

# New York City Campaign Finance Board

## Notice of Public Hearing and Opportunity to Comment on Proposed Rules

**What are we proposing?** We are proposing amendments to the Campaign Finance Board's ("Board") rules regarding contributions, expenditures, documentation, reporting and disclosure, repayment of public funds, candidate registration and certification, deductions from public funds payments, the video and print Voter Guides, transition and inauguration entities, and disclosure and identification of independent expenditures.

**When and where is the Hearing?** The Board will hold a public hearing on the proposed rules. The public hearing will take place at 11:30 a.m. on September 15, 2016. The hearing will be in the Board's board room at 100 Church Street, 12<sup>th</sup> Floor, New York, NY 10007.

This location has the following accessibility option(s) available:

- Wheelchair Accessible
- Sign Language Interpretation

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

- **Website.** You can submit comments to the Board through the NYC rules Web site at <http://rules.cityofnewyork.us>.
- **Email.** You can email written comments to [Rules@nyccfb.info](mailto:Rules@nyccfb.info).
- **Mail.** You can mail written comments to Sue Ellen Dodell, General Counsel, Campaign Finance Board, 100 Church Street, 12<sup>th</sup> Floor, New York, NY 10007.
- **Fax.** You can fax written comments to the Board at (212) 409-1705.
- **Speaking at the Hearing.** Anyone who wants to comment on the proposed rules at the public hearing must sign up to speak. You can sign up before the hearing by calling Sue Ellen Dodell, General Counsel, at (212) 409-1800. You can also sign up in the hearing room before the hearing begins. You may speak for up to three minutes.

**Is there a deadline to submit written comments?** Yes, written comments must be submitted by September 14, 2016.

**Do you need assistance to participate in the Hearing?** You must tell Sue Ellen Dodell if you need a reasonable accommodation of a disability at the Hearing. You must tell us if you need a sign language interpreter. You can tell us by mail at the address given above. You may also tell us by telephone at (212) 409-1800. You must tell us by September 12, 2016.

**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 rules will be available to the public on the Board's website at [www.nycffb.info](http://www.nycffb.info).

**What authorizes the Board to make these rules?** Sections 1043, 1052(a)(8), and 1052(a)(15) of the City Charter, sections 3-701 *et seq.* of the City Administrative Code, section 2 of Local Law 40 for the year 2014, and section 5 of Local Law 41 for the year 2014 authorize the Board to make these proposed rules. These rules were included in the Board's regulatory agenda for the 2017 fiscal year.

**Where can I find the Board's rules?** The Board's rules are in title 52 of the Rules of the City of New York and on the Board's website at <http://www.nycffb.info/act-program/rules/>.

**What rules govern the rulemaking process?** The 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 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 and oversees and enforces the regulations related to campaign financing, and holds 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:

- contributions,
- expenditures,
- documentation,
- reporting and disclosure,
- repayment of public funds,
- candidate registration and certification,
- deductions from public funds payments,
- the video and print Voter Guides,
- transition and inauguration entities, and
- disclosure and identification of independent expenditures.

The proposed rule clarifies the provisions of certain rules, enacts substantive policy changes to enable the CFB to enforce the Campaign Finance Act (“Act”) more effectively, and minimizes administrative burdens faced by campaigns. The proposed rule will, among other things:

- eliminate the requirement that campaigns maintain a unique merchant account for accepting credit card contributions,
- reduce the effect on public funds payments of making payments for expenditures not directly in furtherance of the current campaign,
- streamline the affirmation statements for contribution cards,
- clarify the application of the spending limits, and
- reduce the administrative burdens faced by small campaigns.

The following is a summary of the substantive changes.

### **Summary of Proposed Rule**

#### **Chapter 1: General Provisions**

##### **Rule 1-02: Definitions**

A definition is added for the term “election cycle.”

A definition is added for the term “mobile fundraising vendor.”

The definition of “registered user” is moved from Rule 4-01 (Records to be Kept) to Rule 1-02 (Definitions).

The definition of “unspent campaign funds” is amended to clarify the basis upon which the Board may collect unspent campaign funds. Corresponding changes are also being made to Rule 5-03(e)(1).

#### Rule 1-04: Contributions

This rule is amended to further restrict when a participant in the City’s Campaign Finance Program (“Program”) may refund contributions. This amendment will ensure that participants who received public funds do not use the funds left in their bank accounts to refund contributions to contributors; those funds are considered public funds and must be repaid to the Board. Participants may refund contributions to donors if the Board instructs them to do so or if the contributions were received in violation of the Act, Charter, or these Rules.

A new subdivision is added to clarify that it is a violation of the Board Rules to receive a contribution in violation of state or federal law.

#### Rule 1-08(b): Making an expenditure

This rule is amended to clarify how the Board analyzes a campaign’s attribution of expenditures to primary, general, or out-year expenditure limits. This clarification will assist campaigns in planning their budgets and ensuring compliance with the spending limits throughout the election cycle.

#### Rule 1-08(d): Expenditure limits

This rule is amended to codify CFB Advisory Opinion No. 2008-4 (April 10, 2008), which was issued in response to an amendment made by section 23 of Local Law 34 for the year 2007, now codified in section 3-706(4) of the Act, which expanded the list of expenditures exempt from the expenditure limit. The opinion outlines the types of expenditures related to the post-election audit that are exempt from the expenditure limit. The proposed rule reflects current practice.

#### Rule 1-08(f): Independent expenditures

This rule is amended to add to and clarify the factors used to determine whether expenditures are independent, and the resulting burden of production of evidence where such factors exist.

The first new factor – “whether the candidate has solicited or collected funds on behalf of the person or entity making the expenditure, during the same election cycle in which the expenditure is made” – covers situations in which a candidate has fundraised for the spender, which is an indication of a relationship between the two that rises to the level of coordination.

The second new factor – “whether the candidate, or any public or private office held or entity controlled by the candidate...has retained the professional services of the person making the expenditure or a principal member or professional or managerial employee of the entity making the expenditure, during the same election cycle in which the expenditure is made” – covers situations in which campaigns and spenders share common employees within the same election cycle, thus enabling such employees to share information regarding the campaign’s plans, strategies, needs, or other considerations, or vice versa, which would constitute coordination between the campaign and the spender.

As for the existing factors, the word “retained” is being removed from the “common vendor” factor because the retention of a common employee is covered by the second new factor. A reference to an agent of the candidate and political committees authorized by the candidate is being removed, because agents and authorized committees are included in the definition of “candidate” under Rule 1-02. Additionally, the phrase “person, political committee, or other entity” has been shortened to “person or entity” because entities include political committees.

New paragraph (2) is added to clarify that the presence of any of the listed factors shifts the burden of production of evidence to candidates and spenders, who then have an affirmative obligation to provide evidence indicating that coordination did not occur, consistent with section 3-703(1)(d) of the Administrative Code (“Code”) and CFB Advisory Opinion 2009-7.

#### Rule 1-08(k): Volunteer services

The Board recognizes and approves of the common practice of volunteers later being brought on as paid employees. However, when paid employees or consultants become volunteers, there is a risk that the employee or consultant is providing the campaign with valuable services at no charge, and so making an unreported and undocumented in-kind contribution that could circumvent the spending or contribution limits. This rule is amended to clarify that participants may hire individuals who previously provided volunteer services for the campaign during the same election cycle. Participants may not, however, accept volunteer services from entities, individuals who previously provided paid professional services of a similar nature to the same campaign during the same cycle, or individuals with an ownership interest of ten percent or more in, or control over, an entity that provided paid services to the campaign during the same election cycle. This is a codification of CFB Advisory Opinion No. 2003-1 (February 11, 2003), which states that “once an individual has been compensated for a service, he or she may no longer be considered a volunteer for that service.” However, after the election, participants are permitted to accept volunteer services from individuals who previously provided paid services to the campaign.

#### Rule 1-08(p): Expenditures in furtherance of the campaign

A new subdivision is added to codify CFB Advisory Opinion No. 2007-3 (March 7, 2007), which outlines the Board’s analysis of whether an expenditure is in furtherance of a campaign. The new subdivision incorporates the opinion’s non-exhaustive list of factors considered by the Board in this analysis, which include the timing, necessity, and reporting of the expenditure; whether an unusually high proportion of funds was spent on a specific type of expenditure (e.g. food); whether a high dollar amount or proportion of payments was reported to individuals rather than entities; and whether the campaign has demonstrated a pattern of making other expenditures not in furtherance of the campaign or impermissible post-election expenditures.

#### Rule 1-11: Filer Registration

Candidates for covered offices must submit to the CFB a filer registration form containing certain required information, no later than the day they file the first disclosure statement for an election. This rule is amended in accordance with the change to Rule 4-01(b) providing that campaigns are no longer required to maintain a unique merchant account for credit card contributions. The rule is also amended to provide that candidates who anticipate raising and spending less than the amount applicable to qualify for the exception provided in section 14-124(4) of the State Election Law (currently \$1,000) may, instead of filing a filer registration form, submit a small campaign registration form. If such candidates later raise or spend more than that amount, they must submit

a full filer registration form and must file all subsequent required disclosure statements, beginning with the next filing deadline.

## **Chapter 2: Candidate Requirements**

### Rule 2-13: Identification of Communications

This rule is added to conform with the disclosure requirements in Local Law No. 40 for the year 2014, now codified in section 3-703(16) of the Code. The rule requires that, when a candidate makes an expenditure for a communication or authorizes any individual or entity to pay for a communication in support of or in opposition to any candidate in any covered election, the communication include the words “paid for by” or “authorized by” followed by the name of the candidate or the candidate’s committee.

## **Chapter 3: Campaign Finance Disclosure Statements**

### Rule 3-02(c): Pre-election disclosure statements

This rule is amended to clarify that March 15 and May 15 disclosure statements are required only at the discretion of the Board. Generally, such statements are required only during the years of regularly scheduled primary and general elections, and would not normally be required for a special election.

