

ARTICLE XLII
Fair Elections Matching Fund¹
[Added 12-19-2017 by L.L. No. 8-2018]

§ C42-1. Definitions.

As used in this article, the following terms shall have the meanings indicated:

AUTHORIZED COMMITTEE — A political committee as that term has been defined in § 14-100 of the New York State Election Law, which has been authorized by a candidate to aid or take part in the election of such candidate and which has filed a statement that such candidate or candidates have authorized such political committee pursuant to § 14-112 of the New York State Election Law.

BOARD — The Campaign Finance Board established hereunder.

CAMPAIGN EXPENDITURE — Shall include all payments and liabilities spent in furtherance of a political campaign for County Legislature, including, but not limited to, all qualified campaign expenditures and expenditures subject to or exempt from the expenditure limitations of this article.

CONTRIBUTION — Shall have the same meaning as set forth in New York State Election Law § 14-100.

COVERED ELECTION — Any primary, special election, or general election for nomination for election, or election for the offices of Suffolk County Executive and Suffolk County Legislator.

ELECTION CYCLE — The period beginning the day after a general election for the offices of County Executive and County Legislator and continuing through Election Day in the year of the subsequent general election for the office of County Executive or County Legislator (i.e., November 7, 2017 through November 5, 2019 for the office of County Legislator and November 6, 2019 through November 7, 2023 for the office of County Executive).

FUND — The Fair Elections Matching Fund established hereunder.

LOBBYIST — Shall have the same meaning as set forth in Chapter 580 of the Suffolk County Code.

MATCHABLE CONTRIBUTION — A contribution or contributions of no more than \$250 in the aggregate, made by a natural person residing within a participating County Legislature candidate's

1. **Editor's Note: Former Art. XLII, Department of Environment and Energy, added 2-7-2006 by L.L. No. 19-2006, as amended, was repealed 2-7-2012 by L.L. No. 16-2012. See now Art. XXXV of this Charter.**

legislative district or, in the case of a participating County Executive candidate, made by a natural person residing within the County of Suffolk, which has been reported in full to the New York State Board of Elections and the Board in accordance with § C42-7, which is contributed during the covered election cycle and which may be matched by public funds in accordance with the provisions of this article. Any contribution, contributions, or portion of a contribution determined to be invalid for matching funds by the Board may not be treated as a matchable contribution for any purpose. The following contributions are not matchable:

- (a) In-kind contributions of property, goods, or services;
- (b) Contributions in the form of the purchase price paid for an item with significant intrinsic and enduring value;
- (c) Contributions that are not itemized;
- (d) Contributions in the form of the purchase price paid for or otherwise induced by a chance to participate in a raffle, lottery, or similar drawing for valuable prizes;
- (e) Contributions from individuals under the age of 18 years;
- (f) Contributions from individual vendors to whom the participating candidate or his or her principal committee makes an expenditure, in furtherance of the nomination for election or election covered by the candidate's certification;
- (g) Contributions from lobbyists registered with the County of Suffolk pursuant to Chapter 580 of the Suffolk County Code; and
- (h) Loans to a principal committee.

PARTICIPATING CANDIDATE — Any candidate for election to the Suffolk County Legislature or any candidate for the office of Suffolk County Executive who files a written certification pursuant to § C42-2 of this article and whose certification and eligibility to receive public funding is approved by the Board.

PRINCIPAL COMMITTEE — The authorized committee designated by a candidate pursuant to § C42-2 of this article.

QUALIFIED CAMPAIGN EXPENDITURE — An expenditure for which public funds may be used.

THRESHOLD FOR ELIGIBILITY — The total amount of matchable contributions that a participating candidate and his or her principal committee must raise in order for such candidate to qualify for public financing.

TRANSFER — Shall have the same meaning as set forth in New York State Election Law § 14-100.

§ C42-2. Eligibility and other requirements.

