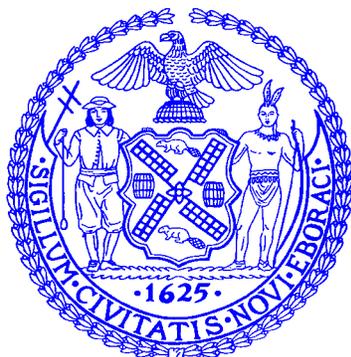


CITY OF NEW YORK
CONFLICTS OF INTEREST BOARD



ANNUAL REPORT
2003

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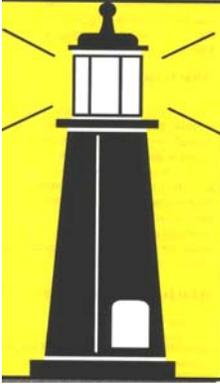
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The New York City Conflicts of Interest Board's Annual Report is designed and produced in-house at 2 Lafayette Street, Suite 1010, New York, New York 10007.

TABLE OF CONTENTS

	<i>Page</i>
Introduction.....	1
1. Members and Staff of the Conflicts of Interest Board.....	1
2. Training and Education.....	2
3. Requests from City Employees for Guidance.....	5
4. Administrative Rules.....	6
5. Enforcement.....	6
6. Financial Disclosure.....	9
7. Budget and Administration.....	12
Exhibit 1: Members and Staff of the Conflicts of Interest Board.....	15
Exhibit 2: Training and Education Classes on Chapter 68.....	16
Exhibit 3: COIB Training Classes by Agency.....	17
Exhibit 4: Reinvigorating an Ethics Agency – Conflicts of Interest Board: 1993, 2001, 2002.....	18
Exhibit 5: Legal Advice Workload: 1993 to 2003.....	20
Exhibit 6: Requests for Advice on Chapter 68.....	21
Exhibit 7: Responses to Requests for Advice on Chapter 68....	22
Exhibit 8: Enforcement Cases (Chapter 68).....	23
Exhibit 9: Enforcement Workload: 1993 to 2003.....	24
Exhibit 10: Enforcement Fines.....	25
Exhibit 11: Financial Disclosure Reports.....	27

Exhibit 12:	New York City Conflicts of Interest Board: Proposed State Legislation.....	28
Exhibit 13:	Possible Reduced Annual Disclosure Form Pursuant to Proposed Amendment to NYS General Municipal Law § 811(1)(a).....	33
	Advisory Opinions of the Board – Summaries and Indexes.....	39
	Opinion Summaries (2003).....	40
	Cumulative Index to Advisory Opinions by Charter Chapter 68 Section – 1990-2003.....	48
	Cumulative Index to Advisory Opinions by Subject – 1990-2003.....	54

INTRODUCTION

In 2003 the Conflicts of Interest Board (“COIB”) celebrated its thirteenth anniversary and the forty-fourth anniversary of its predecessor agency, the Board of Ethics. Created by Chapter 68 of the revised New York City Charter, effective January 1990, and vested with broad responsibilities, the Board includes among its Charter-mandated duties educating City officials and employees about Chapter 68's ethical standards; interpreting Chapter 68 through the issuance of formal advisory opinions, the promulgation of rules, and responding to requests from current and former public servants for advice and guidance; prosecuting violators of Chapter 68 in administrative proceedings; and administering and enforcing the City's financial disclosure law.

This report thus reviews the Board's activities in each of the following areas during 2003: (1) members and staff of the Board; (2) training and education; (3) responses to inquiries from City employees for guidance; (4) administrative rules; (5) enforcement proceedings; (6) financial disclosure; and (7) budget and administration.

1. MEMBERS AND STAFF OF THE CONFLICTS OF INTEREST BOARD

Appointed by the Mayor and confirmed by the City Council, the Board's five members serve staggered six-year terms. Under the Charter, the members must be selected on the basis of their "independence, integrity, civic commitment and high ethical standards." While serving on the Board, they may not hold other public office or any political party office.

Steven B. Rosenfeld, a partner in the law firm of Paul, Weiss, Rifkind, Wharton & Garrison, was appointed to the Board in May 2002 and as Chair in June 2002. Benito Romano, a partner in the law firm of Willkie, Farr & Gallagher, appointed to the Board in August 1994 and reappointed in May 2002, served as Acting Chair from February 1998 until the appointment of Mr. Rosenfeld. Bruce A. Green, a professor at Fordham University School of Law, was appointed to the Board in November 1995 and reappointed in May 2002. Jane W. Parver, a partner at Kaye, Scholer, Fierman, Hays & Handler, was appointed to the Board in August 1994 and was also reappointed in May 2002. Angela Mariana Freyre, a partner at Coudert Brothers LLP, was appointed to the Board in October 2002.

The Board's staff, which budget cuts had by year-end slashed 19%, from 23³/₅ to 19, is divided into six units: Training and Education, Legal Advice, Enforcement, Financial Disclosure, Administration, and Information Technology. The staff, listed in Exhibit 1, is headed by the Executive Director, Mark Davies.

2. TRAINING AND EDUCATION

Training Sessions

As reported in Exhibit 2, in 2003 the Board conducted 182 training classes, including 43 classes for the Department of Education. The drop from a total of 273 classes in 2001 is due to budget cuts in May, which required the Board to eliminate its entire Education Unit. Fortunately, through the efforts of the City Council, the Board was able to restore about 40% of that Unit in late October. Of the 182 total classes conducted in 2003, 54 – nearly one-third - were conducted in the last two months of the year. Despite the absence of the Education Unit for almost six months, COIB classes reached more than 9,000 public servants in 2003. By year-end the Board had also resumed its extensive outreach to agencies and schools, seeking to provide training for their staffs. As detailed in Exhibit 3, in 2003 the Board held at least one class in each of 23 agencies, compared with 46 agencies in 2002.

The Board's classes are interactive and engaging, explaining the basis and requirements of the law in plain language and letting public servants know how they can get answers regarding their specific situations. The sessions can include games, exercises, and ample opportunities for questions and are often tailored to the specific agency or employees. For example, the Board conducted nine Continuing Legal Education classes in 2003 for agency attorneys and three classes for DCAS's Procurement Training Institute. The feedback received from class participants continues to be virtually all positive, and usually quite enthusiastic.

"Train the Trainer"

At the time the Board lost its Education Unit in May, its "Train the Trainer" initiative had touched more public servants than in any previous full year; the Department of Environmental Protection ("DEP") had conducted two of its own ethics classes, and the Department of Correction had conducted 29, reaching 858 of its employees. The Department of Transportation ("DOT") had also continued its ethics program, teaching five classes, and went on to conduct 15 classes in total for 2003, reaching approximately 800 employees. This total of 46 Chapter 68 classes, of which the Board is aware, contrasts with 13 such classes conducted by agencies in all of 2002. The Board is resuming its invaluable "Train the Trainer" program in 2004, continuing to provide technical support for the agencies' training staffs, monitoring their efforts for quality assurance purposes, and seeking to add more agencies to the "Train the Trainer" roster.

Department of Education

The Board's outreach effort at the Department of Education ("DOE") continues apace, thanks in part to DOE itself, which included a memorandum regarding conflicts of interest training in its electronic "Principal's Weekly" from the Chancellor. The Board's Education Unit held a respectable 53 classes at DOE during the 2002-2003 school year, conducted 17 classes at DOE in November and December alone, and at year-end was

scheduled to complete 50 classes for the 2003-2004 school year, with more being set up every week. These training efforts were accomplished with the Board's Education Unit at less than half its headcount of 2002. The Education Unit continues to conduct briefings for principals at region-wide meetings, in conjunction with the DOE's Ethics Officer, and then to follow up with classes at the individual schools.

Website, Publications, and Media Outreach

As a result of the layoff of the Board's website coordinator in May, the agency has not been able to upgrade that critical resource. In particular, the Board has been forced to postpone indefinitely the development of an interactive Chapter 68 Ethics Certification Program, which would have permitted ethics officers, ethics liaisons, agency counsel, and others to learn about Chapter 68 in detail, at their own pace, by working through two dozen training modules on line and then, upon successfully answering quizzes, obtain certification of their expertise in the City's ethics law. The Board hopes that the website coordinator line can be restored in Fiscal Year 2005 to permit the continued development of this, and many other, web-based initiatives.

The Internet remains one of the most essential tools for Chapter 68 outreach. Indeed, in 2003 the Board's website had 58,677 visitors and 165,565 hits. Thus, despite the loss of the website coordinator, the Board is struggling to keep the information on the website current. The Board also hopes, if possible, to continue to post new publications on the website, so that in the future, as in the past, every Board publication, including the texts of Chapter 68, the Board's rules, and the financial disclosure law and all of COIB booklets and leaflets, are available to be downloaded from the website, as well as from CityShare, the City's Intranet.

Outreach to the public, calling attention to the agency's activities and responsibilities, is also an important priority. Since much of the success of a municipal ethics program depends upon the public perception of the integrity of City officials and the effectiveness of the City's ethics system, and since citizens, including City vendors, prove a significant source of complaints of ethics violations by public servants, the Education Unit has resumed its public outreach through the media. In late 2003, the Board instituted a series of 15-second Public Service Announcements sent to several New York City radio stations. These announcements, which have already begun receiving on-air time, also serve as an important source of ethics information for City employees whose agencies do not yet provide comprehensive Chapter 68 training classes and materials.

Seminar

The Board's "Ninth Annual Seminar on Ethics in New York City Government" at New York Law School last May was a great success. More than 200 public servants attended, representing fifty City agencies. The Board was pleased that Councilmember Helen Sears, Chair of the City Council's Committee on Standards and Ethics, delivered keynote remarks. The Board's 2004 seminar will be held on May 26.

International Visitors and Associations

In 2003 the Board continued to welcome visitors from around the world, often at the request of the U.S. Department of State or the United States Office of Government Ethics. This past year, in six sessions, the Board welcomed visitors from Angola, Argentina, Bulgaria, China, Colombia, Gaza, Guyana, Haiti, Hungary, Indonesia, Kenya, Maldives, Malawi, Montenegro, Pakistan, Romania, Serbia, South Korea, Tanzania, Thailand, Tunisia, Zambia, and Zimbabwe. In an attempt to provide additional, crucial information to governments around the world seeking advice on establishing and maintaining an effective ethics program, the Board added an “International Visitors Manual” to the publications portion of the website.