### Rule 3-02(e): Daily disclosures during two weeks preceding the election.

This rule is amended to clarify that during the 14 days before an election, in addition to reporting contributions and/or loans from a single source adding up to more than \$1,000, and expenditures to a single vendor adding up to more than \$20,000, candidates must also report any future contributions and/or loans from the same source, as well as any future expenditures to the same vendor. For example, if a candidate accepts, from a single source, a \$500 contribution six days before the election, a \$600 contribution five days before the election, and a \$100 contribution four days before the election, the candidate must report both the \$500 and \$600 contributions within 24 hours of when the \$600 contribution was received (since this brought the total to over \$1,000), and must also report the \$100 contribution within 24 hours of when it was received.

Additionally, the rule is amended to clarify that contributions and loans from the same source are added together for the purpose of this rule.

### Rule 3-02(f)(4): Filing dates; Small campaigns

This rule is amended to change the fundraising and spending limits that define what constitutes a small campaign, from three times the applicable contribution limit to the amount applicable to qualify for the exception provided in section 14-124(4) of the State Election Law (currently \$1,000). This will make the city and state processes the same and will reduce confusion and inconvenience for candidates. These small campaigns may submit a small campaign registration form, as provided in the amendment to Rule 1-11, and do not need to submit disclosure statements. Small campaigns that end up raising or spending above the threshold amount must submit itemized disclosure statements beginning with the first filing deadline after that amount is exceeded, the first of which must include and itemize all previous financial activity since the beginning of the campaign. This change is intended to remove administrative burdens on campaigns with limited or no financial activity.

### Rule 3-03(e)(5): Contributions to political committees

The amendment changes and clarifies the rule, which codifies the Board's conclusions in Final Determination No. 2009-1 (October 21, 2009), that a candidate report political contributions made out of his or her personal funds to non-candidate political committees that support or oppose candidates, such as state party committees.

Because the purpose of the rule is to prevent candidates from buying influence with contributions, the current threshold reporting amount, \$99, will be increased to \$400, which is the citywide doing business contribution limit. This new threshold is proposed because (i) it similarly targets influence buying, and (ii) these contributions will be presumed to be contributions from the candidate to his or her own campaign, and a contributor doing business with the city would be precluded from contributing to the campaign in excess of that amount. The amendment further clarifies that such contributions will be subject to all applicable expenditure and contribution limits. Contributions to registered independent expenditure committees must be reported, but are not subject to such limits.

Candidates may rebut the presumption that such contributions are in furtherance of their campaign by providing evidence demonstrating a prior relationship with the committee or previous contributions in similar amounts to the same or similar committees.

Finally, the amendment provides that the requirement applies only to contributions to committees that support or oppose candidates only in New York City, and not to contributions to committees that support or oppose candidates elsewhere in New York State.

### Rule 3-11: Proof of Filing with the Conflicts of Interest Board; Payment of Penalties

This rule is amended to allow the Board to independently confirm that candidates have satisfied their disclosure requirements with the Conflicts of Interest Board.

## **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. This rule is amended to streamline the record-keeping requirements for different types of contributions. A universal affirmation statement is added that is applicable to nearly all types of contributions. This will relieve campaigns of the burden of maintaining separate types of contribution cards for each type of contribution, though campaigns still must maintain certain records for each type of contribution, as detailed in the rule.

The rule is also amended to accommodate changing banking practices. For example, there has been an increase in the frequency of electronically-issued checks that do not bear an original written signature from the contributor. Additionally, confusion has resulted from contribution checks bearing professional designations such as "M.D." and "Esq." after the contributor's name, which may indicate that the contribution originated from a corporate or business account and is thus prohibited and/or not matchable. Accordingly, in order to provide additional verification of the source of the contribution, the subdivision is amended to require that contribution cards be provided for certain contributions received by check. Such contribution cards must contain contributor information, such as address and employer information, as well as the contributor's

signature, which may be compared to the signature on the check. Additionally, the amendment eliminates the requirement to maintain a unique merchant account, *i.e.*, a separate bank account to accept credit card payments, for credit card contributions; campaigns still must provide information and documentation for any merchant and/or payment processor accounts used to accept such contributions.

The rule is further amended so that merchant account statements must be provided in such form as may be required by the Board. In order to ensure that the statements contain complete and accurate information, the Board may require that campaigns authorize merchants to e-mail or otherwise transmit to the Board directly the campaign's account statements.

#### Rule 4-03(a): Record retention

This rule is amended to change how long candidates must retain all records and documents required to be kept under Rule 4-01. Currently, candidates are required to retain records and documents for six years after the date of the last election to which they relate. The amendment requires that records and documents be retained for five years after the later of: (i) the last disclosure statement filing date for such election, or (ii) when the Board has issued the candidate's final audit report and the candidate has extinguished all outstanding liabilities resulting from such election (including repayments and penalty payments to the Board). Candidates who have entered with the Board into a payment plan, under which they agree to pay in installments over time all penalties and public funds owed, must retain records and documents for five years after the later of the final filing date or the date on which the payment plan is executed. This change makes the CFB's retention period the same as that of the New York State Board of Elections, thus relieving candidates who have completed their audits within five years with both agencies from retaining records and documents for an additional year. Exceptions are provided if complications with a campaign's audit, or the campaign's failure to extinguish its outstanding liabilities, require that records and documents be retained beyond the five-year period.

### **Chapter 5: Public Funds**

#### Rule 5-01(d): Validity of matchable contribution claims and projected rate of invalid claims

Paragraph 21 of this rule is amended to provide that, regardless of when the contributions were received, contributions not contemporaneously reported as matchable in disclosure statements, or reported in statements that are not filed in a complete and timely manner, may be determined invalid claims for matching funds. Currently, to incentivize campaigns to file disclosure statements prior to the certification statements due by June 10 of an election year or risk losing the ability to claim contributions for match, such claims are considered invalid only if the contributions were received before May 12 in the year of the election. Because campaigns are now required to submit periodic disclosure statements throughout the election cycle, there is no reason to limit the rule's applicability to contributions received before May 12. Moreover, requiring all contributions submitted for match to be timely and accurately reported will facilitate an efficient audit process and the prompt issuance of public funds payments to eligible campaigns.

Paragraph 26 of this rule is repealed, so that campaigns making transfers to other political committees are not subject to both a deduction in total public funds payable, pursuant to the amendment proposed to Rule 5-01(n)(1), and a deduction in matching claims, pursuant to current Rule 5-01(d)(26).

### 5-01(n): Deductions from payments

To minimize the use of public funds for purposes other than the candidate's current election, Rule 5-01(n) provides that certain types of expenditures are deemed to be made with contributions claimed to be matchable, which usually decreases the total amount of public funds payable to the campaign. This means that for each dollar a campaign spends on such expenditures, a dollar is withheld from the campaign's total matching claims and, because of the 6-1 matching ratio, six dollars are therefore withheld from the total amount of public funds payable to the campaign. For example, if a campaign made \$1,000 in 5-01(n) expenditures, that campaign's total matching claims would be reduced by \$1,000, and its total public funds payable would thus be reduced by \$6,000.

This rule is amended so that rather than being withheld from a campaign's matching claims, these expenditures will be instead deducted from the total amount of public funds that may be awarded to a participant making such expenditures. Thus, under the amendment, the campaign making \$1,000 in 5-01(n) expenditures would have its total public funds payable reduced by \$1,000 rather than \$6,000. This eliminates the disproportionate burden on participants who make 5-01(n) expenditures that results under the current rule due to the 6-1 matching ratio.

A participant will no longer be able to counteract the effect of the withholding by submitting additional matching claims. Currently, because the amount of public funds payable is capped at 55% of the expenditure limit, a participant could submit sufficient valid matching claims to cancel out the effect of the 5-01(n) withholding, and still receive the maximum amount of public funds. For example, a candidate for City Council in 2013 could receive a maximum of \$92,400 (55% of the \$168,000 expenditure limit) in public funds. If a City Council candidate submitted matching claims sufficient to receive \$150,000 in public funds, and made \$5,000 in 5-01(n) expenditures, resulting in a withholding of \$30,000 ( $\$5,000 \times 6$ ) from his or her public funds payable amount, the payment amount would theoretically become \$120,000 ( $\$150,000 - \$30,000$ ), but would remain \$92,400 because of the cap. Under the amendment, the same candidate's \$5,000 in 5-01(n) expenditures would be deducted from its final public funds payable amount rather than the matching claims amount, resulting in a net payment of \$87,400 ( $\$92,400 - \$5,000$ ).

Currently, participants may make contributions in small quantities to other political committees without incurring a public funds deduction, pursuant to the "safe harbor" provided by section 3-705(8) of the Code. The safe harbor acknowledges that candidates may make contributions in modest amounts to other candidates to promote their own campaigns. This amendment establishes a similar safe harbor for independent expenditures by participants that is in addition to, and equal in amount to, the one provided by section 3-705(8) of the Code. This will allow participants to use public funds in modest quantities for expenditures that promote both their and other candidates' campaigns, without incurring a deduction.

The amendment further provides that expenditures to further the participant's election to the position of City Council Speaker will be subject to this deduction because such expenditures do not further the participant's election to a covered office.

Additionally, the rule currently provides that a participant may rebut the presumption that an expenditure is subject to a 5-01(n) deduction by demonstrating that the expenditure was for a tangible item that promotes the candidate's campaign. This amendment clarifies that that provision is limited to spending for other political party committees and political clubs, and does not apply to expenditures made for other candidates, including independent expenditures and in-kind contributions.

The amendment further provides that any funds remaining in a segregated bank account established pursuant to Rule 5-01(n) after the election must be returned, on or before January 1 in the year following the election, to the contributors whose contributions were deposited into the account.