- A. To be eligible for public financing under this article, a candidate for nomination or election must:
- (1) Be a candidate for Suffolk County Executive or for the Suffolk County Legislature;
 - (2) Meet all the requirements of law, including a designation by the Board of Elections petition process, to have his or her name appear on a primary or general election ballot, or in the case of a special election, by a party nomination in accordance with § 6-114 and § 6-116 of the New York Election Law;
 - (3) Choose to participate in the public campaign financing provisions of this article by filing a written certification on such form as may be prescribed by the Board, which sets forth his or her acceptance of and agreement to comply with the terms and conditions for the provisions of such funds. The deadlines for filing such certification shall be:
 - (a) The 10th day of June in the year of the covered election, or such other later date as the Board shall provide; provided, however, that any candidate who files such written certification prior to such date shall be permitted to rescind such certification in writing on or before such date; and
 - (b) For a special election to fill a legislative or County Executive vacancy, within seven days after the effective date of the resolution setting the date of the election.
 - (4) Meet the threshold for eligibility for public financing set forth in § C42-3;
 - (5) Have an opponent in the covered election;
 - (6) Obtain and furnish to the Board any information it may request relating to his or her campaign expenditures or contributions and furnish such documentation and other proof of compliance with this article as may be requested by such Board, provided;
 - (7) Notify the Board in the candidate's written certification as to:

- (a) The existence of each committee authorized by such candidate that has not been terminated;
 - (b) Whether any such committee also has been authorized by any other candidate; and
 - (c) Whether the candidate has authorized more than one committee and which authorized committee has been designated by the candidate as the candidate's principal committee for the election covered by the candidate's certification. Such principal committee shall be the only committee authorized by such candidate to aid or otherwise take part in the election covered by the candidate's certification. Such principal committee shall not be an authorized committee of any other candidate, and shall not have been authorized or otherwise active for any election prior to the election covered by the candidate's certification. The use of an entity other than the designated principal committee to aid or otherwise take part in the election covered by the candidate's certification shall be a violation of this article and shall trigger the application to such entity of all provisions of this article governing principal committees.
- (8) For candidates for the County Legislature:
- (a) During an election cycle, not accept, and his or her principal committee not accept, either directly or by transfer, any contribution or contributions from any one individual, corporation, limited-liability company, partnership, political or party committee, labor organization or other entity which in the aggregate exceed \$1,500;
 - (b) During an election cycle, not accept, and his or her principal committee must not accept, either directly or by transfer, any contribution or contributions which in the aggregate exceed \$50,000, except, in the event a participating candidate is opposed in both a primary and general election during the same election cycle, the aggregate limit for contributions will be \$80,000;
 - (c) Not make and his or her principal committee must not make expenditures within an election cycle which in the aggregate exceed \$100,000, except, in the event a participating candidate is opposed in both a primary and

general election during the same election cycle, the aggregate limit for expenditures will be \$150,000;

(9) For candidates for County Executive:

(a) During an election cycle, not accept, and his or her principal committee not accept, either directly or by transfer, any contribution or contributions from any one individual, corporation, limited-liability company, partnership, political or party committee, labor organization or other entity which in the aggregate exceed \$25,000;

(b) During an election cycle, not accept, and his or her principal committee must not accept, either directly or by transfer, any contribution or contributions which in the aggregate exceed \$1 million, except, in the event a participating candidate is opposed in both a primary and general election during the same election cycle, the aggregate limit for contributions will be \$1.2 million;

(c) Not make and his or her principal committee must not make expenditures within an election cycle which in the aggregate exceed \$2 million, except, in the event a participating candidate is opposed in both a primary and general election during the same election cycle, the aggregate limit for expenditures will be \$2.5 million;

(10) Maintain and his or her principal committee must maintain such records of receipts and expenditures as required by the Board.

B. The Board shall review the written certifications submitted to it by candidates and determine whether a candidate is eligible to participate and receive public funding under this article.

§ C42-3. Eligibility threshold.

A. Participating candidates for the Office of County Legislator must raise during an election cycle a minimum of \$5,000 in matchable contributions, received from no less than 30 individual donors, to meet the threshold of eligibility for matching funds. In the event a participating candidate receives a contribution that exceeds \$250, but otherwise meets the criteria of a matchable contribution, only \$250 of such contribution shall count towards the \$5,000 eligibility threshold.

