

CITY OF NEW YORK
CONFLICTS OF INTEREST BOARD

International Visitors Manual

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

New York City
March 2015

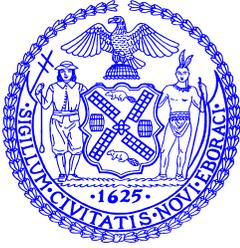
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Creating a Values-Based Conflicts of Interest Compliance System

I. Purpose

- Criminal and anti-corruption laws stop, catch, and punish crooks
- Ethics laws guide honest officials. Ethics laws promote both the reality and the *perception* of integrity in government by *preventing* unethical conduct *before* it occurs. Ethics laws focus on prevention, not punishment. They protect officials from pressure to act unethically.
- Overlap of anti-corruption, ethics, transparency, human rights, personnel laws

II. History of Ethics Laws

- United States: Civil War Contracting Laws (1862-1864)
- New York City: 1830 Common Council Ordinance
- Germany: Preussisches Allgemeines Landrecht (1794)
- France: Grande Ordinance of Louis IX (1254)
- China: K'ung Tzu principles (3rd century BCE)
- Buddhism: injunctions on bribery (5th century BCE)
- Judaism: e.g., 1 Samuel (7th century BCE)
- Hinduism: dharma in Vedanta and Upanishads (11th century BCE)
- Code of Hammurabi (18th century BCE)

III. The Yin and Yang of Values-Based and Compliance-Based Systems

- Values-Based Ethics Laws
 - Promote positive values of public service
E.g.: “Place the public’s interest before your own.”
 - Insufficiently specific to allow punishment beyond disciplinary action
- Compliance-Based Conflicts of Interest Laws
 - Promote compliance with specific requirements
E.g.: “Never accept a gift from anyone with whom you are dealing in your government job.”
 - Negative - focus on what not to do instead of on what to do
- Create both ethics code and conflicts of interest code
 - Draw ethics values from culture and from foundational documents (e.g., in Muslim theocracies subject to the Shariah, from the concept of fasad in the Qur’an)

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- From those values, create a values-based Code of Ethics
- From that Code of Ethics, draw specific, compliance-based conflicts of interest rules. Violation of these may subject the public official to dismissal, civil fines, and, in appropriate cases, criminal prosecution.
- Create the administrative structure.
- Involve the interested parties, as appropriate (e.g., in U.S., consult citizens, civil society, unions, and associations of public officials).

IV. Structure of Effective Conflicts of Interest System: The Three Pillars

1st Pillar: Conflicts of Interest Code

- Clear, comprehensive, simple, understandable
- Possible provisions: misuse of office for private gain; misuse of government resources; receipt of gifts and tips; seeking and holding second, non-government jobs; confidential information; appearances before the government on behalf of private persons; causing other officials to violate the Code; financial and business relationships with superiors or subordinates; restrictions after leaving government service (appearing before one's former government agency, working on a matter one worked on for the government, using or disclosing confidential government information)
- Restrictions on non-government persons and firms (causing an official to violate the Code; appearing before a government agency where an owner, officer, or employee of the firm works)

2nd Pillar: Disclosure

- Transactional Disclosure and Recusal
E.g., disclosure that one's brother is seeking a contract with one's agency
- Applicant Disclosure by those doing business with the government
E.g., that an owner, officer, or employee of a firm also works for the government agency with which the firm is seeking a contract
- Annual Disclosure
 - Helps avoid ethics violations by focusing official's attention at least once a year on ethics law and by alerting public and supervisors to potential conflicts of interest
 - Should be public and tied to conflicts of interest code

3rd Pillar: Administration

- Ethics board independent of political pressures (volunteer board members of high integrity, with fixed terms, no government positions or contracts, and removable only for cause; protected budget; staff accountable solely to board members; only board and courts may interpret and enforce ethics law)
- Ethics training and education
- Legal advice – oral and written, quick and confidential
- Regulation of disclosure
- Enforcement of ethics law
 - No enforcement makes ethics board a toothless tiger
 - Full enforcement power with complete control of investigations and prosecution; ability to commence investigations on own

[Training: Creating Ethics System - 11/9/2009]