#### Rule 5-03(e)(1): Unspent campaign funds

The Act provides for the candidate's repayment of public funds based on, among other factors, the amount of unspent funds. This rule is amended so that unspent funds will be calculated based on the remaining balance in a participant's authorized committee bank account on January 11 in the year following the election, unless the participant demonstrates that the funds were depleted in compliance with the Act and these Rules, i.e., that they were used for permissible post-election expenditures pursuant to Rule 5-03(e)(2)(ii). The amendment further provides that if a participant repays his or her entire bank balance to the Fund on or before December 31 in the year of the election, that participant will be presumed not to have an unspent funds calculation, provided that all financial activity has been and continues to be conducted in compliance with the Act and Board rules.

### **Chapter 10: Voter Education**

#### Rule 10-02(b): Candidate statements

This rule, regarding candidate print and video statements for the Voter Guide, is amended to remove the prohibition against candidates wearing pins or buttons in the photographs and videos they submit to the Board.

### **Chapter 11: Transition and Inauguration Activities**

#### Rule 11-04: Restrictions

After an election, an elected official may establish a transition and inauguration entity ("TIE") to make expenditures related to the transition to office and the inauguration. This rule is amended to require that TIEs be terminated no later than April 30 in the year after the election, or 60 days after inauguration in the case of a special election. This will facilitate speedy transitions and encourage candidates with TIEs to resolve any outstanding issues in a timely manner.

The rule is amended to clarify that loans to a TIE made after the date of the candidate's inauguration are considered donations to the TIE.

Finally, the rule is amended to allow candidates to make unlimited donations to their own TIEs from their personal funds, even if the TIE also receives donations from others. Currently, candidates are required to choose between self-funding or accepting outside donations; if they choose the latter, donations from their personal funds are subject to the same limits. This change will allow elected officials to rely more heavily on their personal funds than on donations received from outside parties, even if they cannot afford to self-fund a TIE in its entirety, which will reduce the opportunity for and appearance of corruption by minimizing the role played by donations to office holders.

## **Chapter 13: Disclosure of Independent Expenditures**

### Rule 13-01: Definitions

The definition of “independent spender” is amended to include agents of independent spenders, ensuring that such agents are subject to these rules and may be subject to liability for penalties upon a determination of violation.

The definitions of “member” and “stockholder” are removed, as Local Law No. 15 of 2013, now codified in section 1052(a)(15)(a)(i)(5) of the Charter, exempted certain communications directed toward members and stockholders from the definition of “independent expenditure”.

The definition of “principal owner” is added in order to conform with Local Law No. 41 of 2014, now codified in sections 1052(a)(15)(b) and (c) of the Charter, which requires that disclosure of contributions received by an independent spender include, among other information, the owners of any entity contributing to the independent spender on or after the first day of the calendar year preceding the covered election.

### Rule 13-02: Disclosure Statements

The rule is amended, consistent with Local Law No. 41 of 2014 and State Election Law §14-107(4), to require that independent spenders provide employer information and copies of communications as they were distributed to the public.

The rule is also amended to remove the member/stockholder exemption. Local Law No. 15 of 2013, now codified in section 1052(a)(15)(a)(i)(5) and (6) of the Charter, amended the definition of “independent expenditure” to exclude any communication by a labor or other membership organization aimed at its members, or by a corporation aimed at its stockholders.

The rule is amended, consistent with Local Law No. 41 of 2014, to require that disclosure of contributions received by independent spenders from entities covers contributions received on or after the first day of the calendar year preceding the election and includes the entity’s principal owners, partners, and board members and officers, or their equivalents, or, if no natural persons exist in any such role, the name of at least one natural person who exercises control over the activities of such entity. Additionally, such spenders must disclose information about any entity or individual who, in the twelve months preceding the covered election, contributed \$25,000 or more to a major contributor, defined as any entity that, during the same period, contributed \$50,000 or more to the spender. Such information must include the name, address, and type of any entity that, and the name, residence address, occupation, and employer of each individual who, contributed \$25,000 or more to the major contributor.

### Rule 13-04: Identification of Communications

This rule is amended to add the expanded identification requirements in Local Law No. 41 of 2014. Independent spenders must now include specific language, the substance and form of which varies depending on the type of communication, identifying the spender’s controlling individuals or entities and its top donors. All required written or spoken identification must be in the primary language of the communication, except that the web address (“nyc.gov/followthemoney”) must be in English.

The rule is also amended to delete the member/stockholder exemption, and to exempt candidate communications that must already be disclosed pursuant to Local Law No. 40 of 2014.

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, section 2 of Local Law No. 40 of 2014, and section 5 of Local Law No. 41 of 2014.

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. The definition of "unspent campaign funds" in section 1-02 of chapter 1 of title 52 of the rules of the city of New York is amended, and three new definitions in alphabetical order are added, to read as follows:**

"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.

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

"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.

"Unspent campaign funds" means[, for a participant who received public funds, the amount to be repaid to the Board under §3-710(2)(c) of the Code. This amount equals: (1) monetary contributions; plus (2) other receipts; plus (3) public funds; plus (4) loans; accepted in all elections in which the candidate was a participant held in a single calendar year or a special election; minus (5) all disbursements, including loan repayments and contribution refunds, and all outstanding debt incurred by the participant in all reporting periods for those elections, but excluding any disbursements determined by the Board not to have been made in furtherance of a political campaign for a covered election such as disbursements listed in §3-702(21)(b) of the Code and any disbursements for which the presumption set forth in subparagraphs one through eleven of §3-702(21)(a) of the Code has been rebutted. The amount of unspent campaign funds may not exceed the total public funds accepted by the participant. Funds received and disbursements made after the date of the issuance of the participant's final audit report shall not be included in the participant's unspent funds calculation] the amount a participant may be required to repay to the Board pursuant to § 3-710(2)(c) of the Code.

**§ 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. [Because participants must repay to the Board unspent campaign funds after an election, participants receiving public funds must accept and deposit all monetary receipts received for an election. A participant may not reject or return any contributions received before the first January 12 after the election once he or she has received public funds, 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 involved, or (iv) was deposited in a separate account pursuant to Rule 2-06(c) for a runoff election that is not held.] After receiving public funds for an election, a participant may not return a contribution until any required repayments to the Fund have been made, unless: (i) directed to return a contribution by the Board, or (ii) the participant knows or has reason to know that he or she accepted (A) a prohibited contribution, or (B) a contribution, or aggregate contributions from a single source, in excess of the applicable contribution limit, including a contribution or contributions from a contributor having business dealings with the city, in which case the candidate must promptly return the prohibited contribution or excess portion above such limit as described in paragraph (1) of this subdivision. Notwithstanding the foregoing, contributions deposited into a segregated account pursuant to Rule 5-01(n)(2), and contributions deposited into a separate account pursuant to Rule 2-06(c) for a runoff election that is not held, may be returned without restriction.

**§ 3. Section 1-04 of chapter 1 of title 52 of the rules of the city of New York is amended to add a new subdivision (s) to read as follows:**

(s) Candidates may not accept a contribution in violation of state or federal law.

**§ 4. 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 committee of the same candidate, 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)[(8)](4), respectively.

**§ 5. Subdivision b of section 1-08 of chapter 1 of title 52 of the rules of the city of New York is amended to add three new paragraphs to read as follows:**

(b) Making an expenditure. As provided and described in §3-706 (1) and (2) of the Code, an expenditure for goods or services is made when the goods or services are received, used, or rendered, regardless when payment is made. Expenditures for goods or services received, used, or rendered in more than one year, including campaign websites, shall be attributed in a reasonable manner to the expenditure limits of §3-706(1) or (2) of the Code, as appropriate.

(1) Expenditures for campaign advertising or other campaign communications shall be attributed to the expenditure limit in effect when the advertisement or communication is distributed, broadcast, or published. For the purposes of this paragraph, "campaign advertising or other campaign communications" shall not include a campaign website. A communication that is mailed shall be considered to have been "distributed" on the date on which it was postmarked.

(2) Expenditures for services performed or deliverables provided over a period that includes both the primary and the general elections shall be attributed in a reasonable manner to the expenditure limits of § 3-706(1) and (2) of the Code, as appropriate.

(3) Notwithstanding the requirements of this subdivision, the Board may require a candidate to demonstrate that an expenditure should be attributed to the expenditure limit provided in §3-706(1) or (2) of the Code, as appropriate, based on the timing, nature, and purpose of the expenditure.

**§ 6. Paragraph 4 of subdivision d of section 1-08 of chapter 1 of title 52 of the rules of the city of New York is amended to read as follows:**

(4) Exempt expenses.

(i) The following shall not be subject to the expenditure limits:

[(i)] (A) expenses made for the purpose of bringing or responding to any action, proceeding, claim or suit before any court or arbitrator or administrative agency to determine a candidate's or political committee's compliance with the requirements of this chapter, including eligibility for public funds payments, or pursuant to or with respect to election law or other law or regulation governing candidate or political committee activity or ballot status;

[(ii)] (B) expenses to challenge or defend the validity of petitions of designation or nomination or certificates of nomination, acceptance, authorization, declination or substitution, and expenses related to the canvassing or re-canvassing of election results; and

[(iii)] (C) expenses related to the post-election audit, except as provided in subparagraph (ii) of this paragraph.

(ii) Exempt expenses related to the post-election audit shall include pre-election expenses for organizing and copying existing records in preparation for submission during the post-election audit, but shall not include pre-election expenses for:

(A) Ordinary compliance activities, such as the review of records to identify missing documents, evaluating whether documents meet Board standards, and identifying, preventing, and correcting any potential violation;

(B) Post-election work for which an invoice is issued or paid prior to the election;

(C) Salaries or other payments to campaign managers, finance chairpersons, treasurers, accountants, advisors, or other consultants;

(D) Legal or accounting fees;

(E) Costs associated with record creation and retention;

(F) Costs associated with running an office or business, such as standard bookkeeping, maintaining checkbook registers, petty cash journals, bank records, and loan records;

(G) Bookkeeping for payroll or vendor payments; and

(H) Other standard practices that political committees routinely perform as entities that raise and spend funds.