- B. Participating candidates for the Office of County Executive must raise during an election cycle a minimum of \$25,000 in matchable contributions received from no less than 150 individual donors, to meet the threshold of eligibility for matching funds. In the event a participating candidate receives a contribution that exceeds \$250, but otherwise meets the criteria of a matchable contribution, only \$250 of such contribution shall count towards the \$25,000 eligibility threshold.
- C. Candidates who are seeking nomination or election exclusively as write-in candidates or who are unopposed in a covered election or who are opposed in a covered election only by candidates seeking nomination or election as a write-in candidate shall not be eligible to receive public funding.

§ C42-4. Availability of public funds.

- A. In the event a participating legislative candidate's principal committee has obtained and reported to the New York State Board of Elections and to the Board matchable contributions equal to the threshold for eligibility set forth in Subsection A of § C42-3, then the principal committee shall be eligible to receive payments for qualified campaign expenditures of \$4 for each \$1 of matchable contributions received by the participating candidate or the candidate's principal committee, up to \$50,000 in public financing for the election cycle then prevailing.
- B. In the event a participating legislative candidate, whose principal committee has obtained and reported to the New York State Board of Elections and to the Board matchable contributions equal to the threshold for eligibility set forth in Subsection A of § C42-3, is in a contested primary election for nomination and a contested general election for office during the same election cycle, the principal committee shall be eligible to receive payments for qualified campaign expenditures of \$4 for each \$1 of matchable contributions, up to \$70,000 in public financing for the election cycle then prevailing.
- C. In the event a participating County Executive candidate's principal committee has obtained and reported to the New York State Board of Elections and to the Board matchable contributions equal to the threshold for eligibility set forth in Subsection B of § C42-3, then the principal committee shall be eligible to receive payments for qualified campaign expenditures of \$4 for each \$1 of matchable contributions received by the participating candidate or the candidate's principal committee,

up to \$1 million in public financing for the election cycle then prevailing.

- D. In the event a participating County Executive candidate, whose principal committee has obtained and reported to the New York State Board of Elections and to the Board matchable contributions equal to the threshold for eligibility set forth in Subsection B of § C42-3, is in a contested primary election for nomination and a contested general election for office during the same election cycle, the principal committee shall be eligible to receive payments for qualified campaign expenditures of \$4 for each \$1 of matchable contributions, up to \$1.3 million in public financing for the election then prevailing.

§ C42-5. Special elections.

- A. To be eligible for public financing under this article, candidates seeking office in a special election must meet the requirements set forth in § C42-2, subject to the provisions of Subsection B of this section.
- B. The Board may reduce the eligibility thresholds set forth in § C42-3 for candidates seeking the offices of County Executive and County Legislature in a special election, as well as the amounts of public financing available to such candidates.

§ C42-6. Qualified campaign expenditures.

- A. Public funds provided under the provisions of this article may be used only for expenditures by a participating candidate or his or her principal committee to further the participating candidate's nomination for election or election, either in a special election to fill a vacancy, or during the calendar year in which the primary and general election in which the candidate is seeking nomination for election or election is held.
- B. Public funds may only be used for election efforts, including but not limited to mailings, political literature, polling and staff.
- C. There shall be a rebuttable presumption that the following expenditures are in furtherance of a political campaign for legislative office; provided, however, that the presumptions contained in this subdivision shall not apply to an expenditure to a person or entity associated with the candidate; and provided further that in rebutting any such presumption the Board may consider factors including the timing of the expenditure and whether the campaign had an unusually high amount of spending

on a particular type of expenditure. For purposes of this subdivision, "a person or entity associated with a candidate" shall include the candidate's spouse, domestic partner, child, parent, or sibling or a person or entity with whom or with which the candidate has a business or other financial relationship.

