

# NEW YORK CITY CAMPAIGN FINANCE BOARD

## NOTICE OF PUBLIC HEARING

**Subject:** Opportunity to Comment on Proposed Amendments to Campaign Finance Board rules related to public funds eligibility and disclosure statement documentation.

**Date / Time:** July 13, 2015, 11:00 a.m.-12:00 p.m.

**Location:** Campaign Finance Board  
100 Church Street  
12<sup>th</sup> Floor Board Room  
New York, NY 10007

**Contact:** Sue Ellen Dodell  
212-409-1860; [sdodell@nyccfb.info](mailto:sdodell@nyccfb.info)

### Proposed Rule Amendment

In compliance with Section 1043 of the New York City Charter, and exercising authority vested in the Campaign Finance Board (the “Board”) under Chapter 46 of the New York City Charter (including Sections 1052(a)(8) and 1052(a)(12) thereof) and under the New York City Campaign Finance Act (the “Act”) (including Section 3-708(8) of the New York City Administrative Code), the Board proposes amendments to the Campaign Finance Board rules related to disclosure statement documentation and public funds eligibility.

### Instructions

- You may send written comments regarding the proposed rules to the Executive Director of the Campaign Finance Board, 100 Church Street, 12<sup>th</sup> Floor, New York, or electronically through the [NYC Rules](http://www.nyc.gov/nycrules) website at <http://www.nyc.gov/nycrules>, no later than July 10, 2015.
- If you want to testify please notify the General Counsel of the Campaign Finance Board at the foregoing address by close of business on July 10, 2015.
- Written comments and a transcript of the hearing will be available for public inspection, within a reasonable time after receipt, at the offices of the Campaign Finance Board on weekdays between 9:00 a.m. and 5:00 p.m.

## **I. Explanation, Basis, and Purpose**

The Board is proposing amendments to the Board Rules in compliance with Section 1043 of the New York City Charter and under the authority vested in the Board under Chapter 46 of the New York City Charter and under the Act (including Section 3-708(8) of the New York City Administrative Code).

These proposed amendments would:

- Require that candidates submit copies of any bank records and deposit slips not previously submitted along with each disclosure statement; and
- Clarify the grounds on which the Board may determine that a participating candidate is ineligible to receive public funds.

### **Campaign Finance Disclosure Statements: Contents [Section 3-03]**

The Board proposes to require that disclosure statements be accompanied by all of the campaign committee's bank records and deposit slips not previously submitted, and to provide that statement submissions may be rejected if not accompanied by such records. Currently, such records are submitted during the post-election audit unless specifically requested by the CFB. This change will allow the CFB to inform campaigns of reporting and documentation discrepancies earlier in the election cycle. This change will: 1) enable campaigns to correct such discrepancies, improving the quality of public disclosure; and 2) facilitate the timely resolution of problems that might otherwise lead to violation and/or penalty determinations. It will also relieve the burden on campaigns to maintain and store a high volume of bank records throughout the pre-election period.

### **Basis for Ineligibility Determination [Section 5-01(f)]**

The Board proposes to make two changes to this rule, which governs the basis for a determination of public funds ineligibility. First, it proposes to remove the phrase "for reasons that include, but are not limited to" from the introduction to this section. Second, the Board proposes to add one criterion to the end of the list of grounds upon which the Board may base a determination that a candidate is ineligible to receive public funds. The new criterion would render a candidate potentially ineligible if there is reason to believe that the participating candidate, or that candidate's agent, has engaged in conduct detrimental to the Program that is in violation of any applicable law not otherwise referenced in the rule. This change is intended to clarify that a "catch-all provision" is included to capture egregious conduct whose specific elements are not described elsewhere in the list, but that would nonetheless provide sufficient justification for the Board to determine that the participant who engaged in such conduct, or whose agent engaged in such conduct, is ineligible to receive public funds.

## II. Proposed Rules

New matter is underlined. Deleted matter is shown in [brackets].

“Shall” and “must” denote mandatory requirements and may be used interchangeably in the rules of this board, unless otherwise specified or unless the context clearly indicates otherwise.