ETHICS/ANTI-CORRUPTION PROGRAM

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

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

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

- Anti-corruption (official misconduct criminal) laws

Purpose: To punish the corrupt and deter the corruptible

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

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

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

Intersection and overlap

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

– probably a matter for ethics enforcement

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

– probably a matter for ethics enforcement and disciplinary action

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

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

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

- The incorruptible

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

- The corrupt

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

- The corruptible

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

III. Application of Laws and Regulations to Officials

- The incorruptible

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

- The corrupt

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

- The corruptible

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

HOW TO MAKE AN ETHICS PROGRAM WORK

Mark Davies
New York City Conflicts of Interest Board

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

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

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

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

Develop a relationship with elected officials in the government

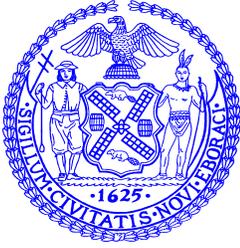
- To sensitize the board to the **political and real life implications** of ethics issues
- To sensitize the officials to the need to **ask before acting**
- To convince them that the ethics board focuses primarily on **prevention not punishment** and does not play “gotcha”
- To give them a **heads up**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

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

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

See Mark Davies, *Considering Ethics at the Local Government Level*, in ETHICAL STANDARDS IN THE PUBLIC SECTOR (American Bar Association 1999); Mark Davies, *Ethics in Government and the Issue of Conflicts of Interest*, in GOVERNMENT ETHICS AND LAW ENFORCEMENT: TOWARD GLOBAL GUIDELINES (Praeger 2000); Mark Davies, *A Practical Approach to Establishing and Maintaining a Values-Based Conflicts of Interest Compliance System*, ANNALS, IV GLOBAL FORUM ON FIGHTING CORRUPTION (Brasilia, June 7-10, 2005) (see pages 18-29 and 35-36 of article, reproduced at http://www.nyc.gov/html/conflicts/downloads/pdf2/DaviesArticle_final.pdf); Joel Rogers, *Communicating Ethics to Municipal Employees*, NYSBA/MLRC MUNICIPAL LAWYER 12 (Winter 2005); Steven G. Leventhal, *Running a Local Municipal Ethics Board: Tips for Drafting Advisory Opinions*, TALK OF THE TOWNS & TOPICS __ (May/June 2004); Mark Davies, *Adopting a Local Ethics Law – Part III: Administration*, NYSBA/MLRC MUNICIPAL LAWYER 11 (Winter 2008) (the final three articles may be found at <http://nyc.gov/ethics>, then Publications, then Directory of NYS Municipal Ethics Materials)

[Training: Website Ethics Link: International Visitors Manual: June 2008: How to Make REV]



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GOVERNMENT ETHICS LAWS by Mark Davies

I. Purpose of Government Ethics Laws

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

II. Fundamental Principles of Governments Ethics Laws

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

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III. The Three Pillars of an Effective Government Ethics Law

A. First Pillar: Code of Ethics

1. Requirements and Precepts

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

2. Provisions

- a. General prohibition on use of office for private gain
- b. Misuse of government time, letterhead, personnel, equipment, resources, and supplies for non-governmental purposes
- c. Prohibited non-government positions or ownership interests
- d. Gifts from persons doing business with the government
- e. Confidential government information
- f. Appearances and representation before government agencies
- g. Private compensation and tips for doing one's government job
- h. Inducement of other officials to violate the code of ethics
- i. Superior-subordinate financial or business relationships
- j. Solicitation of political contributions or activity from government employees
- k. "Two-hats" restrictions (simultaneous political party and government positions)
- l. Seeking job with someone one is dealing with in one's government job
- m. Revolving door (post-employment restrictions):
 - (i) Appearance ban before former agency;

- (ii) Particular matter bar;
- (iii) Confidential government information
- n. Avoiding conflicts of interest
- o. Improper conduct generally (appearance of impropriety)
- p. Restrictions on private persons and firms
 - (i) Causing an official to violate the code of ethics;
 - (ii) Appearing before a government agency having an employee who works for the private person or firm