- (1) Travel related solely and exclusively to a political campaign; provided, however, that any travel not related solely and exclusively to a political campaign shall be subject to the provisions of Subsection D;
 - (2) Legal defense of a noncriminal matter arising out of a political campaign;
 - (3) Computer hardware, software and other office technology purchased more than two weeks before the date of a primary election, in the case of a candidate who is opposed in the primary election, or two weeks before the date of a general election, in the case of a candidate who was not opposed in a primary election;
 - (4) A post-election event for staff, volunteers and/or supporters held within 30 days of the election;
 - (5) Payment of noncriminal penalties or fines arising out of a political campaign;
 - (6) Costs incurred in demonstrating eligibility for the ballot or public funds payments or defending against a claim that public funds must be repaid;
 - (7) Food and beverages provided to campaign workers and volunteers; and
 - (8) Costs incurred in fundraising, including payments to fundraising consultants and costs incurred by online fundraising.
- D. The campaign funds of a participating candidate shall not be converted to a personal use which is unrelated to a political campaign. Expenditures not in furtherance of a political campaign for elective office include the following:
- (1) Expenditures to defray the normal living expenses of the candidate, immediate family of the candidate or any other individual, except for the provision of such expenses for professional staff as part of a compensation package;
 - (2) Any residential or household items, supplies or expenditures;

- (3) Clothing, haircuts or other personal grooming;
- (4) Funeral, cremation or burial expenses, including any expenses related to a death within a candidate's or officeholder's family;
- (5) Automobile purchases;
- (6) Tuition payment and child-care costs;
- (7) Dues, fees or gratuities at a country club, health club, recreational facility or other nonpolitical organization unless part of a specific fundraising event that takes place on the organization's premises;
- (8) Admission to a sporting event, theater, concert or other entertainment event not part of a specific campaign activity;
- (9) Expenditure for non-campaign-related travel, food, drink or entertainment; if a candidate uses campaign funds to pay expenses associated with travel that involves both personal activities and campaign activities, the incremental expenses that result from the personal activities shall be considered for personal use unless the candidate benefiting from the use reimburses the campaign account within 30 days for the full amount of the incremental expenses; and
- (10) Gifts, except for brochures, buttons, signs and other campaign materials and token gifts valued at not more than \$50 that are for the purpose of expressing gratitude, condolences or congratulations.

E. Public funds may not be used for:

- (1) Any expenditure in violation of any law;
- (2) Payments made to the candidate or a spouse, domestic partner, child, grandchild, parent, grandparent, brother or sister, or to a business entity in which the candidate or any such person has a 10% or greater ownership interest;
- (3) Payments in excess of the fair market value of services, materials, facilities or other things of value received in exchange;
- (4) Any expenditure made after the candidate has been finally disqualified or had his or her petitions finally declared invalid by the Suffolk County Board of Elections or a court of competent jurisdiction;

- (5) Any expenditure made after the only remaining opponent of the candidate has been finally disqualified or had his or her petitions declared invalid by the Suffolk County Board of Elections or a court of competent jurisdiction;
 - (6) Payments in cash;
 - (7) Any contribution, transfer, or loan made to another candidate or political committee;
 - (8) Gifts, except brochures, buttons, signs and other printed campaign material;
 - (9) Any expenditures made to challenge or defend the validity of petitions of designation or nomination or of certificates of nomination, acceptance, authorization, declination, or substitution, and expenses related to the canvassing of election results;
 - (10) An expenditure made primarily for the purpose of expressly advocating a vote for or against a ballot proposal, other than expenditures made also to further the participating candidate's nomination for election or election;
 - (11) Payment of any penalty or fine imposed pursuant to federal, state or local law; and
 - (12) Transfers to other candidates, political committees or party committees.
- F. All receipts accepted by a participating candidate and his or her principal committee shall be deposited in an account of the principal committee by its treasurer. All deposits shall be made within 10 business days of receipt; provided, however, that deposits of contributions made in the form of checks more than one year before the first covered election for which such candidate is seeking nomination or election may be made within 20 business days of receipt. Each disclosure report filed pursuant to § C42-6 of this article shall include the date of receipt of each contribution accepted.
- G. Unused matching funds must be returned to the Board within 30 days of the general election.

§ C42-7. Reporting requirements.

- A. Each participating candidate and his or her principal committee shall report to the Board every contribution, loan, guarantee, or

other security for such loan received by the candidate and such committee, the full name, residential address, occupation, employer, and business address of each contributor, lender, guarantor, or provider of security and of each person or entity which is the intermediary for such contributions, loan, guarantee, or other security for such loan, and every expenditure made by the candidate and such committee, including expenditures not subject to § C42-5. Disclosure reports shall be submitted at such times and in such form as the Board shall require and shall be clearly legible.

