

CITY OF NEW YORK  
CONFLICTS OF INTEREST BOARD

**Basis, Structure, and Administration of  
Conflicts of Interest (Government Ethics) Laws and  
Annual Financial Disclosure (Asset Declaration) Laws**

New York City  
*October 2006*

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[Training: Website Ethics Link: Table of Contents Oct 2006]

## ETHICS/ANTI-CORRUPTION PROGRAM

### I. Types of Ethics/Anti-corruption Laws and Rules

- Ethics law (conflicts of interest law; financial (asset) disclosure law)

Purpose: To promote the reality and perception of integrity in government by preventing unethical conduct *before* it occurs

- Anti-corruption (official misconduct criminal) laws

Purpose: To punish the corrupt and deter the corruptible

- Personnel rules (*e.g.*, time and attendance requirements; reimbursement of expenses; sexual harassment)

Purpose: To establish guidelines on personnel matters for elected and appointed officials and a basis for disciplining appointed public servants

- Related laws and regulations: transparency laws (*e.g.*, freedom of information, open meetings); whistleblower laws; purchasing regulations (*e.g.*, requirements for competitive bidding); laws protecting individual rights (*e.g.*, anti-discrimination laws)

#### Intersection and overlap

*E.g.*, A mid-level manager accepts tickets to a soccer game from a contractor with whom he is dealing on behalf of the government

– probably a matter for ethics enforcement

The manager, on government time and using a government car and driver, goes to the game

– probably a matter for ethics enforcement and disciplinary action

The tickets were merely one of many gifts the manager accepted from contractors with whom he dealt on behalf of the government, gifts that coincided with his approving the award of a contract to the contractor

– probably a corruption (criminal) investigation; ethics/disciplinary proceedings will probably await the outcome of the criminal proceeding (unless it is delayed)

## II. Types of Officials in Ethics/Anti-corruption Context

- The incorruptible

Will comply with the applicable laws and rules, *provided that they know what those laws and rules are and understand them*

- The corrupt

Will regard public service as a means of personal enrichment, disregarding applicable laws and rules

- The corruptible

Will generally follow the applicable laws and rules, but are susceptible to the temptation to violate them

## III. Application of Laws and Regulations to Officials

- The incorruptible

To guide their actions, these officials require only an understandable code of ethics and clear personnel rules

- The corrupt

Having little regard for ethics laws or personnel rules, these officials must be removed from public service as quickly as possible

- The corruptible

These officials require not only knowledge of the ethics laws and personnel rules but also convincing proof that those laws and rules, as well as anti-corruption (official misconduct criminal) laws will be strictly enforced

## HOW TO MAKE AN ETHICS PROGRAM WORK

**Educate public officials, the public, and the press** about what the ethics law and the ethics board are and are not

- That the **purpose of ethics laws** is to promote both the reality *and the perception* of integrity in government by *preventing* unethical conduct *before* it occurs
- That the **focus** of ethics laws is therefore **upon prevention**, not punishment
- That ethics laws assume that the vast majority of **public servants are honest** and want to do the right thing, and thus that these laws are not meant to catch corrupt officials
- That ethics laws **do not regulate morality**, or even ethics, **but** conflicts (usually financial conflicts) between a public servant's official duties and private interests (*i.e.*, **divided loyalty**)
- That ethics laws should **encourage good people** to serve in government by providing guidance to officials and reassurance to citizens that their public servants are serving the public and not themselves

**Facilitate the enactment of an effective government ethics law** that promotes the above purpose and principles

- By resting upon the **three pillars** of
  - A clear, comprehensive, simple, and sensible **code of ethics**
  - Sensible transactional, applicant, and annual **disclosure**
  - Effective **administration** that provides quick and confidential advice, training and education, public disclosure, and reasonable enforcement
- By establishing an **independent ethics board**
  - With **pro bono members**, who have no other government position, engage in no political activities, have no government contracts, do not lobby the government, have fixed terms, and are removable only for cause
  - With **budget protection**

## **Develop a relationship with elected officials** in the government

- To sensitize the board to the **political and real life implications** of ethics issues
- To sensitize the officials to the need to **ask before acting**
- To convince them that the ethics board focuses primarily on **prevention not punishment** and does not play “gotcha”
- To give them a **heads up** on minor violations that can (and should) be corrected administratively

## **Cultivate the press and civic groups**, without allowing them to set the ethics board’s agenda

- By **educating** them about the purpose and principles of the ethics law and the need for confidentiality (to protect sources, to protect officials against unjustified accusations, and to encourage officials and witnesses to contact the board to obtain advice and file complaints)
- By understanding their role as the **eyes, ears, and mouth of the board**, which lacks the press’s and civic groups’ resources to ferret out conflicts of interest and get the word out about the ethics law
- By providing **background information** on the law, without commenting on pending or potential matters or on closed enforcement cases
- By ensuring that **findings of violations** are always public (no secret settlements)
- By seeking a **balance between confidentiality and openness** (e.g., public post-petition proceedings)

See Mark Davies, *A Practical Approach to Establishing and Maintaining a Values-Based Conflicts of Interest Compliance System* (presented to the IV Global Forum on Fighting Corruption, Brasilia, June 2005), [http://www.nyc.gov/html/conflicts/downloads/pdf2/DaviesArticle\\_final.pdf](http://www.nyc.gov/html/conflicts/downloads/pdf2/DaviesArticle_final.pdf);

Mark Davies, *Administering an Effective Ethics Law: The Nuts and Bolts* (presented to the VI Seminar of the Brazilian Commission of Public Ethics, Brasilia, Nov. 2005), [http://www.nyc.gov/html/conflicts/downloads/pdf2/nuts\\_and\\_bolts\\_speech\\_delivered\\_final.pdf](http://www.nyc.gov/html/conflicts/downloads/pdf2/nuts_and_bolts_speech_delivered_final.pdf);

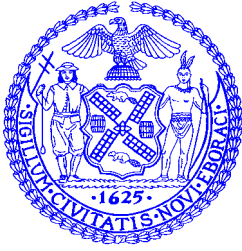
Mark Davies, *Ethics in Government and the Issue of Conflicts of Interest*, Chapter 7 in GOVERNMENT ETHICS AND LAW ENFORCEMENT: TOWARD GLOBAL GUIDELINES (Praeger 2000);

Mark Davies, *Considering Ethics at the Local Government Level*, Chapter 7 in ETHICAL STANDARDS IN THE PUBLIC SECTOR (American Bar Association 1999);

Mark Davies, *Addressing Municipal Ethics: Adopting Local Ethics Laws*, Chapter 11 in ETHICS IN GOVERNMENT: UNDERSTANDING THE LEGAL AND REGULATORY CLIMATE IN NEW YORK STATE (NYSBA 2002).

[Training: Website Ethics Link: How to Make]





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## GOVERNMENT ETHICS LAWS by Mark Davies

### I. Purpose of Government Ethics Laws

*To promote the reality and perception of integrity in government by preventing unethical conduct before it occurs.*

### II. Fundamental Principles of Governments Ethics Laws

- Prevention is better than punishment.
- Not only the reality but also the perception of integrity in government is critical.
- The vast majority of public officials are honest and want to do the right thing; ethics codes are for honest officials, not dishonest ones and are not intended to catch crooks.
- Ethics codes do not regulate morality (or even ethics) but rather conflicts (usually financial conflicts) between an official's public duties and private interests, that is, divided loyalty.
- Ethics laws must be understandable and sensible and tailored to the particular culture and government.
- Ethics laws help level the playing field between those with power and resources and those without.
- Ethics laws preserve and protect government resources.
- Ethics laws encourage good citizens to serve in government by providing guidance to public officials and reassurance to citizens that those officials are acting in the public interest.
- Private citizens and companies must have a stake in government ethics laws.
- Ethics laws undergird the essential values of the society.
- Even in the most corrupt society, an effective ethics system can provide an oasis from which integrity can grow.

Visit our home page at <http://nyc.gov/ethics>

### III. The Three Pillars of an Effective Government Ethics Law

#### A. First Pillar: Code of Ethics

##### 1. Requirements and Precepts

- Codes of ethics must fulfill the purpose and comply with the principles outlined above.
- The ethics code should set a minimum, uniform standard for all officers and employees, with perhaps some stricter standards for certain high level officials.
- An ethics code must set out a comprehensive list of do's and don'ts that will guide and protect public officials.
- The code of ethics must be simple, sensible, straightforward, and short and must be understandable by laypersons.
- Rules should be bright line whenever possible.
- Definitions and exceptions should not be included in the code but set forth in separate sections that limit but never expand the official's obligations under the Code.

##### 2. Provisions

- a. General prohibition on use of office for private gain
- b. Prohibited positions or ownership interests
- c. Gifts from persons doing business with the government
- d. Confidential government information
- e. Appearances and representation before government agencies
- f. Private compensation for doing one's government job
- g. Inducement of other officials to violate the code of ethics
- h. Superior-subordinate financial or business relationships
- i. Solicitation of political contributions or activity from government employees
- j. "Two-hats" restrictions (simultaneous political party and government positions)
- k. Revolving door (post-employment restrictions):
  - (i) Negotiation;
  - (ii) Appearance ban;
  - (iii) Particular matter ban;
  - (iv) Confidential government information
- l. Avoiding conflicts of interest

- m. Improper conduct generally (appearance of impropriety)
- n. Restrictions on private persons and firms
  - (i) Causing an official to violate the code of ethics;
  - (ii) Appearing before a government agency having an employee who works for the private person or firm

## B. Second Pillar: Disclosure

### 1. Transactional Disclosure and Recusal

### 2. Applicant Disclosure

### 3. Annual Disclosure

#### a. Purposes

- Focuses official's attention annually on ethics law
- Alerts public, media, supervisors, and vendors to official's possible conflicts of interest
- Provides a check on transactional disclosure
- Helps prevent conflicts of interest from occurring

#### b. Guidelines in Drafting Annual Disclosure Forms

- Comply with the purpose and principles of ethics laws generally
- Tailor them to the filer's position and agency
- Tie them to the code of ethics: request only information that would reveal a conflict of interest under the code
- Require disclosure only of the fact, not the amount, of the interest
- Make the forms as short and simple as possible while asking all of the relevant questions
- Compare the reports against other lists (e.g., vendor lists)
- Computerize the reports

#### c. Penalties for Failure to File or Failure to Supply Information

#### d. Public Availability

## C. Third Pillar: Administration

### 1. Administrative Structure

- a. Ethics board independent from political process and outside influences (appointment by chief executive with advice and consent of legislature; fixed terms, with term limits; removable only for cause; protected budget)
- b. Prohibition on ethics board members having an interest in contracts with the government, lobbying the government in a private capacity, holding other offices with the government, or engaging in political activity; individuals of the unquestioned integrity who serve *pro bono* (and thus remain independent)

### 2. Duty to Train and Educate

- a. Most important function
- b. Raising red flags, not creating experts
- c. Training programs, starting with most susceptible first
- d. Train the trainer; ethics liaisons
- e. Interesting educational materials (whatever works)

### 3. Duty to Provide Legal Advice

- a. Quick oral and written advice to ethics questions
- b. Providing cover
- c. Confidentiality

### 4. Duty to Grant Waivers

- a. For the benefit of the government
- b. Legal standard required
- c. Agency approval
- d. Availability to public

### 5. Duty to Regulate Disclosure

- Collecting, reviewing, and maintaining disclosure forms and making them available to the public

## 6. Duty to Enforce Code of Ethics and Disclosure Law

### a. Purpose

- To educate officials about the requirements of the ethics law, demonstrate that the government takes the law seriously, and deter other unethical conduct

### b. Necessity

- Lack of effective enforcement authority renders an ethics board a toothless tiger that raises expectations it cannot meet and increases public cynicism; no one takes an ethics board seriously unless it possesses real enforcement power.

### c. Principles of Ethics Enforcement

- Enforcement aims at prevention, not punishment.
- Government ethics laws must be largely self-enforcing through self-interest, peer pressure, whistleblowers, the public, civic groups, and particularly the media.
- Enforcement must be fair, equitable, and sensible.
- Private citizens must take responsibility for officials' compliance with the ethics law through applicant disclosure, prohibitions on inducement of violations, and penalties (e.g., debarment and voiding contracts).
- Ethics boards must fully control their own investigations through subpoena power, authority to commence investigations on the board's own initiative, assigned investigators or investigators on staff, and the power to draw upon additional investigative resources.
- Ethics boards must have full enforcement power over every officer or employee subject to the code of ethics.
- Ethics boards must be sufficiently funded to permit adequate investigations and enforcement.

d. Stages of the Enforcement Process

- Investigation
- Petition and response
- Hearing
- Imposition of penalty

e. Penalties

- Wide range of penalties required to “make the punishment fit the crime”
- Penalties imposed by the ethics board: civil fines; voiding of contract involving an ethics violation; private letters of censure
- Penalties imposed by others: damages; disgorgement of ill-gotten gains (perhaps doubled or trebled); disciplinary action; criminal penalties; debarment of persons or firms violating the ethics law; injunctions against violations
- Public settlements at any stage of the enforcement proceeding

f. Confidentiality

- Tension between protection of officials against unjust accusations and reassurance of public and complainants that ethics board aggressively pursues ethics violations
- Possible rule: enforcement proceeding becomes public only after petition is served by ethics board

g. Whistleblower Protection

- Government officials may not retaliate against anyone who blows the whistle on government corruption or ethics violations

*For further information, see “A Practical Approach to Establishing and Maintaining a Values-Based Conflicts of Interest Compliance System” and “Administering an Effective Ethics Law: The Nuts & Bolts,” reproduced at:*

<http://www.nyc.gov/html/conflicts/html/publications/index.shtml#International>

[Training: Website Ethics Link: Government Ethics Laws Rev]

## GOVERNMENTAL ETHICS LAWS: THEIR PURPOSE AND BASES

The purpose of governmental ethics laws is to **improve the reality and perception of integrity in government.**

Governmental ethics laws are not:

- Really ethics laws at all - instead, they address **financial conflicts of interest** between an official's private interests and public responsibilities;
- Anti-corruption laws - ethics laws are **aimed at honest officials**, not dishonest ones;
- Penal laws - ethics laws focus on **prevention of conflicts of interest** *before* they occur, not on punishment after they occur, so training and education is the first priority.

Ethics laws can and will be obeyed only if they are **understandable and make sense.**

Ethics laws should also **punish contractors and applicants** who cause an official to violate the ethics law.

Ethics laws must be easy and **inexpensive to administer and enforce.**

Ethics laws are **enforced mainly by self-interest**, peer pressure, whistle blowers, concerned citizens, and the media - not by prosecutors or even by ethics boards.

An ethics law (especially a clear code of ethics) is a **government official's best friend** because it tells him or her what the rules are and protects the official against pressure from contractors, outside employers, relatives, and superiors.

Governmental ethics laws rest on **three pillars**:

- (1) A **code of ethics** - a simple, sensible, comprehensive, and understandable list of do's and don'ts
- (2) **Disclosure** -
  - (a) Disclosure and recusal when a conflict actually arises;
  - (b) Necessary annual disclosure to avoid conflicts of interest before they happen and to provide information to the media and the public, as a mechanism to enforce the ethics code;
  - (c) Disclosure by applicants submitting a bid, application, or other paper to a government official; the disclosure states the name and nature of any interest that any government official has in the applicant or the application;
- (3) **Enforcement and administration**, including an independent ethics office with the authority and resources to:
  - (a) Educate officials about the ethics law;
  - (b) Provide quick oral and written answers to ethics questions;
  - (c) Maintain disclosure forms and make them available to the public;
  - (d) Investigate violations of the code of ethics; and
  - (e) Impose civil fines and other penalties.

A government ethics law must be **tailored to the particular government and society**.



## ORAL AND WRITTEN ADVICE

- Purpose:** To prevent conflicts of interest by giving government officers and employees quick answers to their ethics questions.
- Confidentiality:** The ethics commission's communications with government officials seeking advice must be protected against disclosure to the public or to other government agencies, at least to the extent that the government official asks for advice on future conduct. (Past conduct is a matter for enforcement, and officials should be told that.)
- Oral advice:** Ethics commission attorneys should be available every day to answer questions by telephone. An official should be able to ask a question without revealing his or her name.
- Written advice:** Written opinions should be given quickly. Simple questions should be answered by staff. Only complicated questions should go to the commission.
- Ethics officers:** If possible, set up ethics officers in every agency, who will act as a liaison to the ethics commission. But officials must always be able to come directly to the ethics commission.
- Opinions:** Written advisory opinions should be distributed to every agency so that officials may consult them. The opinions should not reveal who requested the opinion.
- Waivers:** Ethics commissions should have limited power to waive certain provisions of the code of ethics where they do not make sense in the particular case.

## TRAINING AND EDUCATION

**Purpose:** To prevent conflicts of interest by teaching officials about the code of ethics. Ethics training is the most important function of an ethics agency.

**Target:** (1) Eventually, every government officer and employee should receive some ethics training. Even low-level employees, who have little danger of a conflict of interest, should know the law in order to keep an eye on their supervisors.

(2) Education should start with high level officials and attorneys.

(3) If possible, set up ethics trainers in each agency, who will train that agency's employees.

(4) Vendors and contractors who work with the government should also receive training about the ethics law.

**Programs:** (1) Workshops, briefings, and seminars for various groups;

(2) A large seminar for high level officials, which they are required to attend and at which the head of the government stresses how important the ethics law is;

(3) An ethics compliance program in each agency that insures that the agency employees know and understand the law;

(4) Participation in international ethics organizations, such as the Council on Governmental Ethics Laws (COGEL), which offers extensive resources.

**Ethics officers:** If possible, set up ethics officers in every agency, who will be responsible for making sure ethics training is given and who will act as a liaison to the ethics commission.

**Materials:** (1) A plain language guide on the law;

(2) Videotapes that can be shown to government employees;

(3) Short leaflets on various ethics topics and for various types of employees (e.g., purchasing agents) and for contractors.

**Evaluations:** Ethics commissions should evaluate how effective their training and education programs are.

# DISCLOSURE

## TRANSACTIONAL DISCLOSURE AND RECUSAL

**What it is:** A transactional disclosure discloses the name of the official and the nature of a conflict of interest when it actually arises. In a recusal, the official disqualifies himself or herself from discussing, acting on, or voting on the matter. Example: "This contractor is my brother-in-law, and I recuse myself from this matter."

**Purposes:** (1) Transactional disclosure informs the public, other government officials, persons doing business with the government, and the media about the conflict of interest.

(2) Recusal (disqualification) prevents the conflict of interest from occurring.

**Form:** (1) If the disclosure is made at a public meeting, an oral disclosure is sufficient if it is put in the minutes of the meeting.

(2) If the disclosure is not made at a public meeting, the disclosure must be in writing and filed with the official's agency and the ethics commission.

## APPLICANT DISCLOSURE

**What it is:** Applicant disclosure is disclosure by a private person or non-government entity that is bidding on government business or requesting a permit or license from the government.

**Purposes:** (1) To make government officials aware of their own possible conflicts of interest;

(2) To alert other government officials, other bidders or applicants, the public, and the media of possible conflicts of interest.