Budget cuts prevented the Board from sending a group of representatives to the annual conference of the international Council on Government Ethics Laws, the premier government ethics organization in North America, in which the Board has been quite active in the past. The Board’s General Counsel was able to attend, and its Executive Director gave an address by videotape on “Adopting a Local Ethics Law” for a session of local government ethicists at the conference. The Board hopes to adapt this technology for training purposes in New York City and to create videotapes or DVD’s of selected ethics topics for use by City agencies and others.

In 2003, all of the Board’s attorneys continued, with the Training and Education staff, to present a two-hour continuing legal education (CLE) class to City attorneys and also participated with the Education Unit in presentations to the executive level staff of many City agencies, an effort encouraged by the Administration. COIB attorneys continued to write materials on Chapter 68 for publication, both in-house and for outside publications.

Mark Davies continues to serve as chair of the Government Ethics and Professional Responsibility Committee of the New York State Bar Association’s Municipal Law Section. Joan Salzman, Deputy Executive Director and Chief of Enforcement, serves as the chair of the New York City Bar Association Committee on Government Ethics, for which Deputy Chief of Enforcement Astrid Gloade is secretary. The Board also receives numerous requests from municipalities around the State to assist them in updating and improving their ethics laws. Resources permitting, COIB staff attempt to respond to those requests, whenever possible by e-mail, although occasionally in person. For example, in 2003 the Executive Director spoke on government ethics at the annual meeting of the New York State Bar Association and at training sessions of the Rockland County and Westchester County municipal managers associations, as well as to the Town Board of the Town of Southampton. Although this assistance and outreach falls within their City duties, COIB attorneys as a practical matter must often undertake these bar association and municipal association activities on their own time because the Board is so inundated with work.

The Board thanks its tiny but dedicated training staff, Joel Rogers, Director of Training and Education, and Alex Kipp, Senior Trainer and Training Coordinator. From their arrival on the scene in late October until year-end, they held or scheduled over 140 classes on Chapter 68.

3. REQUESTS FROM CITY EMPLOYEES FOR GUIDANCE

Previous annual reports noted the significant increase in the quality and quantity of the work of the Board over the past several years, and the enormous increase in productivity. Exhibit 4 summarizes those gains.

The 2000 and 2001 annual reports stressed that the Board was reaching the maximum limits of gains in productivity, especially in the Legal Advice Unit, and that, without more attorneys, it risked becoming overwhelmed. That fear was realized in 2002 when requests for written advice skyrocketed to 691 requests, a 28% jump over 2001, and telephone requests increased to 2410, a 46% increase over 2001. As a result, as shown in Exhibit 5, despite producing a record 505 pieces of written advice in 2002, at the end of 2002 the Legal Advice Unit faced a backlog of 184 pending requests for advice, the highest in the history of the Board, compared to only 40 pending requests at the beginning of 2002.

In 2003, requests for written advice abated slightly, as detailed in Exhibit 6, essentially returning to the already high levels prior to 2002. In 2003, the Board received 559 written requests for advice, compared to 539 and 691 for 2001 and 2002, respectively. Telephone advice barely abated, continuing in 2003 at nearly the same record rate of 2002. In 2003, the Board handled 2,342 phone calls, compared to 2,410 in 2002.

While written requests and telephone calls continued to pour in, the Board issued 535 pieces of legal advice in 2003, a 6% increase over its previous record output, set in 2002. As summarized in Exhibit 7, these 535 written responses included 287 staff letters, 165 waiver and (b)(2) letters, 76 Board letters and orders, and seven formal advisory opinions – the largest number of formal public opinions since 1998. (A summary of the 2003 advisory opinions and indexes to the Board’s advisory opinions since 1990 are annexed to this report.) Despite this record output, a significant backlog of written requests remains. As of December 31, 2003, the Board had 160 pending requests for written advice, down from 184 at the start of the year.

To address this backlog, the Legal Advice Unit has made increasing use of volunteers and of student interns. Over the year, four law student interns, three college student interns, a high school student intern, and one volunteer lawyer, all worked part-time for the Advice Unit. These people contributed substantially to the Board’s output and also freed the staff to produce seven formal advisory opinions in 2003, compared to only one in all of 2002. Despite these extraordinary efforts, the average age of pending requests for advice at year-end remained five and a half *months*, compared to 18 *days* at the beginning of 2002. This means that each of those public servants must wait, on the

average, five and a half months to receive a written response to his or her request for advice. Such a delay is completely unacceptable, but without more full-time legal staff the Unit cannot significantly reduce that time. The Board desperately needs another Legal Advice attorney.

To maintain the high quality of its written advice, the Board continued to build its computerized index of ethics topics, which provides in retrievable form useful resource material, from staff e-mail exchanges to advisory opinions.

Responsible for these excellent results under pressure was the Board's superb Legal Advice Unit, headed by General Counsel Wayne Hawley, and including Deputy Counsel Jessica Hogan, Special Counsel Bonnie Beth Greenball, and Patricia Green, Assistant to the Unit.

The Board continues to distribute its formal advisory opinions to public servants and the public and to include them on Lexis and Westlaw. Working with the Training and Education Unit, the Legal Advice Unit has also developed a large e-distribution list, so that new advisory opinions and other important Board documents are being e-mailed to a large network of people, including the legal staff of most City agencies. In an important cost-saving measure, the Board has discontinued the distribution of these materials by mail. Working in cooperation with New York Law School's Center for New York City Law, the Board has added its advisory opinions to the Intranet, where they are now available free of charge to all in full-text searchable form.

4. ADMINISTRATIVE RULES

In 2003, the Board adopted a rule on the definition of "policymaker" for the purposes of the financial disclosure law. This rule was the first of several amendments to the Board's rules mandated by Local Law 43 of 2003, the omnibus amendment to the City's financial disclosure law. Late in 2003, the Board also held hearings on, and expects to adopt shortly, two other rules related to that new financial disclosure law, one defining the so-called "contract" filers and one eliminating the need to file duplicate lists of policymakers with the Board.

5. ENFORCEMENT

The workload of the Enforcement Unit continued to increase dramatically in 2003. The clearest picture of the huge increase in workload in enforcement in recent years, with no concomitant increase in resources, comes from the following statistic: from 2001 to 2003 the number of complaints received by the Board almost tripled, from 124 to 346. Indeed, as reflected in Exhibits 8 and 9, in 2003 the number of complaints received by the Board increased 57% over the 2002 figure, which was itself a 78% increase over 2001. The Board continues to attribute this increase to the heightened public awareness of the Board's work. Every complaint must be considered and often investigated; it cannot just be ignored, which means that considerable staff time is spent

on the intake of new complaints. The Board desperately needs another Enforcement attorney.

Even as the Enforcement Unit's workload continued to increase, so did its productivity. For example, in 2003, the Board disposed of 243 complaints, a 36% increase over 2002. The Board also referred 136 matters to DOI for investigation, a 62% increase over 2002, and received 62 reports from DOI, a reduction of 16%. In addition to working on complaints arising out of Chapter 68, the Enforcement Unit continued to assist the Advice Unit in rendering oral advice to public servants and members of the public who contact the Board daily. The Unit also devoted considerable time to other matters that were not directly related to enforcement of the City's ethics laws but that went towards fulfilling the agency's broader mandate to promote public confidence in government and protect the integrity of government decision-making. For example, the Unit participated in training and education efforts by conducting classes and seminars for public servants.

In 2003, the Board concluded and published several dispositions of enforcement cases concerning Chapter 68 violations in which fines were imposed, as follows:

- (a) The Board fined RosaLee Adams, the former First Vice President of the Community School Board for School District 16, \$1,500 for using her official position to testify at an administrative hearing on behalf of her sister without disclosing their family connection. Ms. Adams' sister was an Interim Acting Assistant Principal in the same district and was appealing an "Unsatisfactory" rating. The former Chancellor removed Ms. Adams from the school board in February 2002, under the State Education Law, which provides 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 member knowingly interfered with the hiring, appointment, or assignment of employees. *COIB v. RosaLee Adams*, COIB Case No. 2002-088 (2003).
- (b) The Board and the Department of Education concluded a three-way settlement with Cathy Mumford, a Department of Education teacher who was involved in the hiring and payment of her husband's company to write a school song and to conduct workshops for the school where she worked. Ms. Mumford 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 Ms. Mumford \$5,000 for the improper payment of \$3,500 to her husband's company, and Ms. Mumford agreed to pay a fine of \$2,500 for violating the conflicts of interest law, amounting to a fine totaling \$7,500. Ms. Mumford was also transferred to another school and removed from purchasing responsibilities. *COIB v. Cathy Mumford*, COIB Case No. 2002-463 (2003).
- (c) The Board and the Department of Education concluded a three-way settlement in a case involving James Arriaga, an Assistant Architect at the Department of

Education Division of School Facilities, who operated 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 on City time and without the required approvals from the Department of Education and the Board. Arriaga 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 Arriaga \$1,000, and the Department of Education suspended him for 30 days without pay and fined him an additional \$2,500 based on the Department of Education's own disciplinary charges. The Board took the occasion of this settlement to remind architects who work for the City and 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 the Department of Buildings that are ministerial only – that is, business that is carried out in a prescribed manner and which does not involve the exercise of any substantial personal discretion by Department of Buildings officials. *James Arriaga*, COIB Case No. 2002-304 (2003).

The Enforcement Unit continues to utilize the “three-way settlement” procedure in resolving cases with other City agencies, such as the Department of Education in *Arriaga* and *Mumford*.

It is important to note that the Unit has, as it is empowered to do by the Charter, prosecuted cases involving former public servants. For example, in *Adams*, the respondent had left City service before the Board commenced the proceedings that resulted in the disposition. Public servants should be careful to avoid conflicts of interest and should know that the Board will enforce the Charter's provisions even if those public servants leave City service. The Unit continued to bring matters at the Office of Administrative Trials and Hearings (“OATH”) for trial or settlement, and appreciates the continued professionalism and assistance from the OATH staff.

As Exhibit 10 shows, the fines imposed in 2003, including those fines made payable in part to other agencies in three-way settlements, amounted to \$6,500. Total fines for substantive violations of Chapter 68 from 1990 through 2003 amounted to \$219,425.