B. Second Pillar: Disclosure

1. Transactional Disclosure and Recusal when a conflict of interest arises
2. Applicant Disclosure by persons applying for government contracts, permits, or funds of the interest of government officials in the application or applicant, to the extent reasonably known
3. Annual Disclosure
 - a. Purposes
 - Focuses official's attention annually on ethics law
 - Alerts public, media, supervisors, and vendors to official's possible conflicts of interest
 - Provides a check on transactional disclosure
 - Helps prevent conflicts of interest from occurring
 - b. Guidelines in Drafting Annual Disclosure Forms
 - Comply with the purpose and principles of ethics laws generally
 - Tailor them to the filer's position and agency
 - Tie them to the code of ethics: request only information that would reveal a conflict of interest under the code
 - Require disclosure only of the fact, not the amount, of the interest
 - Make the forms as short and simple as possible while asking all of the relevant questions
 - Compare the reports against other lists (e.g., vendor lists)
 - Computerize the reports

- c. Penalties for Failure to File or Failure to Supply Information
- d. Public Availability

C. Third Pillar: Administration

1. Administrative Structure

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

2. Duty to Train and Educate

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

3. Duty to Provide Legal Advice

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

4. Duty to Grant Waivers

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

5. Duty to Regulate Disclosure

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

6. Duty to Enforce Code of Ethics and Disclosure Law

a. Purpose

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

b. Necessity

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

c. Principles of Ethics Enforcement

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

d. Stages of the Enforcement Process

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

e. Penalties

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

f. Confidentiality

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

g. Whistleblower Protection

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

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

http://www.nyc.gov/html/conflicts/downloads/pdf2/DaviesArticle_final.pdf

[Training: Website Ethics Link: International Visitors Manual: Government Ethics Laws Rev2]

GOVERNMENTAL ETHICS LAWS: THEIR PURPOSE AND BASES

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

Governmental ethics laws are not:

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

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

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

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

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

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

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

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

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

ORAL AND WRITTEN ADVICE

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

TRAINING AND EDUCATION

- Purpose:** To prevent conflicts of interest violations by teaching officials about the code of ethics. Ethics training is the most important function of an ethics agency.
- Goal:** To alert public servants to possible conflicts of interest and the need to ask before acting.
- Target:**
- Eventually, every government officer and employee should receive some ethics training. Even low-level employees, who have little danger of a conflict of interest, should know the law in order to keep an eye on their supervisors.
 - Training should begin with all new public servants; public servants who give ethics advice within agencies, such as attorneys or personnel officers; and public servants most at risk of conflicts of interest (high level officials and those involved in purchasing, contracting, issuance of permits, and inspections).
 - If possible, set up ethics trainers in each agency, who will train that agency's employees – a “train the trainer” approach.
 - Vendors and contractors who work with the government should also receive training about the ethics law.
- Approach:** To be effective, ethics training must be interactive and interesting.
- Programs:**
- Live training – the most effective but least efficient (e.g., workshops, briefings, and seminars; games, exercise, Q&A, role-playing)
 - An annual seminar for high level officials, which they are required to attend and at which the head of the government stresses how important the ethics law is
 - An ethics compliance program in each agency that insures that the agency employees know and understand the law
 - Resource: Council on Governmental Ethics Laws (COGEL)
- Ethics Officers:** If possible, set up ethics officers in every agency, who will be responsible for making sure ethics training is given and who will act as a liaison to the ethics commission.
- Materials:**
- Rules for training materials: effective; accurate; in good taste
 - A plain language guide on the law (one-pager; two-pager)
 - Videotapes/DVD's targeted a public officials generally, specifically agencies (e.g., police, fire), and vendors
 - Short leaflets on various ethics topics and for various types of employees (e.g., purchasing agents) and for contractors; bookmarks; comic books
 - Posters in every agency; quarterly newsletter; articles in union newsletters
 - Extensive website
 - Interactive web-based conflicts of interest training program
 - Public service announcements
- Evaluations:** Ethics commissions should evaluate how effective their training and education programs are.