**§ 7. Subdivision f of section 1-08 of chapter 1 of title 52 of the rules of the city of New York is amended to read as follows:**

(f) Independent expenditures. (1) [Factors for determining whether an expenditure is independent include, but are not limited to] In determining whether an expenditure is independent, the Board may consider any of the factors from the following non-exhaustive list:

(i) whether the person[, political committee,] or [other] entity making the expenditure is also an agent of a candidate;

(ii) whether [the treasurer of, or other] any person authorized to accept receipts or make expenditures for[, the person[, political committee,] or [other] entity making the expenditure is also an agent of a candidate;

(iii) whether a candidate has authorized, requested, suggested, fostered, or otherwise cooperated in any way in the formation or operation of the person[, political committee,] or [other] entity making the expenditure;

(iv) whether the person[, political committee,] or [other] entity making the expenditure has been established, financed, maintained, or controlled by any of the same persons[, political committees,] or [other] entities as those [which] that have established, financed, maintained, or controlled a political committee authorized by the candidate;

(v) [whether the person, political committee, or other entity making the expenditure and the candidates have each retained, consulted, or otherwise been in communication with the same third party or parties, if the candidate knew or should have known that the candidate's communication or relationship to the third party or parties would inform or result in expenditures to benefit the candidate; and

(vi)] whether the candidate[, any agent of the candidate, or any political committee authorized by the candidate] shares or rents space for a campaign-related purpose with or from the person[, political committee,] or [other] entity making the expenditure;

(vi) whether the candidate has solicited or collected funds on behalf of the person or entity making the expenditure, during the same election cycle in which the expenditure is made;

(vii) whether the candidate, or any public or private office held or entity controlled by the candidate, including any governmental agency, division, or office, has retained the professional services of the person making the expenditure or a principal member or professional or managerial employee of the entity making the expenditure, during the same election cycle in which the expenditure is made; and (viii) whether the candidate and the person or entity making the expenditure have each consulted or otherwise been in communication with the same third party or parties, if the candidate knew or should have known that the candidate's communication or relationship to the third party or parties would inform or result in expenditures to benefit the candidate.

(2) Where one or more of the factors listed in paragraph (1) of this subdivision is present, there shall be a rebuttable presumption that an expenditure made by the person or entity on behalf of the candidate is not independent, and the candidate and the person or entity making the expenditure shall each bear the burden of producing evidence to demonstrate that such expenditure was made independently.

(3) Financing the dissemination, distribution, or republication of any broadcast or any written, graphic, or other form of campaign materials prepared by a candidate is a contribution to, and

an expenditure by, the candidate, unless this activity was not in any way undertaken, authorized, requested, suggested, fostered, or otherwise cooperated in by the candidate.

[(3)] (4) An expenditure for the purpose of promoting or facilitating the nomination or election of a candidate, which is determined not to be an independent expenditure, is a contribution to, and an expenditure by, the candidate.

[(4)] (5) (i) Communication between, or common agents shared by, parties and their nominees will not require a conclusion that all spending by the party's constituted committees and party committees in an election is an in-kind contribution to the nominee. The following expenditures made by party committees or constituted committees are not considered in-kind contributions to a candidate unless it is demonstrated that the candidate in some way cooperated in the expenditure and that the expenditure was intended to benefit that candidate:

(A) materials or activities that promote the party, or oppose another party, by name, platform, principles, history, theme, slogans, issues, or philosophy, without reference to particular candidates in an upcoming election subject to the requirements of the Act.

(B) materials or activities in connection with candidates and elections not subject to the requirements of the Act.

(C) training, compensating, or providing materials for poll watchers appointed by the party pursuant to New York Election Law §8-500.

(D) promoting party enrollment or voter turnout without reference to particular candidates in an upcoming election subject to Program requirements, including research, polling, recruitment of party employees and volunteers, and development and maintenance of voter and contributor lists.

(E) raising funds for the party without reference to particular candidates in an upcoming election subject to the requirements of the Act.

(F) mailing of absentee ballot applications in a special or general election in which an office not subject to the requirements of the Act is on the ballot.

(ii) The Board may require a candidate to demonstrate in any proceeding before the Board that any of the following expenditures that are made by a party committee or constituted committee are not in-kind contributions to the candidate:

(A) expenditures for materials or activity that include an electioneering message about a clearly identified candidate for a covered election.

(B) expenditures for advertisements, broadcasting, mailings, or electronic media for a candidate or against his or her opponent, including a home page on the Internet.

(C) expenditures for which the candidate has, without making public disclosure of an outstanding liability in a timely manner, promised or made reimbursement or other payment to the party committee or constituted committee. These expenditures will be considered in-kind contributions during the time preceding the reimbursement or other payment by the candidate.

[(5)] (6) If candidates announce they are running together as a "ticket" for which they have chosen to join together in a broad spectrum of activities to promote each other's election, the Board will presume that expenditures made by one candidate's campaign for materials or activities that clearly identify the other candidate are in-kind contributions to the second candidate. The following factors would increase the burden a candidate would have in overcoming this presumption: (i) the campaigns have staff, consultants, office space, or telephone lines in common; (ii) other in-kind contributions, expenditure refunds, advances, or joint expenditures have been made between these campaigns. If the expenditures are in-kind contributions, the expenditures are subject to the apportionment requirements of Rule 1-08(h).

**§ 8. Subparagraph xiii of paragraph 2 of subdivision g of section 1-08 of chapter 1 of title 52 of the rules of the city of New York is amended to read as follows:**

(xiii) any payment that is not made or reimbursed from an account disclosed by the participant pursuant to Rule 1-11[(d)](a)(iv) or 2-01(a);

**§ 9. Subdivision k of section 1-08 of chapter 1 of title 52 of the rules of the city of New York is amended to read as follows:**

(k) Volunteer services. [After receiving public funds for an election, participants shall] Participants may not pay volunteers for services already performed on a voluntary basis for that election, but may hire them as paid employees or retain them as consultants for future services. Participants may not accept professional services on a volunteer basis from individuals who previously provided, on a paid basis, services of a similar nature to the same campaign during the same election cycle. Participants may not accept volunteer services from any entity, or from an individual having an ownership interest of ten percent or more in, or control over, any entity that provided paid services to the same campaign during the same election cycle. Notwithstanding the foregoing, after the election, participants may accept volunteer services from individuals who previously provided paid services.

**§ 10. Section 1-08 of chapter 1 of title 52 of the rules of the city of New York is amended to add a new subdivision (p) to read as follows:**

(p) Expenditures not in furtherance of the campaign. In determining whether or not an expenditure is in furtherance of a candidate's nomination or election, the Board may consider any of the factors from the following non-exhaustive list:

- (1) the timing of the expenditure;
- (2) whether the campaign has already purchased duplicative services or equipment;
- (3) the nature of the goods or services purchased;
- (4) whether an unusually high proportion of funds was spent on a specific category of expenditure;
- (5) whether a high total dollar amount or proportion of payments was made to individuals rather than to entities;
- (6) whether the campaign has demonstrated a pattern of making other expenditures not in furtherance of the campaign or impermissible post-election expenditures; and
- (7) whether an expenditure made less than one month prior to the election, or after the election, is accompanied by the reporting of a corresponding outstanding liability.

**§ 11. Subdivision c of section 1-09 of chapter 1 of title 52 of the rules of the city of New York is amended to read as follows:**

(c) Documentation. Disclosure statements will not be deemed complete unless submitted with the records required by [§§] Rules 3-04(a) and 4-01(b)(2)[,] and (3)[, and (6)] for each matchable contribution claimed in the disclosure statement.

**§ 12. Section 1-11 of chapter 1 of title 52 of the rules of the city of New York is amended to read as follows:**

§1-11 Filer Registration.

(a) Not later than the day that a candidate files the first disclosure statement for an election, the candidate shall submit a filer registration form. The filer registration form shall include:

[(a)] (1) the candidate's name, address information and telephone numbers, e-mail address, and employment information;

[(b)] (2) the name and mailing address, and treasurer name, treasurer address information and telephone numbers, treasurer e-mail address, and treasurer employment information, of every political committee authorized by the candidate that has not been terminated, and, in the case of a participant or limited participant, an indication of which such committee is the principal committee;

[(c)] (3) the name, mailing address, e-mail address, and telephone number of any person designated by the candidate to act as liaison with the Board for each committee filing disclosure statements;

[(d)] (4) identification of all bank accounts and other depository accounts, including merchant and payment processor accounts, into which receipts have been, or will be, deposited, and all bank accounts used for the purpose of repaying debt from a previous election; and

[(e)] (5) other information as required by the Board.

(b) The candidate shall notify the Board of any material change, including any new information, or any change to any required information, concerning any political committee, bank account, [unique] merchant or payment processor account, candidate or treasurer employment, address, telephone number, or e-mail address, in the filer registration form in such manner as may be provided by the Board. The candidate shall notify the Board of any such changes no later than the next deadline for filing a disclosure statement, or, in the case of changes that occur after the deadline for the last disclosure statement required to be filed, no later than 30 days after the date of the change; provided, however, that if the candidate has extinguished all outstanding liabilities resulting from the election to which the filer registration relates, including payment of any penalties and/or repayment of public funds owed to the Board, the candidate need not notify the Board of any material change to the filer registration information after the date the candidate's final audit report is issued, except as provided in Rule 4-03(b).

(c) Small campaign registration. If neither the expected total cumulative receipts nor the expected total cumulative expenditures of a candidate, including expenditures made with the candidate's personal funds, exceeds an amount equal to the amount applicable to qualify for the exception provided in section 14-124(4) of the State Election Law, the candidate may, instead of submitting a filer registration form, submit a small campaign registration form, which must contain such information as may be required by the Board. The small campaign registration form must also include an affirmation stating that neither the total cumulative receipts nor the total cumulative expenditures of the candidate, including expenditures made with the candidate's personal funds, will exceed the amount applicable to qualify for the exception provided in section 14-124(4) of the State Election Law, and that if such amount is exceeded, the candidate will submit a filer registration form and all subsequent required disclosure statements, beginning on or before the deadline to file the next disclosure statement.