While the deterrent effect of the fines is important, some of the Board's most important work includes censure letters and numerous private warning letters carrying no fine. Furthermore, the fines alone cannot fully reflect the time and cost savings to the City when the investigations by the Department of Investigation (“DOI”) and enforcement by the Board put a stop to the waste of City resources by City employees who abuse City time and resources for their own gain, nor do the fines show the related savings from disciplinary proceedings based on DOI's findings and Board enforcement actions that result in termination, demotion, suspension, and forfeiture of leave time.

A significant part of the Unit's time in 2003 was spent working with the Board's

Financial Disclosure Unit to prepare a number of cases for trial. These cases involved public servants who failed to comply with their obligations to file with the Board financial disclosure reports or who failed to file such reports in a timely manner and then failed to pay late filing fees.

The Unit spent some time assisting the City's Law Department in its defense of the COIB and the City in *Prescott v. Conflicts of Interest Board, et al.*, an Article 78 proceeding in which the Board prevailed in a challenge to its Advice process. The Unit also worked on the collection of judgments, totaling approximately \$20,400, owed to the Conflicts of Interest Board by respondents. These judgments arose from confessions of judgments signed by respondents as part of dispositions in several enforcement cases.

The Board's "Summaries of Enforcement Cases" provides a useful digest of the Board's enforcement results from 1990 to date. This document is available on the City's Intranet and on the Board's website for use by all City workers and members of the public as an easy reference guide to cases the Board has prosecuted.

The Board thanks its entire Enforcement Unit for their continued excellence under fire, including Joan Salzman, Deputy Executive Director and Chief of Enforcement; Astrid Gloade, Deputy Chief of Enforcement; Beth Gluck, Associate Counsel; Marie Louise Victor, Associate Counsel; and Varuni Bhagwant, Litigation Coordinator. The Board also extends sincere thanks to DOI Commissioner Rose Gill Hearn and Special Commissioner for the New York City School District Richard J. Condon, and their entire staffs, for the invaluable work of DOI and the Special Commissioner in investigating and reporting on complaints received by the Board.

6. FINANCIAL DISCLOSURE

City employees continue to show an excellent compliance record in financial disclosure. As detailed in Exhibit 11, the overall compliance rate with the financial disclosure law exceeds 98%. This superb record must be attributed in large part to the excellent work of the Financial Disclosure Unit: Acting Director of Financial Disclosure Joanne Giura-Else; Holli Hellman, Senior Financial Disclosure Analyst; Veronica Martinez-Garcia, Assistant to the Unit; and Michelle Burgos, Clerical Aide.

Financial Disclosure Amendments

On July 14, 2003, Mayor Bloomberg signed into law the financial disclosure amendments bill, Intro 64-A, effective January 1, 2004. This law, Local Law 43 of 2003, is a comprehensive overhaul of the City's financial disclosure law and aims to ensure that *only* public servants at risk for conflicts of interest file annual financial disclosure reports. The Board has been working on these amendments for many years; and thanks to the Council, particularly Councilmember Helen Sears, they finally became reality.

Local Law 43 expands the number of offices covered by the City's financial disclosure law while narrowing the criteria for those who must comply with it. The law

now explicitly covers employees in the offices of the New York City District Attorneys, Special Narcotics Prosecutor, and the New York City Industrial Development Agency. Moreover, the bill replaces one of the current triggers for filing financial disclosure reports, a salary threshold, with a more appropriate criterion, namely an employee's policymaking discretion, as mandated by New York State law. In addition, Local Law 43 eliminates filing by lower level managers (M1-M3).

By year-end the financial disclosure staff had reached out to all new agencies regarding the amendments and the agencies' lists of required filers. As discussed above, the Board is in the final stages of adopting COIB rules required to implement the amendments. The financial disclosure staff is also working on citywide guidelines for financial disclosure filers departing City service, who must receive clearance from the Board before receiving their lump sum payments and/or final paycheck.

In addition, by amendments to the State Private Housing Finance Law and Real Property Tax Law (2003 NY Laws ch. 494 and 548), the State added to the Board's financial disclosure jurisdiction the Housing Development Corporation and tax assessors. The financial disclosure staff has already reached out to the agencies for these new filers regarding the implementation of these amendments.

The Board has also been working for years on another amendment to the financial disclosure law, an amendment requiring State legislation. As the Board has repeatedly stated, the current financial disclosure form is far too long and far too invasive for most public servants. In the context of disclosure, it is often said that sunlight is the best disinfectant; but too much sunlight causes cancer. More disclosure is not necessarily better disclosure and does not necessarily produce fewer conflicts of interest. A financial disclosure form that is too long and too invasive just gums up the financial disclosure works and drives good citizens out of public service, particularly as members of boards and commissions. For most public servants a short form, consisting of perhaps six questions and four pages, would suffice. But the scope of the current form is mandated by State law, so State law must be amended before the Board can adopt a shorter financial disclosure form. The Board hopes that with the support of the City Administration, the Council, unions, and civic groups, it may convince the State legislature and the Governor to enact legislation authorizing the Board to reduce the scope of the financial disclosure form for most City employees. Exhibit 12 sets out a draft bill that would implement this proposal. Exhibit 13 provides one possible version of a reduced financial disclosure form.

For the first time in the Board's history, the financial disclosure filers at the Department of Education were required in 2003 to file their financial disclosure reports with the Board. The Board directly notified 1,000 DOE employees (including 300 Community School Board Members) of their filing requirements. The amount of work involved in this transition was staggering, but the Board and DOE have reached agreement on proposals to streamline next year's filing.

Upgrade of Financial Disclosure Database

The long awaited upgrading of the Board's financial disclosure database, the repository for over 168,000 records, came to fruition in 2003. The Board expresses its gratitude to the Department for the Aging, without whose support and assistance the project would never have happened.

Electronic Filing of Financial Disclosure Reports

The electronic financial disclosure system ("eFDS") for filing financial disclosure reports electronically, a project on which the Board has been working since 1994, was resurrected in 2003. Local Law 43, discussed above, authorized such filing as of January 1, 2004, and made it mandatory as of January 1, 2006, thereby necessitating pilot electronic filing programs in 2004 and 2005. The Board's staff have been working closely with the Department of Information Technology and Telecommunications ("DoITT") and the Department of Investigation ("DOI") and, by year-end, had made significant progress on this project.

Financial Disclosure Late Fines and Litigation

During 2003 the Board collected \$22,625 in late filing fines. Since the Board assumed responsibility for financial disclosure in 1990, the Board has collected \$435,498 in financial disclosure fines.

The Financial Disclosure and Enforcement Units worked together in the litigation of eight cases against non-filers and/or late filers for 2000 and 2001. An unprecedented five respondents appeared at the OATH hearing and entered into agreements with the Board. In December, the Board imposed fines on the remaining three respondents.

The Unit also undertook to collect financial disclosure reports and/or fines from delinquent City employees who failed to file required financial disclosure reports for 2002, due May 1, 2003, or who filed their reports late but failed to pay their late fine. The Unit will commence litigation in 2004 against any public servants who remain in non-compliance.

The financial disclosure amendments, Local Law 43, should significantly reduce the substantial burden upon the Board of litigating financial disclosure non-filer and late-filer cases. As noted, those amendments require that every public servant departing City service who is required to file a financial disclosure report obtain from the Board certification of compliance with the financial disclosure law, including the payment of any late fines, before receiving his or her lump sum payment and/or final paycheck. In addition, the amendments raised the late filing fine to a minimum of \$250.

Elections

Elections for all City Council seats occurred in 2003. COIB financial disclosure staff worked closely with the Board of Elections and the Campaign Finance Board to notify approximately 150 candidates of their filing requirements with the COIB. Approximately 75% of those required to file did in fact file. For the first time in the Board's history, COIB staff reviewed each candidate's report for completeness and contacted those candidates whose reports contained insufficient information. Of the non-filing candidates, only one won the November election. The Board thereupon commenced litigation against that individual, who then filed her report and paid the late filing fine. The Board lacks the resources to litigate against non-filing candidates who do not win the general election. However, beginning in 2004, the financial disclosure amendments will largely obviate that problem by prohibiting candidates from receiving public matching funds until a financial disclosure report has been filed with the Board.

Review of Financial Disclosure Reports

In Fiscal Year 2002 the Council restored a line for the Financial Disclosure Unit. As a result, the Board was able to review 355 financial disclosure reports for 2001 and 2002 for completeness and for possible conflicts of interest. That review revealed 30 incomplete reports and seven potential conflicts of interest. The filers of the incomplete reports then amended them in response to incomplete notices sent to them by staff, and the potential Chapter 68 violators were referred for further action. Unfortunately, as a result of later budget cuts, one of the five members of the financial disclosure staff was laid off in January 2003, preventing additional reviews of financial disclosure reports, despite the Charter mandate that the Board review for possible conflicts of interest all 13,000 reports filed each year.

7. BUDGET AND ADMINISTRATION

The Board thanks its Director of Administration, Ute O'Malley, and her Deputy, Myrna Mateo, for their perseverance in the face of increasing administrative burdens, particularly those occasioned by the layoff of their assistant. The Board also thanks its Director of Information Technology, Christopher Lall, who single-handedly keeps the Board's computer and other technology resources running.

The across-the-board budget cuts in 2002 and 2003, while difficult for all City agencies, have proved devastating to the Board, a small agency with no ability to increase revenue, only a minimal non-personnel budget, and no vacancies. As a result, those citywide cuts, which many larger agencies could sustain, produced for the Board a 22% budget cut and a 28% staff cut. The Board thus lost its entire Training and Education Unit – 4.6 employees, four of whom were laid off on May 16. Thanks to the City Council's restoration of funds, the Board was able to hire back two trainers; but those restored funds run out on June 30, 2004. As of year-end, the Board had no assurance that ethics training would not again end with the fiscal year. If that occurs, then the Board

will forsake one of its four Charter-mandated responsibilities: to train every public servant in the conflicts of interest law.

No ethics training means more ethics violations and lost revenue to the City. As reported by *The Hartford Courant* on February 25, 2004, a recent study by the University of Connecticut has concluded that “each federal conviction for misconduct per 100 elected officials reduced job growth by 1.1 percentage points. That is more than double the 0.5-percent decline attributed to a \$100 increase in per-capita state taxes.” Similarly, ethics violations cost the City money, while avoiding such violations, through an effective ethics training program, saves the City money. Indeed, not infrequently, ethics training sessions at a City agency engender a spike in requests for legal advice and in complaints of unethical conduct – requests that avoid violations and complaints that ferret them out and prevent their continuance and recurrence.

