

Chapter 1: Definitions and General Provisions

§ 1-01 Scope of Rules.

52 RCNY Chapters 1 through 8 contain requirements applicable to candidates seeking nomination or election to the office of mayor, comptroller, public advocate, borough president, or member of the City Council ("Council member") during the pre-election period.

52 RCNY Chapters 9 through 11 pertain to post-election audit and enforcement of candidates seeking nomination or election to the office of mayor, comptroller, public advocate, borough president, or Council member, as well as independent spenders.

52 RCNY Chapter 12 pertains to investigations conducted by, and complaints filed with, the Board.

52 RCNY Chapter 13 contains requirements for transition and inauguration entities ("TIEs"), which apply to all candidates elected to the office of mayor, comptroller, public advocate, borough president, or Council member, regardless of whether the elected candidate is a participant in the voluntary Campaign Finance Program.

52 RCNY Chapter 14 contains requirements for disclosure of independent expenditures related to candidates seeking nomination or election to the office of mayor, comptroller, public advocate, borough president, or Council member, as well as ballot proposals.

52 RCNY Chapter 15 contains requirements for special elections for the office of mayor, comptroller, public advocate, borough president, or Council member.

52 RCNY Chapter 16 pertains to the Voter Guide and voter engagement and applies to candidates seeking nomination or election to the office of mayor, comptroller, public advocate, borough president, or Council member, as well as city ballot proposals or referenda.

52 RCNY Chapter 17 contains requirements for public access to information as provided by the Freedom of Information Law.

Except as otherwise specified, the requirements of these rules related to authorized committees do not apply to an authorized committee that does not, at any time, aid or otherwise take part in an election in which the candidate is a participant or non-participant. Aiding or otherwise taking part in an election includes accepting contributions, loans, or other receipts, and making expenditures, including expenditures of surplus funds, for such election.

(Added City Record 8/16/2019, eff. 9/15/2019; amended City Record 1/19/2021, eff. 2/18/2021)

§ 1-02 Definitions.

"Act" means the New York City Campaign Finance Act, codified in Chapter 7 of Title 3 of the Code (§ 3-701, et seq.).

"Administrative law judge" means the hearing officer assigned to preside over a case that is referred to the Office of Administrative Trials and Hearings.

"Advance" means a payment for goods or services on behalf of a candidate made with the expectation that the payment will be reimbursed by the candidate.

"Authorized committee" means an authorized committee as defined in the Act.

"Board" means the Campaign Finance Board.

"Board of Elections" means the New York City Board of Elections, unless otherwise specified as the New York State ("State") Board of Elections.

"Business dealings with the city" means business dealings with the City of New York as defined in the Act.

"Candidate" means a candidate as defined in Article 14 of the New York State Election Law. Except as otherwise provided in these rules, a "candidate" includes every authorized committee of the candidate, the treasurer of each such committee, and any other agent of the candidate.

"CAPA" means the City Administrative Procedure Act, Sections 1041 to 1047 of the Charter.

"Certification" means the submission of the information required pursuant to 52 RCNY § 2-02 in order to join the Program.

"Charter" means the New York City Charter.

"Code" means the Administrative Code of the City of New York.

"Contribution" means a contribution as defined in the Act.

"Covered election" means any election for the office of mayor, public advocate, comptroller, borough president, or Council member.

"Disclosure statement" means the campaign finance disclosure statement filed with the Board under 52 RCNY Chapter 4.

"Doing business database" means the computerized database containing the names of individuals and entities engaged in business dealings with the city as defined in the Act.

"Domestic partner" means a domestic partner as defined in § 1-112(21) of the Code.

"Donation" means a gift, subscription, advance, payment, or deposit of money or any thing of value, made by an individual or entity, in connection with the transition or inauguration expenses of an elected candidate, including but not limited to compensation for the personal services rendered in connection with such transition or inauguration expenses without charge. A loan is deemed to be a donation, subject to the limits and restrictions of the Act, to the extent the loan is not repaid by the date that the elected candidate is sworn into office. The term "donation" shall not include:

(a) The value of personal services provided without compensation by individuals volunteering a portion or all of their time on behalf of a TIE, provided that such an individual may not provide any paid services to a TIE at the same time as such individual serves as a volunteer for that TIE;

(b) The use of real or personal property and the cost of invitations, food, and beverages voluntarily provided by an individual to a TIE on the individual's residential premises for TIE-related activities to the extent such services do not exceed \$500 in value; and

(c) The travel expenses of any individual who, on the individual's own behalf, volunteers personal services to any TIE to the extent such expenses are unreimbursed and do not exceed \$500 in value.