[(f)] (d) Applicable requirements. Because the requirements of the Act and these Rules apply to financial transactions that take place before a participant or limited participant joins the

Program, the Board advises candidates to comply with all applicable requirements set forth in the Act and these Rules, in anticipation of joining the Program.

[(g)] (e) Construction. The submission of a filer registration form, or an amendment thereto, shall not be construed as a statement of intent to become a candidate, to run for any particular office, or to join the Program.

**§ 13. Chapter 2 of title 52 of the rules of the city of New York is amended to add a new section 2-13 to read as follows:**

Section 2-13 Identification of communications

(a) When a candidate makes expenditures for any literature, advertisement, or other communication, the communication must include the words "paid for by" followed by the first and last name of the candidate or the name of the candidate's authorized committee, or, if the candidate has more than one authorized committee, the candidate's principal committee; provided that, if the name of the committee does not include the first and/or last name of the candidate, then the words "paid for by" must be followed by the first and last name of the candidate, either instead of or in addition to the name of the committee.

(b) When a candidate authorizes any individual or entity, other than the candidate, to pay for any literature, advertisement, or other communication in support of or in opposition to any candidate in any covered election, the communication must include the words "authorized by" followed by the first and last name of the candidate or the name of the candidate's authorized committee, or, if the candidate has more than one authorized committee, the candidate's principal committee; provided that, if the name of the committee does not include the first and/or last name of the candidate, then the words "authorized by" must be followed by the first and last name of the candidate, either instead of or in addition to the name of the committee.

(c) The identification required by subdivision a or b of this section must be in the following form:

(1) For printed material, an internet advertisement, or a website, the identification must be written in a font of conspicuous size and style and contained in a box within the borders of the communication.

(2) For a communication broadcast on radio, the identification must be clearly spoken at the beginning or end of the communication.

(3) For a communication broadcast by television, satellite, cable, or similar medium, the identification must be clearly spoken at the beginning or end of the communication and, simultaneous with the spoken disclosure, written in a font of conspicuous size and style contained in a box within the borders of the communication.

(4) For a telephone communication, the identification must be clearly spoken at the beginning or end of the communication. If the identification is spoken at the end of the communication, then the name of the candidate must also be clearly spoken at the beginning of the call.

(d) For communications primarily in a language other than English, all required written or spoken identification required by this rule must be in such language.

(e) This requirement may be modified by the Board concerning items upon which identification would be impractical.

**§ 14. Subdivisions c and d of section 3-02 of chapter 3 of title 52 of the rules of the city of New York are amended to read as follows:**

(c) Pre-election disclosure statements: Pre-election disclosure statements are due 32 and 11 days before the election and, at the Board's discretion, on or by March 15 and May 15 in the year of the election. In a runoff election, the only pre-election statement is due 4 days before the election.

(d) Post-election disclosure statements: Post-election disclosure statements are due 27 days after the election, except in the case of a primary or runoff primary election, the disclosure statement is due 10 days after the election, and in the case of a runoff special election, disclosure statements are due both 27 days after the election and on the first January 15 or July 15 following the date of the runoff special election. Candidates in the special election must file both post-runoff special election disclosure statements regardless whether they were on the ballot in the runoff special election.

**§ 15. Subdivision e of section 3-02 of chapter 3 of title 52 of the rules of the city of New York is amended to read as follows:**

(e) Daily disclosures during two weeks preceding the election. If a candidate, during the 14 days preceding an election, [(1)] accepts aggregate contributions and/or loans from a single source in excess of \$1,000[,] or [(2)] makes aggregate expenditures to a single vendor in excess of \$20,000, the candidate shall report, in a disclosure to the Board, all [such] contributions[,] and loans[, or expenditures to the Board in a disclosure, which] accepted from such source or expenditures made to such vendor during that 14-day period. The first such disclosure must be received by the Board within 24 hours after the contribution[,] or loan[, or expenditure] that causes the total to exceed \$1,000 [(in the case of contributions or loans)] is accepted or the expenditure that causes the total to exceed \$20,000 [(in the case of expenditures)] is [accepted or] made. Each subsequent disclosure must be received by the Board within 24 hours after the contribution or loan is accepted or expenditure is made. Information reported in these [daily] disclosures must also be included in the candidate's next post-election disclosure statement.

**§ 16. Paragraph 4 of subdivision f of section 3-02 of chapter 3 of title 52 of the rules of the city of New York is amended to read as follows:**

(4) Small campaigns. A candidate who has filed a small campaign registration form pursuant to Rule 1-11(c) need not submit [full] disclosure statements if neither the total cumulative receipts nor the total cumulative expenditures of the candidate exceeds an amount equal to [three times the contribution limit applicable under the Act] the amount necessary to qualify for the exception provided in section 14-124(4) of the State Election Law. [On each disclosure statement filing date for which an exception is not provided pursuant to paragraph (1) or (2), the treasurer shall verify, in a manner provided by the Board, that full disclosure statements are not required to be submitted pursuant to this paragraph.] If a candidate who has filed a small campaign registration form raises or spends an amount exceeding the amount necessary to qualify for the exception provided in section 14-124(4) of the State Election Law, the candidate must submit all subsequent required disclosure statements, beginning on or before the deadline to file the next disclosure statement. The first such statement filed must include all prior financial activity beginning at the inception of the campaign.

**§ 17. Paragraph 2 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:**

(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 committee of the same candidate: (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)[(8)](4).

**§ 18. Paragraph 5 of subdivision e 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:**

(5) Contributions to political committees. Political contributions [of more than \$99] to political committees [(except political committees of other candidates)] that support or oppose candidates in New York City [and throughout New York State,] (except political committees of other candidates), including state party committees, that are made by a candidate with his or her personal funds and that, in the aggregate for any single political committee, exceed the contribution limit applicable to the offices of mayor, public advocate, and comptroller for contributors having business dealings with the city pursuant to section 3-703(1-a) of the Code, are presumed to be expenditures in furtherance of [his or her] the candidate's campaign and contributions from the candidate to the candidate's campaign, and, as such, must be reported to the Board. The candidate may rebut this presumption by providing evidence indicating that the contributions were not in furtherance of the candidate's campaign. Such contributions are subject to all applicable expenditure and contribution limits, except that contributions made to committees registered with the New York State Board of Elections and/or the Federal Election Commission as independent expenditure committees are not subject to such limits. Candidates must create and maintain records of such contributions.

**§ 19. Subdivision a of section 3-04 of chapter 3 of title 52 of the rules of the city of New York is amended to read as follows:**

(a) Threshold; Back-up documentation. A participant's disclosure statement shall indicate whether he or she has met the Act's threshold for eligibility for public funds. Participants shall submit with each disclosure statement a copy of the records required to be maintained pursuant to Rules 4-01(b)(2)[,] and (3)[, and (6)] for each matchable contribution claimed in the disclosure statement. A matchable contribution claim will be invalidated unless the records that are required to be maintained pursuant to Rules 4-01(b)(2)[,] and (3)[, and (6)] are submitted with the disclosure statement in which the contribution is reported. Matchable contribution claims determined by the Board to be invalid pursuant to the Act and these Rules shall not be counted toward a participant's threshold for eligibility for public financing. This rule applies to candidates seeking to preserve matchable contribution claims received prior to filing a certification with the Board pursuant to §3-703(12)(a) of the Code.

**§ 20. Subdivision a of section 3-11 of chapter 3 of title 52 of the rules of the city of New York is amended to read as follows:**

(a) Requirements. [Participants shall file a copy of a receipt indicating proof of compliance with] In order to be eligible to receive public funds, a participant must comply with the requirements in § 12-110 of the Code, including payment of any penalties assessed by the conflicts of interest board. [A receipt that is not filed timely] The Board may obtain confirmation of the participant's compliance from the conflicts of interest board. The failure of a participant to demonstrate such compliance by the deadline established by the conflicts of interest board may result in a delay of

any payment by the Board of public funds the participant may otherwise be eligible to receive until the [Board next makes payment determinations following the submission of the next disclosure statement such participant is required to file with the Board pursuant to Rules 3-02(b), (c), or (d)] next scheduled payment date.

(1) Due dates. [The receipt] A participant may submit proof of compliance with the Board and such proof shall be considered timely [filed] submitted if it is [filed with] submitted to the Board on or prior to the last business day of July in the year of the covered election, except as provided by paragraph (2).

(2) Special election due dates. In the case of a special election, if the deadline for filing financial disclosure reports with the conflicts of interest board pursuant to § 12-110(b)(2) of the Code is before the due date for the first disclosure statement required to be filed with the Board pursuant to [§] Rule 3-02(a)(2), the [receipt] participant's compliance with the requirements in § 12-110 of the Code shall be considered timely [filed] demonstrated to the Board if [it is filed with the Board on or prior to the due date for filing this disclosure statement with the Board] the Board receives confirmation of the participant's compliance on or prior to the disclosure statement due date. If the deadline for filing financial disclosure reports with the conflicts of interest board pursuant to § 12-110(b)(2) of the Code is on or after the due date for the first disclosure statement required to be filed with the Board pursuant to [§] Rule 3-02(a)(2), the [receipt] participant's compliance with the requirements in § 12-110 of the Code shall be considered timely [filed] demonstrated to the Board if [it is filed with the Board] the Board receives confirmation of the participant's compliance no later than one business day after the last day for filing disclosure reports with the conflicts of interest board.

**§ 21. 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) Receipts. (1) Deposit slips. Candidates shall maintain copies of all deposit slips. The deposit slips shall be grouped together with the monetary instruments representing the receipts deposited into the bank or other depository accounts held by the candidate for an election, unless the candidate maintains other records that show, in a manner that similarly facilitates expeditious review, when these receipts were deposited. Where the bank or depository does not provide itemized deposit slips, candidates shall make a contemporaneous written record of each deposit. Such written record shall indicate the date of the deposit, the source and amount of each item deposited, whether each item deposited was a check, a money order, or cash, the name and title of the individual who made the deposit, and the total amount deposited.

