

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 2604(b)(5) of the City Charter, that the Conflicts of Interest Board has adopted Board Rules amending its rules governing the acceptance of gifts of meals or refreshments at events.

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

In accordance with the mandate of City Charter § 2603(c)(4) for the Board to review all its advisory opinions and initiate rulemaking to adopt those with “interpretative value in construing provisions” of Chapter 68, the Board has been reviewing the 29 advisory opinions it has issued concerning public servants’ acceptance of gifts. In connection with this comprehensive review, the Board revises Board Rules § 1-01(e), the exception to the “Valuable Gifts Rule” that permits a public servant to accept gifts of meals when conducting City business, in light of the Board’s almost 30 years of experience administering these rules.

The previous version of Board Rules § 1-01(e) did not provide sufficient guidance to public servants as to whether they could accept food offered to them during or after meetings attended in connection with the performance of their City duties. This rule proved to be so over-inclusive, with its multiple and seemingly overlapping provisions, that it was difficult to provide meaningful guidance. As practice demonstrated, the situations described were not a realistic reflection of the actual situations in which public servants often find themselves.

In Board Rules § 1-01(e), the Board has replaced the previous version of Board Rules § 1-01(e)’s scenario-based analysis with a simple rule permitting public servants to accept free meals or refreshments at a meeting attended in the course of and for the purpose of conducting City business provided that four specific criteria are met. First, the public servant cannot accept meals or refreshments that they have solicited, such as by suggesting that a vendor order food for a City meeting. Second, the meal or refreshments must be available to all people participating in the meeting or event without additional charge. Third, the meal or refreshments may not be separable from the meeting at which the City business is being conducted. This means, for example, that the public servant cannot accept the meal if it would take place after the meeting’s City purpose has been concluded; nor, also by way of example, can they accept refreshments offered at an event around the corner from the office where City business is being conducted.

Finally, the meeting at which the City business is being conducted cannot have been scheduled for the purpose of obtaining the meal or refreshments, such as by scheduling the meeting to take place at a restaurant over lunch or dinner. This particular revision codifies the Board’s oft-given informal advice that public servants should not accept free meals at meetings except under

limited circumstances, thus avoiding the practice of a vendor scheduling an important “meeting” to negotiate the terms of a City contract over dinner or cocktails or of a legitimate meeting “running long” so that a developer can continue the business discussion while hosting the public servant at an expensive restaurant. See COIB v. Tuller, COIB Case No. 2015-428 (2016); COIB v. Secreto, COIB Case No. 2015-428a (2016); COIB v. Pizzuti, COIB Case No. 2015-428b (2016) (three NYPD Chiefs each paid fines of \$1,500 in connection with their receipt of gifts of meals from the Queens Library President and CEO with whom they dealt as part of their NYPD duties).

New material is underlined.

Section 1. Section 1-01(e) of Chapter 1 of Title 53 of the Rules of the City of New York, relating to meals and refreshments at meetings, is REPEALED and new a Section 1-01(e) is added to read as follows:

(e) Meals and Refreshments at Meetings

For the purposes of Charter § 2604(b)(3) and Charter § 2604(b)(5), a public servant may accept free meals or refreshments otherwise prohibited as valuable gifts at a meeting attended in the course of and for the purpose of conducting City business, provided that:

- (1) the public servant did not solicit the meal or refreshments;
- (2) the meal or refreshments are available to all participants without charge;
- (3) the meal or refreshments are not separable from the meeting at which the City business is being conducted; and
- (4) the meeting at which the City business is being conducted was not scheduled for the purpose of obtaining the meal or refreshments.