"Election" means any primary, special, or general election for nomination or election.

"Election cycle" means the period beginning on the first January 12 following the most recent general election for the specific office to which a candidate is seeking nomination or election and ending on the first January 11 following the next general election for that office.

"Electronic means" means facsimile transmission, email, or any other electronic manner of communication that shall be prescribed by the Board.

"Entity" means any organization of one or more individuals, and includes any parent, subsidiary, branch, division, department, or local unit thereof.

"Expenditure" means an expenditure as defined in the Act.

"Fair market value" means: (1) for goods, the price of those goods when received in the market in which they ordinarily would have been purchased; and (2) for services, other than those provided by an unpaid volunteer, the hourly or piecework charge for the services at a commercially reasonable rate prevailing when the services were rendered.

"Filer Registration" means the submission of the information required pursuant to 52 RCNY § 2-01 prior to the filing of disclosure statements.

"Fund" means the New York City Election Campaign Finance Fund established by the Act.

"Fundraising agent" means any of the following individuals or entities that have accepted or may accept contributions on behalf of the candidate: (1) paid or volunteer full-time campaign workers; or (2) commercial fundraising firms retained by the candidate and the agents thereof.

"Hearing officer" means the person assigned to preside over a case before OATH.

"Inauguration expenses" means expenses for an inaugural event held within seven days before or 30 days after the elected candidate is officially sworn into office. Factors used by the Board in determining whether an event is an inaugural event include but are not limited to: (1) the celebratory or commemorative nature of the event; (2) the location of the event in relation to the geography of the elected official's district; and (3) the inclusion of non-celebratory and/or commemorative functions, including but not limited to constituent outreach or services. The burden of proving that an event is an inaugural event rests with the TIE.

"In-kind contribution" means: (1) a gift, subscription, loan, advance of, or payment for, any thing of value (other than money) made to or for any candidate; or (2) the payment by any individual or entity other than an authorized committee of compensation for the personal services of another individual or entity which are rendered to the candidate without charge. "In-kind contribution" does not include personal services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate.

"Intermediary" means an intermediary as defined in the Act.

"Labor organization" means a labor organization as defined in the Act.

"Loan" means a monetary payment made to an authorized committee with the expectation that the funds will be repaid by such committee.

"Matchable contribution" means a matchable contribution as defined in the Act.

"Mobile fundraising vendor" means any persons or entities that provided services to a candidate related to the processing or receipt of any text message contribution.

"Non-participant" means a candidate for nomination or election to a covered office who has not filed a Certification as a participant. Except as otherwise provided in these rules, a "non-participant" includes the candidate, every political committee authorized by the candidate for the covered election, the treasurer of each such committee, and any other agent of the candidate.

"OATH" means the Office of Administrative Trials and Hearings.

"On the ballot" means on the ballot as provided in Article 6 of the New York State Election Law and as recorded on the Board of Elections nomination or designation ledgers or contest lists.

"Optional early public funds payment" means a disbursement of optional public financing occurring prior to two weeks after the last day to file designating petitions for a primary election.

"Other receipts" means payments received by a candidate that are not contributions or loans, such as interest, dividends, proceeds from sales or leases of assets, and any other sources of income.

"Participant" means a candidate for nomination or election to a covered office who has chosen to join the Program for an election by submitting a Certification pursuant to § 3-703(1)(c) of the Code. Except as otherwise provided in these rules, a "participant" includes the candidate, the principal committee authorized by the candidate pursuant to § 3-703(1)(e) of the Code, the treasurer of such committee, and any other agent of the candidate.

"Political committee" means a political committee as defined in the Act.

"Principal committee" means the principal committee as defined in the Act.

"Program" means the New York City Campaign Finance Program established by the Act.

"Public funds" means monies disbursed from the Fund.