(2) Photocopies of checks and other monetary instruments. Candidates shall maintain a photocopy of each check or other monetary instrument representing a contribution or other monetary receipt. In order for a contribution in the form of a check signed by an authorized agent of the contributor to be matchable, participants must maintain:

[(a)](i) a copy of the check upon which is printed the name of the actual contributor; and

[(b)](ii) a document, signed by the contributor, which indicates:

[(i)](A) that the person signing the check is authorized to do so;

[(ii)](B) the date and amount of the contribution; and

[(iii)](C) the principal committee's name.

(3) [Cash and money order contribution cards] Contribution records.

(i) For each [cash and money order] contribution received, [participants and non-participants] all candidates shall maintain [a separate written record containing: (A) the contributor's name; (B) the contributor's residential address; (C) the amount of the contribution and; (D) the authorized committee's name. (ii) This record shall be signed by the contributor or, if the contributor is

unable to sign his or her name, marked with an "X" and signed by a witness to the contribution. Adjacent to the signature, the contributor shall write the date on which he or she signed or marked the contribution card. The following statement shall be placed above the line for the contributor's signature: "I understand that State law requires that a contribution be in my name and be from my own funds. I hereby affirm that this contribution is being made from my personal funds, is not being reimbursed in any manner, and is not being made as a loan."] 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 via cash or money order, the record must be in the form of a contribution card filled out by the contributor that contains the contributor's name and residential address, the amount of the contribution, the authorized committee's name, and the contributor's selection of an instrument code corresponding to the instrument used to make the contribution. The card 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. The Board shall provide a template of this card.

(B) 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) The candidate must also maintain a contribution card filled out by the contributor, 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.

(3) Check contribution cards must contain the contributor's name and residential address, the amount of the contribution, the authorized committee's name, and the contributor's selection of an instrument code corresponding to the instrument used to make the contribution. The card 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. The Board shall provide a template of this card.

(C) 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. 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) 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, the candidate must maintain a contribution card filled out by the contributor that contains the contributor's name and residential address; credit card account type, account number, and expiration date; the amount of the contribution; the authorized committee's name; and the contributor's selection of an instrument code. The card 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. The Board shall provide a template of this 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) 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) Segregated account documentation.

(1) Segregated account contribution cards. For each contribution 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 filled out by the contributor and must contain: the contributor's name and residential address, contribution amount, and the contributor's selection of an instrument code. The card 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. The Board shall provide a template of this 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) 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 a contribution card filled out by the intermediary. The intermediary contribution card 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.

(ii) Affirmation statements.

(A) Unless otherwise specified herein, above the line for the contributor's signature, contribution cards must state: "I understand that State law requires that a contribution be in my name and be from my own funds. I hereby affirm that I was not, nor, to my knowledge, was anyone else, reimbursed in any manner for this contribution; this contribution is not being made as a loan; and this contribution is being made from my personal funds or my personal account, which has no corporate or business affiliation."

(B) For text message contributions, the candidate must maintain records demonstrating that the contributor has certified via text message the following statement: "I certify I am the registered user of this phone and will pay the amount specified from my personal funds."

(C) Segregated account contribution cards must state, above the line for the contributor's signature: "I understand that this entire contribution will be used only (i) to pay expenses or debt from a previous election; (ii) by the candidate for an election other than the election for which this contribution is made; or (iii) to support candidates other than the candidate to whose campaign this contribution is made, political party committees, or political clubs. I further understand that this contribution will not be matched with public funds. I understand that State law requires that a contribution be in my name and be from my own funds. I hereby affirm that I was not, nor, to my knowledge, was anyone else, reimbursed in any manner for this contribution; this contribution is not being made as a loan; and this contribution is being made from my personal funds or my personal account, which has no corporate or business affiliation."

(D) Intermediary statements must state, above the line for the intermediary's signature: "I hereby affirm that I did not, nor, to my knowledge, did anyone else, reimburse any contributor in any manner for his or her contribution, and that none of the submitted contributions were made by the contributor as a loan. The making of false statements in this document is punishable as a class E felony pursuant to § 175.35 of the Penal Law and/or a Class A misdemeanor pursuant to § 210.45 of the Penal Law."

(iii) A contribution card [which] that contains any additional information and signatures required by Rule 5-01(n)(2) shall also satisfy the requirements of that Rule.

[(4) Text message contributions. For the purposes of this rule, "registered user" shall mean the individual registered with the wireless carrier to use the specific mobile device from which the contribution was initiated. Whenever a candidate accepts a text message contribution, the candidate must maintain:

(a) 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;

(b) records demonstrating:

(1) the contributor's name, residential address, and phone number,

(2) the amount of the contribution,

(3) the name and residential address 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; and

(4) that the contributor has certified via text message the following statement: "I certify I am the registered user of this phone and will pay the amount specified from my personal funds.";

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

(d) 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.

(5) Intermediary contribution statements. For each instance in which a candidate accepts contributions from an intermediary, including any contributions delivered to a fundraising agent, or receives contributions solicited by an intermediary where such solicitation is known to the candidate, the candidate shall maintain a separate written record of the intermediary's name, residential address, employer and business address as well as the names of the contributors and the amounts contributed. This record shall contain the statement: "I hereby affirm that I did not, nor to my knowledge, did anyone else, reimburse any contributor in any manner for his or her contribution and none of the submitted contributions was made by the contributor as a loan." This record shall be signed by the intermediary, or if the intermediary is unable to sign his or her name, marked with an "X" and signed by a witness. In addition, the record shall contain the following statement: "The making of false statements in this document is punishable as a class E felony pursuant to section 175.35 of the Penal Law and/or a Class A misdemeanor pursuant to section 210.45 of the Penal Law."

(6) Credit card contributions. For each instance in which a candidate accepts contributions by credit card, including contributions received over the Internet, the candidate shall maintain a copy of the unique merchant account agreement as well as copies of 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), and a separate written record of the contributor's name, residential address, credit card account type, credit card account number, and credit card expiration date. This record shall contain the statement: "I understand that State law requires that a contribution be in my name and be from my own funds. I hereby affirm that this contribution is being made from my personal credit card account, billed to and paid by me for my personal use, and having no corporate or business affiliation, and is not being made as a loan." This record shall be signed by the contributor, or if the contributor is unable to sign his or her name, marked with an "X" and signed by a witness. Adjacent to the signature or mark, the contributor or witness shall write the date on which he or she signed the record. The Board shall provide a specimen of this card. Notwithstanding the requirements of this paragraph, in the case of credit card contributions made over the Internet, authorization cards need not be signed by the contributor. In addition, if the candidate accepts credit card contributions over the Internet, the candidate shall maintain a copy of all website content concerning the solicitation and processing of credit card contributions.

(7) Segregated Account Contribution Cards. Participants shall maintain a written record of the contributor's name, residential address, contribution amount, and date for each contribution which the participant deposits into a segregated bank account pursuant to Rule 5-01(n)(2). The record shall be signed by the contributor or, if the contributor is unable to sign his or her name, marked with an "X" and signed by a witness to the contribution, and the following statement shall be placed above the signature line: "I understand that this entire contribution will be used only (i) to pay expenses or debt from a previous election; (ii) by the candidate for an election other than the election for which this contribution is made; or (iii) to support candidates other than the candidate to whose campaign this contribution is made, political party committees, or

political clubs. I further understand that this contribution will not be matched with public funds. I understand that State law requires that a contribution be in my name and be from my own funds. I hereby affirm that this contribution is being made from my personal funds, is not being reimbursed in any manner, and is not being made as a loan.” Adjacent to the signature or mark, the contributor or witness shall write the date on which he or she signed the record. The Board shall provide a specimen of this card.

(8)(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 committee of the same candidate, 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 [shall] must be signed by the contributor, or, if the contributor is unable to sign his or her [own] name, marked with an “X” by the contributor and signed by a witness to the contribution. Adjacent to the signature or mark, the contributor [or witness shall] must write the date on which he or she signed or marked the record.

**§ 22. Subdivision a of section 4-03 of chapter 4 of title 52 of the rules of the city of New York is amended to read as follows:**

(a) [Six-year retention] Retention period. The candidate shall retain all records and documents required to be kept under [§] Rule 4-01 for [6] five years after the later of: the final disclosure statement filing date [of] for the last election to which the records or documents relate, or the date the Board has issued the candidate’s final audit report and the candidate has extinguished all outstanding liabilities resulting from the applicable election, including payment of any penalties and/or repayment of public funds owed to the Board. A candidate who has entered into a payment plan with the Board must retain such records and documents for five years after the later of: the final disclosure statement filing date for the last election to which the records or documents relate, or the date on which the payment plan is executed.

**§ 23. Paragraph 21 of 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:**

(21) contributions [received before May 12 in the year of the election] 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;

**§ 24. Paragraphs 26 through 29 of subdivision d of section 5-01 of chapter 5 of title 52 of the rules of the city of New York are amended to read as follows:**

(26) [transfers made to a political committee that is not authorized for an election in which the candidate is currently a participant, as described in Rule 5-01(n)(1); and

(27)] contributions required to be deposited into an account established for a runoff election, as provided in Rule 2-06(c);

~~[(28)]~~ ~~(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

~~[(29)]~~ ~~(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.

**§ 25. Subdivision n 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:**

(n) Deductions from payments.

