

**New York City
Campaign Finance Board
Notice of Final Rules**

IN COMPLIANCE WITH SECTION 1043 OF THE NEW YORK CITY CHARTER, and exercising authority vested in the Campaign Finance Board (the “Board”) under Chapters 45 and 46 of the New York City Charter (including Sections 1043, 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 hereby adopts amendments to the Campaign Finance Board Rules related to timing of deposits of cash contributions, restrictions on return of contributions, transfers of funds received for other elections, rescission of certification, contributions made and intermediated by individuals doing business with the City, contribution documentation, proof of compliance with the Conflicts of Interest Board (“COIB”), and public funds payments in special elections. These amendments are being made to conform to amendments made to the City Administrative Code by Local Laws No. 167, 173, 184, 185, 186, 188, 189, 192, and 193 for the year 2016.

I. Explanation, Basis, and Purpose

Statement of Basis and Purpose of Proposed Rules

The Campaign Finance Board (“CFB” or “the Board”) is a nonpartisan, independent City agency that empowers New Yorkers to make a greater impact in elections. The CFB administers the City’s campaign finance system, overseeing and enforcing the regulations related to campaign finance and holding candidates accountable for using public funds responsibly. The CFB publishes detailed public information about money raised and spent in City elections by candidates and independent spenders, and engages and educates voters through community outreach, the Voter Guide, and the Debate Program.

The CFB is proposing amendments to several of its rules regarding timing of deposits of cash contributions, restrictions on return of contributions, transfers of funds received for other elections, rescission of certification, contributions made and intermediated by individuals doing business with the City, contribution documentation, proof of compliance with the Conflicts of Interest Board (“COIB”), and public funds payments in special elections.

The proposed rules are amended to conform to Local Laws No. 167, 173, 184, 185, 186, 188, 189, 192, and 193 for the year 2016, now codified in sections 3-702(3); 3-703(1), (1-b), (10), (14), and (17); and 3-705(2)(a) of the City Administrative Code (“Code”).

The following is a summary of the substantive changes.

Summary of Proposed Rules

Chapter 1

1-04(b): Contributions – Deposit

This rule is amended to conform to Local Law No. 184 for the year 2016, which extended the time to deposit contributions from ten to twenty business days after receipt, except for cash contributions, which still must be deposited within ten business days of receipt.

1-04(c)(2)(iii): Restrictions on return

This rule is amended to conform to Local Law No. 186 for the year 2016, which provided that participating candidates may return contributions because of the particular source or intermediary involved in order to protect a reputational interest.

1-07(c): Funds originally received for other elections

This rule is amended to conform to Local Law No. 189 for the year 2016, which modified requirements on transfers of funds received for another election. Previously, candidates who transferred funds from a non-participating committee were required to obtain evidence of the contributors' intent to have their contributions used for a different election. Pursuant to Local Law No. 189, this requirement no longer applies to transfers from committees filing timely contemporaneous disclosures with the Board.

Chapter 2

2-01(f): Rescission

This rule is amended to conform to Local Law No. 193 for the year 2016, which extended the time for candidates to rescind the certification filed to commence participation in the Campaign Finance Program ("Program"). Previously, candidates could rescind their certification no later than the deadline to file a certification. Pursuant to Local Law No. 193, candidates may rescind their certification by the ninth Monday preceding the primary election or prior to the receipt of public funds, whichever occurs first.

2-11: Non-Participation

Subdivision (a) of this rule is amended to conform to Local Law No. 193 for the year 2016.

Subdivision (b) of this rule is amended to conform to Local Law No. 185 for the year 2016, which removed the requirement that candidates inquire whether a contributor is doing business with the City.

Chapter 3

3-03(c): Contributions and other receipts

Paragraph (1) of this rule is amended to conform to Local Law No. 185 for the year 2016.

Paragraph (2) of this rule is amended to conform to Local Law No. 189 for the year 2016.