**Form:** The bidder or applicant must state in the bid or application the name of any official in the government that has an interest in the bidder or applicant or in the bid or application itself, to the extent the applicant knows. "Interest" should include the interest of family members of the official. Example: "Mr. \_\_\_\_\_, an owner of the company, is the brother of \_\_\_\_\_, the [government's] Director of \_\_\_\_\_."

## ANNUAL DISCLOSURE

**What it is:** Annual disclosure discloses once each year certain basic information about the filer, such as the location of his or her real property and the names of his or her private employer (if any).

**Purposes:** (1) To focus the attention of officials at least once each year on where their potential conflicts of interest lie - for example, if an official's brother is a builder, that official will have a possible conflict if his or her agency deals with the brother.

(2) To let the public, the media, the government, and people who do business with the official's agency know what the official's private interests are.

(3) To provide a check on "transactional" disclosure - that is, disclosure when a potential conflict actually occurs.

(4) To help prevent conflicts of interest from occurring.

**Who Discloses:** Only those officials who are in a position to have a significant conflict of interest, including elected officials; candidates for elective office; members of commissions and boards; department heads and their deputies; officials who set government policy; officials involved in negotiating, approving, paying, or auditing contracts; officials involved in adopting or changing laws or regulations.

**Form:** (1) Should be tailored to the position and agency, if possible.

(2) Must be tied to the code of ethics; an annual disclosure form should only ask for information that would show a possible violation of the code of ethics.

(3) Must be as short and simple as possible. See two-page form by New York State Temporary State Commission on Local Government Ethics.

## AVAILABILITY OF DISCLOSURE FORMS

Disclosure forms must be easily and quickly available to the public, the media, other government officials, and people who do business with the official's agency.

## ENFORCEMENT

- Purposes:**
- (1) To educate officials about the requirements of the code of ethics;
  - (2) To show officials that the government is serious about the ethics law;
  - (3) To punish unethical behavior and discourage other officials from committing conflicts of interest (deterrence).
- Stages:**
- (1) Receipt of a complaint (oral or written; identified or anonymous) or other information showing a possible ethics violation (for example, from a newspaper article);
  - (2) Determination if an ethics violation may have occurred;
  - (3) Investigation;
  - (4) Notification to the official that he or she may have violated the code of ethics and receipt of the official's answer to the charges;
  - (5) Hearing on the charges;
  - (6) Imposition of penalty (for example, a civil fine).
- Penalties:**
- (1) Civil fines (not a criminal penalty) (e.g., up to \$10,000 in NYC);
  - (2) Disciplinary action (censure, suspension, removal from office);
  - (3) Damages (for harm to the government - for example, because the contract with the official's brother cost more than it should have);
  - (4) Disgorgement of ill-gotten gains (the official must give up any gains he or she received from the ethics violation, even if the government was not hurt);
  - (5) Criminal penalties (jail, fines), where the official was corrupt (for example, where he or she took a kickback to award a contract) - but usually these cases fall under other criminal laws and are handled by the prosecutors, not by the ethics commission;
  - (6) Debarment (prohibiting the official or company from doing any business with the government for, say, three years);
  - (7) Nullification of government contracts obtained as a result of an ethics violation.

[Training: Website Ethics Link: [Governmental\\_Ethics\\_Laws](#)]

## PRINCIPLES OF ENFORCEMENT OF GOVERNMENT ETHICS LAWS

**1. Government ethics laws aim at prevention, not punishment.**

Enforcement must be educational, not punitive.

**2. Government ethics laws must be largely self-enforcing.**

Absent an army of investigators, ethics boards must rely for enforcement primarily upon self-interest, peer pressure, whistle blowers, concerned citizens, and particularly the media.

**3. Enforcement must be not only fair and equitable, both in reality and perception, but also sensible.**

Time should not be wasted on unimportant issues.

**4. A range of penalties must be available.**

The law must authorize private letters of censure, negotiated dispositions (settlements), civil fines, nullification of improper contracts, damages, disgorgement of ill gotten gains (potentially trebled), disciplinary action, criminal penalties (in limited circumstances), injunctive relief, and debarment from future government contracts.

**5. Private citizens must take responsibility for officials' compliance with ethics laws.**

The law must require applicant disclosure, prohibit inducing a public servant to violate the ethics law, and provide appropriate penalties, including debarment, for violations.

**6. In decentralized governments, enforcement should be conducted at the local level, with state oversight.**

The state should intervene only in four instances: upon request of the local ethics board; where the local board cannot act because of vacancies or absence of a quorum; where the complaint lies against a member of the

ethics board itself; or where the municipality lacks an ethics board. Municipalities should have the option of forming joint ethics boards or contracting out to another municipality for an ethics board.

**7. Ethics boards must be independent.**

Provisions on appointment and qualifications of members must, to the extent possible, ensure their impartiality.

**8. Ethics laws must empower ethics boards to conduct their own investigations.**

Ethics boards must have subpoena power and investigators on staff, with authority to initiate investigations without a complaint, but also the power to draw upon additional resources, such as a department of investigation.

**9. Ethics boards must be funded sufficiently to permit adequate investigation and enforcement.**

The very nature of their business requires that ethics boards be lean and mean, but not cadaverous. Inadequate resources invite public censure and cynicism.

**10 Confidentiality rules must protect officials from unfounded accusations while reassuring other officials, complainants, and the public that the ethics board will address accusations of ethical impropriety quickly, aggressively, and fairly.**

To permit the ethics board to weed out unsubstantiated or unfair accusations, ethics laws should provide for a confidential probable cause notice to the alleged violator. Only after an ethics board receives the answer to the notice and sustains probable cause should the pleadings and proceedings become public.

[Training: Senegal\_Enforcement\_Principles]

**POSSIBLE MODIFIED ANNUAL DISCLOSURE FORM  
PURSUANT TO PROPOSED AMENDMENT TO  
NYS GEN. MUN. LAW § 811(1)(a)**

ANNUAL DISCLOSURE STATEMENT  
FOR CALENDAR YEAR 2006

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Last Name	First Name	Initial
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Title	Department or Agency
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Work Address	Work Phone No.
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If the answer to any of the following questions is “none,” please so state. Attach additional pages if necessary.

**1. Outside Employers and Businesses.** List the name of every employer or business, other than the City of New York, from which you received more than \$1,000 for services performed or for goods sold or produced, or of which you were a paid member, officer, director, or employee during the year 2003. Do not list individual customers or clients of the business. Do not list businesses in which you were an investor only (they are listed in Question 2 below). Identify the nature of the business and the type of business, such as a partnership, corporation, or sole proprietorship, and list your relationship(s) to the employer or business (*i.e.*, owner, partner, officer, director, member, employee, and/or shareholder). Provide the same information for your relatives. “Relative” means your spouse, registered domestic partner, child, stepchild, brother, sister, parent, stepparent, or a person you claimed as a dependent on your latest income tax return.

<u>Name of Family Member</u>	<u>Relationship to You</u>	<u>Name of Employer or Business</u>	<u>Nature of Business</u>	<u>Type of Business</u>	<u>Relationship to Business</u>
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<i>[E.g.: Rose Smith</i>	<i>Wife</i>	<i>Monument Realty</i>	<i>Real Estate</i>	<i>Partnership</i>	<i>Employee]</i>
<i>[E.g.: John Smith</i>	<i>Self</i>	<i>IBM</i>	<i>Computers</i>	<i>Corp.</i>	<i>Pres./ Shareholder]</i>

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2. **Investments.** List the name of any entity in which you have an investment of at least 5% of the stock or debt of the entity or \$10,000, whichever is less. Do not list any entity listed in response to Question 1 above. Identify the nature of the business and the type of business (*e.g.*, corporation). Provide the same information for your spouse and any of your children who are under age 18.

<b>Name of Family Member</b>	<b>Relationship to You</b>	<b>Name of Entity</b>	<b>Nature of Business</b>	<b>Type of Business</b>
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*[E.g.: John Smith                      Self                      Verizon                      Communications                      Corp.]*

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3. **Real Estate.** List the address of each piece of real estate that you or your relatives, as defined in Question 1, own or have a financial interest in. List only real estate that is located in the City of New York and the counties of Nassau and Westchester. If you or your relative lives at the address, list as the address only the city, town, or village in which the property is located.

<b>Name of Family Member</b>	<b>Relationship to You</b>	<b>Address of Real Estate</b>	<b>Type of Investment</b>
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*[E.g.: Robert Smith                      Father                      2 Main St., Yonkers                      Rent]*

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4. **Gifts.** List each gift that you or your spouse or registered domestic partner received worth \$50 or more during the year 2003, except gifts from relatives, as defined in Question 1. A “gift” means anything of value for which you or your spouse paid nothing or paid less than the fair market value and may be in the form of money, services, reduced interest on a loan, travel, travel reimbursements, entertainment, hospitality, or in any other form. Separate gifts from the same or affiliated donors during the year must be added together for purposes of the \$50 rule. You do not need to list a gift if you know that the donor has no business dealings with the City of New York.

<u>Recipient of Gift</u>	<u>Donor of Gift</u>	<u>Relationship to Donor</u>	<u>Nature of Gift</u>
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*[E.g.: John Smith                      Acme Corp.                      Former employer                      Free trip to Las Vegas]*

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5. **Money You Owe.** List each person or firm to which you or your spouse or your registered domestic partner owes \$1,000 or more. Do not list money owed to relatives, as defined in Question 1. Do not list credit card debts unless you have owed the money for at least 60 days.

<u>Debtor</u>	<u>Creditor</u>	<u>Type of Obligation</u>
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*E.g.: John & Rose Smith                      Chase Bank                      Mortgage loan]*

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**6. Money Owed to You.** List each person or firm that owes you or your spouse or your registered domestic partner \$1,000 or more. Do not list money owed by relatives, as defined in Question 1.

<u>Creditor</u>	<u>Debtor</u>	<u>Type of Obligation</u>
<i>E.g.: John Smith</i>	<i>Alexis Doe</i>	<i>Mortgage loan]</i>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

*I certify that all of the above information is true to the best of my knowledge and that, within the past two weeks, I have read the two-page ethics guide attached to this form.*

Signed: \_\_\_\_\_

Date Signed: \_\_\_\_\_

[Training: Website Ethics Link: FD Model Form May 2006]

## **ETHICS GUIDE: NYC CONFLICTS OF INTEREST LAW (PLAIN LANGUAGE VERSION\*)**

1. **Misuse of Office.** You may not take an action or fail to take an action as a public servant if doing so might financially benefit you, a family member, or anyone with whom you have a business or financial relationship.
2. **Misuse of City Resources.** You may not use City letterhead, personnel, equipment, supplies, or resources for a non-City purpose, nor may you pursue personal or private activities during times when you are required to work for the City.
3. **Gifts.** You may not accept anything of value for less than its fair market value from anyone that you know or should know is seeking or receiving anything of value from the City.
4. **Gratuities.** You may not accept anything from anyone other than the City for doing your City job.
5. **Seeking Other Jobs.** You may not seek or obtain a non-City job with anyone you are dealing with in your City job.
6. **Moonlighting.** You may not have a job with anyone that you know or should know does business with the City or receives a license, permit, grant, or benefit from the City.
7. **Owning Businesses.** You may not own any part of a business or firm that you know or should know does business with the City or receives a license, permit, grant, or benefit from the City, nor may your spouse, nor your domestic partner, nor any of your children if they are under 18.
8. **Confidential Information.** You may not disclose confidential City information or use it for any non-City purpose, even after you leave City service.
9. **Appearances.** You may not accept anything from anyone other than the City for communicating with any City agency or for appearing anywhere on a matter involving the City.
10. **Lawyers and Experts.** You may not receive anything from anyone to act as a lawyer or expert against the City's interests in any lawsuit brought by or against the City.
11. **Buying Office or Promotion.** You may not give or promise to give anything to anyone for being elected or appointed to City service or for receiving a promotion or raise.
12. **Business with Subordinates.** You may not enter into any business or financial dealings with a subordinate or superior.
13. **Political Solicitation of Subordinates.** You may not directly or indirectly ask a subordinate to make a political contribution or to do any political activity.
14. **Coercive Political Activity.** You may not force or try to force anyone to do any political activity.
15. **Coercive Political Solicitation.** You may not directly or indirectly threaten anyone or promise anything to anyone in order to obtain a political contribution.

16. **Political Activities by High-Level Officials.** If you are an elected official, deputy mayor, agency head, deputy or assistant agency head, chief of staff, or director or member of a board or commission, you may not hold political party office or ask anyone to contribute to the political campaign of a City officer or City employee or to the political campaign of anyone running for City office.
17. **Post-Employment One-Year Ban.** For one year after you leave City service, you may not accept anything from anyone, including the City, for communicating with your former City agency.
18. **Post-Employment One-Year Ban for High-Level Officials.** If you are an elected official, deputy mayor, chair of the city planning commission, or head of the office of management and budget, law department, or department of citywide administrative services, finance, or investigation, for one year after you leave City service, you may not accept anything from anyone, including the City, for communicating with your former branch of City government.
19. **Post-Employment Particular Matter Bar.** After you leave City service, you may never work on a particular matter you personally and substantially worked on for the City.
20. **Improper Conduct.** You may not take any action or have any position or interest, as defined by the Conflicts of Interest Board, that conflicts with your City duties.
21. **Inducement of Others.** You may not cause, try to cause, or help another public servant to do anything that would violate this Code of Ethics.
22. **Disclosure and Recusal.** As soon as you face a possible conflict of interest under this Code of Ethics, you must disclose the conflict to the Conflicts of Interest Board and recuse yourself from dealing with the matter.
23. **Volunteer Activities.** You may be an officer or director of a not-for-profit with business dealings with the City if you do this work on your own time, you are unpaid, the not-for-profit has no dealings with your City agency (unless your agency head approves), and you are in no way involved in the not-for-profit's business with the City.

*FOR ADDITIONAL INFORMATION, CONTACT*

**NEW YORK CITY CONFLICTS OF INTEREST BOARD  
2 LAFAYETTE STREET, SUITE 1010  
NEW YORK, NY 10007  
212-442-1400 (TDD 212-442-1443)**

*OR VISIT THE BOARD'S WEB SITE AT*

**<http://nyc.gov/ethics>**

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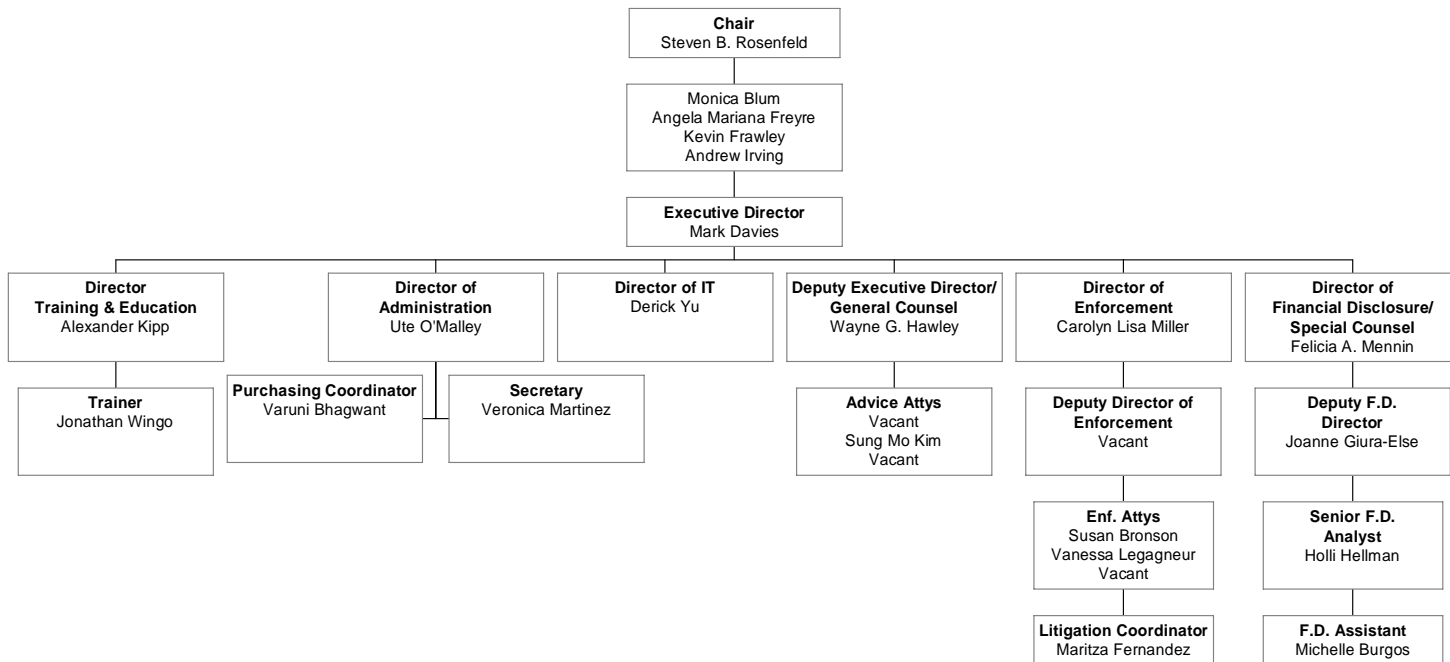
\* This material is intended as a general guide. It is not intended to replace the text of the law (NYC Charter § 2604). For more particular information or to obtain answers to specific questions, you may write or call the Board.

