

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 timing of public funds payments. These amendments are being issued in order to conform to Local Law No. 168 for the year 2016, which takes effect on January 1, 2018.

When and where is the Hearing? The Board will hold a public hearing on the proposed rules. The public hearing will take place at 12:00 p.m. on November 16, 2017. The hearing will be in the Board's board room at 100 Church Street, 12th Floor, New York, NY 10007.

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.
- **Mail.** You can mail written comments to Hillary Weisman, General Counsel, Campaign Finance Board, 100 Church Street, 12th 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 Hillary Weisman, 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 November 15, 2017.

What if I need assistance to participate in the hearing? You must tell Hillary Weisman 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. Advance notice is requested to allow sufficient time to arrange the accommodation. Please tell us by November 13, 2017.

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

- Wheelchair Accessible
- Sign Language Interpretation

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.nyccfb.info.

What authorizes the Board to make these rules? Sections 1043 and 1052(a)(8) of the City Charter, and section 3-708 of the City Administrative Code 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.nyccfb.info/act-program/rules/>.

What laws 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 Rule

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 the timing of public funds payments.

The proposed rules are amendments to existing rules to conform to Local Law No. 168 for the year 2016, which provided for early public funds payments. Local Law No. 168 will go into effect on January 1, 2018. Previously, the first public funds payment for a primary election was issued after the Board of Elections concluded its hearings on petition challenges. Pursuant to Local Law No. 168, a limited early payment may be issued four business days after the final day to file a certification for that election.

The Board’s authority for these rules is found in sections 1043 and 1052(a)(8) of the New York City Charter, and section 3-708 of the New York City Administrative Code.

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. A new definition in section 1-02 of chapter 1 of title 52 of the rules of the city of New York is added, in alphabetical order, as follows:

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

§ 2. Subdivision a of section 2-07 of chapter 2 of title 52 of the rules of the city of New York is amended to read as follows:

(a) Public funds eligibility. [A] To be eligible for public funds, a participant must qualify to be on the ballot, and be opposed on the ballot, [to be eligible for public funds] or, for the optional early public funds payment, certify that he or she intends to meet all the requirements of law to have his or her name on the ballot for the primary or general election.

§ 3. Subparagraph ii of paragraph 2 of subdivision a 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:

(ii) Participants seeking additional public funds pursuant to §3-705(7)(b) of the Code must file a signed statement with the Board pursuant to §3-705(7)(b) no later than the due date for the

disclosure statement immediately preceding the public funds payment for which the participant is seeking to receive the additional public funds; provided, however, that participants seeking to receive the additional public funds on the first date payments are made by the Board [for a primary election] after the optional early public funds payment, must file the signed statement with the Board no later than the day before the first date the Board of Elections conducts hearings on any ballot petition filed by any candidate seeking nomination for election in any primary occurring in the same election cycle for which the candidate is seeking nomination for election, without regard to whether such hearings are related to a petition filed by an opponent of the participant.

§ 4. Paragraphs 1 and 2 of subdivision i 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:

(1) Pursuant to §§ 3-709(5) and (6) of the Code: (i) no public funds shall be paid to participants in a primary or general election any earlier than [two weeks after the last day to file designating petitions for such primary election] four business days after the final day to file a written certification for such election pursuant to paragraph (c) of subdivision 1 of section 3-703 of the Code; (ii) no public funds shall be paid to participants in a runoff primary election or general election any earlier than the day after the day of the primary election held to nominate candidates for such election; and (iii) no public funds shall be paid to participants in a runoff special election held to fill a vacancy any earlier than the day after the day of the special election for which such runoff special election is held.

(2) Pursuant to §3-703(1)(a) and (5) of the Code, public funds are not payable to a participant who has not met the legal requirements to have his or her name on the ballot, [or] who is unopposed, or, for the optional early public funds payment, who has not certified that he or she intends to meet all the requirements of law to have his or her name on the ballot. [To enable the Board to ascertain whether a candidate has met the legal requirements to be on the ballot and is opposed, the Board shall first make payments in an election after the Board of Elections conducts hearings on the ballot petitions filed in that election except if the Board determines that delays in Board of Elections proceedings or determinations warrant first making payments earlier.]

**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: Timing of Payment of Public Funds to Candidates

REFERENCE NUMBER: 2017 RG 078

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: September 13, 2017

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

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

RULE TITLE: Timing of Payment of Public Funds to Candidates

REFERENCE NUMBER: 2017 RG 078

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) The rules in general provide cure periods/mechanisms where appropriate, depending in many cases on temporal proximity to the election or other relevant dates; the nature of the violation or defect; and other pertinent factors.

/s/ Hannah Smith
Mayor's Office of Operations

September 18, 2017
Date