Chapter 4

Rule 4-01(b): Receipts

Candidates must maintain records of contributions, including contribution cards, which are filled out and signed by the contributor and contain contributor information. Contribution cards are a crucial component of the CFB's audit process and in the review of contributions submitted for public funds matching claims. In order to determine whether a contribution is eligible to be matched with public funds, the CFB requires candidates to provide documentation verifying the information reported, including the contributor's name and address, the amount and date of the contribution, and the instrument (*i.e.*, cash, check, etc.) used to make the contribution.

This rule is amended to conform to the documentation requirements in Local Law No. 188 for the year 2016. Specifically, contribution cards are no longer required to be filled out by the contributor. A candidate or a member of his or her campaign committee may fill out a contribution card prior to its being signed and dated by the contributor.

Additionally, contribution cards are no longer required for money order contributions, unless the contributor's name and residential address are not printed on the money order by the issuer. Contribution cards are required for check contributions only if the check is not signed by the contributor, and are no longer required merely because the check is missing an address or contains a professional designation.

Finally, paragraph (4) of this rule is amended to conform to Local Law No. 189 for the year 2016. Previously, candidates who transferred funds from a non-participating committee were required to exclude from such transfers contributions that violated source restrictions and spending limits, and to obtain evidence of the contributors' intent to have their contributions used for a different election. Pursuant to Local Law No. 189, these requirements no longer apply to transfers from committees that filed timely contemporaneous disclosures with the Board.

Rule 4-01(n): Business dealings with the City

This rule is amended to conform to Local Law No. 185 for the year 2016, which removed the requirement that candidates inquire whether a contributor is doing business with the City.

Chapter 5

5-01(b): Preliminary review of disclosure statements

This rule is amended to conform to Local Law No. 173 for the year 2016, which removed the requirement that the COIB provide candidates with a receipt confirming compliance with section 12-110 of the Code.

Rule 5-01(d): Validity of matchable contribution claims

Paragraph (3) of this rule is amended to conform to Local Law No. 192 for the year 2016, which raised the maximum amount of public funds per contributor in a special election from \$522 to \$1,050, the same amount as in a primary or general election.

A new paragraph (29) is added to this rule to conform to Local Law No. 167 for the year 2016, which provided that contributions intermediated by individuals doing business with the City may not be matched with public funds.

5-01(f)(6): Basis for ineligibility determination

This rule is amended to conform to Local Law No. 173 for the year 2016.

The Board's authority for these rules is found in sections 1043, 1052(a)(8), and 1052(a)(15) of the City Charter, sections 3-701 *et seq.* of the City Administrative Code, and Local Laws No. 167, 173, 184, 185, 186, 188, 189, 192, and 193 for the year 2016.

II. Final Rules

New material is underlined.

[Deleted material is in brackets.]

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

Section 1. Subdivision b of section 1-04 of chapter 1 of title 52 of the rules of the city of New York is amended to read as follows:

(b) **Deposit.** All monetary contributions must be accepted and deposited, or rejected and returned to a contributor, within [10] 20 business days after receipt[; provided, however, that] except contributions made in the form of [checks received by an authorized committee of a candidate for the office of City Council more than one year before the first covered election for which such candidate is seeking nomination or election may be accepted and deposited, or rejected and returned to a contributor, within 20 business days after receipt] cash must be accepted and deposited, or rejected and returned to a contributor, within 10 business days after receipt. All contributions that are accepted and deposited are subject to the Act's contribution limits and prohibitions and must be reported to the Board. If a candidate returns a contribution after its deposit, the return must be reported to the Board.

§ 2. Paragraph 2 of subdivision c of section 1-04 of chapter 1 of title 52 of the rules of the city of New York is amended to read as follows:

(2) **Restrictions on return.** After receiving public funds for an election, a participant may not return a contribution, unless directed by the Board to do so, until any required repayments to the Fund have been made, except if the contribution: (i) exceeds the contribution limit, including the limit applicable to contributors having business dealings with the city, (ii) is otherwise illegal, (iii) is returned because of the particular source or intermediary involved, or (iv) was deposited in a separate account pursuant to Rule 2-06(c) for a runoff election that is not held.