**THE STRUCTURE AND FUNCTION  
OF THE  
NEW YORK CITY CONFLICTS OF INTEREST BOARD**

- I. Introduction: NYC Charter Chapter 68; Ad. Code § 12-110
- II. NYC Conflicts of Interest Board
  - A. Structure (Charter § 2602)
  - B. Duties
    - 1. Education and Training (§ 2603(b))
    - 2. Advice (oral, advisory opinions, staff letters) (§ 2603(c))
    - 3. Orders and Waivers (§ 2604(a)(3)-(4), (e))
    - 4. Investigation and Enforcement (§ 2603(e)-(h))
    - 5. Financial Disclosure (§ 2603(d); Ad. Code § 12-110)
    - 6. Legislative and Administrative Initiatives (§ 2603(a), (j))
  - C. Confidentiality (Charter § 2603(c)(3), (f), (h)(4)-(5), (k); Ad. Code § 12-110(c))
- III. Conflicts of Interest Provisions (Charter § 2604(a)-(d))
  - A. Use of Public Position for Private Gain (§ 2604(b)(1)-(3))
  - B. Appearances before City Agencies (§ 2604(b)(6)-(8))
  - C. Prohibited Interests (positions; ownership) (§ 2604(a))
  - D. Gifts, Gratuities, and Honoraria (§ 2604(b)(5), (13))
  - E. Moonlighting (§§ 2604(a), (b)(2)-(4), (6)-(8), (14))
  - F. Not-for-Profit Activities (§ 2604(c)(6))
  - G. Political Activities (§ 2604(b)(9), (11), (12), (15))
  - H. Post-Employment (Revolving Door) (§ 2604(d))
  - I. Miscellaneous (confidential information, purchase of position, contracts with subordinates) (§ 2604(b)(4), (10), (14))
- IV. Disclosure
  - A. Financial (Ad. Code § 12-110; Charter § 2603(d))
  - B. Transactional (Charter §§ 2604(b)(1), 2605)
- V. Enforcement
  - A. Complaints, Investigations, Hearings, Orders (Charter § 2603(e)-(h))
  - B. Penalties (Charter § 2606; Ad. Code § 12-110(h))

# CONFLICTS OF INTEREST BOARD ORGANIZATION CHART

## BOARD



**REINVIGORATING AN ETHICS BOARD AND THE NEED FOR BUDGET PROTECTION  
CONFLICTS OF INTEREST BOARD: 1993, 2001, 2004, 2005**

<b>Agencywide</b>	<b>1993</b>	<b>2001</b>	<b>2004</b>	<b>2005</b>
Adopted Budget (Fiscal Year)	\$1,132,000 (FY94)	\$1,698,669 (FY02)	\$1,533,852 (FY05) <sup>1</sup>	\$1,543,283 (FY06) <sup>2</sup>
Staff (budgeted)	26	23 <sup>3</sup> /5 <sup>3</sup>	19 <sup>4</sup>	19 <sup>5</sup>
Availability of materials	Hard copy only	Virtually all ethics publications on website; opinions & enforcement decisions on Westlaw & Lexis; 24/7 audiotext & faxback services	2002: Added to website all advisory opinions & all enforcement decisions 2004: Redesigned website	Website visitors increased to 243,193
<b>Legal Advice</b>	<b>1993</b>	<b>2001</b>	<b>2004</b>	<b>2005</b>
Staff	6-½ (4-½ attorneys)	4 (3 attorneys)	4 (3 attorneys)	3 attorneys
Telephone requests for advice	?	1,650	2,633	2,926 (+11%)
Written requests for advice	321	539	535	515 (-4%)
Issued opinions, letters, waivers, orders	266	501	470 <sup>6</sup>	543 (+16%)
Opinions, etc. per attorney	53	167	157	181 (+15%)
Pending requests at year end	151	40	191	127 (-34%)
Median age of pending requests at year-end	8-½ months	18 days	8 months	12 months
<b>Enforcement</b>	<b>1993</b>	<b>2001</b>	<b>2004</b>	<b>2005</b>
Staff	½	5 (4 attorneys)	5 (4 attorneys)	4 (3 attorneys) <sup>7</sup>
Complaints received	29	124	307	370 (+21%)
Dispositions	38	154	266	234 (-12%) <sup>8</sup>
Dispositions imposing fines	1	10	6	11 (+83%)
Public censure letters	0	2	0	1
Fines collected	\$500	\$20,450	\$8,450	\$37,050
Referrals to DOI	19	49	156	110 (-29%)
Reports from DOI	?	43	93	117 (+26%)



<b>Training and Education</b>	<b>1993</b>	<b>2001</b>	<b>2004</b>	<b>2005</b>
Staff	1	4 <sup>3</sup> / <sub>5</sub> <sup>1</sup>	2	2
Training sessions	10	190 24 agencies; CLE	288 38 agencies Trained entire DOB; train the trainer lunches; citywide CLE classes	242 34 agencies Brown Bag lunches; class for vendors; training for new community board members
Ethics newsletter	None	<i>Ethical Times</i> (Quarterly)	Reinstated <i>Ethics Times</i> (discontinued in 2003)	Reconstituted quarterly <i>Ethical Times</i>
Videotapes	None	3 half-hour training films; 2 PSA's	Template for agency-specific videotapes	
Board of Education training	None	116 training sessions; BOE leaflet, booklet, videotape	Expanded training to Chancellor's staff, central staff, ROC's, senior administrators	Extended training to Aspiring Principals
Electronic training	None	Computer game show; Crosswalks appearances	2002: Game show added 2004: PSA's on commercial radio stations	"Ownership Tree" on website
Publications	6 Poster, Chapter 68, Plain Language Guide, Annual Reports	Over 50 Ethics & Financial Disclosure Laws & Rules; leaflets; <i>Myth of the Month</i> (CHIEF LEADER); Plain Language Guide; Board of Ed pamphlet; outlines for attorneys; <i>CityLaw</i> , <i>NY Law Journal</i> , <i>NYS Bar Ass'n</i> articles; chapters for ABA, NYSBA, & international ethics books; Annual Reports; poster; newsletter	Over 50 Monthly column in <i>Public Employees Press</i> ; new leaflets (e.g., on Community Education Councils); revised and updated all leaflets	Over 50 Monthly column in <i>The Chief</i> (replacing PEP); new leaflets

<b>Financial Disclosure</b>	<b>1993</b>	<b>2001</b>	<b>2004</b>	<b>2005</b>
Staff	12	5	4	5
6-year compliance rate	99%	98.6%	97.6%	96.6%
Fines collected	\$36,051	\$31,700	\$15,075	\$19,675
Reports reviewed for completeness (mandated by Charter & NYS law)	12,000	400	400	400
Reports reviewed for conflicts (mandated by law)	350	38	200	200
Electronic filing	None	In development	Pilot filing (100 filers)	Phase 2 filing (600 filers)

<sup>1</sup> Of the Board's total FY05 budget, only \$1,390,852 was baselined. The remaining \$143,000 was restored by the Council for FY2005 only.

<sup>2</sup> Of the Board's total FY06 budget, only \$1,350,283 is baselined. Of the remaining \$193,000, \$143,000 was restored by the Council for FY2006 only and \$50,000 was added by the administration for FY2006 only.

<sup>3</sup> The part-time (<sup>3</sup>/<sub>5</sub>) position, a senior trainer, was not part of the Board's budgeted headcount of 23.

<sup>4</sup> Of the 19 positions, only 17 were baselined.

<sup>5</sup> Of the 19 positions, only 16 were baselined.

<sup>6</sup> The Legal Advice Unit lost its longtime Special Counsel and lacked an attorney for two months in 2004 before hiring an attorney intern.

<sup>7</sup> From January to November 21, 2005, the Board had only three enforcement attorneys.

<sup>8</sup> The Enforcement Unit lacked one attorney for almost 11 months in 2005. Dispositions per attorney actually *increased* from 67 in 2004 to 76 in 2005.

NEW YORK CITY  
CONFLICTS OF INTEREST BOARD

REPRESENTATIVES OF FOREIGN GOVERNMENTS  
VISITING THE BOARD

Angola	Kyrgyzstan
Argentina	Latvia
Armenia	Lithuania
Azerbaijan	Macedonia
Brazil	Malawi
Bulgaria	Maldives
China	Mexico
Colombia	Moldova
Costa Rica	Montenegro
Croatia	New South Wales, Australia
Dominican Republic	Nicaragua
Ecuador	Pakistan
Egypt	Panama
El Salvador	Paraguay
Gaza	Peru
Georgia	Queensland, Australia
Guatemala	Romania
Guyana	Russia
Haiti	Senegal
Honduras	Serbia
Hungary	South Africa
Indonesia	South Korea
Israel	Taiwan
Italy	Tanzania
Jamaica	Thailand
Kazakhstan	Tunisia
Kenya	Vietnam
Korea	Zambia
Kosovo	Zimbabwe

## REQUESTS FOR ADVICE ON CHAPTER 68

<u>Year</u>	<u>Requests Received</u>
1996	359
1997	364
1998	496
1999	461
2000	535
2001	539
2002	691
2003	559
2004	535
2005	515

## RESPONSES TO REQUESTS FOR ADVICE ON CHAPTER 68

<u>Year</u>	<u>Staff Letters</u>	<u>Waivers/ (b)(2) Letters</u>	<u>Board Letters, Orders, Opinions</u>	<u>Total</u>
1996	212	49	25	286
1997	189	116	24	329
1998	264	111	45	420
1999	283	152	28	463
2000	241	179	52	472
2001	307	148	46	501
2002	332	147	26	505
2003	287	165	83	535
2004	252	157	61	470
2005	241	223	79	543

CITY OF NEW YORK  
CONFLICTS OF INTEREST BOARD

2 Lafayette Street, Suite 1010  
New York, New York, 10007  
(212) 442-1400

Fax: (212) 442-1407 TDD: (212) 442-1443

Charitable Contributions  
Superior- Subordinate Relationship  
Sale of Products

Charter Sections: 2604(b)(2), (b)(3), (b)(4) and (b)(14)

**Advisory Opinion No. 98-12**

The Conflicts of Interest Board (the "Board") has received a request for an opinion from a public servant employed by a City agency (the "Agency"), asking whether, consistent with the conflicts of interest provisions of Chapter 68 of the City Charter, she may sell beauty products to her subordinates within the Agency. The Board has also been asked whether a superior may ask a subordinate to contribute to a charitable organization.

For the reasons discussed below, it is the opinion of the Board that it would be a violation of Chapter 68 for the public servant to sell beauty products to her subordinates within the Agency. It would also be a violation of Chapter 68 for a superior to solicit charitable contributions from a subordinate. The Board has determined, however, that a subordinate may sell products to a superior, or solicit donations for charitable purposes from a superior, if the amount involved is de minimis. The Board considers de minimis to be \$25.00 or less. Further, the Board has also determined that agencies may determine whether and to what extent employees who are peers may sell products to each other or solicit donations from each other for charitable purposes.

### Background

From time to time, the Board receives requests from public servants regarding the propriety of selling items within their agency or soliciting donations to charitable causes. As examples, public servants sell sweets for their children's schools, seek sponsors within their agency for walkathons, or sell cosmetic products to earn outside, non-City income. The sale of items can include anything from Girl Scout cookies to raffle tickets for charity. In some cases it is a superior selling to a subordinate and in others it is a subordinate selling to a superior or a peer selling to a peer.

### Discussion

The sale of items, whether for charitable purposes or as part of a side business, is governed by several Charter provisions. These provisions are contained in Charter Sections 2604(b)(2), (b)(3) and (b)(14). The purpose of all of these provisions is to preserve the integrity of public service, to prevent City employees from being exposed to official coercion in their City positions, and to prevent employees from using their City positions for personal gain.

Charter Section 2604(b)(2) provides that no public servant shall engage in any business, transaction, or private employment, or have any financial or other private interest, direct or indirect, which is in conflict with the proper discharge of

his or her official duties. Charter Section 2604(b)(3) provides that no public servant shall use or attempt to use his or her official position to obtain any financial gain, contract, license, privilege or other private or personal advantage, direct or indirect, for the public servant or any person or firm associated with the public servant.

Charter Section 2604(b)(14) states, "No public servant shall enter into any business or financial relationship with another public servant who is a superior or subordinate of such public servant."

The Charter Revision Commission defined the superior-subordinate relationship as follows:

Subordinates are not limited to individuals directly under and reporting to the public servant, but include all individuals in lower positions in the organizational hierarchy of the agency, whose work the public servant has the power to direct or whose terms and conditions of employment the public servant has the power to affect.

See Volume II, Report of the New York City Charter Revision Commission,  
December 1986 - November 1988, p. 178.

### Conclusion

It is the opinion of the Board that superiors may not ask subordinates to purchase items or contribute to charitable causes. Accordingly, the sale of raffle tickets, Girl Scout cookies, cosmetic products or similar items by a superior to a subordinate is entirely proscribed by Charter Section 2604(14) and therefore



would violate Chapter 68. In addition, it is the opinion of the Board that for a superior to request a subordinate to sign up for a bike-a-thon, walk-a-thon, or similar charitable activity or to request a charitable donation would also be in contravention of Charter Section 2604(14) and therefore would violate Chapter 68, unless the charitable activity or fundraiser is sponsored by the City.

The question then remains as to whether a subordinate may sell products to or solicit donations from superiors. In this regard, it is the opinion of the Board that if the amount involved is de minimis, then such an exchange would not violate Chapter 68. The Board considers de minimis to be \$25.00 or less. However, City agencies may determine that a lesser amount is appropriate. Further, it is the opinion of the Board that agencies may determine whether and to what extent employees who are peers may sell products to each other or solicit donations from each other for charitable purposes.

In addition, to the extent the above-mentioned activities are permitted, they must be conducted in accordance with Charter Sections 2604(b)(2) and (b)(3). This means that these activities must be performed at times when the public servants are not required to perform services for the City and that the public servants may not use their official City position or title to obtain any private or personal advantage; and that public servants do not use City equipment, letterhead, personnel or other City resources in connection with this non-City work. See Charter Sections 2604(b)(2) and (b)(3), respectively.

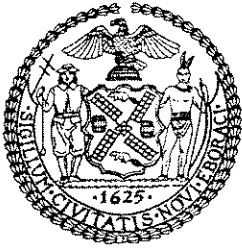
The Board notes that the City endorses and promotes certain charitable initiatives on an on-going or annual basis. The Board's decision excludes these types of charitable events sponsored by the City. Such events would include the annual Combined Municipal Campaign, blood drives, toy drives, or other City sponsored charitable activities.

The Board's decision on this matter is conditioned on the correctness and completeness of the facts supplied to us. If such facts are in any respect incorrect or incomplete, the advice we have given in this opinion may not apply.

Benito Romano  
Acting Chair

Bruce A. Green  
Jane W. Parver

Dated: December 31, 1998



CITY OF NEW YORK  
CONFLICTS OF INTEREST BOARD

2 Lafayette Street, Suite 1010  
New York, New York 10007  
(212) 442-1400

Fax: (212) 442-1407 TDD: (212) 442-1443

August 13, 2001

Neal L. Cohen, M.D.  
Commissioner  
New York City Department of Mental Health,  
Mental Retardation and Alcoholism Services  
93 Worth Street  
New York, N.Y. 10013

Re: Conflicts of Interest Board Case No. 2001-242 (Marcella Ross)

Dear Commissioner Cohen:

This is in response to your August 1, 2001, letter to the Conflicts of Interest Board (the "Board"), requesting a waiver of the conflicts of interest provisions of Chapter 68 of the City Charter to allow Marcella Ross to work for the Romanian Information and Referral Center, Inc. (the "Organization"), a not-for-profit organization, in light of her position with the Department of Mental Health, Mental Retardation and Alcohol Services (the "Department").

You have informed the Board that Ms. Ross is an Associate Staff Analyst in the Department's Office of Contract Management ("OCM"). You advise that in this position, Ms. Ross's duties include working with her supervisor in signing off, on behalf of OCM, on appropriate changes in contract agency budgets.

You further inform the Board that Ms. Ross, herself an immigrant from Romania, started the Organization in 1994 as a service organization for the Romanian community in New York City and that she now plans to receive a salary from the Organization. Ms. Ross advises that the Organization is the only not-for-profit community-based group specifically serving the Romanian community in Queens, which amounts to approximately 125,000 individuals, including refugees from the prior communist regime and those who were able to leave after the fall of communism.

You indicate that the Organization has a contract with the New York City Department of Youth and Community Development, but not with the Department. You advise that, given Ms. Ross's position as founder, executive director, and ultimate driving force behind the Organization, it will be necessary for her to be involved in the Organization's business dealings with the City, specifically DYCD. By your letter to the Board, you approve of Ms. Ross's outside work for the Organization, including allowing her to take part in the Organization's business dealings with the City, noting that it is in the interests of the City to preserve the operation of the Organization and that Ms. Ross is vital to that operation.

Pursuant to Charter Section 2604(a)(1)(b), except as otherwise provided in Charter Section 2604(e), a public servant whose primary employment is with the City may not hold a position with a firm which is engaged in business dealings with the City.

Charter Section 2604(b)(6) provides that "[n]o public servant shall, for compensation, represent private interests before any city agency or appear directly or indirectly on behalf of private interests in matters involving the city. For a public servant who is not a regular employee, this prohibition shall apply only to the agency served by the public servant." "Appear" means to make any communication, for compensation, other than those involving ministerial matters. See Charter Sections 2601(4).

Charter Section 2604(e) provides that a public servant may hold a position or engage in conduct that would otherwise violate Chapter 68 if the Board determines, after receiving the written approval of the public servant's agency head, that such position or conduct does not involve a conflict with the purposes and interests of the City.

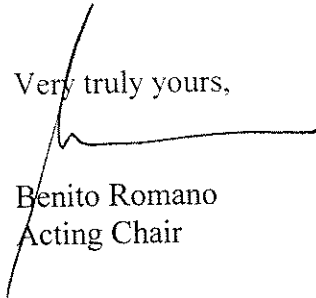
You are advised, based on your representations and written approval, that the Board has determined that Ms. Ross's position with and work for the Organization, as described above, including working with and appearing before DYCD regarding the Organization's contracts, would not conflict with the purposes and interests of the City, *provided that* her work for the Organization may be performed only at times when she is not required to perform services for the City; she may not use her official City position or title to obtain any private advantage for herself, the Organization, or any customers thereof; she may not use City equipment, letterhead, personnel, or other City resources in connection with her outside work; and she may not disclose or use for private advantage any confidential information concerning the City. See Charter Sections 2604(b)(2), (b)(3) and (b)(4), respectively.

The requirement that Ms. Ross not use her City position, or City time or resources, in support of her work for the Organization means, among other things, the following:

- 1) **She may not in her work for the Organization identify herself to anyone as an employee of the Department, unless explicitly asked.**
- 2) **She may not make or receive telephone calls regarding the Organization on her, or any other, City telephone. For this reason, she may not give her City telephone number to anyone in connection with her work for the Organization.**
- 3) **She may not perform any activities for the Organization, including telephone calls, during her work days at the Department, except during her lunch hour and other Department approved breaks.**

The views expressed in this letter are conditioned on the correctness and completeness of the facts supplied to us. If such facts are in any respect incorrect or incomplete, the advice we have given to you may not apply. If at any time you would like further advice based on a change of circumstances or additional information, please contact us.