- B. Each participating candidate shall submit, in a contemporaneous manner, the disclosure reports required pursuant to this article, filed in accordance with the schedule specified by the New York State Board of Elections for the filing of campaign receipt and expenditure statements, and such other disclosure reports as the rules of the Board may require, in order for any contributions received during the periods covered by such reports and prior to the last date upon which such candidate may file a certification pursuant to § C42-2 to qualify as matchable contributions.
- C. The Board shall review each disclosure report timely submitted prior to the last date upon which such candidate may file a certification and issue to the candidate a review before the next disclosure report is due. Such review shall inform the candidate of relevant questions the Board has concerning the candidate's (i) compliance with requirements of this article and of the rules issued by the Board; and (ii) qualification for receiving public funds pursuant to this article. The candidate shall have an opportunity to respond and to correct potential violations before the deadline for filing a certification and give candidates an opportunity to address questions the Board has concerning their matchable contribution claims or other issues concerning eligibility for receiving public funds pursuant to this article. Nothing in this paragraph shall preclude the Board from subsequently reviewing such disclosure reports and taking any action otherwise authorized under this article.
- D. Participating candidates and their principal committees shall be authorized during the thirty-day period immediately following the end of a covered election cycle to make payments against expenses that were incurred during the election cycle. Such payments will be disclosed to the Board and shall be in conformance with the expenditure limits set forth in § C4-2(A)(11).²

§ C42-8. Campaign Finance Board.

- A. There shall be a Campaign Finance Board ("Board") that is empowered and authorized to establish and promulgate all rules, policy and procedures as it deems necessary for the proper administration of this article.
- B. The Board shall consist of three members. One member shall be appointed each by the County Executive, the Legislative Majority Leader and the Legislative Minority Leader. The original members of the Board shall be appointed no later than December 31, 2018, and the Board shall convene its first meeting no later than January 31, 2019, at which time it will select its Chairperson. Two members shall constitute a quorum of the Board. **[Amended 12-4-2018 by L.L. No. 3-2019]**
- C. Each member must have experience in at least one of the following areas of expertise: law, academia and education or the not-for-profit sector. No two members shall be from the same political party.
- D. Members may not serve simultaneously as an officer of any political party, nor serve in any capacity in any political campaign, nor act as a lobbyist nor have been registered as a lobbyist for the 12 months prior to their appointment.
- E. Members may not be the spouse, domestic partner or child of any current County elected or appointed official or candidate for any public office.
- F. Members may not make any donations to candidates for any County elective office or their respective political committees.
- G. The Board may render advisory opinions with respect to issues arising under this article. The Board may render these opinions at the written request of a candidate or authorized or principal committee, or upon its own motion.
- H. Each member shall serve a term of five years and may only be removed for cause by the County Legislature upon notice and hearing. Members will receive \$200 for each Board meeting they attend but they shall not receive more than \$4,800 in any one year.
- I. The Board shall meet no less than four times per year.

2. Editor's Note: So in original. Section C4-2A(11) does not exist in the Charter.

- J. At the conclusion of each election cycle, the Board shall (i) determine the percentage increase in the consumer price index for Long Island published by the United States Bureau of Labor Statistics during the period of the election cycle just concluded; (ii) adjust the maximum contribution limit and the total campaign expenditure limit by the amount of such percentage increase to the nearest \$50; and (iii) publish such adjusted maximum contribution in the official newspapers. Such adjusted maximum contribution shall be in effect for any election held before the next such adjustment.
- K. The Board shall appoint an executive director, independent counsel and such other staff as may be necessary to exercise its powers and fulfill its obligations, subject to appropriations by the County Legislature. The Board shall be deemed the appointing authority for all such personnel unless the Board delegates to the executive director the authority to appoint all other Board employees and officers. The Board, its staff and funding shall be treated as a separate agency for purposes of presentation and adoption in the annual County operating budget, but the Board shall be required to submit a full budget request for staffing and other necessary expenses to the County Executive in accordance with existing laws and procedures applicable to all County departments and agencies. **[Amended 12-4-2018 by L.L. No. 3-2019]**
- L. The Space Management Steering Committee shall identify appropriate space to house the Board and its staff by April 1, 2019. The Clerk of the Suffolk County Legislature will provide clerical support and services to the Board until such time as the Board hires staff adequate to support its operations. **[Added 12-4-2018 by L.L. No. 3-2019]**

§ C42-9. Board reports.