§ 3. The opening paragraph of subdivision c of section 1-07 of chapter 1 of title 52 of the rules of the city of New York is amended to read as follows:

(c) **Contribution limit; prohibited contributions.** Candidates have the burden of demonstrating that surplus funds and transfers of funds from committees not otherwise involved in the covered election do not derive from: (1) contributions in excess of the Act's contribution limits, including contributions that would exceed the Act's contribution limits when aggregated with other contributions accepted from the same source; or (2) contributions from sources prohibited by the Act or the Charter. In addition, participants have the burden of demonstrating that funds transferred from a committee, other than another [principal] authorized committee of the same candidate that has filed contemporaneous disclosure statements with the board in a timely manner, derive solely from contributions for which records demonstrating the contributors' intent to designate the contributions for the covered election have been submitted and maintained as required pursuant to Rules 3-03(c)(2) and 4-01(b)(4), respectively.

§ 4. Subdivision f of section 2-01 of chapter 2 of title 52 of the rules of the city of New York is amended to read as follows:

(f) **Rescission.** A participant or limited participant may rescind his or her certification [prior to] on or before the [certification deadline] ninth Monday preceding the primary election or prior to the receipt of public funds, whichever occurs first, by filing a certification rescission form.

§ 5. Subdivision a of section 2-11 of chapter 2 of title 52 of the rules of the city of New York is amended to read as follows:

(a) **Generally.** A candidate who does not file a certification pursuant to either §3-703 or §3-718 of the Code, or who rescinds his or her certification prior to the [certification] rescission deadline by filing a certification rescission form, shall be deemed to be a non-participant pursuant to §3-719 of the Code. A non-participant shall not be eligible to receive public funds pursuant to §3-705 of the Code and shall not be subject to the expenditure limitations provided in §3-706 of the Code. A non-participant may accept contributions from political committees notwithstanding the restrictions on such contributions contained in §3-703(k) of the Code.

§ 6. Paragraph 5 of subdivision b of section 2-11 of chapter 2 of title 52 of the rules of the city of New York is REPEALED.

§ 7. Paragraph 1 of subdivision c of section 3-03 of chapter 3 of title 52 of the rules of the city of New York is amended to read as follows:

(1) **Basic contents.** Each disclosure statement shall include the following information about receipts accepted by the committee during the reporting period:
(i) for each contribution accepted, the contributor's and intermediary's (if any) full name, residential address, occupation, employer, and business address;
(ii) the date of receipt and amount of each contribution accepted or other receipt;

- (iii) whether a contribution was made in cash;
- (iv) the number of any check or money order used to make the contribution;
- (v) the date and amount of each contribution returned to a contributor;
- (vi) each previously reported contribution for which the check was returned unpaid;
- (vii) in the case of [contributors] contributions claimed as matchable and/or in excess of the amounts set forth in §3-703(1-a) of the Code, whether the contributor [indicated that the contributor] has business dealings with the City as defined in the Act[, and if so, the name of the agency or entity with which such business dealings are or were carried on and the appropriate type or category of such business dealings]; and
- (viii) such other information as the Board may require.

(2) **Transfers.** The candidate shall report contemporaneously the aggregate amount of each transfer and each contribution to which it is attributed. In addition, the participant shall report, in the case of a transfer from a committee not otherwise involved in the covered election, other than another [principal] authorized committee of the same candidate that has filed contemporaneous disclosure statements with the board in a timely manner: (i) all expenditures made by the transferor committee during the election cycle of the covered election; and (ii) all expenditures made by the transferor committee prior to the covered election cycle in connection with raising such contributions. Such reporting of expenditures shall be made in the same disclosure statement in which the transfer is reported, except that expenditures incurred during the covered election cycle for purposes other than raising or administering the transferred contributions need not be reported in disclosure statements to be filed with the Board but rather may be disclosed to the Board by providing copies of the transferor committee's New York City or New York State Boards of Elections or Federal disclosure statements. Further, the candidate shall submit contemporaneously the records required to be maintained pursuant to Rule 4-01(b)(4).

