

AGENCY RULES

CONFLICTS OF INTEREST BOARD

■ NOTICE

Notice of Adoption of Amendment to the Rule Governing Retention of Financial Disclosure Reports Pursuant to Section 12-110 of the Administrative Code and Section 2603(a) of the New York City Charter

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED IN THE Conflicts of Interest Board by Section 12-110 (e) of the Administrative Code of the City of New York and Section 2603(a) of the New York City Charter that the Conflicts of Interest Board has adopted an amendment to its rule on retention of financial disclosure reports, Section 1-10 (b) (2) of Title 53 of the Rules of the City of New York, requiring that such reports be maintained on file for at least one year. Pursuant to a notice published on December 28, 2000, in *The City Record*, a public hearing was held on February 1, 2001, at 2 Lafayette Street, Suite 1010, New York, New York. The Board received no comments on the proposed amendment and adopted the proposed amendment as final. The text of the amendment is set forth below.

SECTION 1-10 RETENTION OF FINANCIAL DISCLOSURE REPORTS.

[Subdivision (a) and paragraph (1) of subdivision (b) remained unchanged.]

(2) (i) Except as provided in subparagraphs (ii) and (iii) below, upon expiration of the Required Retention Period for a Financial Disclosure Report, pursuant to paragraph (1) above, the Board shall either (i) destroy such report, or (ii) if requested by the individual who filed such report, return such report to such individual. Any request that the Board return such report must be made in writing to the Board not later than 10 days prior to the expiration of such period.

(ii) Notwithstanding the provisions of subparagraph (i), if a law enforcement agency requests that the Board retain a Financial Disclosure Report for an additional period of time beyond the expiration of its required retention period, for purposes of an ongoing investigation, the Board shall retain such report for such additional period, provided the request is made in writing and is submitted to the Board not later than 10 days prior to the expiration of such required retention period. Upon expiration of such additional period of time, the Board shall either (i) destroy such report, or (ii) if requested by the individual who filed such report, return such report to such individual. Any such request must be made in accordance with the provision of subparagraph (i) above.

(iii) Notwithstanding the provisions of subparagraph (i), all reports shall be retained by the Board for a period of not less than one year from the date such report was filed with the Board.

[Paragraphs (3) and (4) of subdivision (b) remain unchanged.]

STATUTORY AUTHORITY: Section 12-110 (e) of the Administrative Code of the City of New York and Section 2603(a) of the New York City Charter.

STATEMENT OF BASIS OF PURPOSE OF THE AMENDMENT: Section 1-10 (b) (1) of Title 53 of the Rules of the City of New York provides:

Whenever a Financial Disclosure Report is filed with the Board, it shall be retained by the Board for a period commencing on the date such report was filed with the Board and expiring on the sixth anniversary of December 31 of the calendar year to which such report relates. The period during which the Board is required to retain a Financial Disclosure Report, pursuant to this paragraph (1), is hereinafter referred to as the "Required Retention Period" for such report.

The amendment addresses the situation where a report is filed less than a year before it is scheduled to be destroyed pursuant to section 1-10(b)(1). Although infrequent, such situations have occurred where the public servant's obligation to file, or his or her failure to file, must be litigated. If, for example, a report for calendar year 1994 is not filed until December 20, 2000, the retention rule would require the report to be destroyed less than two weeks after it was filed. Destroying a report almost immediately upon filing makes little sense and undermines the purpose of financial disclosure. The amendment requires that every financial disclosure report be maintained on file by the Board for at least one year.