- A. By May 1, 2019, the Campaign Finance Board shall present to the County Executive and the County Legislature a preliminary report setting forth the proposed structure and staffing needs of the Board. **[Added 12-4-2018 by L.L. No. 3-2019]**
- B. The Campaign Finance Board shall review and evaluate the effect of this article upon the conduct of legislative and County Executive election campaigns in the County of Suffolk and shall submit a report to the County Executive and each member of the County Legislature on or before September 1, 2022, and every

other year thereafter, and at any other time as the Board deems appropriate.

C. The reports shall contain the following:

- (1) The number and names of candidates qualifying for and choosing to receive public funds pursuant to this article, and of candidates failing to qualify or otherwise not choosing to receive such funds, in each election during the two preceding calendar years.
- (2) The amount of public funds provided to the principal committee of each candidate pursuant to this article and the contributions received and expenditures made by each such candidate and the principal committee of such candidate, in each election during the two preceding calendar years.
- (3) The number and names of candidates filing a certification pursuant to this article in each election during the two preceding calendar years, together with the expenditures made by each such candidate and the principal committee of such candidate in each such election.
- (4) The number and names of nonparticipating candidates in each election during the two preceding calendar years, together with the expenditures made by each such candidate and the authorized committees of such candidate in each such election.
- (5) Recommendations as to whether the provisions of this article governing maximum contribution amounts, thresholds for eligibility and expenditure limitations should be amended and setting forth the amount of, and reasons for, any amendments it recommends.
- (6) An analysis of the effect of this article on political campaigns, including its effect on the sources and amounts of private financing, the level of campaign expenditures, voter participation, the number of candidates and the candidates' ability to campaign effectively for public office.
- (7) A review of the procedures utilized in providing public funds to candidates.
- (8) Such recommendations for changes in this article as it deems appropriate.

§ C42-10. Examinations and audits; repayments.

- A. The Board is hereby authorized and empowered to audit and examine all matters relating to the performance of its functions and any other matter relating to the proper administration of this article. The Board shall conduct its campaign audits in accordance with generally accepted government auditing standards, and shall promulgate rules regarding what documentation is sufficient to demonstrate financial activity. These audit and examination powers extend to all participating candidates, and the principal³ of all participating candidates, provided that:
- B. Any advisory opinion provided by the Board or its staff shall be presumptive evidence that such action, if taken in reliance on such advice, should not be subject to a penalty or repayment obligation.
- C. If the Board determines that any portion of the payment made to the principal committee of a participating candidate from the fund was in excess of the aggregate amount of payments which such candidate was eligible to receive pursuant to this article, it shall notify such committee and such committee shall pay to the Board an amount equal to the amount of excess payments. If the Board determines that any portion of the payment made to a principal committee of a participating candidate from the fund was used for purposes other than qualified campaign expenditures, it shall notify such candidate and committee of the amount so disqualified and such candidate and committee shall pay to the Board an amount equal to such disqualified amount.
- D. If the total of contributions, other receipts, and payments from the fund received by a participating candidate and his or her principal committee exceed the total campaign expenditures of such candidate and committee, such candidate and committee shall use such excess funds to reimburse the fund for payments received by such committee from the fund during such calendar year. No such excess funds shall be used for any other purpose, unless the total amount of the payments received from the fund by the principal committee has been repaid.
- E. If a participating candidate whose principal committee has received funds is disqualified by a court of competent jurisdiction on the grounds that such candidate committed fraudulent acts in order to obtain a place on the ballot and such decision is not reversed, such candidate and his or her principal committee shall

3. Editor's Note: So in original. Apparently should be "principal committee."

pay to the Board an amount equal to the total of public funds received by such principal committee.

