

GUIDANCE FOR DEVELOPING AGENCY REGULATORY AGENDAS

This guidance is provided to help agencies comply with §1042 of the City Administrative Procedure Act (“CAPA”), which requires each City agency to publish annually (by May 1st) the regulations that the agency plans to promulgate in the coming fiscal year (“Regulatory Agenda”). It is also intended to standardize, citywide, the format for agency submissions of regulatory agendas. It is recommended that agencies use the attached template (or a comparable version) to summarize its Regulatory Agenda and describe each proposed rule that the agency expects to include.

CAPA—which is set forth in Chapter 45 of the New York City Charter—establishes the procedures by which City agencies adopt and amend rules as necessary to carry out the powers and duties delegated to them by or pursuant to federal, state, and/or local law. CAPA was enacted with the goal of providing the public with an opportunity to participate in the rulemaking process followed by City agencies.

The Regulatory Agenda provides notice to the public regarding the rules agencies plan to promulgate in the coming fiscal year. When an agency proposes rules that it did not incorporate in its Regulatory Agenda, the agency must explain the reason the rule was not anticipated or included. Note that failure to include an item in the Regulatory Agenda does not preclude the agency from taking regulatory action on a proposed rule nor does including a rule in the Regulatory Agenda commit the agency to proposing it.

Agencies submitting a Regulatory Agenda must include the following information for each rule to be promulgated in the coming fiscal year:

- Brief description of the subject area(s);
- Reasons why the agency is considering the rulemaking action;
- Summary of the anticipated content, objectives, and legal basis for each proposed rule;
- Summary of all relevant federal, state and local laws and rules, including those which may duplicate, overlap or conflict with the proposed rule;
- Description of the types of individuals and entities likely to be subject to the proposed rule; and
- The approximate schedule for adopting the proposed rule (e.g., first quarter of FY 2017).

Additionally, agencies are asked to provide the following information, if known:

- Summary as to whether and, if so, how the proposed regulations are consistent with the policy objectives of the Administration, including equity related initiatives; and
- Whether the proposed rules have been identified through the City’s Retrospective Rules Review initiative; and
 - if so, whether the rule(s) address any of the following: reduce regulatory burdens, increase equity, support small businesses, or simplify and update content to help support public understanding and compliance.

If you have any questions about this guidance, the requirements of §1042 of the City Administrative Procedure Act, or completing the accompanying form, please contact Francisco Navarro at 212 788-1549 or fnavarro@cityhall.nyc.gov.

AGENCY REGULATORY AGENDA FORM

Instructions

Please supply the requested information in as much detail as possible. Part 1 of this form asks for a summary of your agency’s overall Regulatory Agenda for the next fiscal year, which should, to the extent known, provide details intended to help your agency’s Regulatory Agenda align with the broader policy objectives of rulemaking in the City of New York. This section will be used for internal City purposes and will not be published.

The second part of the form asks a number of questions intended to help guide you through the requirements of §1042 of the City Administrative Procedure Act. A sample Regulatory Agenda is attached to the email accompanying this form, for your reference.

Please note that failure to include a proposed rule in a regulatory agenda will not preclude your agency from taking regulatory action on that rule.

Part 1: Summary of Overall Regulatory Agenda

Please provide a summary of your agency’s overall Regulatory Agenda for the next fiscal year, including the following information, to the extent known:

- *General overview regarding subject matter and purpose of proposed regulations;*
- *Whether the proposed regulations are consistent with the policy objectives of the Administration, including equity related initiatives;*
- *Whether the proposed rules have been identified through the City’s Retrospective Rules Review.*

The Conflicts of Interest Board (the “Board”) is considering amendments to its gift rules, specifically, Board Rules Section 1-01, which defines “valuable gifts,” and Section 1-16, which regulates gifts from lobbyists. The Board anticipates that its amendments will preserve the trust placed in the public servants of the City, promote public confidence in government, protect the integrity of government decisionmaking, and enhance government efficiency. See Charter Section 2600.

Part 2: Anticipated Rules to be Included in Agency's Regulatory Agenda

Please answer the following questions for each proposed rule that you anticipate may be promulgated by your office in the next fiscal year.

1. Provide a brief description of the subject area(s) of the proposed rule.

Valuable Gifts; Prohibited Gifts from Lobbyists and Exceptions Thereto.

2. State the reasons why action by the agency is being considered.

In light of its experiences in advising on and enforcing its gift rules, the Board is considering a revision of Board Rules Section 1-01, which defines valuable gifts, and Section 1-16, which regulates gifts from lobbyists. The anticipated revisions will be technical corrections and classifications.

3. Provide a summary of the anticipated contents of the proposed rule (if known).

The Board anticipates that the contents of its rulemaking will be the subjects contained in Board Rules Sections 1-01 and 1-16. The anticipated revisions are not anticipated to introduce new subjects.

4. Provide a summary of the objectives of the proposed rule.

These anticipated revisions will preserve the trust placed in the public servants of the City, promote public confidence in government, protect the integrity of government decisionmaking, and enhance government efficiency.

5. Provide a summary of the legal basis for the proposed rule.

Charter Section 2603(a) provides the Board with rulemaking authority. Charter Section 2604(b)(5) provides the Board with specific authority to define "valuable gift." Administrative Code Section 3-228 provides the Board with rulemaking authority with respect to the Lobbyist Gift Law.

6. Provide all relevant federal, state, and local laws and rules, including those which may duplicate, overlap or conflict with the proposed rule:

Charter Section 2604(b)(5); Administrative Code Sections 3-224 to 3-228; Rules of the City of New York, Title 53, Sections 1-01 and 1-16.

7. Provide a description of the types of individuals and entities likely to be subject to the proposed rule:

Public servants, elected officials, registered lobbyists.

8. Provide the approximate schedule for adopting the proposed rule (e.g. first quarter of FY 20__):

End of FY 2019.

9. Agency Contact for Rulemaking:

Agency: Conflicts of Interest Board

Bureau or Division: Legal Advice

Rulemaking Contact Person: Chris Hammer

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