DISCLOSURE

TRANSACTIONAL DISCLOSURE AND RECUSAL

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

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

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

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

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

APPLICANT DISCLOSURE

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

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

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

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

ANNUAL DISCLOSURE

- What it is:** Annual disclosure discloses once each year certain basic information about the filer, such as the location of his or her real property and the names of his or her private employer (if any).
- Purposes:**
- (1) To focus the attention of officials at least once each year on where their potential conflicts of interest lie - for example, if an official's brother is a builder, that official will have a possible conflict if his or her agency deals with the brother.
 - (2) To let the public, the media, the government, and people who do business with the official's agency know what the official's private interests are.
 - (3) To provide a check on "transactional" disclosure - that is, disclosure when a potential conflict actually occurs.
 - (4) To help prevent conflicts of interest from occurring.
- Who Discloses:** Only those officials who are in a position to have a significant conflict of interest, including elected officials; candidates for elective office; members of commissions and boards; department heads and their deputies; officials who set government policy; officials involved in negotiating, approving, paying, or auditing contracts; officials involved in adopting or changing laws or regulations.
- Form:**
- (1) Should be tailored to the position and agency, if possible.
 - (2) Must be tied to the code of ethics; an annual disclosure form should only ask for information that would show a possible violation of the code of ethics.
 - (3) Must be as short and simple as possible. See two-page form by New York State Temporary State Commission on Local Government Ethics.

AVAILABILITY OF DISCLOSURE FORMS

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

ENFORCEMENT

- Purposes:**
- (1) To educate officials about the requirements of the code of ethics;
 - (2) To show officials that the government is serious about the ethics law;
 - (3) To punish unethical behavior and discourage other officials from committing conflicts of interest (deterrence).
- Stages:**
- (1) Receipt of a complaint (oral or written; identified or anonymous) or other information showing a possible ethics violation (for example, from a newspaper article);
 - (2) Determination if an ethics violation may have occurred;
 - (3) Investigation;
 - (4) Notification to the official that he or she may have violated the code of ethics and receipt of the official's answer to the charges;
 - (5) Hearing on the charges;
 - (6) Imposition of penalty (for example, a civil fine).
- Penalties:**
- (1) Civil fines (not a criminal penalty) (e.g., up to \$25,000 per violation in NYC);
 - (2) Disciplinary action (censure, suspension, removal from office);
 - (3) Damages (for harm to the government - for example, because the contract with the official's brother cost more than it should have);
 - (4) Disgorgement of ill-gotten gains (the official must give up any gains he or she received from the ethics violation, even if the government was not hurt);
 - (5) Criminal penalties (jail, fines), where the official was corrupt (for example, where he or she took a kickback to award a contract) - but usually these cases fall under other criminal laws and are handled by the prosecutors, not by the ethics commission;
 - (6) Debarment (prohibiting the official or company from doing any business with the government for, say, three years);
 - (7) Nullification of government contracts obtained as a result of an ethics violation.

PRINCIPLES OF ENFORCEMENT OF GOVERNMENT ETHICS LAWS

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

Enforcement must be educational, not punitive.

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

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

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

Time should not be wasted on unimportant issues.

4. A range of penalties must be available.

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

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

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

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

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

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

7. Ethics boards must be independent.

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

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

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

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

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

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

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

[Training: Senegal_Enforcement_Principles]

MODEL CONFLICTS OF INTEREST PROVISIONS

Required Provisions of the Conflicts of Interest Code

Every ethics code will need to address certain issues. Among these issues may be the following:

- General prohibition on the use of government office for private gain (misuse of office)
 - (1) A government officer or employee shall not use his or her official position or office, or take or fail to take any action, in a manner which he or she knows or has reason to know may result in a personal financial benefit for any of the following persons:*
 - (a) the government officer or employee;*
 - (b) his or her outside employer or business;*
 - (c) a member of his or her household;*
 - (d) a customer or client;*
 - (e) a relative;*
 - (f) a person or entity with which the government officer or employee has had a financial relationship within the previous twelve months;*
 - (g) any person or entity from which the government officer or employee has received a gift, or any goods or services for less than fair market value, during the previous twelve months; or*
 - (h) a person from whom the government officer or employee has received election campaign contributions of more than one thousand dollars in the aggregate during the previous twenty-four months.*
- Recusal
 - (2) A government officer or employee shall promptly recuse himself or herself from acting on a matter before the government when acting on the matter, or failing to act on the matter, may financially benefit any of the persons listed in subdivision one of this section.*
- Misuse of government resources
 - (3) A government officer or employee shall not use government letterhead, personnel, equipment, supplies, or resources for a non-governmental*

purpose nor engage in personal or private activities during times when he or she is required to work for the government.

- Gifts

(4) A government officer or employee shall not solicit a gift from any person who has received or sought a financial benefit from the government, nor accept a gift from any person who the government officer or employee knows or has reason to know has received or sought a financial benefit from the government within the previous twenty-four months.