Very truly yours,



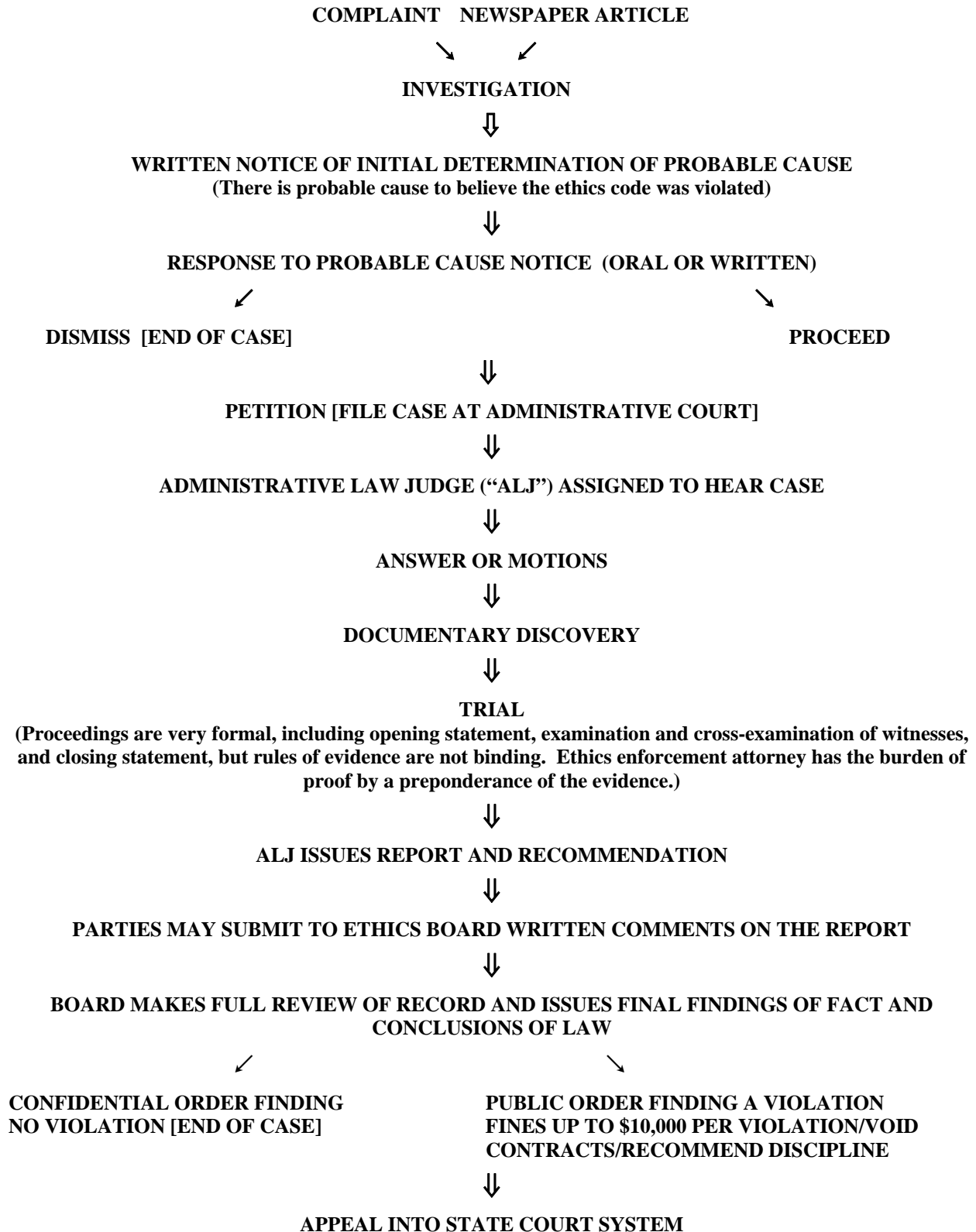
Benito Romano  
Acting Chair

cc: Bruce A. Green  
Jane W. Parver

William G. Martin, Esq.  
Marcella Ross

2001-242e.ch/jh

# **ETHICS ENFORCEMENT PROCESS IN NEW YORK CITY**



## ENFORCEMENT CASES (CHAPTER 68)

	<u>1990</u>	<u>1991</u>	<u>1992</u>	<u>1993</u>	<u>1994</u>	<u>1995</u>	<u>1996</u>	<u>1997</u>	<u>1998</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>
New Complaints Received	8	20	22	29	31	29	50	64	63	81	148	124	221	346	307	370
Dispositions	2	6	25	38	4 <sup>1</sup>	33	32	54	76	83	117	152	179	243	266	234 <sup>2</sup>
Dispositions Imposing Fines	0	0	1	1	2	1	1	2	9	4	10	9	6	3	6	11
Public Censure Letters	0	0	0	0	0	0	1	0	0	0	2	2	0	0	0	1

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<sup>1</sup> The Board lacked an enforcement attorney during much of 1994.

<sup>2</sup> The Enforcement Unit lacked one attorney for almost 11 months in 2005. Dispositions per attorney actually *increased* from 67 in 2004 to 76 in 2005.

# CITYADMIN



**New York City  
Conflicts of Interest Board**  
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(212) 442-1400

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## Decision - IN THE MATTER OF NORMAN WHITLOW

IN THE MATTER OF NORMAN WHITLOW

COIB CASE NO. **2005-590** ▶

April 3, 2006

SUMMARY: In Norman Whitlow v. COIB, COIB Case No. **2005-590** (2006), a Department of Education (“DOE”) employee reported to the Board that he had twice hired his daughter to work in a youth summer employment program that he supervised. In a three-way disposition with the Board and DOE, Whitlow agreed to pay restitution to DOE of 1,818.00, which is the amount that his daughter earned from her summer employment, and to get training from DOE’s Ethics Officer regarding the City’s conflicts of interest law and DOE rules governing conflicts of interests.

### STIPULATION AND DISPOSITON

WHEREAS the New York City Conflicts of Interest Board (the “Board”), the New York City Department of Education (“DOE”), and Norman Whitlow wish to resolve this matter on the following terms,

Norman Whitlow states the following:

1. I have been employed by DOE (formerly, the Board of Education) since 1982. I am currently Director of DOE’s Youth Leadership Program (the “Program”) in Community School District 1, Region 9.

As such, at all relevant times, I was a public servant within the meaning of New York City

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Charter § 2601(19).

2. My job responsibilities include hiring high school students to work part time in the Program each summer. I hired my daughter, a high school student, to work in the Program, which I supervise, during the summer of 2004 and the summer of 2005. I represent that my daughter earned a total of \$1,818.00 for both summers.

3. In September 2005, I received an e-mail from a colleague who raised questions about my hiring my daughter to work for the Program. As a result of that e-mail, I reviewed the Chancellor's Regulations and anonymously called the DOE Ethics Officer, from whom I learned that the conflicts of interest law prohibits public servants from hiring family members. I also called the Board's staff and described my conduct to a Board attorney.

4. In a letter to the Board dated September 29, 2005, I reported my conduct to the Board and offered to make restitution for the total amount that my daughter had earned.

5. I acknowledge that my use of my City position to obtain a summer job for my daughter violated Chapter 68 of the New York City Charter (the "Charter"), Sections 2604(b)(3) and 2604(b)(2), which provide:

No public servant shall use or attempt to use his or her position as a public servant to obtain any financial gain, contract, license, privilege or other private or personal advantage, direct or indirect, for the public servant or any person or firm associated with the public servant.

[Section 2604(b)(3)]

No public servant shall engage in any business, transaction or private employment, or have any financial or other private interest, direct or indirect, which is in conflict with the proper discharge of his or her official duties. [Section 2604(b)(2)]

6. I understand that my daughter is a person with whom I am "associated" within the meaning of Charter Section 2601(5).

7. In recognition of the foregoing, I agree to pay the fine of \$1,818.00 to the Department of Education as follows: The Eighteen Hundred and Eighteen Dollar (\$1,818.00) fine shall be paid to the Department of Education over five months by deducting \$181.80 from my bi-weekly paycheck in ten equal installments. In the event that I resign or retire from DOE or my employment is terminated, the remainder owed under this Disposition will become due to DOE at the time of my resignation, retirement, or termination. I understand that the New York City Conflicts of Interest Board would normally impose a separate fine upon me for violating the above Charter provisions, but has considered the fact that I reported my conduct to the Board, cooperated in the resolution of this matter, and offered to make restitution of the amount that my daughter earned working in the Program.

8. I agree that during the 2006 calendar year, I will meet with the Department of Education Ethics Officer for training related to the City's conflicts of interest law and the Department of Education's rules governing conflicts of interest. I understand that my failure to comply with the provisions of this Disposition may result in further disciplinary action.

9. I agree that this Disposition is a public and final resolution of the charges against me. Furthermore, I agree to provide a copy of the Disposition to any City agency where I may apply for employment upon the request of such agency or in response to any inquiry calling for such information. I understand that an executed copy of this Disposition will be kept in the Department of Education Office of Legal Services and will be incorporated permanently into my personnel file.

10. I knowingly waive on my behalf and on behalf of my successors and assigns any rights to commence any judicial or administrative proceeding or appeal before any court of competent jurisdiction, administrative tribunal, political subdivision, or office of the City or the State of New York or the United States with respect to this proceeding of the Conflicts of Interest Board and the Department of Education, and to contest the lawfulness, authority, jurisdiction, or power of the Conflicts of Interest Board and the Department of Education in imposing the penalty

which is embodied in this Disposition, and I waive any right to make any legal or equitable claims or to initiate legal proceedings of any kind against the Conflicts of Interest Board and the Department of Education or any members or employees thereof relating to or arising out of this Disposition or the matters recited therein.

11. I confirm that I have entered into this Disposition freely, knowingly, and intentionally, without coercion or duress, and after having had the opportunity to be represented by an attorney of my choice; that I accept all terms and conditions contained herein without reliance on any other promises or offers previously made or tendered by any past or present representative of the New York City Conflicts of Interest Board or the Department of Education; and that I fully understand all the terms of this Disposition.

12. Any material misstatement of the facts of this matter, including of the Disposition, by me or by my attorney or agent shall, at the discretion of the Board, be deemed a waiver of confidentiality of this matter.

13. The Conflicts of Interest Board and the Department of Education accept this Disposition and the terms contained herein as a final disposition of the above-captioned matter only, and affirmatively state that other than as recited herein, no further action will be taken by the Board or the Department of Education against Respondent based upon the facts and circumstances set forth herein, except that the Conflicts of Interest Board and the New York City Department of Education shall be entitled to take any and all actions necessary to enforce the terms of this Disposition.

14. This Disposition shall not be effective until all parties have affixed their signatures below.

Dated: March 3, 2006 \_\_\_\_\_/s/ \_\_\_\_\_

Norman Whitlow

Respondent

Dated: March 13, 2006 \_\_\_\_\_/s/ \_\_\_\_\_

Judy Nathan, Esq.

First Deputy Counsel to the Chancellor

NYC Department of Education

By: Theresa Europe, Esq.

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Dated: March 28, 2006 \_\_\_\_\_/s/ \_\_\_\_\_ Steven B. Rosenfeld, Esq.

Chair

NYC Conflicts of Interest Board

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**ENFORCEMENT FINES**

DATE	CASE NUMBER	CASE NAME	AMOUNT PAID TO COIB	AMOUNT PAID TO AGENCY	ADDITIONAL FINE(S)	3/WAY SETTLEMENT	SUSPENDED DAYS/EQUAL TO DOLLAR AMOUNT	
12/26/06	2004-712	McHugh	2,000					
12/19/06	2005-685	Diaz	500					
12/15/06	2002-140	Fenster	500					
12/11/06	2006-562b	Jefferson				X	25	3,085
12/11/06	2006-562	Nelson				X	25	4,262
11/10/06	2003-655	Sorkin	500					
11/10/06	2005-271a	Parlante	460					
11/10/06	2005-271	Marchesi	750					
8/24/06	2004-324a	Neira	4,500					
8/24/06	2006-048	Tyner				X	45	6,224
7/28/06	2004-700a	L. Golubchick	4,000					
7/28/06	2004-700	J. Golubchick	1,000					
6/30/06	2003-097	Kerik	10,000		5,000 FD & 206,000 Criminal			
6/20/06	2004-159	Goyol	2,500					
6/6/06	2005-155	Okowitz	1,250			X		
5/10/06	2003-423a	Coppola	500					
3/28/06	2005-590	Whitlow		1,818		X		
2/23/06	2005-238	Valsamedis				X	50 (plus 10 days annual leave)	11,267.50
2/15/06	2005-146	Vance	1,500				Annual leave	1,122
12/29/05	2002-716	Green	1,500	2,500		X		
11/16/05	2004-214	Guttman	2,800					
11/16/05	2004-418	Trica	4,000					
7/23/05	2002-677y	Serra <sup>1</sup>	10,000					
6/22/05	2005-151	Carroll	3,000			X	plus Suspension w/out pay	3,000
6/7/05	2004-082a	Romano	4,000					
5/25/05	2004-082	Hoffman	4,000					
3/29/05	2003-788	Asemota	500			X	Annual leave	1,000
3/29/05	2004-466	Powery	1,000					
2/28/05	2004-515	Genao	1,000					
2/28/05	2004-321a	Vasquez	1,750			X	Annual leave	1,600
1/31/05	2003-127	Thomas	2,000				Annual leave	3,915
1/31/05	2002-782	Bonamarte	3,000					
12/21/04	2004-180	Berkowitz	3,500					
10/30/04	2002-770	Fraser	500					
10/21/04	2004-305	McKen	450	450		X		
6/22/04	2003-359	Campbell	2,000					

DATE	CASE NUMBER	CASE NAME	AMOUNT PAID TO COIB	AMOUNT PAID TO AGENCY	ADDITIONAL FINE(s)	3/WAY SETTLEMENT	SUSPENDED DAYS/EQUAL TO DOLLAR AMOUNT	
5/20/04	2002-528	Fleishman	1,000	5,000	1,300 Restitution			
3/5/04	2001-618	Andersson	1,000					
4/3/03	2002-304	Arriaga	1,000	2,500		X	plus 30 days w/out pay	
3/25/03	2002-088	Adams	1,500					
1/7/03	2002-463	Mumford		2,500	5,000 for violation of Reg. C-110			
7/18/02	2002-188	Blake-Reid	4,000				Annual leave	4,000
6/27/02	2001-593	Cottes	500			X		
6/21/02	2000-456	Silverman	500					
3/27/02	2000-192	Smith	3,000					
2/27/02	2001-569	Kerik	2,500					
2/22/02	2000-407	Loughran	800					
12/13/01	1998-508	King	1,000			X		
11/13/01	2000-581	Hill-Grier	700			X		
9/25/01	2000-533	Denizac		4,000		X		
8/15/01	1999-501	Moran					Annual leave (plus 30 days w/out pay and demoted)	2,500
7/16/01	1999-157	Capetanakis	4,000					
6/25/01	2000-005	Rieue	2,000					
6/7/01	2000-231	Steinhandler	1,500			X		
5/23/01	1999-121	Camarata	1,000					
3/8/01	1999-173	Peterson	1,500					
2/26/01	1999-199	Finkel	2,250					
10/24/00	1999-200	Hoover	8,500					
10/16/00	1999-200	Turner	6,500					
8/14/00	1999-511	Paniccia	1,500					
8/7/00	1999-500	Chapin	500					
7/24/00	2000-254	Lizzio	250					
5/24/00	1999-358	Rosenberg	1,000					
4/26/00	1998-169	Marrone	5,000					
3/26/00	1998-288	Sullivan	625			X		
3/10/00	1999-250	Carlin	800			X		
1/6/00	1997-237d	Rene		2,500		X		
11/23/99	1994-082	Davila	500					
11/22/99	1999-334	McGann	3,000			X		
6/29/99	1998-190	Sass	20,000					
2/3/99	1997-247	Ludewig	7,500			X		
10/9/98	1997-247	Morello	6,000				Resigned & forfeited annual leave	93,105
9/17/98	1994-351	Katsorhis	84,000					

DATE	CASE NUMBER	CASE NAME	AMOUNT PAID TO COIB	AMOUNT PAID TO AGENCY	ADDITIONAL FINE(s)	3/WAY SETTLEMENT	SUSPENDED DAYS/EQUAL TO DOLLAR AMOUNT	
7/14/98	1997-394	Weinstein	1,250			X	Annual leave	3,750
6/22/98	1996-404	Fodera	3,000		100 for late FD filing			
6/22/98	1995-045	Wills	1,500					
6/15/98	1998-102	Hahn	1,000			X		
5/22/98	1997-368	Harvey <sup>2</sup>	200					
5/8/98	1997-247	Cioffi	100					
12/22/97	1997-076	N. Ross	1,000					
12/10/97	1997-225	M. Ross	1,000			X		
6/17/97	1997-060	Quennell	100					
4/3/96	1993-121	Holtzman	7,500					
3/8/96	1994-368	Matos <sup>3</sup>	1,000/250					
8/4/95	1993-282a	Baer	5,000					
2/11/94	1993-282	Bryson	500					
1/24/94	1991-214	McAuliffe	2,500					
4/27/93	1991-223	Ubinas	500					

**TOTAL: \$324,434.50**

<sup>1</sup> This fine was paid to the Board as part of Mr. Serra's plea of guilty to grand larceny and violation of the conflicts of interest law.

<sup>2</sup> This fine was forgiven due to extreme financial hardship.

<sup>3</sup> This fine was reduced to \$250 on proof of financial hardship one year following the settlement of the matter, pursuant to the terms of the settlement.

**CONFLICTS OF INTEREST BOARD**  
**CHAPTER 68 ENFORCEMENT CASE SUMMARY**

Current as of December 20, 2006

**MISUSE OF OFFICE**

In April 1996, in the case of the former City Comptroller, Elizabeth Holtzman, after a full trial on the merits, the Board fined Holtzman \$7,500 (of a maximum \$10,000) for violating Charter Section 2604(b)(3) of the City Charter (prohibiting use of public office for private gain). The Board also found that she had violated Charter Section 2604(b)(2) (prohibiting conduct that conflicts with the proper discharge of official duties) with respect to her participation in the selection of a Fleet Bank affiliate as a co-manager of a City bond issue when she had a \$450,000 loan from Fleet Bank to her United States Senate campaign, a loan she had personally guaranteed. Significantly, in a landmark ruling, the Court of Appeals, New York State's highest court, upheld the Board's reading of the high standard of care applicable to public officials and rejected the asserted lack of actual knowledge of business dealings as a defense to ethics charges: "A City official is chargeable with knowledge of those business dealings that create a conflict of interest about which the official 'should have known.'" The Court also found that Holtzman had used her official position for personal gain by encouraging a "quiet period" that had the effect of preventing Fleet Bank from discussing repayment of her Senate campaign loan. The Court held: "Thus, she exhibited, if not actual awareness that she was obtaining a personal advantage from the application of the quiet period to Fleet Bank, at least a studied indifference to the open and obvious signs that she had been insulated from Fleet's collection efforts." Finally, the Court held that the Federal Election Campaign Act does not preempt local ethics laws. This was the Board's first full-blown trial, and it took eleven days. There were 2,000 pages of testimony, 150 trial exhibits, and more than 15 witnesses. *COIB v. Elizabeth Holtzman*, COIB Case No. 93-121 (1996), *aff'd*, 240 A.D.2d 254, 659 N.Y.S.2d 732 (1st Dep't 1997), *aff'd*, 91 N.Y.2d 488, 673 N.Y.S.2d 23, 695 N.E.2d 1104 (1998).

The Board fined Kerry Katsorhis, former Sheriff of the City of New York, \$84,000 for numerous ethics violations. This is the largest fine ever imposed by the Board. An Office of Administrative Trials and Hearings Administrative Law Judge ("ALJ") found that it was appropriate for the former Sheriff to forfeit 80% of the \$103,000 salary the City had paid him for the year he was Sheriff because his "improper activities cost the City money, in personnel time (his own and his secretaries') and in supplies." The ALJ found: "The full extent of respondent's abuse of his office, and the consequent financial cost to the City cannot be determined because of respondent's failure to cooperate with the investigation. However, the record of court appearances, phone calls, meetings, correspondence and court submissions shows a considerable amount of respondent's time was devoted to his private employment activities during what are normal City working hours." The fine was collected in full in December 2000. Katsorhis habitually used City letterhead, supplies, equipment, and personnel to conduct



an outside law practice. He had correspondence to private clients typed by City personnel on City letterhead during City time and mailed or faxed using City postage meters and fax machines. Katsorhis also endorsed a political candidate using City letterhead and attempted to have the Sheriff's office repair his son's personal laptop computer at City expense. Katsorhis also attempted to have a City attorney represent one of Katsorhis' private clients at a court appearance. In 2000, the New York State Supreme Court Appellate Division, First Department, twice dismissed as untimely perfected a petition to review the Board's decision, and the New York Court of Appeals dismissed as untimely a motion seeking leave to appeal the Appellate Division's orders. The record in this case exceeded 6,000 pages. *COIB v. Kerry J. Katsorhis*, COIB Case No. 94-351 (1998), *appeal dismissed*, M-1723/M-1904 (1<sup>st</sup> Dep't April 13, 2000), *appeal dismissed*, 95 N.Y.2d 918, 719 N.Y.S.2d 645 (Nov. 21, 2000).

