

**CITYWIDE ADMINISTRATIVE PROCEDURE ACT
REGULATORY AGENDA FY 2020**

NEW YORK CITY CONFLICTS OF INTEREST BOARD

PURSUANT TO SECTION 1042 OF THE NEW YORK CITY CHARTER, THE NEW YORK CITY CONFLICTS OF INTEREST BOARD SETS FORTH BELOW ITS REGULATORY AGENDA FOR THE CITY'S FISCAL YEAR OF 2020 COMMENCING JULY 1, 2019 THROUGH JUNE 30, 2020:

SUBJECT AREA:

Volunteer activities; the use of City time and City resources.

REASONS FOR RULE:

In light of the amendment to Charter § 2603(c)(4), pursuant to Local Law 177 of 2018, the Board is considering amending Board Rules § 1-13(c) to clarify the existing Rule and to codify relevant Board advisory opinions.

SUMMARY OF ANTICIPATED CONTENT:

The Board anticipates that the contents of its rulemaking will be the use of City time and City resources for volunteer activities by public servants.

SUMMARY OF OBJECTIVES:

The anticipated revisions will update Board Rules § 1-13(c) to set for clear guidelines for public servants who wish to engage in volunteer activities, including a process by which City agencies may permit public servants to use a limited amount of City time and City resources for volunteer activities that benefit the City.

LEGAL BASIS:

Charter § 2603(a) provides the Board with rulemaking authority. Charter § 2606(d) requires that penalties for violations of Charter § 2604(b)(2) may only be imposed if the conduct has been identified by Board Rule as prohibited by Charter § 2604(b)(2).

RELEVANT FEDERAL, STATE AND LOCAL LAWS AND RULES APPLICABLE TO PROPOSED RULE:

- (a) Charter §§ 2604(b)(2) and 2606(d); and
- (b) Rules of the City of New York, Title 53, Section 1-13.

INDIVIDUALS AND ENTITIES LIKELY TO BE AFFECTED BY PROPOSED RULE:

Public servants and elected officials.

SCHEDULE FOR ADOPTION:

Fiscal Year 2020.

AGENCY CONTACT:

Christopher M. Hammer
Deputy General Counsel
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SUBJECT AREA:

The anticipated proposed rule will address the application of the conflicts of interest law to community board members.

REASONS FOR RULE:

In light of the amendment to City Charter § 2603(c)(4), pursuant to Local Law 177 of 2018, the Board is considering the promulgation of rules concerning the application of the conflicts of interest law to community board members and codifying advisory opinions issued by the Board relevant to this subject.

SUMMARY OF ANTICIPATED CONTENT:

The Board anticipates that the contents of its rulemaking will be the application of the conflicts of interest law to community board members discussing matters at a community board meeting, voting on matters at a community board meeting, and chairing community board meetings or committees.

SUMMARY OF OBJECTIVES:

The anticipated revisions will codify and clarify how the conflicts of interest law applies specifically to community board members.

LEGAL BASIS:

Charter § 2603(a) provides the Board with rulemaking authority. Charter § 2603(c)(4) requires the Board to codify any advisory opinions that have “interpretive value in construing the provisions” of Chapter 68 and that “either (a) establishes a test, standard or criterion; or (b) the board anticipates will be the subject of future advisory opinion requests from multiple persons.”

RELEVANT FEDERAL, STATE AND LOCAL LAWS AND RULES APPLICABLE TO PROPOSED RULE:

- (a) Charter §§ 2601(5), 2601(19), 2604(a)(1)(a), 2604(b)(1)(b), 2604(b)(2), 2604(b)(3), and 2800(i); and
- (b) Rules of the City of New York, Title 53, Section 1-13.

INDIVIDUALS AND ENTITIES LIKELY TO BE AFFECTED BY PROPOSED RULE:

Community board members.

SCHEDULE FOR ADOPTION:

Fiscal Year 2020.

AGENCY CONTACT:

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SUBJECT AREA:

Procedural rules for enforcement actions brought by the Board pursuant to Charter § 2603(h).

REASONS FOR RULE:

The existing version of Chapter 2 was promulgated over two decades ago when the Board's enforcement power was relatively new. Since then, the Board has gained substantial experience adjudicating alleged violations and has utilized procedures that extend beyond those envisioned by the early Board. The Board anticipates amending Chapter 2 in its entirety to update its procedural rules and to provide clearer guidance to the subjects of enforcement actions.