- Gratuities (tips)

(5) A government officer or employee shall not request or accept anything from any person or entity other than the government for doing his or her government job.

- Representation

(6) A government officer or employee shall not represent any person or entity in any matter that person or entity has that is before the government nor represent any person or entity in any matter that involves the government.

- Appearances

(7) A government officer or employee shall not appear before any agency of the government, except on his or her own behalf or on behalf of the government.

- Confidential information

(8) A government officer or employee shall not disclose confidential information or use it for any non-government purpose, even after leaving government service.

- Political solicitation of subordinates

(9) A government officer or employee shall not knowingly request or knowingly authorize anyone else to request any subordinate of the officer or employee to participate in an election campaign or contribute to a political committee.

- Future employment
(10) A government officer or employee shall not seek or obtain any non-government employment with any person or entity her or she is dealing with in his or her government job.

- Revolving door
(11) For one year after leaving government service, a former government officer or employee shall not communicate with his or her former government agency, except on his or her own behalf, and shall never accept anything of value to work on any particular matter that he or she personally and substantially worked on while in government service.

- Inducement of others
(12) A government officer or employee shall not induce or aid another officer or employee of the government to violate any of the provisions of this code of ethics.

Optional Provisions of the Conflicts of Interest Code

Whether the code of ethics should contain additional provisions – and, if so, which ones - will depend on the needs and ethical history of the particular government. Such additional provisions might address:

- Prohibited outside positions
(13) A government officer or employee shall not be a paid attorney, agent, broker, employee, officer, director, trustee, or consultant for any person or entity that is doing business or seeking to do business with the government or that is seeking a license, permit, grant, or benefit from the government.

- Prohibited ownership interests
(14) A government officer or employee shall not own any part of a business or entity that is doing business or seeking to do business with the government or that is seeking a license, permit, grant, or benefit from the government nor shall the government officer's or employee's spouse nor shall any of his or her children who are less than 18 years old.

- Lawyers and experts
(15) A government officer or employee shall not be a lawyer or expert against the government's interests in any lawsuit.

- Purchase of office
(16) A government officer or employee shall not give or promise to give anything of value to any person or entity for being elected or appointed to government service or for receiving a promotion or raise.

- Coercive political solicitation
(17) A government officer or employee shall not use his or her government position to make threats or promises for the purpose of trying to get anyone to do any political activity or make a political contribution.

- Political solicitation of vendors, contractors, and licensees
(18) A government officer or employee shall not ask any person or entity that does or intends to do business with the government or that has or is seeking a license, permit, grant, or benefit from the government or that has done business with the government during the previous twelve months to make any political contribution or engage in any political activity.

- Political party positions
(19) A government officer or employee holding any of the following positions shall not hold a political party office: [specify positions].

- Political activity by high-level appointed officials
(20) A government officer or employee holding any of the following positions shall not directly or indirectly ask anyone to contribute to the political campaign of a government officer or employee running for any elective office or to the political campaign of anyone running for elective government office: [specify positions].

- Superior-subordinate relationships
(21) A government officer or employee shall not have any business or financial dealings with a subordinate or superior.

- Solicitation of subordinates
(22) A government officer or employee shall not knowingly request or knowingly authorize anyone else to request any subordinate of the officer or employee to purchase anything from, or give or contribute anything to, any person or organization, including any not-for-profit organization.

- Revolving door for high-level officials
(23) For one year after leaving government service, a government officer or employee holding any of the following positions shall not communicate with any agency of the government, except on his or her own behalf: [specify positions].

- Avoidance of conflicts
(24) A government officer or employee shall not knowingly acquire, solicit, negotiate for, or accept any interest, employment, or thing that would result in a violation of this code of ethics.

- Improper conduct (appearance of impropriety)
(25) A government officer or employee shall not take any action or have any position or interest that, as defined by rule of the ethics board, conflicts with his or her government duties.

[Training: Website Ethics Link: Model Conflicts of Interest Provisions]

Annual Disclosure Statements: Purpose, Principles, and Guidelines

Purpose:

The purpose of an annual disclosure statement, like the purpose of conflicts of interest (government ethics) laws generally, lies in promoting both the reality *and the perception* of integrity in government by *preventing* conflicts of interest *before* they occur.