\* \* \* \* \*

The Board and the New York City Housing Authority ("NYCHA") concluded a three-way settlement in which a NYCHA community coordinator was suspended for 25 workdays, valued at approximately \$4,262, for accepting compensation from both NYCHA and a Resident Advisory Board for performing her official duties. The community coordinator acknowledged that she accepted approximately \$130 from the Glenwood Houses Advisory Board for supervising rentals at the Glenwood Houses Community Center when she also received compensation from NYCHA for supervising the same rentals. The community coordinator acknowledged that her conduct violated the New York City's conflicts of interest law, which prohibit a public servant from using his or her position as a public servant to obtain any financial gain for the public servant or any person or firm associated with the public servant, and from accepting compensation except from the City for performing his or her official duties. *COIB v. Nelson*, COIB Case No. 2006-562 (2006).

The Board and the New York City Housing Authority ("NYCHA") concluded a three-way settlement in which a NYCHA community associate was suspended for 25 workdays, valued at approximately \$3,085, for accepting compensation from both NYCHA and a Resident Advisory Board for performing her official duties. The community coordinator acknowledged that she accepted approximately \$265 from the Glenwood Houses Advisory Board for supervising rentals at the Glenwood Houses Community Center when she also received compensation from NYCHA for supervising the same rentals. The community coordinator acknowledged that her conduct violated the New York City's conflicts of interest law, which prohibit a public servant from using his or her position as a public servant to obtain any financial gain for the public servant or any person or firm associated with the public servant, and from accepting compensation except from the City for performing his or her official duties. *COIB v. Jefferson*, COIB Case No. 2006-562b (2006).

The Board fined a former Department of Design and Construction ("DDC") Deputy Director \$4,500 for having a financial relationship with a vendor that had business dealings with DDC. The former DDC Deputy Director asked her subordinate to

arrange for a loan for a person with whom the former Deputy Director had a financial relationship. The source of the loan was a principal of a company that had business dealings with DDC, which business dealings were handled by the former Deputy Director's subordinate. In addition to arranging for the loan, the former Deputy Director also solicited the lender to purchase her associate's business. The former DDC Deputy Director acknowledged that her conduct violated the New York City's conflicts of interest laws, which prohibit a public servant from using his or her position as a public servant to obtain any financial gain for the public servant or any person or firm associated with the public servant, and that she failed to report monies that she owed, as required by the New York City Administrative Code, in the financial disclosure report she filed with the Board. *COIB v. Morros (a.k.a. Neira)*, COIB Case No. 2004-234a (2006).

The Board and the New York City Human Resources Administration ("HRA") concluded a three-way settlement in which an HRA civil service caseworker was suspended for 45 workdays, valued at approximately \$6,224, for using her HRA cell phone to make excessive personal calls. The caseworker made calls on her HRA cell phone totaling approximately \$2,422 from November 2003 through March 2004, and approximately \$1,829 from April 2004 through June 2004. Of that amount, the caseworker only repaid HRA \$450. The caseworker acknowledged that her conduct violated the New York City's conflicts of interest laws, which prohibit a public servant from using his or her position as a public servant to obtain any financial gain for the public servant or any person or firm associated with the public servant; pursuing personal and private activities during times when the public servant is required to perform services for the City; or using City letterhead, personnel, equipment, resources, or supplies for non-City purposes. *COIB v. Tyner*, COIB Case No. 2006-048.

In a three-way settlement with the New York City Human Resources Administration ("HRA"), the Board fined an HRA contracts manager \$1,250 for asking a vendor whose contract-payment requests the manager reviewed to help the manager's son find employment. The vendor interviewed the manager's son and offered his son a job working on a contract that the vendor had with HRA. The HRA manager acknowledged that his conduct violated the New York City conflicts of interest laws, which prohibit a public servant from using his position to benefit his or her child, parent, spouse, domestic partner, or sibling, or any person with whom the public servant has a business or financial relationship. *COIB v. Okowitz*, COIB Case No. 2005-155 (2006).

The Board fined a former Department of Education ("DOE") Principal \$4,000 for recommending his wife, a retired DOE teacher, for a position with a DOE vendor, which hired her. The Board also fined the Principal's wife \$1,000 for appearing before DOE within one year of terminating her employment with DOE. *COIB v. Golubchick*, COIB Case No. 2004-700, and *COIB v. Golubchick*, COIB Case No. 2004-700a (2006).

A Department of Education ("DOE") employee reported to the Board that he had twice hired his daughter to work in a youth summer employment program that he supervised. In a three-way disposition with the Board and DOE, the youth program supervisor agreed to pay restitution to DOE of \$1,818.00, which is the amount that his

daughter earned from her summer employment, and to get training from DOE's Ethics Officer regarding the City's conflicts of interest law and DOE rules governing conflicts of interests. *COIB v. Whitlow*, COIB Case No. 2005-590 (2006).

The Board fined an investigator for the Office of the Special Commissioner of Investigation for the New York City School District ("SCI") \$1,500 for giving a photocopy of his SCI shield and identification to a friend for the friend's use in the event that he was arrested. The investigator admitted that he gave a copy of his SCI credentials to a friend, whom he referred to as his brother-in-law, on which copy the investigator wrote: "Could you please extend courtesy to my brother-in-law . . . Thank you." In 2005, the investigator's friend was arrested in New York City and the arresting officer found the photocopy of the investigator's credentials in his friend's wallet. The investigator also introduced himself as an SCI investigator in a conversation with the New York City Police Department concerning his friend's arrest. City public servants, particularly those who serve the City in law enforcement and quasi-law enforcement capacities, are prohibited from abusing the powers that are vested in them as part of their official duties and the *indicia* of those powers, such as a shield and identification issued by the City, for any non-City purpose. *COIB v. Vance*, COIB Case No. 2005-146 (2006).

The Board and the New York City Department of Education ("DOE") concluded a three-way settlement in which a DOE assistant principal was fined a total of \$4,000 for maintaining an ownership interest in a firm that did business with her agency and participating in purchasing goods from her husband's company for her school. The Assistant Principal held a prohibited ownership interest in a firm that was engaged in business dealings with her agency, DOE, and with the school at which she works. She misused her official position by preparing and submitting to a DOE employee at her school a bid sheet concerning bids for the school's purchase of sweatshirts for its dance program. The Assistant Principal's husband's company was listed as the lowest bidder on the bid sheet, and was ultimately the successful bidder. The Board fined the Assistant Principal \$2,500 and DOE fined her \$1,500, for a total fine of \$4,000. In addition to paying a fine, the Assistant Principal agreed to undergo training related to the City's conflicts of interest law and DOE rules governing conflicts of interest, and to seek Board advice concerning her ownership interest in her husband's firm if her husband's firm is to engage in business dealings with any City agency in the future. *COIB v. Green*, COIB Case No. 2002-716 (2006).

The Board and the Department of Design and Construction ("DDC") concluded a settlement with a DDC project manager who admitted that from January 2004 to September 2004, he made or received over 2,000 calls on his DDC telephone. These calls were mostly conference calls related to his private business. The Project Manager also admitted that he used City resources to produce business flyers on which he listed his DDC telephone number. He acknowledged that his conduct violated the City's conflicts of interest law, which prohibits public servants from misusing City time and resources for any non-City purpose, and agreed to pay a fine of \$3,000 to the Board and to serve a 25-day suspension without pay, which is worth another \$3,000. *COIB v. Carroll*, COIB Case No. 2005-151 (2005).

The Board fined a former school custodian at the Department of Education (“DOE”) \$1,000 for using personnel and equipment paid for by DOE for his private business. For nearly two years while he was working as a school custodian, the custodian was the director of a private entity that offers tutoring services to law students. On several occasions, the custodian directed his secretary, who was paid with DOE funds, to type and edit documents, using DOE equipment, related to his private business. His secretary performed this work during times when she was required to work on matters relating to custodial services for the school. The custodian also used a DOE telephone in the custodian’s office during his DOE workday to make telephone calls related to his private business. The custodian acknowledged that his conduct violated the New York City conflicts of interest law, which prohibits public servants from misusing City time and resources for any non-City purpose. *COIB v. Powery*, COIB Case No. 2004-466 (2005).

The Board concluded a settlement with a former Department of Education (“DOE”) Local Instructional Superintendent in Region 2, who, using a DOE computer, e-mailed his brother’s resume to all principals in Region 2, including principals whom he supervised. One of the principals complained about the e-mail to the superintendent’s DOE superior. The superintendent’s brother was offered an interview because of the e-mail circulated among the principals in Region 2, but did not pursue the employment opportunity. Approximately three months before the superintendent e-mailed his brother’s resume to his DOE subordinates, DOE Chancellor Joel I. Klein had circulated throughout DOE a newsletter entitled “The Principals’ Weekly,” in which the Chancellor reminded DOE employees and officials that the City’s conflicts of interest law and the Chancellor’s Regulations prohibit DOE employees from having any involvement with the hiring, employment, or supervision of relatives. The superintendent acknowledged that his conduct violated the New York City conflicts of interest law, which prohibits public servants from misusing City time and resources for any non-City purpose and from taking advantage of their City position to benefit someone with whom the public servant is associated. The City Charter defines a brother as a person who is associated with a public servant. The Board fined the superintendent \$1,000, which took into account the fact that he had tried to recall his e-mail when advised that someone had complained and that he self-reported his conduct to the Board. *COIB v. Genao*, COIB Case No. 2004-515 (2005).

The Board fined a Department of Sanitation (“DOS”) electrical engineer \$2,000 for using City time and his DOS computer to store and maintain inspection reports and client files related to his private building inspection and consulting services business. The Engineer maintained on his DOS computer folders that contained files relating to his private business for each year from 1995 to 2002. The eight folders contained an average of one hundred and thirty-seven files, which files the engineer edited on a regular basis, sometimes during his City workday. The engineer acknowledged that his conduct violated the City’s conflicts of interest law, which prohibits public servants from misusing City time and resources for any non-City purpose. The Board fined the engineer \$2,000 after taking into consideration his forfeiture of \$3,915 worth of leave

time to DOS in an agency disciplinary proceeding. *COIB v. Thomas*, COIB Case No. 2003-127 (2005).

The Board concluded a settlement with a Deputy Commissioner at the Office of Emergency Management (“OEM”) who hired his girlfriend to work on an OEM project that he supervised. The Deputy Commissioner oversaw the creation and production of OEM’s “Ready New York” household preparedness guide, and proposed that OEM obtain the services of a photographer to take photographs for use in the guide. The photographer who was selected was the Deputy Commissioner’s girlfriend, and the Deputy Commissioner approved and signed the OEM purchase form relating to obtaining the photography services of his girlfriend. The Deputy Commissioner and the photographer had a financial relationship that included a joint bank account and co-ownership of shares in a cooperative apartment. He paid a fine of \$3,500. *COIB v. Berkowitz*, COIB Case No. 2004-180 (2004).

The Board concluded a settlement with an Interim Acting Principal and the Department of Education. The principal paid a \$900 fine (half to the Board and half to the Department of Education) for arranging with her subordinate to transport the principal’s children from school on City time. The subordinate used her own vehicle, and the fine was twice the amount the principal saved on the van service she would have hired for the five months she used the subordinate to transport her children. Officials may not use City employees to perform their personal errands. *COIB v. McKen*, COIB Case No. 2004-305 (2004).

The Board concluded a settlement with a former Department of Correction Commissioner, who paid a \$500 fine for having three subordinate Correction Officers repair the leaking liner on his aboveground, private swimming pool. Two of the Officers were his personal friends for more than ten years, and they brought the third Officer, whom the Commissioner had not met before. The work was modest in scope, the subordinates did the repairs on their own time, not City time, and the Commissioner paid the two Officers he knew a total of \$100 for the work, which included replacing the liner, replacing several clamps, and re-installing the filter. The Commissioner believed that the Officers acted out of friendship, but acknowledged that he had violated the Charter provisions and Board rules that prohibit public servants from misusing or attempting to misuse their official positions for private gain, from using City personnel for a non-City purpose, and from entering into a business or financial relationship with subordinates. Officials may not use subordinates to perform home repairs. This is so even if the subordinates are longstanding friends of their supervisors, because such a situation is inherently coercive. Allowing, requesting, encouraging, or demanding such favors or outside, paid work can be an imposition on the subordinate, who may be afraid to refuse the boss or may want to curry favor with the boss in a way that creates dissension in the workplace. There was no indication here that the Commissioner coerced the Officers in this case, but it is important that high-level City officials set the example for the workforce by taking care to consider the potential for conflicts of interest. *COIB v. William Fraser*, COIB Case No. 2002-770 (2004).

The Board concluded a settlement with a Department of Education guidance counselor who admitted that he met, on school property, near his office in the school, the mother of a student who attended the school at which he worked, and subsequently offered to provide and did provide counseling to this student's parents, who were separated, privately for a fee. He conducted about 30 sessions with the parents and charged \$100 per session. The counselor acknowledged that he violated New York City Charter provisions that prohibit public servants from misusing or even attempting to misuse their official positions for private gain. As part of the settlement, the Conflicts of Interest Board fined the counselor \$1,000, and noted that it had considered the following circumstances in connection with the penalty and the nature of the violation: (1) that the Department of Education fined the counselor \$5,000; (2) that he made restitution to the parents of the money they had paid him, in the amount of \$1,300, provided proof that his lawsuit in Small Claims Court against the parents for additional fees has been dismissed, and promised to seek no further money from them; (3) that he has agreed to refrain from counseling privately, for pay, children who attend the City public school in which he is employed and relatives of those children; and (4) that he was removed as guidance counselor at JHS 189 and would be reinstated to his previous position only after reaching a separate agreement with the Department of Education that sets forth his obligations and penalties as described above. *COIB v. Fleishman*, COIB Case No. 2002-528 (2004).

The Board concluded a settlement with the Commissioner of New York City Department of Records and Information Services ("DORIS"). The Commissioner agreed to pay a fine of \$1,000 and acknowledged that he had used DORIS records to conduct genealogy research for at least four private clients, in violation of City Charter provisions and Board Rules that prohibit public servants from using City office for private gain and from misusing City time and resources for non-City purposes. In the settlement, the Commissioner acknowledged that he violated the Board's advice and his own written representations to the Board when he used DORIS records for private clients, by supplying them with DORIS marriage, birth, and death records or identifying information needed for such records, as well as DORIS photographs. He charged his clients \$25-\$75 per hour for his time performing archival research, primarily in the National Archives and the New York Public Library. Although his invoices did not show any breakdown of the time he devoted to searching DORIS records for private clients, the Commissioner stated that he did not charge a fee to his clients relating to DORIS records or time spent searching for DORIS records. He also acknowledged that when he sometimes deferred or waived DORIS fees in the exercise of official discretion, the "mixture of [his] private interest and [his] public duties could be construed as a conflict of interest," given his official access to DORIS records. The Commissioner stated further that while he received fees for his private work, he never cleared a profit from his private work, and has ceased that private work and dissolved the company. The Board took the occasion of this Disposition to remind City officials to take care to separate their private business matters from their official City work and to seek Board advice if their circumstances change or the manner in which they intended to conduct their City and private jobs begins to differ from the reality of their daily work. High-level officials have a special obligation to set an example of honesty and integrity for the City workforce. *COIB v. Andersson*, COIB Case No. 2001-618 (2004).

The Board concluded a settlement with the former First Vice President of Community School Board for School District 16, who testified at an administrative hearing in her official capacity on behalf of her sister without disclosing their family connection. The sister of the Community School Board vice president was an Interim Acting Assistant Principal in the same district and was appealing her “Unsatisfactory” rating. The sister’s appeal of her performance rating was denied. The former Chancellor later removed the Community School Board vice president from the school board in February 2002, under the State Education Law, which provides further for permanent disqualification of a community school board member from employment, contracting, or membership with the City School District for the City of New York after a finding that the Community School Board vice president knowingly interfered with the hiring, appointment, or assignment of employees. She paid a fine of \$1,500 as part of the settlement with the Board. *COIB v. Adams*, COIB Case No. 2002-088 (2003).

The Board and the Department of Education concluded a settlement with a Department of Education teacher who was involved in the hiring and payment of her husband’s company to write a school song for the school where she worked and conduct workshops. The teacher certified the receipt of the song six months before the song was received. She signed a purchase order indicating receipt of the song for the purpose of remitting the purchase order for payment. The Department of Education fined the teacher \$5,000 for the improper payment of \$3,500 to her husband’s company, and the teacher agreed to pay a fine of \$2,500 for violating the conflicts of interest law, amounting to a fine totaling \$7,500. She was also transferred to another school and removed from purchasing responsibilities. *COIB v. Mumford*, COIB Case No. 2002-463 (2003).

The Board and the New York City Board of Education (“BOE”) concluded a settlement with the Executive Director of the Office of Parent and Community Partnerships at BOE. The Executive Director, who agreed to pay an \$8,000 fine, misused her City position habitually by directing subordinates to work on projects for her church and for a private children’s organization, on City time using City copiers and computers. She also had BOE workers do personal errands for her. The Executive Director admitted that over a four-year period, she had four of her BOE subordinates perform non-City work at her direction, including making numerous copies, typing, preparing financial charts and spreadsheets and a contacts list, stuffing envelopes, e-mailing, working on brochures, typing a college application for one of her children, and running personal errands for her. The subordinates performed this non-City work for her on City time and using City equipment. These subordinates believed that their jobs with the City could be jeopardized if they refused to work on her non-BOE matters. One temporary worker sometimes fell behind in his BOE work when the Executive Director directed him to make her private work a priority. BOE funded overtime payments to the temporary worker when he stayed to finish his BOE work. The Executive Director acknowledged that she violated City Charter provisions and Board Rules that prohibit public servants from misusing their official positions to divert City workers from their assigned City work and misapplying City resources for their private projects. *COIB v. Blake-Reid*, COIB Case No. 2002-188 (2002).

The Board and the New York City Department of Consumer Affairs (“DCA”) concluded a settlement with the Director of Collections at DCA, who paid a \$500 fine. The Director of Collections supervised a staff responsible for collecting fines that DCA imposes on restaurants and other businesses. The Director acknowledged that he created menus for two restaurants in 2001. After agreeing to supply the menus, he learned that these restaurants operate sidewalk cafés licensed by DCA. He prepared the menus on his home computer and he received \$1,500 from the first restaurant for the menus. He completed work on menus for the second restaurant but did not accept payment for the second set of menus. One of these restaurants had been delinquent in paying fines owed to DCA for regulatory violations relating to its sidewalk café, which fines were outstanding during the time the Director of Collections created the menus for the restaurants. After he agreed to make the menus, the restaurant owner asked him to intercede on the owner’s behalf with the former DCA Commissioner to help the restaurant regarding a DCA order suspending one of its sidewalk café licenses. The Director of Collections reviewed the status of the matter and determined that the penalties were fair based on the history of violations. The Board fined him for violating City Charter provisions that prohibit moonlighting with a firm a City employee knows is engaged in business dealings with his own agency; that prohibit use or attempted use of official position to obtain any financial gain, contract, license, privilege or other private or personal advantage, direct or indirect, for the City worker or his family or associates; and that prohibit private employment that conflicts with the proper discharge of official duties. *COIB v. Cottles*, COIB Case No. 2001-593 (2002).