"Receipts" means monetary and in-kind contributions, loans, and any other payment received by a candidate.

"Registered user" means the individual registered with the wireless carrier to use the specific mobile device from which a contribution made via text message was initiated.

"Reporting period" means a time period covered by a disclosure statement, as described in 52 RCNY § 4-05.

"Segregated account" means a bank account that may be established by a participating candidate in accordance with 52 RCNY § 7-07(b).

"Single source" means any individual, individuals in combination, entity, or entities in combination that establish, maintain, or control another entity and every entity so established, maintained, or controlled, including every political committee established, maintained, or controlled by the same individual, individuals in combination, entity, or entities in combination.

"Text message contribution" means a text message contribution as defined in the Act.

"Transfer" means any exchange of funds or any other thing of value between political committees, other than multi-candidate committees, authorized by the same candidate pursuant to § 14-112 of the New York State Election Law.

"Transition and inauguration entity" or "TIE" means an entity established by an elected candidate to raise and spend private funds for transition or inauguration expenses.

"Transition expenses" means expenses relating to an elected candidate's transition into office for goods and services received, used, or rendered before the elected candidate's date of inauguration. Transition expenses shall be limited to those incurred solely for the purpose of preparing to take office, such as those listed in 52 RCNY § 13-03(b)(i), and may not be incurred after January 31 in the year after the year of the election, or, in the case of a special election, 30 days after inauguration. Incumbent elected candidates shall not incur transition expenses.

"Treasurer" means the treasurer of any authorized committee involved in a covered election, except as otherwise provided in these rules.

§ 1-03 The Board.

(a) *The Board is nonpartisan.*

(i) Pursuant to § 3-708 of the Code, the Board consists of five members.

(A) Two Board members are appointed by the Speaker of the City Council ("Speaker"). No more than one of them shall be enrolled in any one political party.

(B) Two Board members are appointed by the Mayor. No more than one of them shall be enrolled in any one political party.

(C) The chair of the Board is appointed by the Mayor in consultation with the Speaker.

(ii) The Board shall conduct all its activities in a strictly nonpartisan manner.

(b) *Board members and staff are governed by ethical standards.*

(i) *The Act and the Charter.* Board members and staff are subject to the standards set forth in the Act and in Chapter 46 of the Charter.

(ii) *Ethical guidelines.* The Board shall establish and publish ethical guidelines governing the conduct of its members and staff.

(iii) *Additional city ethical guidelines.* Board members and staff are subject to the standards set forth in Chapter 68 of the Charter.

(c) *Board administration of the Fund.* To safeguard the administration of the Fund and assure candidates that sufficient public funds will be available to make all payments required by the Act in upcoming elections, the Board shall:

(i) make budget requests for the Fund sufficient to cover all anticipated Fund obligations in the upcoming fiscal year and to maintain a reserve for contingencies;

(ii) when it has determined that monies in the Fund are insufficient or likely to be insufficient for payments to candidates, report this determination to the Commissioner of Finance and provide its estimate of the additional amount which will be necessary to make such payments pursuant to the Act (together with a detailed statement of the assumptions and methodologies on which the estimate is based), as required by Section 1052(a)(10) of the Charter, not more than four days after which the Commissioner of Finance is required by Section 1052(a)(10) of the Charter to transfer an amount equal to the Board's estimate from the city's general fund to the Fund;

(iii) take steps to ensure that the Fund is maintained in a separate account, credited with all sums appropriated therefor and all earnings accruing thereon, in the custody of the comptroller on behalf of the Board, as required by Section 1052(a)(10) of the Charter;

(iv) take steps to ensure that the Fund and its administration are insulated from the risk of improper action by any city official or agency or any agent or contractor thereof;

(v) subject the Fund to periodic audits by independent outside auditors; and

(vi) take such other actions as are necessary and proper to ensure the integrity of the Fund.

(d) *Advisory opinions.* Upon the written request of a candidate or any other individual or entity, the Board shall issue an advisory opinion interpreting the Act and these rules, or otherwise respond in writing to the request, within 30 days of receipt of such request, or within 10 business days of receipt if such request is received less than 30 days before a covered election, to the extent practicable. At its discretion, the Board may issue advisory opinions in the absence of a request. The Board shall make public its advisory opinions and the questions of interpretation for which advisory opinions will be considered by the Board, including by publication on its website.

