The proposed Rules were published in the City Record on January 5, 2021, and ~~where is the Hearing?~~ a public hearing was held on February 4, 2021. No comments were received. The Conflicts of Interest Board will hold a public hearing on the proposed rule amendment. The public hearing will take place by videoconference at 11:30 a.m. on Thursday, February 4, 2021 and is accessible by:

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

~~How do I comment on the proposed rules?~~ Anyone can comment on the proposed rules by:

- ~~Website.~~ You can submit comments to the Conflicts of Interest Board through the NYC rules website at <http://rules.cityofnewyork.us>.
- ~~Email.~~ You can email comments to Chad H. Gholizadeh at Rules@COIB.nyc.gov.
- ~~By Speaking at the Hearing.~~ Anyone who wants to comment on the proposed rule at the public hearing may speak for up to three minutes. Please access the public hearing by internet video and audio or by telephone using the instructions above. It is recommended, but not required, that commenters sign up prior to the hearing by contacting the Conflicts of Interest Board by phone at (212) 437-0730 or by email at lee@coib.nyc.gov.

~~Is there a deadline to submit comments?~~ Yes, you must submit written comments by February 4, 2021.

~~Do you need assistance to participate in the hearing?~~ You must tell the Conflicts of Interest Board if you need a reasonable accommodation of a disability at the hearing, including if you need a sign language interpreter or simultaneous transcription. You can advise us by email at lee@coib.nyc.gov or by telephone at (212) 437-0730. You must tell us by February 3, 2021.

~~Can I review the comments made on the proposed rules?~~ You can review the comments made online on the proposed rules by going to the website at <http://rules.cityofnewyork.us/>. A few days after the

~~hearing, copies of all comments submitted online, copies of all written comments, and a summary of oral comments concerning the proposed rule will be available to the public at the Conflicts of Interest Board, 2 Lafayette Street, Suite #1010, New York, New York 10007.~~

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

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

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

STATEMENT OF BASIS AND PURPOSE

The Board ~~proposes to amend~~amends Board Rules § 1-08 to include all public universities of the United States and its states and territories, not only the State University of New York ("SUNY") and the City University of New York ("CUNY").

Board Rules § 1-08, effective on January 20, 2019, lists a subset of entities that are not "firms" and at which public servants may take positions without requiring a waiver of Charter § 2604(a)(1), which generally prohibits a public servant from having an ownership interest or position in a firm that is engaged in business dealings with the City. Since promulgating this rule, the Board has received a number of inquiries as to whether public servants would require a waiver to hold positions as adjunct professors at nearby public universities such as Rutgers, the State University of New Jersey. The Board ~~proposes to expand, therefore, expands~~ the list of entities in Board Rules § 1-08 beyond CUNY and SUNY to include domestic public university systems, thus treating these public universities in the same way as all other domestic government institutions pursuant to Board Rules § 1-08(a)(1). This amendment ~~would permit~~permits a public servant to teach a class as an adjunct professor, or take any kind of second job, at those public universities without requiring a waiver of Charter § 2604(a)(1). The inclusion of domestic public universities ~~would be~~is consistent with the Board's historic handling of SUNY and CUNY as entities that are not "firms" as defined in City Charter § 2601(11).

New material is underlined.

[Deleted material is in brackets.]

§ 1. Section 1-08 of Chapter 1 of Title 53 of the Rules of the City of New York is amended 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, and the public university systems of the United States or any United States state, municipality, or territory;

[(8)] (7) the Brooklyn Public Library;

[(9)](8) the Queens Public Library; and

[(10)] (9) 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.

New York City Conflicts of Interest Board

Notice of Adoption of Final Rules

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED IN THE NEW YORK CITY CONFLICTS OF INTEREST BOARD by Sections 1043, 2603(a), 2603(c)(4), and 2601(11) of the City Charter, that the Conflicts of Interest Board has adopted Board Rules amending its rule concerning the definition of “other similar entity” in City Charter § 2601(11).

The proposed Rules were published in the City Record on January 5, 2021, and a public hearing was held on February 4, 2021. No comments were received. The Conflicts of Interest Board now adopts the following Rules.

STATEMENT OF BASIS AND PURPOSE

The Board amends Board Rules § 1-08 to include all public universities of the United States and its states and territories, not only the State University of New York (“SUNY”) and the City University of New York (“CUNY”).

Board Rules § 1-08, effective on January 20, 2019, lists a subset of entities that are not “firms” and at which public servants may take positions without requiring a waiver of Charter § 2604(a)(1), which generally prohibits a public servant from having an ownership interest or position in a firm that is engaged in business dealings with the City. Since promulgating this rule, the Board has received a number of inquiries as to whether public servants would require a waiver to hold positions as adjunct professors at nearby public universities such as Rutgers, the State University of New Jersey. The Board, therefore, expands the list of entities in Board Rules § 1-08 beyond CUNY and SUNY to include domestic public university systems, thus treating these public universities in the same way as all other domestic government institutions pursuant to Board Rules § 1-08(a)(1). This amendment permits a public servant to teach a class as an adjunct professor, or take any kind of second job, at those public universities without requiring a waiver of Charter § 2604(a)(1). The inclusion of domestic public universities is consistent with the Board’s historic handling of SUNY and CUNY as entities that are not “firms” as defined in City Charter § 2601(11).

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