

New York City Conflicts of Interest Board

Notice of Public Hearing and Opportunity to Comment on Proposed Rule Amendment Regarding the Definition of “Firm”

What are we proposing? The Conflicts of Interest Board is proposing to amend its rule concerning the definition of “other similar entity” in City Charter § 2601(11).

When and where is the Hearing? The Conflicts of Interest Board will hold a public hearing on the proposed rule amendment. The public hearing will take place by videoconference at 11:30 a.m. on Thursday, February 4, 2021 and is accessible by:

- **Internet Video and Audio.** To access the hearing by Zoom, use the following URL: <https://us02web.zoom.us/j/89423047052?pwd=T1Y2SXJhUG14eHlNM2g4Wlp5dGRQZz09>.
- **Telephone.** To access the hearing by telephone, dial (929) 436-2866. When prompted, use the following access code 894-2304-7052 and password 835312.

How do I comment on the proposed rules? Anyone can comment on the proposed rules by:

- **Website.** You can submit comments to the Conflicts of Interest Board through the NYC rules website at <http://rules.cityofnewyork.us>.
- **Email.** You can email comments to Chad H. Gholizadeh at Rules@COIB.nyc.gov.
- **By Speaking at the Hearing.** Anyone who wants to comment on the proposed rule at the public hearing may speak for up to three minutes. Please access the public hearing by internet video and audio or by telephone using the instructions above. It is recommended, but not required, that commenters sign up prior to the hearing by contacting the Conflicts of Interest Board by phone at (212) 437-0730 or by email at lee@coib.nyc.gov.

Is there a deadline to submit comments? Yes, you must submit written comments by February 4, 2021.

Do you need assistance to participate in the hearing? You must tell the Conflicts of Interest Board if you need a reasonable accommodation of a disability at the hearing, including if you need a sign language interpreter or simultaneous transcription. You can advise us by email at lee@coib.nyc.gov or by telephone at (212) 437-0730. You must tell us by February 2, 2021.

Can I review the comments made on the proposed rules? You can review the comments made online on the proposed rules by going to the website at <http://rules.cityofnewyork.us/>. A few days after the hearing, copies of all comments submitted online, copies of all written comments, and a summary of oral comments concerning the proposed rule will be available to the public at the Conflicts of Interest Board, 2 Lafayette Street, Suite #1010, New York, New York 10007.

What authorizes the Conflicts of Interest Board to make this rule? Sections 1043, 2601(11) and 2603(a) of the City Charter authorize the Conflicts of Interest Board to make this proposed rule

amendment. This proposed amendment was not included in the Conflicts of Interest Board's regulatory agenda for this Fiscal Year because it was not contemplated when the Conflicts of Interest Board published the agenda.

Where can I find the Conflicts of Interest Board's rules? The Conflicts of Interest Board's rules are in Title 53 of the Rules of the City of New York.

What rules govern the rulemaking process? The Conflicts of Interest Board must meet the requirements of Section 1043 of the City Charter when creating or changing rules. This notice is made according to the requirements of Section 1043 of the City Charter.

STATEMENT OF BASIS AND PURPOSE

The Board proposes to amend Board Rules § 1-08 to include all public universities of the United States and its states and territories, not only the State University of New York ("SUNY") and the City University of New York ("CUNY").

Board Rules § 1-08, effective on January 20, 2019, lists a subset of entities that are not "firms" and at which public servants may take positions without requiring a waiver of Charter § 2604(a)(1), which generally prohibits a public servant from having an ownership interest or position in a firm that is engaged in business dealings with the City. Since promulgating this rule, the Board has received a number of inquiries as to whether public servants would require a waiver to hold positions as adjunct professors at nearby public universities such as Rutgers, the State University of New Jersey. The Board proposes to expand the list of entities in Board Rules § 1-08 beyond CUNY and SUNY to include domestic public university systems, thus treating these public universities in the same way as all other domestic government institutions pursuant to Board Rules § 1-08(a)(1). This amendment would permit a public servant to teach a class as an adjunct professor, or take any kind of second job, at those public universities without requiring a waiver of Charter § 2604(a)(1). The inclusion of domestic public universities would be consistent with

the Board’s historic handling of SUNY and CUNY as entities that are not “firms” as defined in City Charter § 2601(11).

New material is underlined.

[Deleted material is in brackets.]

§ 1. Section 1-08 of Chapter 1 of Title 53 of the Rules of the City of New York is amended as follows:

§ 1-08 Definition of “other similar entity” within the definition of “Firm”.

(a) For the purposes of Charter § 2601(11), the term “other similar entity” includes, but is not limited to, any of the following entities:

(1) Local, state, and federal governments and their agencies;

(2) New York State public authorities;

(3) New York local public authorities;

(4) the United Nations;

(5) the United States Postal Service;

(6) the State University of New York [(7)], the City University of New York, and the public university systems of the United States or any United States state, municipality, or territory;

[(8)] (7) the Brooklyn Public Library;

[(9)](8) the Queens Public Library; and

[(10)] (9) charter schools created pursuant to New York State Education Law Article 56.

(b) For the purposes of Charter § 2601(11), the term “local development corporation” includes only local development corporations affiliated with, sponsored by, or created by New York State government or by a New York county, city, town, or village.

NEW YORK CITY LAW DEPARTMENT

DIVISION OF LEGAL COUNSEL

100 CHURCH STREET

NEW YORK, NY 10007

212-356-4028

**CERTIFICATION PURSUANT TO
CHARTER §1043(d)**

RULE TITLE: Amendment of Definition of “Other Similar Entity”

REFERENCE NUMBER: 2020 RG 106

RULEMAKING AGENCY: Conflicts of Interest Board

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

- (i) is drafted so as to accomplish the purpose of the authorizing provisions of law;
- (ii) is not in conflict with other applicable rules;
- (iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and
- (iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN

Date: December 28, 2020

Acting Corporation Counsel

NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS

253 BROADWAY, 10th FLOOR

NEW YORK, NY 10007

212-788-1400

CERTIFICATION / ANALYSIS

PURSUANT TO CHARTER SECTION 1043(d)

RULE TITLE: Amendment of Definition of “Other Similar Entity”

REFERENCE NUMBER: COIB-22

RULEMAKING AGENCY: Conflicts of Interest Board

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

- (i) Is understandable and written in plain language for the discrete regulated community or communities;
- (ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and
- (iii) Does not provide a cure period because it does not establish a violation, modification of a violation, or modification of the penalties associated with a violation.

/s/ Francisco X. Navarro

December 28, 2020

Mayor's Office of Operations

Date