Furthermore, the 20% cut in the staff of the Board’s Financial Disclosure Unit will prevent the Board from meeting the mandate of Local Law 43 that the Board implement electronic filing. That mandate necessitates restoration of the financial disclosure line and the hiring of a senior manager to head up the Unit, a manager who can run a complex dual-system manual and electronic filing operation.

At the same time as these devastating cuts, the Board’s workload has skyrocketed: the number of new enforcement cases has almost tripled since 2001; and, because of the surge in requests for advice, the Legal Advice backlog has quadrupled since 2001, despite a 6% increase in productivity. For these reasons, the Board desperately needs two additional attorneys.

This coincidence of cuts in budget and increase in work threatens to reverse the enormous strides made by the Board in implementing new initiatives and increasing its productivity, as outlined in Exhibit 4. To do the job mandated by Chapter 68 of the New York City Charter and Local Law 43, the Board requires certain basic resources.

Accordingly, the Board’s highest priorities remain, first, a partial restoration of the budget cuts in order to implement electronic filing and maintain a minimal level of ethics training and education; second, two additional attorneys, one in Enforcement and one in Legal Advice; third, budget protection: virtually alone among City agencies, the Board has the power to find in violation of the law the very public officials who set its budget, an unseemly state of being that undermines the Board’s independence in the eyes of the public and of public servants.

The Board has many other long-pending initiatives for Charter amendments, such as investigative authority, mandatory ethics training, and disgorgement of ill-gotten gains. These initiatives are set out in Exhibit 12, in the form of State legislation. For now, the Board seeks to salvage ethics education, implement the electronic filing requirement, and protect the Board’s budget, in order to enable it to do what the people of the City of New York have mandated.

**EXHIBIT 1
MEMBERS AND STAFF
OF THE
CONFLICTS OF INTEREST BOARD**

Members

Steven B. Rosenfeld, Chair

Angela Mariana Freyre	Bruce A. Green
Jane W. Parver	Benito Romano

Staff

Executive

Mark Davies, Executive Director

Legal Advice

Wayne G. Hawley, General Counsel
Jessica Hogan, Deputy Counsel
Bonnie Beth Greenball, Special Counsel
Patricia E. Green, Legal Secretary

Enforcement

Joan R. Salzman, Deputy Executive Director/Chief of Enforcement
Astrid B. Gloade, Deputy Chief of Enforcement
Isabeth Ann Gluck, Associate Counsel
Marie Louise Victor, Associate Counsel
Varuni Bhagwant, Litigation Coordinator

Training and Education

Joel A. Rogers, Director of Training and Education
Alex Kipp, Senior Trainer and Training Coordinator

Financial Disclosure

Joanne Giura-Else, Acting Director of Financial Disclosure
Holli R. Hellman, Senior Financial Disclosure Analyst
Veronica Martinez Garcia, Administrative Assistant
Michelle Burgos, Financial Disclosure Assistant

Administrative

Ute O'Malley, Director of Administration
Myrna Mateo, Deputy Director of Administration

Information Technology

Christopher M. Lall, Director of Information Technology

Legal Interns

Gustavo Fuentes	Contessa Nyree	Kara Turner
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College Interns

Coelina George	Dileena Jaggernauth
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EXHIBIT 2
TRAINING AND EDUCATION CLASSES ON CHAPTER 68

Year	Department of Ed Classes	Other Agency Classes	Total Classes¹
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	109	164	273
2003 ²	43	139	182

¹ 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.

² 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.

EXHIBIT 3: 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

1998	1999	2000	2001	2002	2003 ¹
Finance Homeless Svces. <i>Bd. of Education</i> <i>DCAS</i> <i>HRA</i> <i>NYPD</i>	Bd. of Education DCAS Finance <i>Correction</i> <i>DOT</i> <i>Sanitation</i> <i>School Const. Auth.</i>	Bd. of Education Buildings DEP DOT Finance Parks Sanitation <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>	Bd. of Education DCAS Finance <i>HPD</i> <i>DEP</i> <i>DDC</i> <i>FIRE</i> <i>DOITT</i> <i>Sanitation</i> <i>Transportation</i>	Buildings Correction DCAS Education Finance Sanitation SCA <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>	Correction Education DOHMH HRA NYCERS <i>Buildings</i> <i>DCAS</i> <i>DHS</i> <i>DYCD</i> <i>Finance</i> <i>Law</i>
Agencies Holding One or Two Classes: 4	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
Total Classes: 63²	Total Classes: 92²	Total Classes: 377²	Total Classes: 190²	Total Classes: 273²	Total Classes: 182²

¹ 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.

² 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.

**EXHIBIT 4: REINVIGORATING AN ETHICS AGENCY
CONFLICTS OF INTEREST BOARD: 1993, 2001, 2002**

<i>Agencywide</i>	1993	2001	2002
Adopted Budget (Fiscal Year)	\$1,132,000 (FY94)	\$1,698,669 (FY02)	\$1,745,074 (FY03)
Staff (budgeted)	26	23 ^{3/5} ¹	23 ^{3/5}
Availability of materials	Hard copy only	Virtually all ethics publications on website; opinions & enforcement decisions on Westlaw & Lexis; 24/7 audiotext & faxback services	Added to website: all 197 advisory opinions & all 55 enforcement decisions
<i>Training and Education</i>	1993	2001	2002 (Increase v. 2001)
Staff	1	4 ^{3/5} ¹	4 ^{3/5}
Training sessions	10	190 24 agencies; CLE	273 (+44%) 46 agencies; Mayor's Office & Council for first time
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 New: wholly revised Plain Language Guide; one-page summary of ethics law distributed to all 300,000 City employees; shift to paperless publications (distribution by e-mail and website)
Ethics newsletter	None	<i>Ethical Times</i> (Quarterly)	<i>Ethical Times</i> (Quarterly)
Videotapes	None	3 half-hour training films; 2 PSA's	3 half-hour training films; 2 PSA's
Board of Education training	None	116 training sessions; BOE leaflet, booklet, videotape	109 training sessions; BOE leaflet, booklet, videotape
Electronic training	None	Computer game show; Crosswalks appearances	New: Game show on website; interactive self-training modules

¹ The part-time (3/5) position is not part of the Board's budgeted headcount of 23.

Legal Advice	1993	2001	2002 (Increase v. 2001)
Staff	7 (5 attorneys)	4 (3 attorneys)	4 (3 attorneys)
Telephone requests for advice		1650	2410 (+46%)
Written requests for advice	321	539	691 (+28%)
Issued opinions, letters, waivers, orders	266	501	505
Opinions, etc. per attorney	53	167	168
Pending requests at year end	151	40	184
Median age of pending requests	8 ⁻¹ / ₂ months	18 days	3 ⁻¹ / ₂ months
Enforcement	1993	2001	2002 (Increase v. 2001)
Staff	½	5 (4 attorneys)	5 (4 attorneys)
Complaints received	29	124	221 (+78%)
Dispositions	38	154	179 (+16%)
Dispositions imposing fines	1	10	6 ²
Fines collected	\$500	\$20,450	\$15,300 (\$105,766 in 2000)
Referrals to DOI	19	49	84 (+71%)
Reports from DOI	?	43	74 (+72%)
Financial Disclosure	1993	2001	2002
Staff	12	5	4
6-year compliance rate	99%	98.6%	98.7%
Fines collected	\$36,051	\$31,700	\$19,525
Reports reviewed for completeness (mandated by Charter & NYS law)	12,000	400	400
Reports reviewed for conflicts (mandated by law)	350	38	200
Electronic filing	None	In development	In development

² The amounts of the fines assessed and collected vary from year to year, depending on when lengthy litigation involving complex or multiple violations is concluded.

EXHIBIT 5
LEGAL ADVICE WORKLOAD: 1993 TO 2003

	1993	2001	2002 (Increase v. 2001)	2003 (Increase v. 2002)
Staff	5 attorneys	3 attorneys	3 attorneys	3 attorneys
Telephone requests for advice	N/A	1,650	2,410 (+46%)	2,342 (-3%)
Written requests for advice	321	539	691 (+28%)	559 (-19%)
Issued opinions, letters, waivers, orders	266	501	505	535 (+6%)
Opinions, etc. per attorney (productivity)	53	167	168	178 (+6%)
Pending written requests at year end	151	40	184	160 (-13%)
Median age of pending requests at year end	8- ¹ / ₂ months	18 days	3- ¹ / ₂ months	5- ¹ / ₂ months

EXHIBIT 6
REQUESTS FOR ADVICE ON CHAPTER 68

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

EXHIBIT 7
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

EXHIBIT 8
ENFORCEMENT CASES (CHAPTER 68)

	<u>'90</u>	<u>'91</u>	<u>'92</u>	<u>'93</u>	<u>'94</u>	<u>'95</u>	<u>'96</u>	<u>'97</u>	<u>'98</u>	<u>'99</u>	<u>'00</u>	<u>'01</u>	<u>'02</u>	<u>'03</u>
New Complaints Received	8	20	22	29	31	29	50	64	63	81	148	124	221	346
Dispositions	2	6	25	38	4*	33	32	54	76	83	117	152	179	243
Dispositions Imposing Fines	0	0	1	1	2	1	1	2	9	4	10	9	6	3
Public Censure Letters	0	0	0	0	0	0	1	0	0	0	2	2	0	0

* The Board lacked an enforcement attorney during much of 1994

EXHIBIT 9
ENFORCEMENT WORKLOAD: 1993 to 2003

	1993	2001	2002 (Increase v. 2001)	2003 (Increase v. 2002)
Staff	½ attorney	5 (4 attorneys)	5 (4 attorneys)	5 (4 attorneys)
Complaints received	29	124	221 (+78%)	346 (+57%)
Dispositions	38	154	179 (+16%)	243 (+36%)
Dispositions imposing fines ¹	1	10	6	3
Fines collected	\$500	\$20,450	\$15,300 (\$105,766 in 2000)	\$6,500
Referrals to DOI	19	49	84 (+71%)	136 (+62%)
Reports from DOI	?	43	74 (+72%)	62 (-16%)

¹ The amounts of the fines assessed and collected vary from year to year, depending on when lengthy litigation involving complex or multiple violations is concluded.