- F. No claim for the repayment of public funds shall be made against any candidate or committee without written notice to such candidate or committee and an opportunity to appear before the Board. Any such repayment claim shall be based on a final determination issued by the Board following adjudication before the Board consistent with the procedures set forth in § C42-10 unless such procedures are waived by the candidate or principal committee. Such final determination shall be included in and made part of the final audit, which shall be issued within 30 days of such determination.

§ C42-11. Findings of violation or infraction; adjudications; final determinations.

- A. The Board shall determine whether a participating candidate, his or her principal committee, committee treasurer or any other agent of such candidate has committed a violation or infraction of any provision of this article for which the Board may assess a civil penalty pursuant to this article. The Board shall promulgate rules defining infractions, and such definitions shall include, but not be limited to, failures to comply with the provisions of this article or the rules promulgated hereunder.
- B. The Board shall give written notice and the opportunity to appear before the Board to any participating candidate or his or her principal committee, committee treasurer or any other agent of such candidate, if the Board has reason to believe that such has committed a violation or infraction, before assessing any penalty for such action. In the case of a written notice issued prior to the date of an election, or after an election in the case of a notice regarding an alleged failure to respond to a request for audit documentation, such notice may be issued prior to the issuance of a draft audit. The Board shall issue a final determination within 30 days of the conclusion of the adjudication proceeding.
- C. The Board shall include in every final determination: notice of the respondent's right to bring a special proceeding challenging the Board's final determination in New York State Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules; and notice of the commencement of the four-month period during which such a special proceeding may be brought pursuant to Article 2 of the Civil Practice Law and Rules.

§ C42-12. Penalties for offenses.

- A. Any participating candidate and his or her principal committee that fail to file in a timely manner a statement or record required to be filed by this article or the rules of the Board in implementation thereof or that violate any provision of this article or rule promulgated thereunder, and any committee treasurer or any other agent of a participating candidate who commits such a violation or infraction, shall be subject to a civil penalty in an amount not to exceed \$5,000.
- B. In addition to the penalties provided by Subsection A, if the aggregate amount of expenditures by a participating candidate and such candidate's principal committee exceed the expenditure limitation contained in this article, such candidate and principal committee shall be subject to a civil penalty in an amount not to exceed three times the sum by which such expenditures exceed the applicable expenditure limitation.
- C. The intentional or knowing furnishing of any false or fictitious evidence, books or information to the Board under this article, or the inclusion in any evidence, books, or information so furnished of a misrepresentation of a material fact, or the falsifying or concealment of any evidence, books or information relevant to any audit by the Board or the intentional or knowing violation of any other provision of this article shall be punishable as a Class A misdemeanor in addition to any other penalty as may be provided under law. The Board shall assess penalties for such conduct and seek to recover any public funds obtained.
- D. Notwithstanding any provision of the law to the contrary, any participating candidate and his principal committee or any other person who commits any violation of this article or any rules promulgated hereunder and who takes all steps necessary to correct such violation prior to receiving written notice from the Board of the existence of the potential violation shall not be subject to any penalty for such violation.

§ C42-13. Suffolk County Fair Elections Matchable Fund.

- A. There is hereby established a fund to be known as the "Suffolk County Fair Elections Matching Fund," which shall be nonlapsing. The money in the Fund shall be expended by the Board only for payments to eligible participating candidates and the hiring of Board staff in accordance with the provisions of this article; but

no more than 20% of the moneys deposited into the Fund annually may be utilized by the Board for staffing purposes.

- B. Each year, beginning in Fiscal Year 2019, except for the Fiscal Years of 2020 and 2021, a share of the proceeds received by the County of Suffolk as a result of the operation of video lottery terminals by the Suffolk County Regional Off-Track Betting Corporation shall be deposited in the Fund. The amount deposited in the fund for Fiscal Year 2022 will be \$1,000,000 and all subsequent fiscal years will be 15% of the County's annual share of the proceeds or \$1,000,000, whichever amount is greater. Annual contributions to the fund shall not exceed \$2.5 million in total. **[Amended 12-17-2019 by L.L. No. 8-2020; 11-16-2020 by L.L. No. 48-2020]**