Therefore, annual disclosure

- Focuses on prevention not punishment. The intent is to prevent conflicts of interest from occurring in the first place, not to punish them after the fact.
- Is not intended to catch crooks or to stop the corrupt.
- Is concerned not only with reality but also with perception.

Principles:

Annual disclosure seeks to prevent conflicts of interest from occurring by

- Focusing the attention of officials at least once each year on where their potential conflicts of interest lie.
- Letting the ethics board, as well as the public, the media, the government, and people who do business with the official's agency, know what the official's private interests are.
- Providing a check on "transactional" disclosure - that is, annual disclosure will reveal if the filer is making required transactional disclosures and recusals.

Guidelines:

- Annual disclosure statements reveal conflicts of interest only when compared against something else, such as a list of no-bid contracts or county vendors or actions taken by the public official.
- Annual disclosure statements must be public to enable the public and particularly the media to determine whether a public official has an actual or potential conflict between his or her public duties and private interests, as revealed on the disclosure statement.
- In order to obtain compliance, the annual disclosure law must provide for late filing fines and significant penalties for failure to file, for failure to report required information, or for misstatements of information.
- The annual disclosure form must be tied in to the conflicts of interest law; the form should request *only* information that would reveal a conflict of interest under the code.
- For example, if it's not a conflict of interest for a public official to award a contract to a company when she owns only 1,000 dollars in the company's stock, then she should not have to report that stock on an annual disclosure statement.
- Creating an annual disclosure form is an exercise in zero-based drafting: start with a blank page and request only that information that, when compared against the responsibilities and actions of a public official, may reveal a conflict of interest.
- Since the form is tied to the conflicts of interest code, amounts are irrelevant – whether a conflict is a 5,000-dollar conflict or a 50,000-dollar conflict, it is still a conflict and is still prohibited.
- An annual disclosure statement should be short, simple, and clear and not create traps for public officials.
- Annual disclosure must strike a balance between reassuring citizens that public officials are acting in the public interest and encouraging honest citizens to serve in government, particularly as volunteers.

[Training: Website Ethics Link: FD Purpose]

MODEL ANNUAL DISCLOSURE FORM

[GOVERNMENT] OF _____
 ANNUAL DISCLOSURE STATEMENT
 FOR CALENDAR YEAR 2009

Last Name	First Name	Initial
Title	Employee ID #	Department or Agency
Work Address	Work Phone No.	

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 [government], 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 2009. 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, any person you claimed as a dependent on your latest income tax return, and their spouses or registered domestic partners.¹

Name of Family Member	Relationship to You	Name of Employer or Business	Nature of Business	Type of Business	Relationship to Business
<i>[E.g.: John Smith]</i>	<i>Self</i>	<i>TechIM</i>	<i>Computers</i>	<i>Corp.</i>	<i>Pres./ Shareholder]</i>
<i>[E.g.: Rose Smith]</i>	<i>Wife</i>	<i>Monument Realty</i>	<i>Real Estate</i>	<i>Partnership</i>	<i>Employee]</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 \$10,000,² 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 or registered domestic partner and any of your children who are under age 18.

Name of Family Member	Relationship to You	Name of Entity	Nature of Business	Type of Business
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<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 rent, in whole or in part, or otherwise have a financial interest in. List only real estate that is located in the [country, province/state, municipality and contiguous areas]. For residential property, list as the address only the municipality in which the property is located.

Name of Family Member	Relationship to You	Address of Real Estate	Type of Interest
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<i>[E.g.: Robert Smith]</i>	<i>Father</i>	<i>2 Main St., Teatown</i>	<i>Hold mortgage]</i>

4. **Gifts.** List each gift that you or your spouse or registered domestic partner received worth \$10³ or more during the year 2009, except gifts from relatives, as defined in Question 1. A “gift” means anything of value for which you or your spouse or registered domestic partner 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, tickets, 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 \$10 rule. You do not need to list a gift if you know that the donor has had no business dealings with the [government] during the previous 24 months and contemplates no business dealings with the [government] during the next 24 months.

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

5. **Political Contributions.** List each person or firm that made to you or your campaign committee, within the previous 24 months, financial contributions, in money, goods, or services, totaling \$1,000⁴ or more to assist in your election to public office.