**Section 3-03 of chapter 3 of title 52 of the rules of the city of New York is amended by adding a new subdivision (f) as follows:**

**(f) Documentation.** Together with each disclosure statement, the candidate shall submit documentation to verify the accuracy of the data reported, including all bank records and deposit slips required to be maintained pursuant to Rules 4-01(b)(1) and 4-01(f)(1) not previously submitted. A disclosure statement may be rejected as an insufficient submission if not accompanied by such documentation.

**Subdivision (f) of section 5-01 of chapter 5 of title 52 of the rules of the city of New York is amended to read as follows:**

**(f) Basis for ineligibility determination.** The Board [shall] may determine [whether] that public funds shall not be paid to a participant [for reasons that include, but are not limited to] if:

(1) [if there is reason to believe that the participant has committed a violation of the Act or these Rules;

(2) if] the participant has failed to meet one of the eligibility criteria of the Act or these Rules;

[(3) if] (2) the participant is required to repay public funds previously received, as described in Rule 5-03, or [if] the participant has failed to pay any outstanding claim of the Board for the payment of civil penalties or the repayment of public funds against such participant or his or her principal committee or a principal committee of such participant from a prior covered election, provided that the participant has received written notice of the potential payment obligation and potential ineligibility determination in advance of the certification deadline for the current covered election or an opportunity to present reasons for his or her eligibility for public funds to the Board;

[(4) if] (3) the participant fails to submit a disclosure statement required by these rules;

[(5) if] (4) the participant fails to provide to the Board, upon its request, documents or records required by Chapter 4 of these rules, or other information that verifies campaign activity;

[(6) if] (5) previous public fund payments to the participant for the election equal the maximum permitted by the Act;

[(7) if] the participant or an agent of the participant has been found by the Board to have committed fraud in the course of Program participation or to be in breach of certification pursuant to Rule 2-02;

(8) if] (6) the participant fails to file the receipt indicating compliance with §12-110 of the Code, as required pursuant to §3-703(1)(m) of the Code and Rule 3-11;

[(9) if] (7) the participant endorses or publicly supports his or her opponent for election pursuant to §3-705(9) of the Code; [or  
(10) if] (8) the participant loses in the primary election but remains on the ballot for the general election and fails to certify to the Board, as required by §3-705(10) of the Code, that he or she will actively campaign for office in the general election, or [if] the participant certifies to the Board that he or she will actively campaign for office in the general election but thereafter fails to engage in campaign activity that shall include but not be limited to, raising and spending funds, seeking endorsements, and broadly soliciting votes[.];  
(9) there is reason to believe that the participant or an agent of the participant has committed a violation of the Act or these Rules;  
(10) the participant or an agent of the participant has been found by the Board to have committed fraud in the course of Program participation or to be in breach of certification pursuant to Rule 2-02; or  
(11) there is reason to believe that the participant or an agent of the participant has engaged in conduct detrimental to the Program that is in violation of any other applicable law.

**NEW YORK CITY LAW DEPARTMENT  
DIVISION OF LEGAL COUNSEL  
100 CHURCH STREET  
NEW YORK, NY 10007  
212-356-4028**

**CERTIFICATION PURSUANT TO  
CHARTER §1043(d)**

**RULE TITLE:** Amendment of eligibility requirements and disclosure statement rules

**REFERENCE NUMBER:** 2015 RG 061

**RULEMAKING AGENCY:** Campaign Finance Board

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

- (i) is drafted so as to accomplish the purpose of the authorizing provisions of law;
- (ii) is not in conflict with other applicable rules;
- (iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and
- (iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN  
Acting Corporation Counsel

Date: May 28, 2015

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

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

**RULE TITLE:** Amendment of eligibility requirements and disclosure statement rules

**REFERENCE NUMBER:** 2015 RG 061

**RULEMAKING AGENCY:** Campaign Finance Board

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

- (i) Is understandable and written in plain language for the discrete regulated community or communities;
- (ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and
- (iii) Does not provide a cure period because a cure period is not practicable under the circumstances and would present a substantial risk to the integrity of the campaign public funds program.

/s/ Natalie Kotkin  
Mayor's Office of Operations

6/3/2015  
Date