§ 8. Subparagraph (i) of paragraph 3 of subdivision b of section 4-01 of chapter 4 of title 52 of the rules of the city of New York is amended to read as follows:

(i) For each contribution received, all candidates shall maintain records demonstrating the source and details of the contribution as described herein. All records required to be maintained must be provided to the Board upon request.

(A) Cash [and money order] contributions. For each contribution received from an individual contributor via cash [or money order], the record must be in the form of a contribution card.

(B) Money order contributions.

(1) For each contribution received via money order, the record must include a copy of the money order made out to the authorized committee.

(2) The candidate must also maintain a contribution card, if the contributor's name and residential address are not printed on the money order by the issuer.

(C) Check contributions.

(1) For each contribution received via check, the record must include a copy of the check made out to the authorized committee and signed by the contributor.

(2) For each contribution received from an individual contributor via check, the candidate must also maintain a contribution card, if the check used to make the contribution

[(a) bears no address;

(b) bears a professional designation, such as “M.D.,” “Esq.,” or “C.P.A.,” and a non-residential address; or

(c) is a bank-issued or electronic check that does not include an original contributor signature] is not signed by the contributor.

[(C)] (D) Credit card contributions.

(1) For each contribution received via credit card, including contributions received over the internet, the record must have been provided by the merchant or processor and must contain: the contributor’s name, residential address, credit card account type, credit card account number, [and] credit card expiration date, the amount of the contribution, and an indicator showing that the contribution was charged to the contributor’s account and processed. In the case of credit card contributions made over the internet, the contributor must actively agree online to an affirmation statement, as required by subparagraph (ii)(A) of this paragraph, and the candidate must maintain a copy of all website content concerning the solicitation and processing of credit card contributions. [In the case of credit card contributions not made over the Internet and made by individual contributors, the candidate must maintain a contribution card.]

(2) The candidate must also maintain copies of the merchant account or payment processor agreement, all merchant account statements, credit card processing company statements and correspondence, transaction reports, or other records demonstrating that the credit card used to process the transaction is that of the individual contributor (including proof of approval by the credit card processor for each contribution and proof of real time address verification), the account’s fee schedule, and the opening and closing dates of the account. Merchant account statements must be provided in such form as may be required by the Board.

[(D)] (E) Text message contributions. For each contribution received via text message, the record must have been provided by the mobile fundraising vendor and must contain: the contributor’s name, residential address, and phone number; the amount of the contribution; and the name, residential address, and phone number of the registered user of the specific mobile device used to initiate the contribution, to the extent that such information may be reasonably obtained under law. The candidate must also maintain the following records for each text message contribution received:

(1) copies of all relevant third-party vendor agreements between the candidate and mobile fundraising vendor, copies of records maintained by a mobile fundraising vendor listing contributors and amounts pledged and paid, receipts indicating fees paid by the candidate to a mobile fundraising vendor and fees deducted by such vendor, and similar records relating to the solicitation or receipt of text message contributions;

(2) copies of any content used by the candidate to solicit text message contributions; and

(3) copies of any templates or scripts used by a mobile fundraising vendor to communicate with a contributor in facilitating and processing a text message contribution.

[(E)] (F) Segregated account documentation.

(1) Segregated account contribution cards. For each contribution from an individual contributor that the participant deposits into a segregated bank account pursuant to Rule 5-01(n)(2), the record must be in the form of a contribution card.

(2) Segregated account bank statements, contribution cards, and checks. Participants seeking to comply with the exception contained in Rule 5-01(n)(2) must submit segregated account contribution cards and copies of segregated account bank statements and checks to the Board in the manner and to the extent provided by Rule 5-01(n) with each disclosure statement filing.