Name of Contributor
<i>[E.g.: Alfred Jones]</i>

6. **Relatives in [Government's] Service.** List each relative, as defined in Question 1, who is an officer or employee of the [government], whether paid or unpaid, including the relative's name, relationship to you, title, and department.

Name of Family Member	Relationship to You	Title	Department
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[E.g.: Alex Jones Sister's husband Code Enf. Officer Building]

7. **Volunteer Positions.** List each volunteer office or position that you hold with any not-for-profit organization. Do not list entities of which you were a member only or for which you volunteered only in a non-policymaking, non-administrative capacity, such as a youth football coach. Provide the same information for your spouse or registered domestic partner.

You or Spouse/RDP	Name of Entity	Position	Nature of Business
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[E.g.: Spouse Shepherd's Food Panty. Bd. of Directors member Distributes free food]

8. **Money You Owe** [Elected Officials and Compensated Policymakers Only]. List each person or firm to which you or your spouse or your registered domestic partner owes \$10,000⁵ 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.

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

9. **Money Owed to You** [Elected Officials and Compensated Policymakers Only]. List each person or firm that owes you or your spouse or your registered domestic partner \$10,000⁶ or more. Do not list money owed by relatives, as defined in Question 1.

Creditor	Debtor	Type of Obligation
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<i>[E.g.: John Smith]</i>	<i>Alexis Doe</i>	<i>Personal 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.*⁷

Signed: _____

Date Signed: _____

¹ “Relative” should be defined to include only those relatives whom, under the ethics code, an official may not take an action to benefit.

² The amount should equal the threshold for a conflict of interest under the ethics law. For example if an official does not violate the ethics law by acting to benefit a company in which he or she has an investment of less than \$10,000 or 5%, then disclosure of that interest should not be required.

³ The amount should equal the threshold for prohibited gifts under the ethics law.

⁴ The amount should equal the threshold for a conflict of interest under the ethics law. For example, if an official does not violate the ethics law by acting to benefit a person who donated \$500 to the official’s campaign, then disclosure of that contribution should not be required on the annual disclosure statement.

⁵ The amount should be equal to the amount that would constitute a financial relationship between the official and the creditor, thus prohibiting the official from taking an official action that might benefit that creditor.

⁶ The amount should be equal to the amount that would constitute a financial relationship between the official and the debtor, thus prohibiting the official from taking an official action that might benefit that debtor.

⁷ A copy of the code of ethics (not the entire ethics law, just the code itself) should be attached to the disclosure form, if the code is sufficiently short. If it is not, then a summary, of no more than two pages, should be attached.

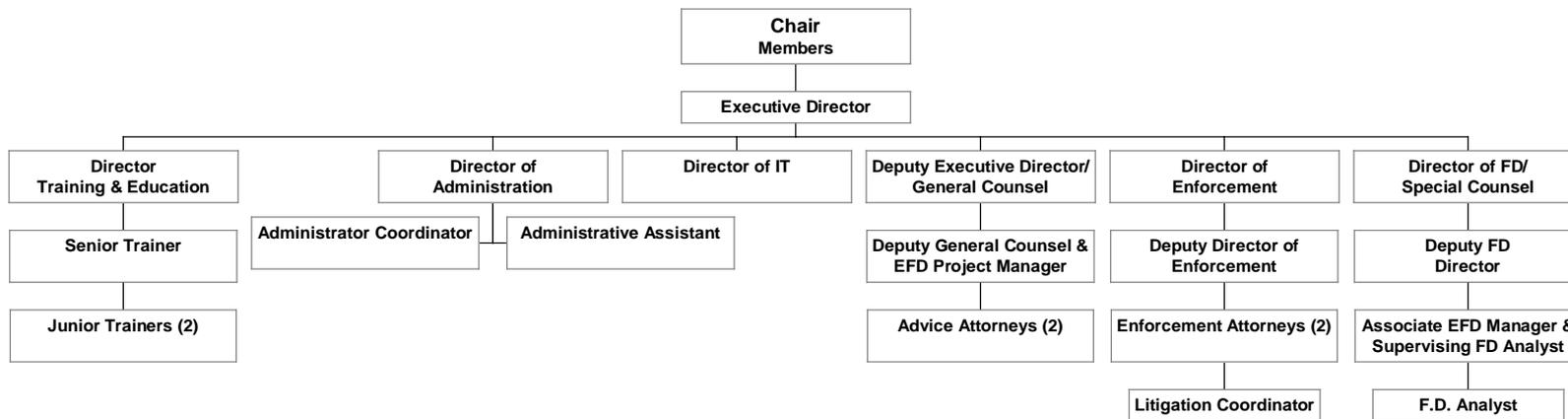
[Training: Website Ethics Link: International Visitors Manual: Nov 2009: FD Model Form Nov 2009]