EXHIBIT 10 ENFORCEMENT FINES

DATE	CASE NAME OR NUMBER	AMOUNT
4/9/03	Arriaga	\$2,500
3/31/03	Adams	1,500
1/9/03	Mumford	2,500
7/30/02	Blake-Reid	8,000
7/2/02	Cottes	500
6/26/02	Silverman	500
4/1/02	Smith	3,000
2/28/02	Kerik	2,500
2/26/02	Loughran	800
12/18/01	King	1,000
11/16/01	Hill-Grier	700
9/28/01	Denizac	4,000
8/16/01	Moran	2,500
7/17/01	Capetanakis	4,000
7/26/01	Rieue	2,000
6/13/01	Steinhandler	1,500
5/24/01	Camarata	1,000
4/19/01	Peterson	1,500
3/5/01	Finkel	2,250
10/25/00	Hoover	8,500
10/16/00	Turner	6,500
8/15/00	Paniccia	1,500
8/7/00	Chapin	500
7/24/00	Lizzio	250
6/6/00	Rosenberg	1,000
5/3/00	Sullivan	625
4/27/00	Vella-Marrone	5,000
4/4/00	Carlin	800
1/7/00	Rene	2,500
11/23/99	Davila	500
11/22/99	McGann	3,000
7/1/99	Sass	20,000
2/3/99	Ludewig	7,500
10/15/98	Morello ¹	6,000
9/17/98	Katsorhis	84,000
7/15/98	Weinstein ²	5,000
6/29/98	Fodera	3,100
6/24/98	Wills	1,500
6/24/98	Hahn	1,000
6/24/98	Harvey ³	200
5/14/98	Cioffi	100

DATE	CASE OR NUMBER	AMOUNT
4/30/98	Holtzman	7,500
1/8/98	Ross	1,000
6/17/97	Quennell	100
3/11/96	Matos ⁴	1,000
7/6/95	Baer	5,000
1/28/94	Bryson	500
1/14/94	McAuliffe	2,500
4/9/93	Ubinas	500

TOTAL: \$219,425

¹ As a result of departmental charges arising out of the same matter, Mr. Morello resigned from the New York City Fire Department and forfeited his entire accrued leave balances, worth \$93,105. Therefore, this investigation alone actually represented nearly \$100,000 in penalties recovered by the City.

² Includes a \$1,250 fine and forfeited annual leave worth \$3,750.

³ This fine was forgiven due to extreme financial hardship.

⁴ 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.

EXHIBIT 11

FINANCIAL DISCLOSURE REPORTS

Calendar Year ("C.Y.")	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.	
							Act.	Inact.*	Act.	Inact.*
1997	11,468	11,390	99.3%	257	250	\$25,600	0	78	0	16
1998	12,027	11,901	99.0%	247	318	\$32,250	1	125	0	29
1999	12,386	12,245	98.9%	246	308	\$30,800	0	141	0	48
2000	12,813	12,546	97.9%	572	338	\$34,125	0	267	2	62
2001	12,062	11,908	98.7%	530	174	\$18,525	1	151	3	33
2002	13,672	13,285	97.2%	549	189	\$18,900	150	241	25	62
TOTALS:	74,428	73,275	98.5%	2,401	1,577	\$435,498**	152	1,003	30	250

* "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.

** Includes fines collected for calendar years 1989 through 1996, the reports for which have been discarded pursuant to the Board's retention policy.

EXHIBIT 12
NEW YORK CITY CONFLICTS OF INTEREST BOARD
PROPOSED STATE LEGISLATION
December 2003

AN ACT to amend the general municipal law, in relation to financial disclosure for any city with a population of one million or more; and to amend the charter of the city of New York, in relation to the New York City conflicts of interest board

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Short title. This act shall be known and may be cited at the “conflicts of interest board empowerment act of 2004.”

§ 2. Declaration of policy and findings of fact. The legislature hereby finds that ethics laws promote both the reality and the perception of integrity in government by preventing conflicts of interest before they occur. The effectiveness of these laws rests largely upon the effectiveness of the agency enforcing them. The city of New York, which first enacted conflicts of interest provisions almost 200 years ago, established an ethics board in 1959, perhaps the first of its kind in the nation, and in 1989 significantly increased that board’s responsibilities, renaming it the conflicts of interest board. New York City is the largest city in the state and nation, with over 300,000 public servants subject to its conflicts of interest law and with a budget greater than all but three governments in the country. Although current and former administrations and councils of that city have expressed support for the work of the board, across-the-board budget cuts in city agencies have fallen particularly hard on the board, cutting its permanent staff by over a quarter and its budget by over a fifth. In addition, the conflicts of interest board, virtually alone among ethics boards in the United States possessing enforcement authority, lacks the power to conduct its own investigations but must instead rely upon other, mayoral agencies to conduct those investigations, undermining the public perception of the board’s independence. Moreover, while requiring the board to train all public servants in the conflicts of interest law, that law fails to mandate that public servants receive such training. So, too, while public enforcement reassures the public and complainants that an enforcement matter is being pursued and would perform an educational function by alerting city employees to the requirements of the conflicts of interest law, the confidentiality restrictions upon the board significantly exceed those imposed upon the state ethics commission, discouraging complainants and generating cynicism about the efficacy of the conflicts of interest law. Finally, inequity results when a violation of the conflicts of interest law results in a profit to the violator that far exceeds the maximum civil fine. Similarly, many public servants, though subject to the board’s jurisdiction, may not be fined at all by the board. It is therefore declared that New York City requires an independent agency with the power and resources to enforce effectively the New York City conflicts of interest law and the related financial disclosure law. In particular, the conflicts of interest board of that city requires a guaranteed budget protected against retribution by the very officials the board regulates; investigative authority and subpoena power; mandated conflicts of interest training and education for all public servants of the city; the power to impose civil fines upon all public servants subject to its jurisdiction who commit conflicts of interest law violations; and the authority to seek civil forfeiture of economic benefits received by anyone in violation of that law. The board also requires the authority to

reduce the scope of the annual statement of financial disclosure for those types of public servants for whom the board finds the current form too invasive.

§ 3. Paragraph (a) of subdivision (1) of section 811 of the general municipal law is amended to read as follows:

(a) The governing body of each political subdivision may, not later than January first, nineteen hundred ninety-one, and the governing body of any other municipality may at any time subsequent to the effective date of this section, adopt a local law, ordinance, or resolution: (i) wherein it promulgates a form of annual statement of financial disclosure which is designed to assure disclosure by municipal officers and employees, which for the purposes of this section, the definition for which shall be modified so as to also include a city with a population of one million or more, and (in the case of a political subdivision or any other county, city, town or village) which is designed to assure disclosure by local elected officials and/or by local political party officials of such financial information as is determined necessary by the governing body, or (ii) wherein it resolves to continue the use of an authorized form of annual statement of financial disclosure in use on the date such local law, ordinance or resolution is adopted. In either event, such local law, ordinance or resolution if and when adopted shall specify by name of office or by title or classification those municipal officers and employees and (in the case of a political subdivision or any other county, city, town or village) those local elected officials and/or those local political party officials which shall be required to complete and file such annual statement. In a city with a population of one million or more, such local law, ordinance or resolution shall be at least as stringent in scope and substance as the provisions of section eight hundred twelve of this article, **except as otherwise provided by the conflicts of interest board of any such city.**

§ 4. Subdivision (a) of section 2602 of the charter of the city of New York is amended to read as follows:

(a) There shall be a conflicts of interest board, **which shall be an independent non-mayoral agency,** consisting of five members, appointed by the mayor with the advice and consent of the council. The mayor shall designate a chair. **The appropriations available to pay for the expenses of the board during each fiscal year shall not be less than seven thousandths of one percent of the net total expense budget of the city. Not later than three months after the close of each fiscal year, the board shall submit to the mayor and the council a public detailed accounting of all of its expenditures during such fiscal year.**

§ 5. Paragraph (2) of subdivision (b) of section 2603 of the charter of the city of New York is amended to read as follows:

(2) **Training as to the provisions of this chapter shall be mandatory for all public servants.** The board shall [provide training to all individuals who become public servants to inform them of the provisions of this chapter, shall] assist agencies in conducting ongoing training programs, **as determined by rule of the board in consultation with the agencies,** and shall make information concerning this chapter available and known to all public servants, **with such assistance by the agency as determined by rule of the**

board in consultation with the agency. On or before the tenth day after an individual becomes a public servant, such public servant must **[file] sign** a written statement **[with the board], which shall be maintained in his or her personnel file,** that such public servant has read and shall conform with the provisions of this chapter, **provided, however, that the failure of a public servant to receive such training or to sign such a statement or to receive a copy of this chapter or the failure to maintain the statement on file shall have no effect on the duty of compliance with this chapter or on the enforcement of the provisions thereof.**

§ 6. Paragraph (2) of subdivision (e) of section 2603 of the charter of the city of New York is amended to read as follows:

(2) Whenever a written complaint is received by the board, it shall:

- (a) dismiss the complaint if it determines that no further action is required by the board; or
- (b) refer the complaint to the commissioner of investigation if further investigation **by that agency** is required for the board to determine what action is appropriate; or
- (c) make an initial determination that there is probable cause to believe that a public servant has violated a provision of this chapter; or
- (d) refer an alleged violation of this chapter to the head of the agency served by the public servant, if the board deems the violation to be minor or if related disciplinary charges are pending against the public servant, **in which event the agency shall consult with the board before issuing a final decision; or**
- (e) conduct an investigation; or**
- (f) refer the complaint to a law enforcement agency.**

§ 7. Paragraph (1) of subdivision (f) of section 2603 of the charter of the city of New York is amended to read as follows:

(1) The board shall have the power to **conduct or** direct the department of investigation to conduct an investigation of any matter related to the board's responsibilities under this chapter. The commissioner of investigation shall, within a reasonable time, investigate any such matter and submit a confidential written report of factual findings to the board. **For the purpose of ascertaining facts in connection with any investigation authorized by this chapter, any two members of the board shall have full power to compel the attendance of witnesses. Each member of the board or any agent or employee of the board duly designated by the board in writing for such purposes may administer oaths or affirmations, and examine such persons as he or she may deem necessary, examine witnesses in a public or private hearing, receive evidence and preside at or conduct any such investigation, but subpoenas issued in connection with an investigation may be issued only by two members of the board.**

§ 8. Subdivision (h) of section 2603 of the charter of the city of New York is amended to read as follows:

(h) Hearings. (1) If the board makes an initial determination, based on a complaint, investigation or other information available to the board, that there is probable cause to believe that the public servant has violated a provision of this chapter, the board shall notify the public servant of its determination in writing. **This notification shall be confidential and shall not be public.** The notice shall contain a statement of the facts upon which the board relied for its determination of probable cause and a statement of the provisions of law allegedly violated. The board shall also inform the public servant of the board's procedural rules. Such public servant shall have a reasonable time to respond, either orally **to board staff** or in writing **to the board or, in the board's discretion, orally to the board,** and shall have the right to be represented by counsel or any other person.