[(F)] (G) Intermediaries. For each contribution accepted from an intermediary, including any contributions delivered to a fundraising agent, or solicited by an intermediary where such solicitation is known to the candidate, the candidate must maintain a separate record in the form of an intermediary statement. The intermediary statement must contain: the intermediary's name, residential address, employer and business address; the names of the contributors; and the amounts contributed. This record must be signed by the intermediary, or if the intermediary is unable to sign his or her name, marked with an "X" by the intermediary and signed by a witness. Adjacent to the signature or mark, the intermediary must write the date on which he or she signed or marked the form.

§ 9. Clause B of subparagraph ii of paragraph 3 of subdivision b of section 4-01 of chapter 4 of title 52 of the rules of the city of New York is amended to read as follows:

(B) [Contribution cards must be filled out by the contributor or, if the contributor is unable to fill out the card, by another individual present at the time the contribution is made.] Contribution cards must be signed by the contributor or, if the contributor is unable to sign his or her name, marked with an "X" by the contributor and signed by a witness to the contribution. Adjacent to the signature or mark, the contributor must write the date on which he or she signed or marked the contribution card. After a contribution card has been signed, it may not be corrected, modified, or altered by anyone other than the contributor. The Board shall provide a template of all contribution cards required to be maintained pursuant to this section.

§ 10. Paragraph 4 of subdivision b of section 4-01 of chapter 4 of title 52 of the rules of the city of New York is amended to read as follows:

(4) Transfers. Candidates shall obtain and maintain all records specified by the Board regarding transfers, including, but not limited to, in the case of transfers from a committee not otherwise involved in the covered election, other than another [principal] authorized committee of the same candidate that has filed contemporaneous disclosure statements with the board in a timely manner, a record, obtained prior to receipt of the transfer, demonstrating, for each contribution to be transferred to a participant's authorized committee, the contributor's intent to designate the contribution for the covered election. This record shall contain the statements: "I understand that this contribution will be used by the candidate for an election other than that for which the contribution was originally made. I further understand that the law requires that a contribution be in my name and be from my own funds. I hereby affirm that this contribution was made from my personal funds, is not being reimbursed in any manner, and is not being made as a loan." This record must be signed by the contributor, or, if the contributor is unable to sign his or her name, marked with an "X" by the contributor and signed by a witness to the contribution. Adjacent to the signature or mark, the contributor must write the date on which he or she signed or marked the record.

§ 11. Subdivision n of section 4-01 of chapter 4 of title 52 of the rules of the city of New York is amended to read as follows:

(n) Business dealings with the City. For each individual or entity making a contribution, loan, guarantee or other security for such loan in excess of the amounts set forth in §3-703(1-a) of the

Code, candidates shall [obtain and] maintain all records specified by the Board [regarding any response, or any failure to respond,] concerning whether such individual or entity has business dealings with the City. [Such record, at a minimum, shall request that the contributor provide the name of the agency or entity with which such business dealings are or were carried on and the appropriate type or category of such business dealings.]

§ 12. Paragraph (i) of subdivision b 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:

(i) In order to make possible payment within four business days after receipt of disclosure statements, or as soon thereafter as is practicable, pursuant to §3-705(4) of the Code, the Board shall conduct a preliminary review of all disclosure statements filed[and all receipts filed indicating proof of compliance with §12-110 of the Code]. This preliminary review may be delayed if the participant fails to submit a disclosure statement[, a receipt indicating compliance with §12-110 of the Code or information requested by the Board, or fails to submit a disclosure statement, a receipt indicating compliance with §12-110 of the Code] or information requested by the Board by the date required by the Board, or submits a disclosure statement that fails to comply substantially with the requirements of the Act or these rules. A preliminary review may also be delayed for other reasons, including, but not limited to, consideration of whether a basis exists for an ineligibility determination, as described in subdivision (f). A delayed preliminary review may result in a delay in a payment determination, until such time as it is practicable and the Board is considering making payments based on matchable contributions claimed in disclosure statements actually received on or before a subsequent applicable due date.