(e) *Public petitions for rulemaking.*

(i) *Procedures for submitting petitions.*

(A) Any individual or entity may petition the Board to consider the adoption of a rule. The request must be sent to the Executive Director and contain the following information:

(1) the rule to be considered, with proposed language for adoption;

(2) a statement of the Board's authority to promulgate the rule and its purpose;

(3) arguments in support of adoption of the rule;

(4) the period of time the rule should be in effect; and

(5) the name, address, telephone number, and signature of the petitioner or the petitioner's authorized representative.

(B) Any change in the information provided pursuant to clause (5) of subparagraph (A) must be communicated promptly in writing to the Executive Director.

(C) All requests should be typewritten or submitted electronically, if possible, but handwritten petitions will be accepted, provided they are legible.

(ii) *Responses to petitions.* Within 60 days from the date the petition was received, the Board shall either deny such petition in a written statement containing the reasons for denial, or shall state in writing the Board's intention to grant the petition and to initiate rulemaking by a specified date. In proceeding with such rulemaking, the Board shall not be bound by the language proposed by petitioner, but may amend or modify such proposed language at the Board's discretion. The Board's decision to grant or deny a petition is final.

(Added City Record 8/16/2019, eff. 9/15/2019)

§ 1-04 Deadlines.

(a) *Computation of days.*

(i) *Counting calendar days.* Where a number of days is specified as a period from a certain day, the days will be counted as the number of calendar days except for the first day of the counting period.

(ii) *Where holiday falls within two-day counting period.* If the counting period is two days in duration, then Saturday, Sunday, or a legal holiday must be excluded if it falls on the first or last day of the counting period.

(iii) *Weekends and holidays.* If the scheduled date of a public funds payment, or the deadline for submitting a Certification or for filing a disclosure statement, other than a daily pre-election disclosure statement, falls on a Saturday, Sunday, or legal holiday, the next business day becomes the

deadline or scheduled payment date.

(b) *Meeting Board deadlines.*

(i) *Submission in person.* Submissions filed in person on weekdays between the hours of 9:00 a.m. and 5:00 p.m. at the offices of the Board, unless otherwise provided, are deemed submitted upon receipt, subject to review and acceptance.

(ii) *Submission by electronic means, non-electronic mail or common carrier.*

(A) *Electronic submissions.* A submission sent electronically shall be deemed filed when received by the Board, subject to review and acceptance.

(B) *Non-electronic submissions.*

(1) *With postmark.* A submission sent by non-electronic mail or common carrier shall be deemed to have been received, subject to review and acceptance, on the date it was postmarked or date stamped by the carrier.

(2) *Without postmark.* Submissions sent by non-electronic mail in an envelope without a postmark will be presumed to have been sent three days prior to receipt, subject to review and acceptance, unless evidence presented to the Board, such as a post office receipt with a date stamp indicating when the submission was sent, demonstrates otherwise.

(iii) *Board evaluation of submissions that arrive after the deadline.* Submissions of disclosure statement documentation that arrive after 5:00 p.m. on the date of the deadline, even if submitted on or before 11:59 p.m. on such date, may prevent the Board from making a timely determination regarding payment of public funds. The Board shall make such a determination at such time as is practicable.

(Added City Record 8/16/2019, eff. 9/15/2019; amended City Record 5/22/2020, eff. 6/21/2020)

§ 1-05 Legibility of Submissions.

The Board will not accept any electronic disclosure statement or other document, or any part thereof, that is infected with a virus, damaged, blank, improperly formatted, or otherwise unreadable or illegible.

(Added City Record 8/16/2019, eff. 9/15/2019)

§ 1-06 Severability.

(a) If any provision of these rules or portion thereof is adjudged invalid by a court of competent jurisdiction, such determination shall not affect or impair the validity of the remainder of these rules.

(b) If the application of any provision of these rules or portion thereof to any individual, entity, or circumstances is adjudged invalid by a court of competent jurisdiction, such determination shall not affect or impair the application thereof to other individuals, entities, and circumstances.

(Added City Record 8/16/2019, eff. 9/15/2019)