The Board concluded a settlement with a former New York City Department for the Aging (“DFTA”) field auditor who admitted violating the conflicts of interest law by misusing official City letterhead to gain a private or personal advantage. Without authorization, the auditor sent a notice to a DFTA contractor, on official, City letterhead, as if from the City, threatening the vendor with litigation if the auditor were injured on the contractor’s property. The auditor paid a fine of \$500. *COIB v. Silverman*, COIB Case No. 2000-456 (2002).

The Board concluded a settlement with a former Administrative of Children’s Services caseworker who admitted violating the conflicts of interest law by soliciting a \$4,000 loan from a foster mother and accepting the foster mother’s loan of \$2,500 while continuing to evaluate her fitness as a foster mother. The caseworker also testified in the termination of parental rights case involving the foster mother without notifying the presiding judge of her outside financial relationship with the foster mother. The Board fined the caseworker \$3,000 and required her to repay the foster mother in full within two years. In setting the terms of the fine, the Board took into account the caseworker’s circumstances, which included serious personal and family health problems. *COIB v. Smith*, COIB Case No. 2000-192 (2002).

The Board fined former Police Commissioner Bernard Kerik \$2,500 for using three New York City police officers to perform private research for him. He used information the officers found in a book about his life that was published in November



2001. Kerik acknowledged that he had violated the Charter prohibition against using office for private advantage or financial gain and the terms of the Board's waiver letter, even though one officer, a sergeant, was a close friend of his. The Board by its waiver letter had allowed Kerik to write the autobiography under contract, but only on the condition that he not use City time or his official City position to obtain a private or personal advantage for himself or the publisher, and that he use no City equipment, personnel, or other City resources in connection with the book. The three officers used limited City time and resources in their research, and two of the officers had made five trips to Ohio for the project, each spending 14 days of their off-duty and weekend time. *COIB v. Kerik*, COIB Case No. 2001-569 (2002).

The Board fined a Deputy Chief Engineer for Roadway Bridges at the Department of Transportation ("DOT") \$1,000 for asking several DOT contractors to place advertisements in a fundraising journal, the proceeds of which would help financially support the hockey club on which his sons play. Eight of the DOT contractors whom the engineer solicited purchased ad space for a total contribution of about \$975. As a DOT employee, the engineer worked on matters relating to these contractors and supervised DOT employees who worked with these contractors. *COIB v. King*, COIB Case No. 98-508 (2001).

In a joint agreement with the Board of Education ("BOE"), an interim acting principal was fined \$4,000 and admitted that she had asked school aides to perform personal errands for her on school time. Specifically, she asked them to go to a New York City Marshal's Office to deliver payment of a "scofflaw" fine that had been imposed on her car, and she asked several subordinate employees to deliver a loan application on her behalf. Those employees made these trips on City time. *COIB v. Denizac*, COIB Case No. 2000-533 (2001).

In a three-way settlement, the Board and the New York City Department of Transportation ("DOT") suspended, demoted to a non-supervisory position with a \$1,268 annual pay cut, and fined a City parking official \$2,500 for using his position to solicit a subordinate to marry his daughter in Ecuador and for repairing the cars of subordinates for compensation. The parking official was also placed on probation for two years, during which time he is ineligible for promotions or salary increases. In addition, he can be terminated summarily if he violates the DOT code of conduct or the conflicts of interest law again. A court challenge of the settlement by the parking official was dismissed by the New York State Supreme Court on November 5, 2001, Index No. 118741/01 (DeGrasse, J.). *COIB v. Moran*, COIB Case No. 99-51, OATH Index No. DOT-012261 (2001).

In a summary judgment based upon stipulated facts and the report and recommendation of an Administrative Law Judge of the Office of Administrative Trials and Hearings, the Board fined a community board member \$4,000 for voting on a matter involving real property which he and his siblings owned. Because a vote expressing the community's preference for land use "may result" in a personal and direct economic gain to the community board member, such votes are not permitted. The Board ruled that the

language “may result” in the relevant City Charter provision means any possibility greater than zero. The member may even retain the financial interest and discuss the matter, but is not allowed to vote. This case was the first one in the Board’s history that resulted in a summary judgment (eliminating the need for trial in the absence of any genuine issues of material fact). *COIB v. Capetanakis*, COIB Case No. 99-157 (2001).

The Board fined a former attorney from the City Commission on Human Rights \$2,000 for investigating a discrimination case involving her mother and recommending agency action (a finding of probable cause to believe that her mother had suffered discrimination), without disclosing the familial relationship to her supervisors. The Board strongly disapproved of the use of prosecutorial discretion in favor of a family member. *COIB v. Rieue*, COIB Case No. 2000-5 (2001).

A Parks Department employee was fined \$1,500 in a settlement for using his City position to attempt to obtain City park permits for a private not-for-profit organization he created and for which he served as chairman of the board of directors. The Parks Department employee directed basketball programs for the Parks Department and filed five permit applications for basketball courts with the Department on behalf of his organization. These filings are considered business dealings under the conflicts of interest law because the award of these permits is discretionary. The Parks Department employee admittedly made inquiries with the Parks Department, his own City agency, about the status of the permit applications he had filed on behalf of his private organization and also used his position to solicit fellow Parks Department employees to join his organization. *COIB v. Peterson*, COIB Case No. 97-173 (2001).

A member of the New York City Housing Authority was fined \$2,250 for using his office to help obtain a computer programmer’s job for his daughter with a company that had obtained a \$4.3 million contract with the Housing Authority. Two weeks after faxing his daughter’s resume to the company, the Housing Authority member voted to increase the company’s contract with the Authority by \$52,408. The Housing Authority member said the vote was inadvertent and that he did not realize that the company was the same firm to which he had sent his daughter’s resume. The company hired his daughter. *COIB v. Finkel*, COIB Case No. 99-199 (2001).

The Board issued a public warning letter to the Traffic Safety Director of the Queens Borough President’s Office (“QBPO”). The Traffic Safety Director acted as one of three QBPO employees who voted to select the winning bidder (of two bidders responding) on a QBPO request for proposals (“RFP”) dated September 22, 1999. At the time of her vote, the Traffic Safety Director knew that one of the bidders (who later won the bid unanimously) had entered into a barter relationship in April 1998 with her husband, an attorney, to provide computer services in exchange for office space. Although it declined to bring an enforcement action, the Board wrote that the better practice under Charter § 2604(b)(2) would have been for the Traffic Safety Director to disclose her husband’s business relationship and to offer to recuse herself from the selection process. This was so because the failure to disclose the family business relationship could have given rise to an appearance of impropriety and could have

compromised the Traffic Safety Director's duty of undivided loyalty to the City. She agreed to allow the Board to make the warning letter public. *In re Pecker*, COIB Case No. 2000-322 (2000).

The Board fined a Human Resources Administration ("HRA") First Deputy Commissioner \$8,500 for leasing his own apartments to five of his HRA subordinates and to HRA Commissioner Jason Turner, for using an HRA subordinate to perform private, non-City work for him, and for using his official position to arrange for the state of Wisconsin to loan an employee to HRA and then housing that visiting consultant in his own apartment and charging and receiving \$500 for the stay, for which the City ultimately paid. The Deputy Commissioner also admitted using City equipment in furtherance of his private consulting business. This fine was the largest settlement fine ever obtained by the Board. Like Commissioner Turner, the Deputy Commissioner violated rules intended to eliminate coercion and favoritism in government and to prevent misuse of government workers and equipment for personal gain. *COIB v. Hoover*, COIB Case No. 99-200 (2000).

The Board fined Human Resources Administration ("HRA") Commissioner Jason Turner \$6,500 for hiring his business associate as First Deputy Commissioner of HRA, without seeking or obtaining a waiver from the Board, for using his Executive Assistant to perform tasks for Turner's private consulting company, as well as for using his City title on a fax cover sheet (on one occasion inadvertently), using City time, phone, computer, and fax machine for his private consulting work, and renting an apartment for over a year from his subordinate, the First Deputy Commissioner. These acts violated rules intended to eliminate coercion and favoritism in government and to prevent misuse of government workers and equipment for personal gain. *COIB v. Turner*, COIB Case No. 99-200 (2000).

The Board fined a former housing inspector for working at a gas station in New Jersey at times when he was required to inspect buildings in New York. The fine was \$250, which ordinarily would have been higher, but took into account the fact that inspector John Lizzio had agreed to resign from the City's Department of Housing Preservation and Development. This was the first prosecution of abuse of City time under the Board's Rule § 1-13, which prohibits City employees from engaging in personal and private activities on City time, absent approval from their agency head and the Board. *COIB v. Lizzio*, COIB Case No. 2000-254 (2000).

A tax assessor working for the City's Department of Finance ("DOF") assessed a residential building in Queens and noticed a vacant basement apartment. The apartment was not publicly advertised for rent. Several days after conclusion of the assessment, the inspector telephoned the landlord and asked to rent the apartment. The landlord rented the apartment to him. The assessor admitted that he violated the ethics laws by using his position to obtain a benefit for himself (*i.e.*, the apartment) that was not available to anyone else. He entered into a three-way settlement with the Board and the DOF and paid a \$625 fine. *COIB v. Sullivan*, COIB Case No. 98-288 (2000).

The Board fined a former School Construction Authority official \$5,000 for using her position to obtain a job for her husband at her agency and for attempting to obtain a promotion for him in 1996 and 1997. A 16-year-old girl was killed on January 9, 1998, in the area where her husband had removed a security fence at a public school construction site in Brooklyn. Her husband had not been supervisor on that site in the three months prior to the accident. *COIB v. Vella-Marrone*, COIB Case No. 98-169 (2000).

A sewage treatment worker at the Department of Environmental Protection (“DEP”) entered into a three-way settlement with COIB and DEP in a case where he admitted using DEP equipment to service a private wastewater facility where he was moonlighting and agreed to pay an \$800 fine. *COIB v. Carlin*, COIB Case No. 99-250 (2000).

The Board fined a former employee of the City Commission on Human Rights \$500 for using Human Rights Commission letterhead, typewriters, and office facilities for his own private clients. As a Human Rights employee, he wrote four letters on behalf of his private clients on Commission letterhead to agencies such as the U.S. Veterans Administration and a U.S. Consulate. He also listed his agency telephone number as the contact number on these letters. Finally, he admitted using his Human Rights office to meet with a private client during his City work hours to discuss the client’s case and to receive payment from the client. He admitted violating Charter §§ 2604(b)(2) and (b)(3). The fine would ordinarily have been substantially higher, but reflected the fact that the Human Rights employee is retired and ill and has very limited financial means. *COIB v. Davila*, COIB Case No. 94-82 (1999).

The Board concluded a settlement with a Department of Buildings (“DOB”) construction inspector who was fined \$3,000 for giving one of his private business cards to a homeowner at a site where this inspector had just issued six notices of violation. The inspector had written on his private business card the words, “ALL TYPES OF CONSTRUCTION ALTERATIONS,” and he told the homeowner that he used to do construction work and could advise her on such work. The private business cards used by this inspector also contained his DOB pager number and the name “B.E.S.T. Vending Service.” The inspector was required to cease using the name “B.E.S.T.” in his private business because that name could be confused with the name of his City unit, the “B.E.S.T. Squad” (Building Enforcement Safety Team). He admitted violating Sections 2604(b)(2) and (b)(3) of the Charter. The disposition included a “two strikes” provision in which the inspector agreed to summary termination in case of any further violation of the conflicts of interest law. *COIB v. McGann*, COIB Case No. 99-334 (1999).

The Board found that the former Director of Administration of the Manhattan Borough President’s Office used her position to authorize the hiring of her own private company and her sister’s company to clean the Borough President’s offices. The former employee, who decided to forgo a hearing, was fined \$20,000 and found to have violated the prohibitions against abuse of office for private gain and against moonlighting with a firm doing business with one’s own City agency. *COIB v. Sass*, COIB Case No. 98-190 (1999).

The Board fined a City manager \$1,250 for conducting a part-time private printing business from his City office; the employee was also forced to retire and forfeit 24 days of accrued annual leave. The fine was worth \$5,000, including the forfeited leave time. *COIB v. Weinstein*, COIB Case No. 97-394 (1998).

The Board fined a Department of Buildings employee \$1,000 for using a City telephone for his private home inspection business. The employee, a City building inspector, had had business cards printed that showed his City telephone number. As a result of this case, he ceased the practice of using the phones and destroyed all the offending business cards. *COIB v. Hahn*, COIB Case No. 98-102 (1998).

The Board fined a former community board member \$200 for soliciting money from a church that was interested in acquiring land in the community board's area. Local community boards are set up to discuss and solve problems affecting their local areas. Their normal procedures do not involve the payment of money to community boards or their members for the acquisition of land. The fine would have been higher had the community board member not been under a severe financial hardship. *COIB v. Harvey*, COIB Case No. 97-368 (1998).

After a full trial, the Board imposed a \$1,000 fine on a former Assistant District Attorney who issued a false grand jury summons to a police officer to interfere with his scheduled testimony against the Assistant District Attorney's husband in traffic court on the same day. The Assistant District Attorney had previously been dismissed by the District Attorney's office. *COIB v. Ross*, COIB Case No. 97-76 (1998).

An Administrative Law Judge from the City's Parking Violations Bureau admitted violating her official duties by adjudicating her father-in-law's parking tickets. The Board, however, imposed no fine because of the absence at the time of a Board rule identifying conduct prohibited by the "catch-all" section of the Charter, Section 2604(b)(2), which prohibits transactions that conflict with the proper discharge of official duties. As of 1998, the Board has a rule, Board Rule § 1-13, which spells out the misuse of public office (such as use of City resources, like letterhead, for non-City purposes) sufficiently to allow the Board to issue fines for violating the general provision as amplified by the rule. Significantly, the rule also prohibits aiding and abetting a violation and holds officials liable for intentionally or knowingly "inducing" or "causing" another City official to violate the Charter. *In re Rubin*, COIB Case No. 94-242 (1995).

The Board fined a former Press and Speech Aide in the Mayor's Office \$2,500 for using official City letterhead to contest a parking ticket. *COIB v. McAuliffe*, COIB Case No. 91-214 (1994).

A former First Assistant Commissioner with the New York City Fire Department admitted that he violated the Charter by identifying himself by his official title in seeking restoration of his personal electrical service with Con Edison, and that his conduct had created the appearance that he was using his position to obtain a personal advantage. *In re Ungar*, COIB Case No. 90-383 (1992).

## GIFT CASES

The Board issued a public warning letter to a former Assistant Commissioner at the New York City Fire Department (“FDNY”) who violated the valuable gifts rule of the City’s conflicts of interest law when he accepted, from an FDNY vendor, gifts of two dinners for his wife and himself. *In re Gregory*, COIB Case No. 2006-175 (2006).

The Board issued public warning letters to two Department of Education (“DOE”) employees who accepted valuable gifts from a DOE vendor. An Assistant Principal at a City high school and a secretary at that high school accepted \$100 gift certificates during the 2003 Christmas holiday season. Subsequently, the Assistant Principal returned his gift certificate to the vendor. The Board fined the secretary \$100. *In re Plutchok and Messinger*, COIB Case Nos. 2004-136/136a (2006).

Two New York City Police Department (“NYPD”) employees and one former NYPD employee accepted gifts of dinners and golf outings, and in one instance tickets to a New York Yankees game at Yankee stadium, from a vendor that was engaged in business dealings with the City and NYPD, in which business dealings the current and former NYPD employees were involved. The Board issued a public warning letter to the NYPD in part because the NYPD represented that the employees’ actions resulted from a misunderstanding of the scope of their supervisor’s directions that the employees develop a closer relationship with the vendor and because the NYPD agreed to undertake measures to train and educate its employees and vendors, with the Board’s guidance and assistance, about the City’s conflicts of interest law. *In re NYPD*, COIB Case No. 2004-553 (2006).

The Board fined two former Department of Education (“DOE”) employees who accepted valuable gifts from DOE vendors. The former Director of Procurement at the DOE Office of School Food and Nutrition Services (“OSFNS”) and the former Deputy Chief of OSFNS admitted that during their employment at DOE they accepted valuable gifts from DOE vendors. The former DOE employees each admitted accepting a laptop computer that cost over \$2,400, as well as tickets, dinners, and gifts of meat from DOE vendors, and they each paid a fine of \$4,000. *COIB v. Hoffman*, COIB Case No. 2004-082 (2005), and *COIB v. Romano*, COIB Case No. 2004-082a (2005).

In 2000, the Board announced that it had rebuked former NYC Police Commissioner Howard Safir for accepting a free trip to the 1999 Academy Awards festivities in Los Angeles. A City vendor was the donor of the trip, valued at over \$7,000. The Board defined for the first time the duties of high-level public servants to inquire about the business dealings of the donor. Because this was the first public announcement of this duty in the context of gifts, and the business dealings of the City vendor were small and difficult to discover, the Board declined to charge Safir with violating the Board’s Valuable Gift Rule, which prohibits public servants from accepting

gifts valued at \$50 or more from persons they know or should know engage or intend to engage in business dealings with the City. Safir repaid the cost of the trip. *In re Howard Safir*, COIB Case No. 99-115 (2000).

In a case against a former Battalion Chief for Technical Services with the New York City Fire Department, the Board imposed a \$6,000 fine for the acceptance of valuable gifts of meals, theater tickets, and the free use of a ski condo from companies that had business dealings with the Fire Department and whose work the Chief had directly supervised. The fine amount took into consideration the Chief's resignation in the face of disciplinary charges at the Fire Department and his forfeiture of over \$93,000 worth of annual leave. *COIB v. Morello*, COIB Case No. 97-247 (1998).

The Board imposed a \$5,000 fine on a former high-level City official who interviewed for a job with a City bidder and accepted meals worth more than \$50 per year from the bidder while working on the City matter involving the bidder, without disclosing the receipt of those meals. *COIB v. Baer*, COIB Case No. 93-282 (1995).

The Board fined a contract manager in the Parking Violations Bureau \$500 for accepting meals from a City bidder worth more than \$50 in the aggregate without disclosing the receipt of those meals. *COIB v. Bryson*, COIB Case No. 93-282 (1994).

#### **APPEARANCE BEFORE THE CITY ON BEHALF OF PRIVATE INTEREST**

In a settlement with the Board and the New York City Fire Department ("FDNY"), an FDNY lieutenant was fined for moonlighting as a fire sprinkler inspector in the City and indirectly appearing before the FDNY as part of his non-City job. The firefighter's non-City job required him to prepare inspection reports that he knew would be reviewed by FDNY personnel. Public servants are prohibited from representing, for pay, private interests before the City and from appearing, even indirectly, in matters involving the City. The firefighter, who also admitted to violating various FDNY rules and regulations, agreed to forfeit 50 days' pay, which amounted to approximately \$11,267, and 10 days of annual leave. He was also placed on probation for three years. *COIB v. Valsamedis*, COIB Case No. 2005-238 (2006).