SUMMARY OF ANTICIPATED CONTENT:

The Board anticipates that the contents of its rulemaking will be the procedural rules for enforcement actions, including the procedure for the Board to notify a respondent of the initiation of an enforcement action, the procedure for settling an enforcement case, and the procedure for providing a comment to the Board regarding a report and recommendation from the Office of Administrative Trials and Hearings.

SUMMARY OF OBJECTIVES:

The anticipated revisions to Chapter 2 are intended to codify and clarify the Board's current enforcement procedures; eliminate provisions that are redundant or no longer relevant; and improve the Board's current process to ensure that the respondent is afforded a full and fair opportunity to be heard by the Board.

LEGAL BASIS:

Charter § 2603(a) provides the Board with rulemaking authority.

RELEVANT FEDERAL, STATE AND LOCAL LAWS AND RULES APPLICABLE TO PROPOSED RULE:

- (a) Charter § 2603(h); and
- (b) Rules of the City of New York, Title 48

INDIVIDUALS AND ENTITIES LIKELY TO BE AFFECTED BY PROPOSED RULE:

Any person or organization who or that becomes the subject of an enforcement action brought by the Board, including: a public servant or former public servant under the Conflicts of Interest Law; a lobbyist or any other persons required to be listed on a statement of registration under the Lobbyist Gift Law; an organization affiliated with an elected official or the agent of an elected official under the Affiliated Not-for-Profits Law; or a trustee or beneficiary under the Legal Defense Trusts Law.

SCHEDULE FOR ADOPTION:

Fiscal Year 2020.

AGENCY CONTACT:

Christopher M. Hammer
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SUBJECT AREA:

The anticipated proposed rule will address the administration and disclosure requirements of the Legal Defense Trusts Law.

REASONS FOR RULE:

The enactment of Local Law No. 48 of 2019, codified at Chapter 11 of Title 3 of the New York City Administrative Code (“Chapter 11”), requires that the Board promulgate rules to implement this new law.

SUMMARY OF ANTICIPATED CONTENT:

The Board anticipates that the content of its proposed rule will be the regulation of legal defense trusts created for the benefit of public servants, including requirements to disclose information regarding the donations received and expenditures made by the trusts.

SUMMARY OF OBJECTIVES:

The objectives of the proposed rule are to establish clear guidelines for the operation of legal defense trusts and for the submission of information and documents to the Board pursuant to the Legal Defense Trust Law.

LEGAL BASIS:

Charter § 1043 and Section 3-1106 of the Administrative Code directs the Board to promulgate rules necessary to implement Chapter 11.

RELEVANT FEDERAL, STATE AND LOCAL LAWS AND RULES APPLICABLE TO PROPOSED RULE:

Chapter 11 of Title 3 of the New York City Administrative Code.

INDIVIDUALS AND ENTITIES LIKELY TO BE AFFECTED BY PROPOSED RULE:

Public servants, elected officials, trustees of legal defense trusts, beneficiaries of legal defense trusts.

SCHEDULE FOR ADOPTION:

Fiscal Year 2020.

AGENCY CONTACT:

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SUBJECT AREA:

The subject area of the anticipated rule amendment is the use of City time and City resources by public servants to perform work on behalf of a non-for-profit organization.

REASONS FOR RULE:

Recently promulgated Board Rules § 1-13(e) contains some ambiguity as to which submissions to the Board by a City agency will be made public. The addition of Board Rules § 1-13(e) also necessitates corresponding changes to Board Rules § 1-13(f).

SUMMARY OF ANTICIPATED CONTENT:

The Board anticipates that the proposed rule amendment will address the issue of which submissions by City agencies pursuant to Board Rules § 1-13(e) will be made public.

SUMMARY OF OBJECTIVES:

The objectives of the proposed rule are to make clear which City agency submissions pursuant to Board Rules § 1-13(e) will be made public, to make corresponding amendments to Board Rules § 1-13(f) to incorporate a reference to Board Rules § 1-13(e), and to eliminate language in Board Rules § 1-13(f) redundant with Charter § 2606(d).

LEGAL BASIS:

Charter § 1043 and Charter § 2603(a) provide the Board with rulemaking authority.

RELEVANT FEDERAL, STATE AND LOCAL LAWS AND RULES APPLICABLE TO PROPOSED RULE:

- (a) Charter §§ 2604(b)(2) and 2606(d); and
- (b) Rules of the City of New York, Title 53, Section 1-13.

INDIVIDUALS AND ENTITIES LIKELY TO BE AFFECTED BY PROPOSED RULE:

Public servants and elected officials.

SCHEDULE FOR ADOPTION:

Fiscal Year 2020.

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