(2) If, after receipt of the public servant's response **or upon the failure of the public servant to respond within the time permitted by rule of the board**, the board determines that there is no probable cause to believe that a violation has occurred, the board shall dismiss the matter and inform the public servant **and the complainant, if any**, in writing of its decision. If, after the consideration of the response by the public servant **or the expiration of the time permitted by rule of the board for the public servant to respond**, the board determines there remains probable cause to believe that a violation of the provisions of this chapter has occurred, the board shall hold or direct a hearing to be held on the record to determine whether such violation has occurred, or **[shall] may** refer the matter to the appropriate agency if the public servant is subject to the jurisdiction of any state law or collective bargaining agreement which provides for the conduct of disciplinary proceedings, provided that when such a matter is referred to any agency, the agency shall consult with the board before issuing a final decision. **Any notification to the public servant that the board has determined there remains probable cause to believe that a violation of the provisions of this chapter has occurred shall, upon expiration of the time set by rule of the board, be public, except as, and to the extent, otherwise expressly provided by the board in its discretion, including upon application by the public servant, in the manner and time specified by rule of the board. Any hearing conducted by the board or at the direction of the board pursuant to this paragraph shall be open to the public, except as, and to the extent, otherwise expressly provided by the board in its discretion, including upon application of the public servant, in the manner and time specified by rule of the board.**

(3) **If the board determines, after a hearing or the opportunity for a hearing, that a public servant has not violated any of the provisions of this chapter, it shall issue an order to that effect.** If the board determines, after a hearing or the opportunity for a hearing, that a public servant has violated provisions of this chapter, it shall, after consultation with the head of the agency served or formerly served by the public servant, or in the case of an agency head, with the mayor, issue an order either imposing such penalties provided for by this chapter as it deems appropriate, or recommending such penalties to the head of the agency served or formerly served by the public servant, or in the case of an agency head, to the mayor; provided, however, that the board shall not impose penalties against members of the council, or public servants employed by the council or by members of the council, but may recommend to the council such penalties as it deems appropriate. **[The] An order determining that a violation occurred** shall include findings of fact and conclusions of law. When a penalty is recommended, the head of the agency **or the mayor, in the case of an agency head**, or the council shall report to the board what action was taken; **such report shall be public, to the extent permitted by law. Orders issued pursuant to this paragraph, whether or not they determine that a violation of this chapter occurred, shall be public.**

[(4) Hearings of the board shall not be public unless requested by the public servant. The order and the board's findings and conclusions shall be made public.]

[(5)](4) The board shall maintain [an] a public index of all persons found to be in violation of this chapter, by name, office and date of order. [The index and the determinations of probable cause and orders in such cases shall be made available for public inspection and copying.]

[(6)](5) Nothing contained in this section shall prohibit the appointing officer of a public servant from terminating or otherwise disciplining such public servant, where such appointing officer is otherwise authorized to do so; provided, however, that such action by the appointing officer shall not preclude the board from exercising its powers and duties under this chapter with respect to the actions of any such public servant. Nothing contained in this section shall prohibit the board from referring any matter to a law enforcement agency at any time.

[(7)](6) For the purposes of this subdivision, the term public servant shall include a former public servant.

§ 9. Subdivision (k) of section 2603 of the charter of the city of New York is amended to read as follows:

(k) **Confidentiality.** Except as otherwise provided in this chapter, the records, reports, memoranda and files of the board shall be confidential and shall not be subject to public scrutiny. **The board may, but need not, release such documents if their confidentiality is waived by the public servant. Nothing contained in this section shall prohibit the board from releasing records, reports, memoranda or files of the board to a law enforcement agency, pursuant to subpoena.**

§ 10. Subdivision (b) of section 2606 of the charter of the city of New York is amended and a new subdivision (e) is added to read as follows:

(b) Upon a determination by the board that a violation of section twenty-six hundred four or twenty-six hundred five of this chapter has occurred, the board, after consultation with the head of the agency involved, or in the case of an agency head, with the mayor, **shall have the power** to impose fines of up to [ten] **twenty-five** thousand dollars, and **if applicable,** to recommend to the appointing authority, or person or body charged by law with responsibility for imposing such penalties, suspension or removal from office or employment.

(e) Any entity or person, whether or not a public servant, which or who realizes an economic benefit knowing it to be the result of conduct by a public servant that violates section twenty-six hundred four or twenty-six hundred five of this chapter shall be liable in a civil action brought by the board in a court of appropriate jurisdiction for the value of the benefit.

§ 11. This act shall take effect immediately.

EXHIBIT 13
POSSIBLE REDUCED ANNUAL DISCLOSURE FORM
PURSUANT TO PROPOSED AMENDMENT TO
NYS GEN. MUN. LAW § 811(1)(a)

ANNUAL DISCLOSURE STATEMENT
FOR CALENDAR YEAR 2003

Last Name	First Name	Initial
-----------	------------	---------

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.

Name of Family Member	Relationship to You	Name of Employer or Business	Nature of Business	Type of Business	Relationship to Business
<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>

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.

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

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.

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

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>
<i>[E.g.: John Smith]</i>	<i>Acme Corp.</i>	<i>Former employer</i>	<i>Free trip to Las Vegas]</i>

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>
<i>[E.g.: John & Rose Smith]</i>	<i>Chase Bank</i>	<i>Mortgage loan]</i>

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.:</i>	<i>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: _____

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>

* 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.

ADVISORY OPINIONS OF THE BOARD

SUMMARIES AND INDEXES

A link to the full text of the Board's advisory opinions may be found on the publications page of the Board's website at <http://nyc.gov/ethics>.

OPINION SUMMARY

OPINION NO: 2003-1

DATE: 3/20/03

CHARTER SECTION(S) INTERPRETED: 2601(2), (9), (10)
2603(j)
2604(b)(2), (b)(3), (b)(9),
(b)(11)(c), (b)(12),
(b)(15)

SUBJECT(S): Political Fundraising

OTHER OPINION(S) CITED: 2001-1

SUMMARY: The district attorney's office is not an "elective office of the City" within the meaning of Charter Section 2604(b)(12). Consequently, high-ranking appointed public officials may fundraise on behalf of candidates for election to the office of district attorney. These public servants must, however, conduct any such fundraising on their own time, without the use of City resources, and without the use of their City position or title; and they may not solicit contributions from any of their City subordinates.

OPINION SUMMARY

OPINION NO: 2003-2

DATE: 5/7/03

CHARTER SECTION(S) INTERPRETED: 2601(12), (16)
2604(a)(1)(a)
2604(b)(1)(b), (b)(3),
(b)(4)
2800

SUBJECT(S): Community Boards
Prohibited Conduct

OTHER OPINION(S) CITED: 91-3, 95-18

SUMMARY: Community board members will violate Chapter 68 if they simultaneously have an interest in a licensed liquor facility in the community district and chair a community board committee responsible for considering liquor license applications. Community board members will not violate Chapter 68 if they have an interest in a licensed liquor facility and vote on matters involving liquor license applications of others; but, consistent with Charter Section 2604(b)(1)(b), they may not vote on their own license applications or those of persons with whom they are associated.

OPINION SUMMARY

OPINION NO: 2003-3

DATE: 5/7/03

CHARTER SECTION(S) INTERPRETED: 1135
2604(b)(2), (b)(3)
2700
2800

SUBJECT(S): Community Boards

OTHER OPINION(S) CITED: 93-21

SUMMARY: It **would not** violate Chapter 68 for a member of the Council to nominate the spouse of a member of his staff for membership on a community board, provided that the Council staff member is recused from the appointment process. It **would** violate Chapter 68 for a member of a community board to be employed in the office of a member of the Council who has appointment power to that community board.

OPINION SUMMARY

OPINION NO: 2003-4

DATE: 5/07/03

CHARTER SECTION(S) INTERPRETED: 2604(b)(2), (b)(3), (b)(5)

SUBJECT(S): Fundraising for the City

OTHER OPINION(S) CITED: 91-10, 92-15, 92-21,
92-33, 93-15, 93-26,
94-4, 94-9, 94-12, 94-29,
95-5, 95-7, 98-14,
2000-04.

SUMMARY: It would not violate Chapter 68 for City officials to engage in untargeted solicitations, and, with the certain provisos, targeted solicitations, (1) for the benefit of the City or (2) for the benefit of a not-for-profit organization that has been pre-cleared by the Board, where the not-for-profit organization is closely affiliated with the City and where the funds raised for the not-for-profit organization are in support of the purposes and interests of the City. The Board, on a case-by-case basis, will address all other types of beneficiaries.

Specifically, it will not violate Chapter 68 for City officials to engage in direct, targeted solicitations, except to a prospective donor who the official knows or should know has a specific matter either currently pending or about to be pending before the City official or his or her agency and where it is within the legal authority or duties of the soliciting official to make, affect, or direct the outcome of the matter. If it is within the legal authority or duties of the official to make, affect, or direct the outcome of the matter, then the official may not engage in the targeted fundraising, unless the official's agency erects a "firewall" permanently sealing the soliciting official from any involvement in making, affecting, or directing the outcome of the matter, in which case the official would be permitted to solicit from a person or firm with the pending or about to be pending matter.

Whether solicitations are targeted or untargeted, the solicitations must make clear that the donor will receive no special access to City officials or preferential treatment as a result of a donation.