A Board of Education ("BOE") employee admitted that she appeared, for compensation, as an attorney on behalf of her private client, in a matter involving the City. In appearing on behalf of her client in a litigation in which the New York City Administration for Children's Services was a party, she appeared against the interests of the City. The BOE employee made five appearances before Family Court and Criminal Court on her client's behalf. The City's Charter and the Board's Rules prohibit public servants from appearing on behalf of private interests in matters involving the City and appearing against the interests of the City in any litigation to which the City is a party. The BOE employee was fined \$700. *COIB v. Hill-Grier*, COIB Case No. 2000-581 (2001).

## MOONLIGHTING

The Board fined a psychiatric technician at the New York City Health and Hospitals Corporation (“HHC”) \$2,500 for having an ownership interest in two companies that had business dealings with HHC. The psychiatric technician acknowledged that she was the registered owner of her husband’s two companies and that these companies each bid on a contract with HHC. At least one company was awarded a contract with HHC; the other was disqualified when HHC became aware that one of its employees was part owner. *COIB v. Goyol*, COIB Case No. 2004-159 (2006).

The Board issued a public warning letter to the Deputy Chief Medical Officer of the Fire Department (“FDNY”) Bureau of Health Services, who moonlighted for a firm that had business dealings with FDNY. Although both he and FDNY had long-standing relationships with this City vendor, FDNY did not advise him to seek a waiver from the Board. *In re Prezant*, COIB Case No. 2005-454 (2006).

The Board concluded a settlement with a Fire Department (“FDNY”) fire safety inspector who was moonlighting for a hotel in New York City as a watch engineer. On February 4, 2004, the fire safety inspector ended his shift at the hotel and reported for duty at FDNY, where he was assigned to conduct an on-site inspection of the same hotel. The fire safety inspector returned to the hotel that same day and conducted the inspection. He also administered on-site exams to hotel employees, including his hotel supervisor, and determined that they were qualified to serve as fire safety directors of the hotel. The FDNY re-inspected the hotel and re-tested its employees after his conflict of interest became known. The fire safety inspector acknowledged that he violated conflicts of interest law provisions that prohibit a public servant from having an interest in a firm that has business dealings with his agency, from having any financial interest in conflict with the proper discharge of his duties, and from using his City position to benefit himself or a person or firm with which he is associated. The Board fined the inspector \$4,000. *COIB v. Trica*, COIB Case No. 2004-418 (2005).

The Board fined a former Property Manager/Supervising Appraiser for the New York City Housing Authority (“NYCHA”) \$2,000 for moonlighting as an appraiser of residential property for a firm while she was working for NYCHA, and selecting, on behalf of NYCHA, the firm with which she was moonlighting to perform appraisals for NYCHA. The property manager also admitted that she used a NYCHA fax machine and letterhead, as well as City time, to make appointments relating to her non-City employment. The Board fined her \$2,000, after taking into consideration her unemployment. *COIB v. Campbell*, COIB Case No. 2003-569 (2004).

The Board and the Department of Education concluded a three-way settlement in a case involving an Assistant Architect at the Department of Education Division of School Facilities who had a private firm he knew had business dealings with the City and who conducted business on behalf of private interests, for compensation, before the City’s Department of Buildings (“DOB”) on City time, without the required approvals from the Department of Education and the Board. The Board took the occasion of this settlement



to remind City-employed architects who wish to have private work as expeditors that they must do so only on their own time and that they are limited to appearances before DOB that are ministerial only – that is, business that is carried out in a prescribed manner and that does not involve the exercise of substantial personal discretion by DOB officials. The assistant architect admitted that he pursued his private expediting business at times when he was required to provide services to the City and while he was on paid sick leave. The Board fined him \$1,000, and the Department of Education suspended him for 30 days without pay and fined him an additional \$2,500 based on the disciplinary charges attached to the settlement. *COIB v. Arriaga*, COIB Case No. 2002-304 (2003).

The Board fined a plumbing inspector with the New York City Housing Authority \$800 for filing seventeen “Plumber’s Affidavits” with the Department of Buildings in connection with his private plumbing business. City employees who are also licensed plumbers and operate private part-time plumbing businesses are not permitted to file Plumber’s Affidavits under the City Charter as interpreted in a Board opinion. In this matter, the plumbing inspector had agreed in writing at the time he began working for the City that he would not file Plumber’s Affidavits. Such filings are not permitted because they involve applications to do major repairs or installations and are deemed to be “representing private interests before a City agency,” the Department of Buildings. Applications to perform minor repair work, the so-called Plumbing Alteration and Repair Slips, are permitted to be filed with the Department of Buildings by City employees. *COIB v. Loughran*, COIB Case No. 2000-407 (2002).

In a three-way settlement involving the Department of Education and the Board, the Board fined a teacher \$1,500 for owning and operating a tour company that arranged tours for Department of Education schools, including the school where he taught. The tours had been operated with the approval of the school’s principal, and the teacher sold his interest in the tour company in March 1999. *COIB v. Steinhandler*, COIB Case No. 2000-231 (2001).

The Board issued a public warning letter to a licensed plumber who works for the City and who also moonlights, in which the Board reminded public servants who are licensed plumbers that they may file with the Department of Buildings Plumbing Alteration and Repair Slips, which involve minor plumbing jobs, but not Plumber’s Affidavits, involving major repairs in connection with building permits, unless they first obtain waivers from the Conflicts of Interest Board. *In re Abramo*, COIB Case No. 2000-638 (2001).

The Board fined a former Department of Employment Program Manager \$1,000 for moonlighting with a firm that had business dealings with the Department. Although on leave from their City jobs, City employees are bound by the Charter’s conflicts of interest provisions. While on sick leave from the Department, the Program Manager took a job with a contractor doing business with his agency. Because he repeatedly changed his separation date, the Program Manager received twice the sick leave payments he would have received had he resigned his job on the date he had originally agreed to do so. *COIB v. Camarata*, COIB Case No. 99-121 (2001).

The Board issued a public warning letter to an Assistant Civil Engineer at the Department of Transportation (“DOT”) who inspected bridges for DOT, including the Williamsburg Bridge. The engineer accepted a position with a sub-consultant on a DOT contract involving inspections of that bridge. He worked for the sub-consultant during four weeks of vacation from DOT. Although he claimed he did not know that his second employer had business dealings with the City, the Board stated that he should have known of those dealings and should not have taken the job. He resigned upon learning that the matter on which he was working for the private employer was a DOT contract. There was no fine and the engineer agreed to publication of the Board’s letter. *In re Ayo*, COIB Case No. 99-461 (2001).

The Board fined a firefighter \$7,500 for unauthorized moonlighting with a distributor of fire trucks and spare parts to the Fire Department. As part of the settlement, the firefighter agreed to disgorge income from his after-hours job, and the vendor, in effect, funded the settlement. *COIB v. Ludewig*, COIB Case No. 97-247 (1999).

The Board fined a City firefighter \$100 for working part time without permission for a company that supplies the Fire Department with equipment. Mitigating factors, including financial hardship, affected the size of the fine. *COIB v. Cioffi*, COIB Case No. 97-247 (1998).

A former Art Commission president who inadvertently failed to recuse himself from Commission matters involving his architecture firm was fined \$100. *COIB v. Quennell*, COIB Case No. 97-60 (1997).

A former spokesman for the Chancellor of the Board of Education was found to have a prohibited interest in a firm engaged in business dealings with the City, but no penalty was imposed because of mitigating circumstances. *In re Begel*, COIB Case No. 96-40 (1996).

## **RESUME CASES**

A Department of Environmental Protection (“DEP”) project manager admitted that he violated the City Charter by sending his resume to a City contractor while he was directly concerned with that contractor’s particular matter with the City and had recommended that contractor for a \$10 million City contract. The project manager was not even interviewed for the private job. He paid a \$1,000 fine. *COIB v. Matos*, COIB Case No. 94-368 (1996).

In the *Baer* matter noted above under “Gift Cases,” the former chief of staff to a Deputy Mayor solicited a job with a vendor at a time when various City agencies were engaged in developing a request for proposals in which that vendor was interested and involved as a prospective bidder, and the former chief of staff was involved in that City matter. *COIB v. Baer*, COIB Case No. 93-282 (1995).

## **POST-EMPLOYMENT CASES**

The Board concluded a settlement with a former New York City Department of Youth and Community Development (“DYCD”) Contract Specialist in the Youth Program Operations Unit who applied for and accepted a position with a vendor whose contract he monitored and for appearing before DYCD on behalf of that vendor within one year of his resignation from DYCD. The conflict of interest law prohibits a public servant from soliciting for, negotiating for, or accepting any position with a firm involved in a particular matter with the City while the public servant is directly concerned or personally participating with that particular matter, and also prohibits any former public servant from appearing before his or her former City agency within one year of the termination of employment with the City. The Board fined the former Contract Specialist \$500. *COIB v. Fenster*, COIB Case No. 2002-140 (2006).

The Board issued a public warning letter to a former Chief Administrator of the Board of Review for the New York City Department of Education (“DOE”) who contacted DOE within one year of his resignation concerning the status of a bid objection filed by a DOE contract vendor who was then his private employer. While not pursuing further enforcement action, the Board took the opportunity to remind public servants that the City Charter prohibits former City employees from appearing before their City agency within one year of the termination of their City employment. *COIB v. Avedon*, COIB Case No. 2003-508 (2006).

The Board concluded a settlement with a former New York City Fire Department (“FDNY”) Assistant Project Manager in the Bulk Fuel Safety Unit of the Fire Prevention Unit who appeared before FDNY within one year of his resignation from FDNY on behalf of a private employer as a consultant for fuel and fire safety. This conduct violated the City of New York’s conflict of interest laws, which prohibit any former public servant from appearing before his or her former City agency within one year of the termination of employment with the City. The Board fined the former Assistant Project Manager \$500. *COIB v. Sorkin*, COIB Case No. 2003-655 (2006).

The Board concluded a settlement involving a former New York City Department of Education (“DOE”) teacher who appeared before DOE within one year of the termination of the teacher’s City employment. Less than two months after she had resigned from DOE, the former DOE teacher provided staff development training for her non-City employer at two DOE schools. This conduct violated the Board’s post-employment law prohibiting appearances before one’s former City agency within 12 months of termination from City service. The Board fined the former teacher \$500. *COIB v. Coppola*, COIB Case No. 2005-607 (2006).

The Board and the Human Resources Administration (“HRA”) concluded a settlement involving an HRA management auditor who solicited a job with an HRA vendor that he audited. The auditor paid a fine of \$500 to the Board and forfeited six days’ annual leave, which is equivalent to approximately \$1,000, for a total fine of \$1,500. As part of his HRA duties, the auditor conducted internal audits of HRA vendors

and facilitated audits of HRA vendors by other HRA employees. In the fall of 2002, the auditor, in a conversation with a vendor that he oversaw as part of his official duties, expressed interest in being considered for employment with the vendor. The auditor also received from the same vendor information regarding an organization to which he later applied for a job. The auditor admitted that he sought a job with a City vendor while he was actively considering, directly concerned with, or personally participating in the vendor's dealings with the City, and that he misused his official position for private gain. *COIB v. Asemota*, COIB Case No. 2003-788 (2005).

The Board concluded a settlement with the former Human Resources Administration ("HRA") Agency Chief Contracting Officer ("ACCO"). While serving as ACCO at HRA, he was involved in every stage of awarding to a vendor an Employment Services Placement contract with HRA. He left HRA to serve as the vendor's Vice President and, as such, he worked on issues concerning the same contract that he had worked on as ACCO at HRA. In addition, the former ACCO contacted HRA on behalf of his non-City employer within one year of leaving City service. He acknowledged that he violated the New York City Charter's post-employment provisions and was fined \$3,000. *COIB v. Bonamarte*, COIB Case No. 2002-782 (2005).

The Board fined the former Deputy Agency Chief Contracting Officer ("ACCO") of the Department of Transportation ("DOT") \$1,500 for violating the revolving door rules. Within two weeks of leaving City office for a firm that sought business with DOT, the former Deputy ACCO phoned his former supervisor, who was the DOT ACCO, and the Mayor's Office of Contracts and asked whether a contract had been awarded to his new employer. This violated both the one-year ban on contacting one's former City agency on non-ministerial matters and the lifetime ban on appearing before the City on the same particular matter that one had worked on while with the City. *COIB v. Paniccia*, COIB Case No. 99-511 (2000).

The Board fined a former Resident Engineer of the Department of Citywide Administrative Services \$3,000 for consulting for pay for a private firm on the same City project on which the engineer had worked personally and substantially as a City employee. The engineer had been in charge of the project -- the renovation of the Manhattan Criminal Court building -- and then crossed over to the private sector, where he worked on the same project. The Board also fined him \$100 for failing to file his financial disclosure report on time. This was the first reported enforcement case on the lifetime ban against appearing before the City on the same project, involving the same parties, which one had worked on while with the City. *COIB v. Fodera*, COIB Case No. 96-404 (1998).

### **SUPERIOR-SUBORDINATE FINANCIAL RELATIONSHIPS**

The Board and the New York City Department of Environmental Protection ("DEP") concluded two three-way settlements with a DEP Supervising Mechanic and a DEP auto mechanic, fining them \$750 and \$460, respectively, for engaging in a prohibited superior-subordinate financial relationship. The subordinate mechanic sold a vintage Chevrolet

Corvette to his superior, which the superior purchased for \$14,000, and performed a brake repair on another car owned by the superior, for which repair the subordinate was paid \$400 by the superior. The superior and subordinate DEP mechanics acknowledged that this conduct violated the City of New York's conflict of interest law, which prohibits any public servant from entering into a financial relationship with his superior or subordinate. *COIB v. Marchesi*, COIB Case No. 2005-271, and *COIB v. Parlante*, COIB Case No. 2005-271a.

The Board fined a former Department of Education ("DOE") Assistant Principal \$2,800 for engaging in financial relationships with his subordinates and for misusing City resources. The former principal, who had a private tax preparation business, prepared income tax returns, for compensation, for his DOE subordinates, and also gave the fax number of the DOE school at which he worked to his private clients in order for them to send their tax information to him. *COIB v. Guttman*, COIB Case No. 2004-214 (2005).

The Board fined the Director of the Emergency Service Department at the New York City Housing Authority ("NYCHA") \$1,750 for selling his car to one of his subordinates for \$3,500. In a three-way settlement in which NYCHA was involved, the NYCHA employee also forfeited four days of annual leave that he accrued at NYCHA, which is equivalent to approximately \$1,600. The NYCHA employee acknowledged that his conduct violated the New York City conflicts of interest law, which prohibits public servants from entering into financial relationships with other public servants who are their subordinates or their superiors and from inducing or causing another public servant to engage in conduct that violates the conflicts of interest law. *COIB v. Vazquez*, COIB Case No. 2004-321 (2005).

In a settlement among the New York City Department of Correction ("DOC"), the Conflicts of Interest Board, and a DOC Program Specialist, the specialist admitted violating the City Charter by selling t-shirts and promoting his side business (sales of essential oils and perfumes) to his City subordinates. He forfeited five vacation days. *In re Jones*, COIB Case No. 98-437 (2001).

In *COIB v. Turner*, COIB Case No. 99-200 (2000) and *COIB v. Hoover*, COIB Case No. 99-200 (2000), Board fines of \$6,500 and \$8,500, respectively, encompassed admissions concerning rental of apartments by a First Deputy Commissioner to his superior, the Commissioner, and to five Human Resources Administration subordinates.

A manager at the Department of Information Technology and Telecommunications settled a case in which he admitted purchasing a computer from his subordinate for \$1,350. The ethics law prohibits superiors and subordinates from entering into business transactions. The manager agreed to settle the case by paying a \$1,000 fine. *COIB v. Rosenberg*, COIB Case No. 99-358 (2000).

The Board fined a Deputy Commissioner of the City Human Rights Commission \$1,500 for subleasing an apartment from a subordinate attorney and for using City equipment in the private practice of law. *COIB v. Wills*, COIB Case No. 95-45 (1998).

An assistant principal of a City school was fined \$1,000 for borrowing \$1,000 from a subordinate teacher in the first “three-way” disposition among the Conflicts of Interest Board, a City official, and the agency employing the official, in this case, the Board of Education. *COIB v. Ross*, COIB Case No. 97-225 (1997).

The Board fined the Superintendent of Community School District 1 \$500 for asking a subordinate to guarantee personally the lease for the Superintendent’s rental apartment in Manhattan. *COIB v. Ubinas*, COIB Case No. 91-223 (1993).

### **POLITICAL ACTIVITIES**

In a three-way disposition among a school principal, the Conflicts of Interest Board, and the Board of Education, the Conflicts of Interest Board fined a former principal \$2,500 for selling tickets to a political fundraiser to a subordinate teacher during school hours and on school grounds, in violation of Charter § 2604(b)(11)(c), which prohibits a superior from even requesting subordinates to make campaign contributions. *COIB v. Rene*, COIB Case No. 97-237 (2000).

The Board fined Cultural Affairs Commissioner Schuyler Chapin \$500 for holding a political fundraiser in his home for Fran Reiter, then a candidate for Mayor, and inviting guests who had business dealings with his agency or the City. The fine took into account that Chapin believed he had sought legal advice and had been advised incorrectly that the fundraiser was legal. Agency heads are not permitted to request any person to make political contributions to any candidate for elective office of the City. *COIB v. Schuyler Chapin*, COIB Case No. 99-500 (2000).

### **OWNERSHIP INTEREST**

The Board issued a public warning letter to Jane Paley-Price, a volunteer member of the New York City Board of Correction (“BOC”), who co-owned a firm that was engaged in business dealings with the New York City Department of Correction (“DOC”). The business consisted of updating an inspirational film previously produced by the firm and producing a videotape of 9-11 memorial services. The firm offered to produce the videotape at no charge to DOC and only billed for the work after certain DOC employees declined the offer. The public servant disclosed to BOC the company’s work for DOC. The Board articulated for the first time that the agency served by BOC members is both BOC and DOC and concluded that “business dealings with the city” may exist despite the absence of a profit and that a public servant’s ignorance of Chapter 68 provides no excuse for failure to comply with its requirements. Under the particular circumstances of the case, the Board determined that no further action was required in the matter, beyond the issuance of the public warning letter. *In re Jane Paley-Price*, COIB Case No. 2003-096 (2005).