(1) [The following will be deemed to consist entirely of contributions claimed to be matchable:]

The total amount of public funds payable to a participant for a covered primary, general, or special election shall be reduced by the sum of the following:

(i) the amount of outstanding civil penalties assessed by the Board as a result of the participant's failure to comply with the Act and these Rules during the current covered election; and

(ii) the amount of the participant's:

(A) transfers and other disbursements from a political committee that is involved in an election in which the candidate is currently a participant, to a political committee that is not involved in that election;

[(ii)] (B) expenditures made to pay expenses for or debt from a previous election, including repayments of public funds and payment of penalties owed to the Board for a previous election;

[(iii)] (C) contributions to other political committees that do not meet the requirements provided in §3-705(8) of the Code for contributions that shall not be a basis for reducing public funds payments; and

[(iv)] (D) loans to other candidates that are not repaid within 30 days or by the date of the election, whichever is earlier, or spending for other candidates, [(including joint expenditures, to the extent such expenditures benefit another candidate, and independent expenditures)] and; provided that independent expenditures made by the principal committee of a participant shall not be a basis for reducing public funds payments to that participant, where such expenditures do not, in the aggregate, exceed the amount provided in §§ 3-705(8)(i), (ii), or (iii) of the Code, as applicable, for contributions to political committees;

(E) loans to or spending for political party committees and political clubs[,] that are not reimbursed within 30 days or by the date of the election, whichever is earlier, provided that if the participant demonstrates that the expenditure was for a tangible item that directly promotes the participant's election, such as an advertisement in a fundraising journal, this subdivision shall not apply to the fair market value of that item[. An amount equal to the amount of public funds the participant is otherwise eligible to receive for such matchable contribution claims shall be deducted from the public funds paid to the participant.]; and

(F) expenditures made for the purpose of furthering the participant's election to the position of Speaker of the City Council.

(2) [Notwithstanding paragraph (1) above, disbursements] Disbursements that would otherwise [subject to] result in a deduction pursuant to subparagraph (ii) of paragraph (1) of this subdivision shall not [be subject to] result in any such deduction if:

(i) such disbursements are made out of a segregated bank account;

(ii) at no time does [such] the segregated bank account contain any funds other than contributions received by the participant and deposited directly into [such] the account pursuant to this Rule, and bank interest paid thereon;

(iii) funds deposited into the segregated bank account are not used for any purpose other than [(I)] disbursements governed by subparagraph (ii) of paragraph (1) above or [(II)] payment of bank fees associated with the segregated bank account;

(iv) contributors whose contributions are deposited into [such] the segregated bank account have confirmed in writing, pursuant to Rule 4-01(b)[(7)] (3)(ii)(C), that they understand that these contributions will only be used for such disbursements and will not be matched with public funds;

(v) copies of such written confirmations are submitted to the Board by the due date for the disclosure statement in which such contributions are required to be reported pursuant to these Rules;

(vi) copies of checks for each disbursement out of [such] the segregated bank account are submitted to the Board by the due date for the disclosure statement in which such disbursements are required to be reported pursuant to these Rules;

(vii) a copy of each bank statement for [such] the segregated bank account is submitted to the Board [as soon as reasonably practicable after it is available to the campaign from the bank] by the due date for the next disclosure statement; and

(viii) for each individual contribution deposited into [a] the segregated bank account, and each disbursement out of [such] the segregated bank account, the participant has complied with all other applicable provisions of the Act and these Rules, including but not limited to the record keeping and reporting provisions.

(3) [Section 1-09 shall be applicable for the purposes of determining the date of receipt by the Board of documents submitted pursuant to this Rule.

(4) Participants [may not] shall deposit [a portion] the entire amount of a [particular] contribution into the segregated bank account provided for in paragraph (2), [but must rather deposit the entire contribution into the account] and may not divide the contribution between different accounts.

[(5)] (4) Contributions deposited into a segregated bank account pursuant to this Rule will not be matched with public funds.

(5) Any funds remaining in a segregated bank account after the election must be returned to the contributors whose contributions were deposited into the account, or, if that is impracticable, to the Fund, on or before December 31 in the year of the election, or, for special elections, the last day of the month following the month in which the election took place.

(6) A participant who establishes a segregated bank account pursuant to this Rule, but fails to comply with any provision of paragraph (2), (3), [or] (4), or (5) [above] of this subdivision, shall no longer be entitled to the exception from paragraph (1) contained in paragraph (2) [above] of this subdivision.

(7) Funds deposited into, and disbursements made from, a segregated bank account established and maintained in compliance with this Rule for the purpose of making expenditures to pay expenses for or debt from a previous election, including repayments of public funds owed to the Board, will not be considered to be raised or spent for the current covered election for purposes of the participant's expenditure limit [and unspent campaign funds] calculation.

**§ 26. Paragraph 1 of subdivision e of section 5-03 of chapter 5 of title 52 of the rules of the city of New York is amended to read as follows:**

(1) Pursuant to §3-710(2)(c) of the Code, the Board shall notify a participant in writing if it finds that the participant owes unspent campaign funds to the Board. The participant shall promptly pay to the Board unspent campaign funds from an election; provided, however, that all unspent

campaign funds for a participant shall be immediately due and payable to the Board upon a determination by the Board that the participant has delayed the post-election audit process. The participant shall promptly pay to the Board any additional unspent campaign funds based upon a determination made by the Board at a subsequent date. [Unspent] The amount of unspent campaign funds [determinations made by the Board] shall be [based on] presumed to be equal to the participant's [receipts and expenditures (including any outstanding bills)] authorized committee bank account balance on January 11 in the year following the election, or for special elections, on the last day of the reporting period for the final disclosure statement the candidate is required to file with the Board for such election, less any permissible documented post-election expenditures pursuant to subparagraph (ii) of paragraph (2) of this subdivision. The Board may also consider information revealed in the course of an audit or investigation in making an unspent campaign funds determination, including, but not limited to, the fact that campaign expenditures were made in violation of law, that expenditures were made for any purpose other than the furtherance of the participant's nomination or election, or that the participant has not maintained or provided requested documentation. If a participant repays to the Fund all funds remaining in his or her authorized committee bank account on or before December 31 in the year of the election, or, for special elections, on or before the last day of the month following the month in which the election took place, such participant shall be presumed not to owe additional unspent funds, provided that any contributions received and expenditures made after such funds are repaid must be raised and spent in compliance with the Act and these Rules.

**§ 27. Subparagraph (iii) of paragraph (1) of subdivision b of section 10-02 of chapter 10 of title 52 of the rules of the city of New York is amended to read as follows:**

- (iii) The photograph of the candidate submitted as part of a candidate print statement must:
- (A) be a recent photograph;
  - (B) have a plain background;
  - (C) show only the face or the head, neck, and shoulders of the candidate;
  - (D) not include the hands or anything held in the hands of the candidate;
  - (E) not show the candidate wearing any distinctive uniform, including but not limited to a judicial robe, or a military, police, or fraternal uniform; and
  - (F) [not show the candidate wearing any buttons or pins; and
  - (G)] not exceed the size and/or resolution requirements as determined by the Board.

**§ 28. Subparagraph (ii) of paragraph (2) of subdivision b of section 10-02 of chapter 10 of title 52 of the rules of the city of New York is amended to read as follows:**

- (ii) Candidates recording video statements may dress as they choose and are responsible for their own clothing, make-up and hairdressing; provided, however, that when recording a video statement, candidates may not:
- (A) engage in full or partial nudity;
  - (B) wear any distinctive uniform, including but not limited to a judicial robe, or a military, police, or fraternal uniform; or
  - (C) [wear any buttons or pins; or
  - (D)] violate any city, state or federal law, including regulations of the New York State Public Service Commission and the Federal Communications Commission.

**§ 29. Subdivision a of section 11-04 of chapter 11 of title 52 of the rules of the city of New York is amended to read as follows:**

(a) An elected candidate shall not: (1) authorize or register a political committee to raise or spend funds for transition or inauguration into office; (2) use funds accepted by a political committee authorized by the candidate for transition or inauguration into office; (3) authorize or register a previously existing entity to raise or spend funds for transition or inauguration into office; (4) continue in existence an entity registered under Rule 11-02 after it has paid all liabilities it incurred for transition and inauguration into office and otherwise has disposed of all funds pursuant to paragraph (f) below; or (5) continue in existence an entity registered under Rule 11-02 after (i) April 30 in the year following the election, or (ii) in the case of a special election, 60 days after inauguration.

**§ 30. Subdivision d of section 11-04 of chapter 11 of title 52 of the rules of the city of New York is amended to read as follows:**

(d) Loans are deemed to be donations, subject to the limits and restrictions of the Code, to the extent the loan is not repaid by, or is made after, the date of the elected candidate's inauguration into office.

**§ 31. Subdivision g of section 11-04 of chapter 11 of title 52 of the rules of the city of New York is amended to read as follows:**

(g) [An elected candidate and his or her authorized entities may choose not to accept any monetary or in-kind donation, or any loan, guarantee, or other security for such loan, and may accept only monetary donations and advances from the elected candidate to his or her entities made out of the elected candidate's personal funds and in-kind donations made by the elected candidate to the entities; such] An elected candidate may donate to his or her [entities] entity registered under Rule 11-02 with his or her personal funds or property, make in-kind donations to his or her entities with his or her personal funds or property, and make advances to [his or her entities] such entity with his or her personal funds or property, without regard to the donation limits of §3-801(2)(b) of the Code. An elected candidate's personal funds or property shall include his or her funds or property jointly held with his or her spouse, domestic partner, or unemancipated children.

**§ 32. The definitions of "independent spender," "member," and "stockholder" in section 13-01 of chapter 13 of title 52 of the rules of the City of New York are amended, and a new definition for "principal owner" is added in alphabetical order, to read as follows:**

**"Independent spender"** means an individual or entity that makes an independent expenditure, or an agent of such individual or entity.

**["Member"** means: (1) any individual who, pursuant to a specific provision of an organization's articles or bylaws, has the right to vote directly or indirectly for the election of a director or directors or an officer or officers or on a disposition of all or substantially all of the assets of the organization or on a merger or on a dissolution; or (2) any individual who is designated in the articles or bylaws as a member and, pursuant to a specific provision of an organization's articles or bylaws, has the right to vote on changes to the articles or bylaws, or pays or has paid membership dues in an amount predetermined by the organization so long as the organization is tax exempt under Section 501(c) of the Internal Revenue Code of 1986. Members of a local union are considered to be members of any national or international union of which the local union is a part and of any federation with which the local, national, or international union is affiliated.]