In addition, each City office or agency must file a public report with the Board by May 15 and November 15 of each year disclosing (a) the name of each person or entity making a donation in the six-month period ending March 31 and September 30, (b) the type of donation received from each such person or entity, (c) the purpose of the donation, (d) the estimated aggregate value of donations received during the reporting period from each such person or entity, and (e) the cumulative total value of gifts received from each such person or entity over the past twenty-four (24) months. Monetary values of donations shall be reported as being within one of the following categories: A if it is \$5000 to under \$20,000, B if it is \$20,000 to under \$60,000, C if it is \$60,000 to under \$100,000, D if it is \$100,000 to under \$250,000, E if it is \$250,000 to under \$500,000, F if it is \$500,000 to under \$1,000,000, and G if it is \$1,000,000 or more.

OPINION SUMMARY

OPINION NO: 2003-5

DATE: 8/5/03

CHARTER SECTION(S) INTERPRETED: 678
1054(a), (b)
1055(3)
1057
2601(1), (19)
2604(b)(12), (b)(15)

SUBJECT(S): Political Activities

OTHER OPINION(S) CITED:

SUMMARY: Members of boards and commissions that are not purely advisory bodies are public servants charged with substantial policy discretion and are accordingly subject to the restrictions of Charter Sections 2604(b)(12) and (b)(15). Since the Voter Assistance Commission (the “VAC”) is not a purely advisory body, a member of the VAC may not, by the terms of Charter Section 2604(b)(15), serve as a district leader of a political party.

OPINION SUMMARY

OPINION NO: 2003-6

DATE: 11/24/03

CHARTER SECTION(S) INTERPRETED: 2601(4), (8)
2604(a)(1)(b)
2604(b)(2), (b)(3), (b)(4),
(b)(6), (b)(9),
(b)(11), (b)(12),
(b)(14)
2604(e)

SUBJECT(S): Political Activities

OTHER OPINION(S) CITED: 93-24, 94-8

SUMMARY: It is not necessary for a City employee who moonlights for a campaign organization to obtain a waiver from the Board in order to do so. City employees may indeed volunteer to work for political campaigns, including their superiors' election campaigns, and may also accept payment for these services. City employees who do accept compensation are prohibited, however, from communicating with City agencies (including the Campaign Finance Board ("CFB")) on behalf of a campaign, absent a waiver from the Board. Finally, CFB employees or other City employees who have some authority over, or responsibility for oversight of, the CFB should seek advice from the Board before accepting paid or even unpaid positions in campaigns for elective City office.

OPINION SUMMARY

OPINION NO: 2003-7

DATE: 12/18/03

CHARTER SECTION(S) INTERPRETED: 2601(5), (6), (8), (12),
(16)
2603(c)(3)
2604(a)(1)(b)
2604(b)(2), (b)(3), (b)(4)

SUBJECT(S): Ownership Interests

OTHER OPINION(S) CITED: 94-18, 94-25, 94-26,
2002-1

SUMMARY: In response to a request from Deputy Mayor Daniel L. Doctoroff for advice concerning his outside financial interests, the Board determined the following: 1) Mr. Doctoroff will recuse, and the Board is informed has recused, himself until December 31, 2002, from all matters involving those for-profit firms from whose board of directors he resigned upon entering City service. 2) For the duration of his City service, Mr. Doctoroff will recuse himself from all matters concerning all Oak Hill investment funds (including but not limited to Oak Hill Capital Partners) advised by Oak Hill Capital Management or its affiliates or successors, as well as all matters concerning Keystone, Inc., Robert M. Bass, and any other investment funds or investment management companies that Mr. Doctoroff knows to be controlled by, controlling, or under common control with any of the foregoing. 3) The blind trusts established by Mr. Doctoroff satisfy Board Rules Section 1-05. Mr. Doctoroff's interest in the assets held in these trusts therefore does not violate Chapter 68, provided that he recuses himself from all matters involving those properties and companies listed in Appendices A and B hereto unless and until the trustee informs him that he is no longer the beneficial owner of any such interest.

**CUMULATIVE INDEX TO ADVISORY OPINIONS
BY CHARTER CHAPTER 68 SECTION
1990-2003**

<u>CHARTER §</u>	<u>OPINION #</u>				
2601(1)	03-5				
2601(2)	90-2 03-1	91-3	91-12	93-11	01-02
2601(3)	90-7 96-1	90-8	91-14	93-11	93-19
2601(4)	91-8 92-38 01-03	92-13 93-12 03-6	92-17 93-18	92-32 94-5	92-36 00-02
2601(5)	90-4 92-4 00-02	90-5 92-7 01-03	90-6 92-14 02-01	91-3 93-21 03-7	91-15 98-1
2601(6)	91-3	94-18	03-7		
2601(8)	90-1 93-7 02-01	90-2 94-27 03-6	90-3 95-11 03-7	92-5 98-2	92-7 00-04
2601(9)	03-1				
2601(10)	03-1				
2601(11)	90-1 93-1 94-6 99-6	91-2 93-3 94-10	92-11 93-5 94-13	92-16 93-17 95-26	92-31 94-1 98-5
2601(12)	90-2 93-3 94-1 95-26 03-2	92-7 93-7 94-6 98-7 03-7	92-22 93-17 94-8 99-6	92-31 93-22 94-18 01-03	92-34 93-29 95-18 02-01
2601(15)	91-8 92-38	92-5 93-12	92-17 94-5	92-32	92-36

2601(16)	90-1 92-9 94-10 95-21 02-01	91-2 93-7 94-13 97-3 03-2	92-5 93-17 94-18 98-2 03-7	92-6 93-22 95-10 98-3	92-7 94-3 95-18 98-5
2601(17)	93-8	93-12	95-23	00-02	
2601(18)	91-14 92-30 93-22 98-8	92-5 93-5 93-29 99-6	92-6 93-7 94-6 01-03	92-7 93-16 98-5	92-9 93-17 98-7
2601(19)	90-7 93-10 (Revised) 98-7	91-2 03-5	91-3 93-29	91-12 94-6	93-7 98-5
2601(20)	91-12 01-03	93-7	94-6	98-5	98-7
2603(c)	90-2	92-19			
2603(c)(3)	92-6	92-9	02-01	03-7	
2603(j)	03-1				
2604(a)	91-2	92-7	92-22		
2604(a)(1)	90-1	91-14	98-8		
2604(a)(1)(a)	91-2 93-3 93-19 95-8 98-5	91-3 93-7 93-22 95-12 98-7	92-5 93-10 (Revised) 93-29 95-18 01-03	92-31 93-32 95-26 02-01	93-2 93-17 94-6 96-4 03-2
2604(a)(1)(b)	90-2 92-30 93-10 (Revised) 94-1 94-13 94-26 95-11 95-25 98-3	91-7 92-34 94-3 94-16 94-27 95-15 95-26 98-5	92-6 92-35 93-16 94-8 94-18 95-3 95-16 96-2 98-7	92-9 93-4 93-20 94-10 94-20 95-8 95-17 97-3 99-2	92-11 93-27 94-11 94-25 95-10 95-21 98-2 99-6

	00-01	01-03	03-6	03-7	
2604(a)(3)	92-5 93-7 94-8 95-26	92-6 93-22 94-11 97-3	92-9 93-27 94-13 98-2	92-11 94-1 94-20 98-3	92-35 94-3 95-21 02-01
2604(a)(4)	92-5 93-7 94-8 95-26	92-6 93-22 94-11 97-3	92-9 93-27 94-13 98-2	92-11 94-1 94-20 98-3	92-35 94-3 95-21 02-01
2604(a)(5)(a)	02-01				
2604(a)(5)(b)	91-14				
2604(b)(1)(a)	92-22	94-28 (Revised)			
2604(b)(1)(b)	91-3 99-1	93-2 03-2	93-3	95-18	96-4
2604(b)(2)	90-2 91-3 91-10 92-8 92-34 93-12 93-21 93-31 94-13 94-26 95-9 95-19 95-26 96-5 98-8 99-2 01-02 03-4	90-4 91-4 91-11 92-20 92-36 93-15 93-24 93-32 94-14 94-29 95-11 95-20 95-27 98-2 98-10 99-4 01-03 03-6	90-5 91-5 91-16 92-25 93-1 93-16 93-25 94-1 94-16 95-2 95-12 95-22 95-28 98-5 98-12 99-5 02-01 03-7	90-7 91-6 91-18 92-28 93-5 93-17 93-26 94-8 94-24 95-3 95-16 95-24 95-29 98-6 98-13 99-6 03-1	91-1 91-7 92-7 92-30 93-9 93-19 93-28 94-11 94-25 95-7 95-17 95-25 96-2 98-7 98-14 00-03 03-3
2604(b)(3)	90-4 91-4 91-15 92-6 92-23 92-33	90-5 91-5 91-16 92-7 92-25 92-36	90-6 91-6 91-18 92-10 92-28 93-1	90-9 91-7 92-3 92-12 92-30 93-4	91-1 91-11 92-4 92-14 92-31 93-9

	93-10 (Revised)		93-12	93-14	93-16
	93-19	93-21	93-23	93-24	93-25
	93-26	93-28	93-31	93-32	94-1
	94-2	94-6	94-8	94-9	94-11
	94-12	94-13	94-16	94-17	94-20
	94-24	94-25	94-26	94-27	
	94-28 (Revised)		94-29	95-3	95-5
	95-9	95-11	95-12	95-14	95-16
	95-17	95-19	95-20	95-21	95-22
	95-24	95-25	95-26	95-27	95-28
	95-29	96-2	97-2	97-3	98-1
	98-2	98-3	98-5	98-7	98-8
	98-10	98-12	98-13	99-2	99-4
	99-5	99-6	00-03	00-04	01-01
	01-02	01-03	02-01	03-1	03-2
	03-3	03-4	03-6	03-7	
2604(b)(4)	91-11	92-30	92-34	92-36	
	93-10 (Revised)		93-16	93-24	93-25
	93-26	93-28	93-31	93-32	94-1
	94-2	94-6	94-8	94-11	94-13
	94-16	94-20	94-25	94-26	94-29
	95-3	95-9	95-12	95-16	95-17
	95-19	95-20	95-21	95-26	95-29
	96-2	97-3	98-1	98-3	98-5
	98-7	98-8	98-10	98-13	99-2
	99-4	99-5	99-6	01-02	01-03
	02-01	03-6	03-7		
2604(b)(5)	90-3	92-19	92-33	93-10 (Revised)	
	94-4	94-9	94-23	95-28	96-3
	99-4	00-01	00-04	03-4	
2604(b)(6)	91-7	92-7	92-26 (Revised)		92-28
	92-36	93-10 (Revised)		93-32	94-24
	95-6	95-8	95-9	95-15	96-4
	96-5	98-2	98-9	98-10	00-01
	01-03	03-6			
2604(b)(7)	90-7	91-7	92-18	92-28	
	93-10 (Revised)		93-23	95-8	98-10
	01-03				
2604(b)(8)	91-7				
2604(b)(9)	93-24	95-13	95-24	01-01	01-02