§ 13. Subdivision d 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:

(d) **Validity of matchable contribution claims and projected rate of invalid claims.** The Board shall not make payment for any matchable contribution claim it determines or projects to be invalid. The Board shall consider the following factors in determining that matchable contribution claims are invalid and in projecting a rate of invalid matchable contribution claims:

- (1) cash contributions from any one contributor that are greater than \$100 in the aggregate, in violation of New York Election Law §14-118(2), or money order contributions from any one contributor that are greater than \$100 in the aggregate;
- (2) contributors who are individuals under the age of eighteen years or that are entities other than individuals;
- (3) matchable contribution claims that would yield more than \$1,050 in public funds per contributor[(or \$522 in the case of a special election)];
- (4) contributions that exceed the contribution limit applicable under the Act;
- (5) contributor addresses that are not residential addresses within New York City;
- (6) contributions for which information is omitted from or illegible in a disclosure statement;
- (7) contributions made later than December 31 of the election year;
- (8) contributions originally received for elections other than the election in which the candidate is currently a participant, as described in Rule 1-07;

- (9) matchable contribution claims that exceed the gross amount of the contribution;
- (10) contributions that were not received within the reporting period or that were made by post-dated check;
- (11) (i) contributions totaling more than \$99 for which a participant has not reported the contributor's occupation, employer, and business address; (ii) contributions totaling less than \$99 for which a participant is required to report the contributor's occupation, employer, and business address, pursuant to Rule 3-03(c)(6)(ii), but has failed to do so;
- (12) contributions that were returned to or not paid by the contributor;
- (13) checks drawn by a person other than the contributor except checks signed by a contributor's authorized agent where the documentation required under Rule 4-01(b)(2) has been maintained and provided;
- (14) contributions that are otherwise not matchable contributions within the meaning of the Act;
- (15) any information that suggests that a contribution has not been processed or reported in accordance with Program requirements;
- (16) any other information that suggests that matchable contribution claims may be invalid;
- (17) contributions for which a record required under Chapter 4 was not kept or provided upon request;
- (18) contributions for which complete supporting documentation required by Rule 3-04(a) has not been submitted;
- (19) check or money order contributions made payable to entities other than the committee that has reported receiving the contribution;
- (20) contributions that were made or accepted in violation of any federal, state, or local law;
- (21) contributions that were not contemporaneously reported as matchable in disclosure statements or were reported in such statements that were not filed in a complete and timely manner;
- (22) contribution checks drawn on business accounts, or accounts that bear indicia of being business accounts, such as the contributor's professional title, ;
- (23) contributions purportedly from different contributors that were made by money orders bearing consecutive serial numbers or other markings indicating that they were purchased simultaneously;
- (24) arithmetical errors in totals reported;
- (25) contributions that were not itemized in a disclosure statement;
- (26) contributions required to be deposited into an account established for a runoff election, as provided in Rule 2-06(c);
- (27) contributions from individuals, other than employees of the candidate's principal committee, who are vendors to the participant or individuals who have an interest in a vendor to the participant, unless the expenditure to the vendor is reimbursement for an advance. For the purposes of this rule, "individuals who have an interest in a vendor" shall mean individuals having an ownership interest of ten percent or more in a vendor or control over the vendor. An individual shall be deemed to have control over the vendor firm if the individual holds a management position, such as the position of officer, director or trustee; [and]
- (28) contributions from individuals having business dealings with the city, as defined in §3-702(18) of the Code, and contributions from lobbyists, as defined in §3-211 of the Code; and

(29) contributions for which any person subject to the limitations of §3-703(1-a) of the Code acted as an intermediary.

§ 14. Paragraph 6 of 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:

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