["**Stockholder**" means an individual who has a vested beneficial interest in stock, has the power to direct how that stock shall be voted, if it is voting stock, and has the right to receive dividends.]

"Principal owner" means an individual or entity that owns or controls ten percent or more of an entity, including stockholders and partners.

**§ 33. Paragraphs (1) and (2) of subdivision a of section 13-02 of chapter 13 of title 52 of the rules of the City of New York are amended to read as follows:**

- (1) All independent spenders shall provide their: [
- ](i) name, mailing address, telephone number, email address, and employer information;[
  - ](ii) authorized liaison's name, mailing address, email address, [and] telephone number, and employer information; and [
  - ](iii) other similar information that may be required by the Board.
- (2) Independent spenders that are entities must also provide their: [
- ](i) website URL; [
  - ](ii) treasurer name, mailing address, email address, telephone number, and employer information; [
  - ](iii) type of organization; [
  - ](iv) name(s) of principal owners, and employer information [of principal] for any such owners who are individuals; and [
  - ](v) name and employer information of board members and officers or their equivalents.

**§ 34. Subdivision b of section 13-02 of chapter 13 of title 52 of the rules of the City of New York is amended to read as follows:**

(b) Communications.

[(1)] When an independent spender makes covered expenditures aggregating \$1,000 or more during an election cycle for communications that refer to a specific candidate or ballot proposal, it must report these communications[,] and each future communication associated with an expenditure of \$100 or more that refers to that candidate or ballot proposal. Expenditures of less than \$100 shall not be covered expenditures for the purposes of this subdivision. Each communication shall be disclosed in the reporting period in which it is first published, aired, or otherwise distributed, except that no communication is required to be disclosed before the \$1,000 threshold has been reached. For each communication, the independent spender shall provide:

- [
- ](1) The type of communication;[
  - ](2) Its distribution date;[
  - ](3) The names of the candidates and/or ballot proposals referred to in the communication;[
  - ](4) For a printed communication, an electronic or paper copy of the communication as it was distributed to the public;[
  - ](5) For a broadcast or Internet communication, an audio, video, or source file [or script] of the communication as it was distributed to the public, except that if a source file is not available for an audio communication then a script will be accepted; and [

- ](6) Such other similar information as the Board may require.

[(2) Member/Stockholder exemption. Routine newsletters or periodicals; telephone calls; hand-delivered printed materials prominently marked with the words “for [name of entity] [members/stockholders] only”; and communications relating to the internal deliberations of an entity’s endorsements shall not be required to be reported, provided that the communication is directed solely to and intended to reach only the entity’s own members or stockholders. This exemption does not apply to party committees, constituted committees, political clubs, or other entities organized primarily for the purpose of influencing elections.] Omitted.

**§ 35. Subdivision d of section 13-02 of chapter 13 of title 52 of the rules of the City of New York is amended to read as follows:**

(d) Contributions.

(1) When an independent spender that is an entity makes covered expenditures of \$100 or more aggregating \$5,000 or more in the twelve months preceding the election for communications that refer to any single candidate, it is required to report:

(i) All contributions accepted from other entities since the first day of the calendar year preceding the year of the covered election; and

(ii) All contributions aggregating \$1,000 or more accepted from an individual during the 12 months preceding the election.

(2) Each contribution shall be disclosed in the reporting period in which it was received. For each contribution, the independent spender shall provide:

(i) For each contribution accepted from another entity, the entity’s name, address, and type of organization and the names of the entity’s principal owners, partners, board members and officers, or their equivalents, or, if no natural persons exist in any such role, the name of at least one natural person who exercises control over the activities of such entity;

(ii) For each entity from which contributions aggregating \$50,000 or more have been accepted in the 12 months preceding the election (the “major contributor”), (A) the name, address, and type of each entity that contributed \$25,000 or more to the major contributor in the 12 months preceding the election; and (B) the name, residential address, occupation, and employer of each individual who contributed \$25,000 or more to the major contributor in the 12 months preceding the election;

(iii) For each contribution accepted from an individual, the individual’s name, residential address, occupation, and employer [information];

[(iii)] (iv) The date of receipt and amount of each such contribution accepted by the independent spender or the major contributor; and

[(iv)] (v) Such other similar information as the Board may require.

(3) Exemption for earmarked contributions. Contributions to independent spenders or major contributors that are earmarked for an election that is not a covered election, or for an explicitly stated non-electoral purpose, are not required to be reported; provided, however that records of

[these] such contributions to independent spenders must be maintained and may be requested by the Board to verify their qualification for this exemption.

**§ 36. Section 13-04 of chapter 13 of title 52 of the rules of the City of New York is amended to read as follows:**

(a) When an independent spender makes covered expenditures of \$100 or more aggregating \$1,000 or more during an election cycle, the communication associated with the expenditure that meets the \$1,000 threshold and all subsequent communications, regardless of dollar value, shall include the [words “paid for by” followed by the name of the independent spender.

(b) The identification shall be in the following form:

(1) For printed material, an Internet advertisement, or a website, the identification shall be in a font of conspicuous size and style;

(2) For a communication broadcast on radio, the identification shall be clearly spoken at the beginning or end of the communication;

(3) For a communication broadcast by television, satellite, cable, or similar medium, the identification shall be both written and clearly spoken at the beginning or end of the communication; and

(4) For a telephone communication, the identification shall be clearly spoken at the beginning or end of the communication.] following:

(1) For printed material, the words “Paid for by” must appear, followed by (i) the name of the independent spender; (ii) if the spender is an entity: (A) the name of any individual or entity that owns or controls more than 50% of the independent spender, (B) the name of the independent spender’s chief executive officer or equivalent, if any, and (C) the independent spender’s top donors as described in subdivision (b) of this section; and (iii) the words “Not authorized by any candidate or candidate committee. More information at [nyc.gov/FollowTheMoney](http://nyc.gov/FollowTheMoney).” Such words must appear in a conspicuous size and style and must be enclosed in a box within the borders of the communication.

(2) For television, internet videos, or other types of video communications, the words “Paid for by” followed by the name of the independent spender must be clearly spoken at the beginning or end of the communication in a pitch and tone substantially similar to the rest of the communication. Additionally, simultaneous with the spoken disclosure, in a conspicuous size and style and enclosed in a box, the words “Paid for by” must appear followed by: (i) the name of the independent spender; (ii) if the spender is an entity, the spender’s top donors as described in subdivision (b) of this section; and (iii) the words “Not authorized by any candidate or candidate committee. More information at [nyc.gov/FollowTheMoney](http://nyc.gov/FollowTheMoney)”.

(3) For radio, internet audio, or automated telephone calls, the words “Paid for by” followed by (i) the name of the independent spender; (ii) if the spender is an entity, the spender’s top donors as described in subdivision (b) of this section; and (iii) the words “Not authorized by any candidate or candidate committee. More information at [nyc.gov/FollowTheMoney](http://nyc.gov/FollowTheMoney)”, must be clearly spoken at the end of the communication in a pitch and tone substantially similar to the rest of the communication. For radio and internet audio communications of 30 seconds in duration or shorter, subparagraph (ii) of this paragraph may be omitted.

(4) For non-automated telephone calls lasting longer than ten seconds, the words “This call is paid for by” followed by the name of the independent spender and the words “Not authorized by any candidate or candidate committee. More information is available at

nyc.gov/FollowTheMoney” must be clearly spoken during the call in a pitch and tone substantially similar to the rest of the call.

(b) Identification of an independent spender’s top donors in a communication shall be as follows:

(1) A spender’s top donors are its largest aggregate contributors during the 12 months preceding the election, in descending order by aggregate amount, who have contributed at least \$5,000.

(2) If there are at least three such donors:

(i) Printed identification shall be the words “Top Three Donors” followed by the names of such donors;

(ii) Video identification shall be the words “The top three donors to the organization responsible for this advertisement are” followed by the names of such donors;

(iii) Audio identification shall be the words “with funding provided by” followed by the names of such donors;

(iv) If the third largest donor has donated the same amount as the fourth largest donor, the independent spender may choose which three donors to include, so long as no donor is included that has donated less than any other donor that is not included.

(3) If there are only two such donors, the words “Top Donors” must replace “Top Three Donors.”

(4) If there is only one such donor, the words “Top Donor” must replace “Top Three Donors.”

(5) If there are no such donors, all references to donors must be removed from the identification.

(c) [This requirement shall not apply to] All written or spoken identification required by this rule must be in the primary language of the communication, except that the web address nyc.gov/FollowTheMoney, if required to be written or spoken in the identification, must be in English.

(d) The requirements of this section may be modified by the Board concerning items upon which [identification would be impractical, or to member/stockholder communications described in Rule 13-02(b)(2)] disclosures cannot be reasonably printed, pursuant to §1052(a)(15)(c)(i) of the Charter or any other items whose disclosures are not otherwise provided for in §1052(a)(15)(c) of the Charter.

(e) This section shall not apply to communications required to include a disclosure pursuant to § 3-703(16) of the Code.

**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:** Miscellaneous Rule Amendments

**REFERENCE NUMBER:** 2016 RG 061

**RULEMAKING AGENCY:** Campaign Finance 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  
Acting Corporation Counsel

Date: August 8, 2016

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS  
253 BROADWAY, 10<sup>th</sup> FLOOR  
NEW YORK, NY 10007  
212-788-1400**

**CERTIFICATION / ANALYSIS  
PURSUANT TO CHARTER SECTION 1043(d)**

**RULE TITLE:** Miscellaneous Rule Amendments

**REFERENCE NUMBER:** CFB-5

**RULEMAKING AGENCY:** Campaign Finance 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) Provides a cure period.

/s/ Francisco Navarro  
Mayor's Office of Operations

8/8/2016  
Date