	03-1	03-6			
2604(b)(11)	93-24 03-6	95-13	01-01	01-02	03-1
2604(b)(12)	91-12 01-01	92-25 01-02	93-6 03-1	93-24 03-5	95-13 03-6
2604(b)(13)	92-34 99-6	93-25 00-04	95-28	99-4	99-5
2604(b)(14)	92-28	98-12	01-03	03-6	
2604(b)(15)	91-12	91-17	93-20	03-1	03-5
2604(c)	93-10 (Revised)				
2604(c)(1)	90-6	91-10			
2604(c)(5)	98-4				
2604(c)(6)	92-22 94-18 98-8	92-24 94-25 99-1	93-9 94-26 00-01	93-26 95-7 01-03	94-13 95-12
2604(c)(6)(a)	92-25				
2604(c)(7)	91-18				
2604(d)	89-1	90-8	92-37	93-13	
2604(d)(1)	92-37	93-8	93-18	93-31	95-4
2604(d)(1)(ii)	92-16	92-37			
2604(d)(2)	90-8 92-36 93-10 (Revised) 93-30 95-1 97-1	91-8 92-37 93-31 93-31 95-4 98-11	91-19 92-38 93-11 94-7 95-8 99-1	92-17 93-8 93-12 94-15 96-1 99-3	92-32 93-18 94-22 96-6 00-02
2604(d)(3)	92-13	94-19	94-21	98-11	99-1
2604(d)(4)	90-8 93-8	92-2 93-10 (Revised)	92-36	92-37 93-11	92-38 93-12

	93-30	93-31	94-5	94-7	94-19
	94-21	94-22	95-1	95-4	95-23
	96-1	96-6	97-1	99-1	00-02
2604(d)(5)	92-38 95-4	93-8 96-6	93-11 00-02	93-30	94-5
2604(d)(6)	93-12 95-1 00-02	93-13 97-1	93-31 99-1	94-7 99-3	94-21 99-6
2604(d)(7)	93-11				
2604(e)	90-2 92-17 93-4 93-22 94-6 94-19 95-16 98-5 99-2 00-01	91-8 92-30 93-5 93-26 94-8 94-22 95-17 98-7 99-3 00-02	92-5 92-31 93-7 93-27 94-11 95-1 95-26 98-8 99-4 01-03	92-6 92-34 93-18 93-30 94-15 95-3 96-1 98-9 99-5 03-6	92-9 92-37 93-20 94-1 94-16 95-15 96-2 99-1 99-6
2605	94-28 (Revised)				
2606(b)	01-02				
2606(d)	01-02	02-01			
2700	03-3				
2800	91-3	03-2	03-3		
2800(d)(7)	91-12				
2800(c)(9)	92-27				
2800(f)	91-12	92-27			

**CUMULATIVE INDEX TO ADVISORY OPINIONS
BY SUBJECT
1990-2003**

<u>SUBJECT</u>	<u>OPINION #</u>				
Advisory Board	90-9	92-1	98-8		
Agency Charging Fees	94-14				
Agency Heads	90-2 92-15	90-9 98-6	91-13 00-03	92-8	92-12
Agency Served	93-19	95-8			
Appearance Before City Agency	90-8 92-32 93-12 93-32 94-21 95-15	91-8 92-36 93-13 94-5 94-22 96-4	91-19 92-37 93-18 94-7 94-24 98-9	92-13 92-38 93-28 94-15 95-1	92-17 93-11 93-31 94-19 95-6
Appearance of Impropriety	90-3 91-4 91-16 92-10 92-23 93-15 94-28 (Revised) 95-17	90-4 91-5 91-18 92-14 92-25 93-22 98-6	90-5 91-7 92-3 92-15 92-28 94-2 95-7 00-03	90-8 91-10 92-4 92-17 92-33 94-17 95-10	91-1 91-15 92-6 92-21 93-14 95-11
Appearance on Matter Involving Public Servant's City Agency	96-5				
Blind Trust	94-18	94-25	94-26		
Brooklyn Public Library	97-1				

Business Dealings with the City	90-1 91-14 92-11 92-26 (Revised) 92-33 93-22 94-16 95-16	90-2 92-5 92-22 92-34 93-27 94-20 95-17	90-3 92-6 92-24 92-28 93-9 94-6 94-29 95-21	91-4 92-7 92-25 92-30 93-16 94-9 95-3 96-2	91-10 92-9 92-31 93-20 94-13 95-15 98-2
Charter Schools	00-01				
City Position, Use of	90-6 91-15 92-12 93-23 94-28 (Revised) 97-2	90-9 91-16 92-33 93-25 98-1	91-1 91-18 92-35 94-2 95-2	91-5 92-3 93-9 94-12 95-5	91-10 92-10 93-14 94-17 95-14
Community Boards	91-3 93-2 96-4	91-9 93-3 98-9	91-12 93-21 03-2	92-27 95-18 03-3	92-31 95-27
Community School Boards	90-7	98-10	01-02		
Consulting	91-9 93-24	91-16 95-15	92-2 98-7	93-12	93-19
Contracts	91-2	91-15	92-2		
Cooperative Corporations	92-7 95-25	94-25	94-27	95-11	95-22
Dual City Employment	95-26				
Elected Officials	90-3 92-10 93-21	90-4 92-22 95-20	90-5 92-23 98-14	90-6 93-6 99-1	91-10 93-15
Endorsements	98-6	00-03			
Ex Officio	99-1				
Expert Witness	91-9	96-6			

Family Relationships	90-1 91-15 94-3	90-4 92-4 94-13	90-5 92-14 94-20	90-6 93-21 98-1	91-2 93-28
FOIL	91-19				
Franchises	90-4	90-5			
Fundraising	91-10 93-15 98-14	92-15 93-26 01-01	92-25 94-29 01-02	92-29 95-7 03-4	93-6 95-27
Gifts	91-20 94-4 95-28	92-21 94-9 96-3	92-27 94-12 00-04	92-29 94-23	92-33 94-29
Gifts-Travel	90-3	92-10	92-19	92-23	
Honoraria	91-4	91-6	94-29		
Lectures	91-6				
Letterhead	90-9				
Local Development Corporation	93-1	93-3	93-13	94-7	
Mayor	90-4				
Ministerial Matters	92-32	92-36	94-5	95-6	
Moonlighting	90-2 92-6 93-4 94-8 95-17 98-4 99-5	91-7 92-28 93-5 94-16 95-19 98-5 99-6	91-9 92-30 93-24 95-6 95-20 98-7 00-01	91-13 92-34 93-25 95-9 95-22 99-2 01-03	91-16 92-36 94-1 95-16 96-2 99-4

Not-For-Profit Organizations	91-10	91-16	92-8	92-14	92-15
	92-22	92-24	92-25	92-28	92-31
	92-34	92-37	93-1	93-4	93-9
	93-14	93-15	93-26	94-6	94-13
	94-15	94-18	94-19	94-25	94-26
	95-2	95-5	95-7	95-12	98-8
	98-14	99-1			

Orders - see Waivers/Orders

Outside Practice of Law 01-03

Ownership Interests	90-1	91-2	91-3	92-5	92-6
	92-7	92-9	92-11	92-26 (Revised)	
	92-30	92-35	93-7	93-16	93-22
	93-27	93-32	94-1	94-3	94-8
	94-10	94-11	94-13	94-20	94-25
	94-26	95-10	95-12	95-18	95-21
	97-3	98-2	98-3	02-01	03-7

Particular Matter 92-37 93-8 95-23

Personnel Order 88/5 91-12 92-25

Police Officers 97-2 98-4

Political Activities	91-12	91-17	92-25	93-6	93-20
	93-24	95-13	95-24	03-5	03-6

Political Fundraising 01-01 01-02 03-1

Post-Employment Restrictions	89-1	90-8	91-8	91-19	92-2
	92-13	92-16	92-17	92-32	92-37
	92-38	93-8	93-11	93-12	93-13
	93-18	93-30	93-31	94-5	94-7
	94-15	94-19	94-21	94-22	95-1
	95-4	95-23	96-1	96-6	97-1
	98-11	99-1	99-3	00-02	

Practice of Law – see Outside Practice of Law

Prohibited Interests	90-1	90-2	91-2	91-3	91-15
	92-5	92-6	92-7	92-9	92-11
	92-26 (Revised)		92-30	92-35	93-1
	93-3	93-4	93-7	93-9	93-16
	93-22	93-27	93-29	93-32	94-1
	94-3	94-5	94-8	94-10	94-11
	94-13	94-16	94-20	94-25	94-26
	95-10	95-12	95-18	95-21	96-2
	98-3	03-2			
Public Benefit Corporation	93-17				
Public Servants	91-14	93-10 (Revised)	93-29	93-32	
	94-6				
Real Property	93-16				
Recusal	90-4	90-5	91-3	91-11	91-15
	92-5	92-6	92-8	92-9	92-18
	92-20	92-25	92-26 (Revised)		92-28
	92-30	93-1	93-4	93-7	93-17
	93-19	93-31	94-6	94-11	94-17
	94-18	94-24	96-2	98-1	
Regular Employees	93-10 (Revised)		95-8		
Renting Property to Public Assistance Recipients	95-29	98-13			
Sale of Products	98-12				
School Boards	93-2				
Separation from City Service	98-11				
Sole Proprietorship	98-7				
Subcontractors	99-2				
Superior-Subordinate Relationship	98-12				
Tax Assessors	93-16				

Teaching	90-2 96-2	91-5 99-4	93-20 99-5	94-16 99-6	95-3
Temporary Employment	98-5				
Tickets	00-04				
Uncompensated Appearances	98-10				
Volunteer Activities	98-10				
Waivers/Orders	90-2 92-17 93-27 94-8 94-20 95-17 99-2	91-8 92-37 93-30 94-11 94-22 96-1 99-4	92-6 93-18 94-1 94-15 95-1 96-2 99-5	92-9 93-20 94-3 94-16 95-3 98-8 99-6	92-13 93-22 94-6 94-19 95-16 98-9 00-02

