

On August 13, 2015, the New York City Campaign Finance Board is scheduled to meet and consider adopting final rules relating to disclosure statement documentation and public funds eligibility. Below is the current draft of the final language for those rules, as of July 30, 2015.

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

IN COMPLIANCE WITH SECTION 1043 OF THE NEW YORK CITY CHARTER, and exercising authority vested in the Campaign Finance Board (the “Board”) under Chapters 45 and 46 of the New York City Charter (including Sections 1043, 1052(a)(8) and 1052(a)(12) thereof) and under the New York City Campaign Finance Act (the “Act”) (including Section 3-708(8) of the New York City Administrative Code), the Board hereby adopts amendments to the Campaign Finance Board Rules related to disclosure statement documentation and public funds eligibility.

I. Explanation, Basis, and Purpose

The Board Rules are codified in Chapter 52 of the Rules Compilation of the City of New York.

On August 13, 2015, the Board voted to adopt a set of rules. These rules require that candidates submit copies of any bank records and deposit slips not previously submitted along with each disclosure statement and clarify the grounds on which the Board may determine that a participating candidate is ineligible to receive public funds.

Campaign Finance Disclosure Statements: Contents [Section 3-03]

This amendment requires that disclosure statements be accompanied by all of the campaign committee’s bank records and deposit slips not previously submitted, and provides that statement submissions may be rejected if not accompanied by such records. Previously, such records were submitted during the post-election audit unless specifically requested by the CFB. This change will allow the CFB to inform campaigns of reporting and documentation discrepancies earlier in the election cycle. This change will: 1) enable campaigns to correct such discrepancies, improving the quality of public disclosure; and 2) facilitate the timely resolution of problems that might otherwise lead to violation and/or penalty determinations. It will also relieve the burden on campaigns to maintain and store a high volume of bank records throughout the pre-election period.

Basis for Ineligibility Determination [Section 5-01(f)]

Two amendments have been made to this rule, which governs the basis for a determination of public funds ineligibility. First, the phrase “for reasons that include, but are not limited to” has been removed from the introduction to this section. Second, one criterion has been added to the end of the list of grounds upon which the Board may base a determination that a candidate is ineligible to receive public funds. The new criterion renders a candidate potentially ineligible if there is reason to believe that the participating candidate, or that candidate’s agent, has engaged in conduct detrimental to the Program that is in violation of any applicable law not otherwise referenced in the rule. This change is intended to clarify that a “catch-all provision” is included to capture egregious conduct whose specific elements are not described elsewhere in the list, but that would nonetheless provide sufficient justification for the Board to determine that the participant who engaged in such conduct, or whose agent engaged in such conduct, is ineligible to receive public funds.

The following rules will take effect thirty days after final publication in The City Record:

II. Final Rules

New matter is underlined. Deleted matter is shown in [brackets].

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

Section 3-03 of chapter 3 of title 52 of the rules of the city of New York is amended by adding a new subdivision (f) as follows:

(f) Documentation. Together with each disclosure statement, the candidate shall submit documentation to verify the accuracy of the data reported, including all bank records and deposit slips required to be maintained pursuant to Rules 4-01(b)(1) and 4-01(f)(1) not previously submitted. A disclosure statement may be rejected as an insufficient submission if not accompanied by such documentation.

Subdivision (f) of section 5-01 of chapter 5 of title 52 of the rules of the city of New York is amended to read as follows:

(f) Basis for ineligibility determination. The Board [shall] may determine [whether] that public funds shall not be paid to a participant [for reasons that include, but are not limited to] if:
(1) [if there is reason to believe that the participant has committed a violation of the Act or these Rules;
(2) if] the participant has failed to meet one of the eligibility criteria of the Act or these Rules;
[(3) if] (2) the participant is required to repay public funds previously received, as described in Rule 5-03, or [if] the participant has failed to pay any outstanding claim of the Board for the payment of civil penalties or the repayment of public funds against such participant or his or her

principal committee or a principal committee of such participant from a prior covered election, provided that the participant has received written notice of the potential payment obligation and potential ineligibility determination in advance of the certification deadline for the current covered election or an opportunity to present reasons for his or her eligibility for public funds to the Board;

[(4) if] (3) the participant fails to submit a disclosure statement required by these rules;

[(5) if] (4) the participant fails to provide to the Board, upon its request, documents or records required by Chapter 4 of these rules, or other information that verifies campaign activity;

[(6) if] (5) previous public fund payments to the participant for the election equal the maximum permitted by the Act;

[(7) if] the participant or an agent of the participant has been found by the Board to have committed fraud in the course of Program participation or to be in breach of certification pursuant to Rule 2-02;

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

[(9) if] (7) the participant endorses or publicly supports his or her opponent for election pursuant to §3-705(9) of the Code; [or

(10) if] (8) the participant loses in the primary election but remains on the ballot for the general election and fails to certify to the Board, as required by §3-705(10) of the Code, that he or she will actively campaign for office in the general election, or [if] the participant certifies to the Board that he or she will actively campaign for office in the general election but thereafter fails to engage in campaign activity that shall include but not be limited to, raising and spending funds, seeking endorsements, and broadly soliciting votes[.];

(9) there is reason to believe that the participant or an agent of the participant has committed a violation of the Act or these Rules;

(10) the participant or an agent of the participant has been found by the Board to have committed fraud in the course of Program participation or to be in breach of certification pursuant to Rule 2-02; or

(11) there is reason to believe that the participant or an agent of the participant has engaged in conduct detrimental to the Program that is in violation of any other applicable law.