New York City Officers and Employees\* Required to File  
Annual Statements of Financial Disclosure  
Under New York State Mandate and New York City Law

	New York State Mandate (NYS Gen. Mun. Law § 811(1))	New York City Law (as of 1/1/04)** (NYC Ad. Code § 12-110)
1.	Elected officials ( <i>see</i> § 810(2))	Elected officers (mayor, public advocate, Council members, borough presidents, comptroller, district attorneys)
2.	Heads of agencies, departments, divisions, councils, boards, commissions, and bureaus and their deputies and assistants ( <i>see</i> § 810(3))	Agency heads, deputy agency heads, assistant agency heads, & compensated members of boards and commissions (§ 12-110(b)(3)(a)(1))
3.	Officers and employees holding policy-making positions ( <i>see</i> § 810(3))	(a) Compensated members of boards and commissions (§ 12-110(b)(3)(a)(1)) (b) City employees in management pay plan in levels M4 and above (§ 12-110(b)(3)(a)(3))*** (c) Policymakers (§ 12-110(b)(3)(a)(2), (3))
4.	Non-policy-makers whose duties involve negotiation, authorization, or approval of certain documents or actions ( <i>see</i> § 813(9)(k))	Employees whose duties involve negotiation, authorization, or approval of contracts, leases, franchises, revocable consents, concessions, or applications for zoning changes, variances, or special permits (§ 12-110(b)(3)(a)(4))

\* State and City law also require filing by local political party officials and candidates for elective City office. *See* NYS Gen. Mun. Law §§ 810(6), 811(1)(a)-(b), 812(1); NYC Ad. Code §§ 12-110(a)(1), 12-110(a)(2), 12-110(a)(3)(d). “Local political party official” is defined in NYS Gen. Mun. Law § 810(6); NYC Ad. Code § 12-110(a)(3)(c).

\*\* Local Law 43 (Intro 64-A) (2003).

\*\*\* Council and DA employees: independent exercise of managerial or policymaking functions (§ 12-110(b)(3)(a)(2)).

[Training: Website Ethics Link: FD Filers Dec 2005]

## FINANCIAL DISCLOSURE REPORTS

Calendar Year ( <u>"C.Y."</u> )	Number of Reports Required for C.Y.	Reports Filed for C.Y.	Compliance Rate for C.Y.	Number of Fines Waived for C.Y.	Number of Fines Paid for C.Y.	Amount of Fines Paid for C.Y.	Current Non-Filers for C.Y.		Current Non-Payers for C.Y.	
							<u>Act.</u>	<u>Inact.</u> <sup>1</sup>	<u>Act.</u>	<u>Inact.</u>
1999	12,386	12,071	97.5%	246	309	\$30,900	0	140	0	48
2000	12,813	12,448	97.2%	576	338	\$34,250	0	267	0	59
2001	12,062	11,773	97.6%	532	176	\$19,725	0	152	0	33
2002	13,638	13,233	97.0%	625	226	\$24,200	2	254	0	77
2003	8,096 <sup>2</sup>	7,550	93.3%	365	62	\$13,700	0	444	0	28
2004	7,546	7,194	95.3%	919	26	\$14,925	45	196	26	24
TOTALS	66,541	64,269	96.6%	3,263	1,137	\$470,248 <sup>3</sup>	47	1,453	26	269

<sup>1</sup> "Act." indicates current non-filers or non-payers who are current City employees. ("Non-payers" are late filers who have failed to pay their late filing fine.) "Inact." indicates current non-filers or non-payers who are no longer City employees.

<sup>2</sup> Local Law 43 of 2003 amended the financial disclosure law, NYC Ad. Code § 12-110, to, among other things, eliminate certain classifications of filers and add others.

<sup>3</sup> Includes fines collected for calendar years 1989 through 1997, the reports for which have been discarded pursuant to the Board's retention policy.



CITY OF NEW YORK  
CONFLICTS OF INTEREST BOARD

**THE FINANCIAL DISCLOSURE PROCESS  
FOR MANUAL FILING OF FINANCIAL DISCLOSURE REPORTS**

1. Obtain from each agency a list of their employees who must file a disclosure report because of their purchasing or other duties (some employees appeal this determination by their agency);
2. Send to agency financial disclosure liaisons a computer printout of the agency's previous year's filers for updating;
3. Enter into the database agency liaisons' typed or handwritten additions and deletions to the agency's list of filers;
4. Incorporate changes into the financial disclosure form and instructions, prepare a camera-ready copy, and have 16,000 copies printed;
5. Contact all agencies to determine the number of forms they need;
6. Prepare the office for collection of the reports (filing cabinets, supplies, tables, temps, etc.);
7. Distribute financial disclosure forms and seals to agencies for distribution by them to their employees;
8. Send to each agency a corrected list of all employees in the agency who are required to file, obtain any corrections from each agency, and enter them into the database;
9. Process requests for extensions of time to file;
10. Receive 12,000 financial disclosure reports by certified mail or in batches from agencies (with lists of employees filing);
11. Enter into the database the date the report is filed (subsequently enter the dates of appeals, dates of non-filer letters, etc.);

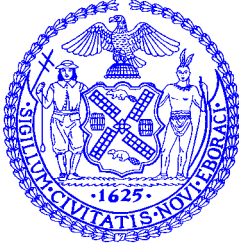
12. Repeatedly check the database against the financial disclosure reports filed (name, social security number, agency, and date filed) and check that reports are filed in the correct location ("sweeps");
13. Review all reports for completeness, notify filers of incomplete reports, provide reports to filers who come into office to amend (complete) their reports (those who fail to amend are treated as non-filers);
14. Send to each agency for review a computer printout of all non-filers in the agency and enter into the database agencies' deletions from the list of required filers;
15. Request agencies to provide home addresses of non-filers, the employment status of non-filers and non-payers (*i.e.*, employees who filed late but failed to pay the \$100 statutory late filing fine), and the agency's decisions on appeals;
16. Enter responses into the database;
17. Send dunning letters to non-filers and non-payers (typically about 300);
18. Process requests for waivers of late fines;
19. Process payments of late fines;
20. Notify agency heads of the names of non-filers and non-payers;
21. Publish in the newspaper and post on the web site an agency-by-agency list of non-filers;
22. Have agency inspectors general tell non-filers and non-payers to comply with law by filing their reports and paying their late fines;
23. Send a final warning notice;
24. Commence enforcement proceedings by sending petitions to non-filers and non-payers;
25. Litigate non-filer/non-payer cases against City employees (draft documents,

negotiate settlements and draft settlement agreements, prepare and try cases);

#### Other Activities

26. Send 1,500 to 2,000 memoranda per year to financial disclosure liaisons in regard to various aspects of the financial disclosure process;
27. Answer 3,000 telephone calls per year from filers, liaisons, the public, State and federal agencies, and the media about financial disclosure and financial disclosure reports;
28. Track the status of appeals and enter that information into the database;
29. Create and maintain a separate database of financial disclosure litigation against non-filers/non-payers (names, social security numbers, docket numbers, dates, dispositions, fines, etc.);
30. Rule on each request for privacy for part or all of a financial disclosure report (rulings are made only when someone requests to view the report);
31. Photocopy financial disclosure reports for inspection by the public and the media;
32. Process requests to inspect reports, provide reports for inspection, provide photocopies and process photocopying fees, and notify filers of the request for inspection;
33. Perform substantive reviews of reports by comparing them against databases (*e.g.*, the City's list of vendors) and reports of previous years;
34. Destroy reports after six years.

[Training: Website Ethics Link: FD\_Process]



CITY OF NEW YORK  
CONFLICTS OF INTEREST BOARD

2 Lafayette Street, Suite 1010  
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(212) 442-1400

Fax: (212) 442-1407 TDD: (212) 442-1443

To: Electronic Financial Disclosure Filers

From: Felicia A. Mennin, Director of Financial Disclosure  
Conflicts of Interest Board

Date: March 29, 2006

Re: **Filing Your 2005 Annual Financial Disclosure Report**

As you may recall, Local Law 43 of 2003 required that all annual financial disclosure reports be filed electronically beginning January 1, 2006. This means that your 2005 Financial Disclosure Report, which will be due later this year, will be filed using the new electronic filing process rather than the paper form with which most of you are familiar. The scope of the financial information that you are required to provide has not changed; the difference is that it will be provided in electronic rather than in paper form. The Conflicts of Interest Board (the "COIB") has been working with the Department of Information Technology and Telecommunications ("DoITT") and the Department of Investigation ("DOI") to develop a secure, user-friendly electronic financial disclosure system. This memorandum will detail for you some of the features of the new process and will also address some of the initial questions that you may have.

1. Security Features

A. Security Testing

Security of the filer's information was the paramount concern in developing and testing the program. The electronic financial disclosure application has state-of-the-art security technology built into it and has been reviewed and tested by the City's security experts, as well as by an independent security expert. Prior to the filing period, the program will undergo yet another round of security testing by a second independent security consulting group.

B. Deletion of Social Security Numbers

In response to concerns voiced by numerous filers, **filers are no longer required to provide their social security number as an identifier anywhere on the electronic financial disclosure report form.** Instead, the filer's Employee Identification Number ("EIN"), assigned by the Office of Payroll Administration, will be used. Your EIN is the "Reference #" that appears on your pay stub. For those agencies that do not use EINs, an identifier other than the social security number will be assigned.

C. Higher Security in the Transmission of Information to COIB

The system of transmitting the information to the COIB has been made more secure than it had been previously when paper reports were used. The electronic reports will now be transmitted to the COIB by the filer with the click of a button, in encrypted form. Previously, a paper report could have been viewed by anyone at your agency through whose hands it passed prior to arriving at the COIB, where it was secured.

2. Convenience Features

In addition to addressing security concerns, the agencies developing the program have sought to make it more user-friendly and convenient for the filers than the paper reports.

A. Remote Access

You will have the ability to complete the electronic report remotely using any PC with access to the Internet, whether at work, at home, or elsewhere.

B. The Filer Will Answer Only Those Questions That Pertain to the Filer

Another convenient feature is that the filer is no longer required to answer questions that are not applicable to him or her. At the beginning of the report, you will be asked some basic questions to form a "Profile." Based upon your answers, the program will generate the questions that are tailored to your profile. You need only answer those questions in order to complete the filing. For example, if, in the profile section of your report, you state that you do not own real estate or securities, you will not be asked to answer any questions about real estate or securities.

C. Instructions are Integrated into the Report

All of the instructions and defined terms for each question are built into pull-down screens, accessible as you read through the report, thus eliminating the need to consult a separate booklet for instructions.

D. Use of Pre-Populated Forms in the Second Filing Year of Electronic Filing

Beginning in 2007, the second year of city-wide electronic filing, the reports will appear “pre-populated.” This means that when a filer logs in and accesses his or her report in the second year of electronic filing, it will appear containing the information that he or she put in the prior year’s report. Electronic filers will need only to review and update the prior year’s report, an effort that for most filers will require only a few minutes. The filer will no longer need to fill out a completely new report every year. Those filers who participated in the electronic filing pilot program last summer will enjoy the benefits of a pre-populated report in this year’s filing cycle.

E. Forms of Assistance

DoITT will staff a “Helpdesk” 24 hours a day, seven days a week, during the filing period, to assist filers who are having difficulty accessing the program or other technical problems. We will provide you with contact numbers for the Helpdesk before the filing period begins. For substantive questions about the information required by the report, you may call the Financial Disclosure Unit at 212-442-1401 during normal business hours, from 9:00 a.m. until 5:00 p.m., on weekdays.

3. The Process, in a Nutshell

When it is time for you to file, your agency financial disclosure liaison, or his or her designee, will give you a sealed “filer user packet.” In order to receive the packet, the liaison will ask you to show photo identification and to sign for this packet. Please do not ask anyone to pick up your user packet for you. For security reasons, it must be given directly to you. There are no exceptions.

Inside your user packet you will find a temporary password and detailed instructions as to how to log into the application. You will be prompted to change the temporary password the first time you log in and to select your own password. For your security, you will be directed not to share your password with anyone. Once you have accessed the application, there will be explicit instructions as to what you need to do to complete the report.

4. The Filing Schedule

The filing period is scheduled to begin in early June 2006 and will run for a six-week period. We have been informed by DOI that it will adhere to the same filing deadlines. A filer who must also file with DOI will no longer be responsible for making a copy of his or her COIB report and transmitting it to DOI; instead the report will be transmitted by the filer electronically. Please note that DOI filers will still be required to fill out and file the DOI Executive Order 91 Reports on paper. Should you have any questions about the DOI report or procedures,

contact your agency's financial disclosure liaison, who will have instructions from DOI.

We thank you for your cooperation and look forward to working with you to make this process function smoothly.

## TRAINING AND EDUCATION CLASSES ON CHAPTER 68

<u>Year</u>	<u>Department of Ed Classes</u>	<u>Other Agency Classes</u>	<u>Total Classes<sup>1</sup></u>
1995	0	24	24
1996	0	30	30
1997	0	90	90
1998	10	53	63
1999	23	69	92
2000	221	156	377
2001	116	74	190
2002	119	167	286
2003 <sup>2</sup>	43	139	182
2004	119	169	288
2005	80	162	242

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<sup>1</sup> These totals do not include classes conducted by agency training/legal staff under COIB's "Train the Trainer" program nor briefings set up and conducted exclusively by DOI.

<sup>2</sup> As a result of layoffs, the Board had no Training and Education Unit and therefore no training and education classes from May 15, 2003, to October 15, 2003.



## COIB TRAINING CLASSES BY AGENCY

**Agencies that held ten or more classes are in bold**

*Agencies that held three to nine classes are in italics*

Agencies that held one or two classes are not separately listed

1999	2000	2001	2002	2003 <sup>1</sup>	2004	2005
<b>Bd. of Education</b> <b>DCAS</b> <b>Finance</b> <i>Correction</i> <i>DOT</i> <i>Sanitation</i> <i>School Const.</i> <i>Auth.</i>	<b>Bd. of Education</b> <b>Buildings</b> <b>DEP</b> <b>DOT</b> <b>Finance</b> <b>Parks</b> <b>Sanitation</b> <i>Correction</i> <i>DCAS</i> <i>DDC</i> <i>DOI</i> <i>EDC</i> <i>Health</i> <i>HPD</i> <i>HRA</i> <i>NYPD</i> <i>TLC</i>	<b>Bd. of Education</b> <b>DCAS</b> <b>Finance</b> <b>HPD</b> <i>DEP</i> <i>DDC</i> <i>FIRE</i> <i>DOITT</i> <i>Sanitation</i> <i>Transportation</i>	<b>Buildings</b> <b>Correction</b> <b>DCAS</b> <b>Education</b> <b>Finance</b> <b>Sanitation</b> <b>SCA</b> <i>ACS</i> <i>City Planning</i> <i>DDC</i> <i>DEP</i> <i>DOT</i> <i>Health</i> <i>HPD</i> <i>NYCERS</i> <i>Parks</i> <i>Transportation</i>	<b>Correction</b> <b>Education</b> <b>DOHMH</b> <b>HRA</b> <b>NYCERS</b> <i>Buildings</i> <i>DCAS</i> <i>DHS</i> <i>DYCD</i> <i>Finance</i> <i>Law</i>	<b>Buildings</b> <b>DCAS</b> <b>Education</b> <b>DHS</b> <b>HRA</b> <i>DCLA</i> <i>DFTA</i> <i>Finance</i> <i>DOHMH</i> <i>DOITT</i> <i>NYCERS</i>	<b>Parks</b> <b>Finance</b> <b>DCA</b> <b>DYCD</b> <b>DOB</b> <b>Education</b> <i>DDC</i> <i>HRA</i> <i>TLC</i> <i>DOITT</i> <i>DCAS</i> <i>Community Boards</i> <i>HHC</i> <i>HPD</i> <i>DOC</i> <i>DOHMH</i> <i>Comptroller</i>
Agencies Holding One or Two Classes: 15	Agencies Holding One or Two Classes: 22	Agencies Holding One or Two Classes: 14	Agencies Holding One or Two Classes: 29	Agencies Holding One or Two Classes: 12	Agencies Holding One or Two Classes: 27	Agencies Holding One or Two Classes: 17
<b>Total Classes:</b> <b>92<sup>2</sup></b>	<b>Total Classes:</b> <b>377<sup>2</sup></b>	<b>Total Classes:</b> <b>190<sup>2</sup></b>	<b>Total Classes:</b> <b>286<sup>2</sup></b>	<b>Total Classes:</b> <b>182<sup>2</sup></b>	<b>Total Classes:</b> <b>288<sup>2</sup></b>	<b>Total Classes:</b> <b>242<sup>2</sup></b>

<sup>1</sup> As a result of layoffs, the Board had no Training and Education Unit and therefore no training and education classes from May 15, 2003, to October 15, 2003.

<sup>2</sup> These totals do not include classes conducted by agency training/legal staff under COIB's "Train the Trainer" program nor briefings set up and conducted exclusively by DOI.



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OF THE CITY OF NEW YORK

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## TODAY'S FEATURES

### Electronic Filing Begins June 2006

Get all the latest info on the Financial Disclosure Law and Financial Disclosure Reports from our Financial Disclosure page.  
 ☛ [Financial Disclosure Information](#)

### Public Testimony on Lobbying and Political Consulting

COIB conducted public meetings on January 27 and February 3, 2006, to hear testimony on the issue of political consultants who work for public servants' political campaigns and at the same time lobby those public servants. The testimony and written submissions are now available by clicking on the link below.  
 ☛ [Public Testimony: January 27 and February 3, 2006](#)

### 2005 Annual Report

Below you will find a link to COIB's recently published annual report for 2005.  
 ☛ [2005 Annual Report](#)

### Publications Features

- The latest edition of *The Ethical Times* is now online.
- The Training & Education Unit is now publishing a monthly column that answers general questions about Chapter 68. The column, called *Answers from the City Ethicist*, can be found in *The Chief Leader*. Electronic versions can be accessed below.  
 ☛ [Go to Ethical Times Directory Page](#)  
 ☛ [Go to Answers from the City Ethicist](#)

### Enforcement Dispositions & Advisory Opinions on the Web

The full text of all enforcement dispositions and advisory opinions published by the Conflicts of Interest Board are available on the

## EXECUTIVE DIRECTOR



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## RESOURCES

Have a question regarding Chapter 68 of the New York City Charter, the conflicts of interest law?

Call us at (212) 442-1400 and ask for the Lawyer of the Day

<http://nyc.gov/ethics>

internet at [Citylaw.org](http://Citylaw.org)

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## SERVICES

### **Introduction to Chapter 68**

Want to know exactly what "a conflict of interest" (in [PDE](#)) is as defined by Chapter 68 of the City Charter?

☛ [Read Chapter 68 of the City Charter](#)

☛ [A Plain Language Guide to Chapter 68](#)

☛ [A brief overview of Chapter 68](#)

### ***Find out what a prohibited ownership interest is***

The City's conflicts of interest law contains restrictions on your "Interest" in any firm doing business with the City. An interest may be either a position with the firm (e.g., officer, director, employee) or an ownership interest (direct ownership of a business, stocks, bonds, mutual funds, and the like) in the firm. In this interactive exercise, you can find out if any of your (or your spouse's or child's) ownership interests are prohibited under Chapter 68 of the City Charter.

☛ [Information on Prohibited Ownership Interests](#)

### **Take the Ethics Challenge!**

Play the Ethics Quiz. It's Interactive! Help Oscar McFly, your average City guy, get through an ethically challenging day. Test your knowledge of Chapter 68 of the New York City Charter and see how it might affect you at your City job.

☛ [Play the Interactive Ethics Quiz](#)

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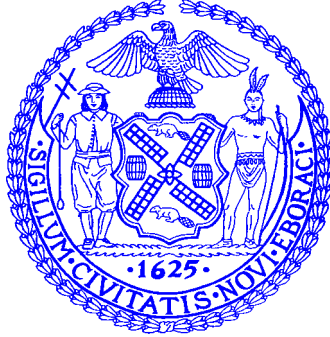
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[Training: Website Ethics Link: Biblio May 2006]



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