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

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

CONFLICTS OF INTEREST BOARD

ORGANIZATION CHART



[Training: COIB Org Chart 10_12]

EXHIBIT 1
CONFLICTS OF INTEREST BOARD: 1993, 2001, 2013, 2014

Agencywide	1993	2001	2013	2014
Adopted Budget (Fiscal Year)	\$1,132,000 (FY94)	\$1,698,669 (FY02)	\$2,033,472 (FY14)	\$2,117,472 (FY15)
Staff (budgeted)	26	23 ^{3/5}	22	22
Legal Advice	1993	2001	2013	2014
Staff	6½ (4½ attorneys)	4 (3 attorneys)	4 attorneys	3 attorneys ¹
Telephone requests for advice	N/A	1,650	3,536	4,353
Written requests for advice	321	539	552	597
Issued opinions, letters, waivers, orders	266	501	559	480
Opinions, etc. per attorney	53	167	140	160
Pending requests at year end	151	40	107	174
Median time to respond to requests	N/A	N/A	22 days	28 days
Enforcement	1993	2001	2013	2014
Staff	½	5 (4 attorneys)	5 (4 attorneys)	5 (4 attorneys)
New complaints received	29	124	506	488
Cases closed	38	152	508	524
Dispositions imposing fines	1	9	62	78
Public warning letters	0	2	26	17
Fines imposed	\$500	\$20,450	\$124,050	\$184,405
Referrals to DOI	19	49	71	55
Reports from DOI	N/A	43	108	181

¹ The Deputy General Counsel line was vacant for eight months in 2014, and the new Deputy General Counsel had to spend much of his time disposing of enforcement cases.

Training and Education	1993	2001	2013	2014
Staff	1	4 ^{3/5}	4	4
Training sessions	10	190 24 agencies; CLE	542 42 agencies; Brown Bag Lunches; multiple CLE offerings; training for all employees of 15 agencies; new presentation for Citywide seminar	599 43 agencies; Brown Bag Lunches; Ethics Liaison Meet-up; multiple CLE offerings; training for all employees of 11 agencies; new presentation for Citywide seminar
Dept. of Education training	None	116 training sessions; BOE leaflet, booklet, videotape	18 classes taught	320 classes taught; new handbook for Therapists
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 Continued monthly column in <i>The Chief</i>	Over 50 Continued monthly column in <i>The Chief</i>
Ethics newsletter	None	<i>Ethical Times</i> (Quarterly)	<i>Ethical Times</i> switched to monthly	<i>Ethical Times</i> (Monthly), <i>Public Service Puzzler</i> (Monthly)

<i>Training and Education (cont'd)</i>	1993	2001	2013	2014
Videotapes	None	3 half-hour training films; 2 PSA's	New video series, "Ethics Express: Conflicts of Interest in Five Minutes or Less" begun. First clip completed.	"Ethics Express: Conflicts of Interest in Five Minutes or Less" five clips posted.
Electronic training	None	Computer game show; Crosswalks appearances	Development plan with DCAS agreed upon for 2014; revamped computer game show	Development with DCAS on hold until they find the appropriate vendor; Training Twitter feed begun.
<i>Annual Disclosure</i>	1993	2001	2013	2014
Staff	12	5	5	5 ²
6-year compliance rate	99%	98.6%	98.2%	98.2%
Fines collected	\$36,051	\$31,700	\$27,750	\$19,000
Reports reviewed for completeness (mandated by Charter & NYS law)	All (12,000)	400	6,661	7,647
Reports reviewed for conflicts (mandated by law)	350	38	6,661	7,647
Filing by City-affiliated entities (e.g., not-for-profits and public authorities) under PAAA	0	0	29 PAAA entities filed	33 PAAA entities filed
Electronic filing	None	In development	With limited exceptions (PAAA filers, candidates, and assessors), all filers file electronically	With limited exceptions (PAAA filers, uncompensated members of policymaking boards and commissions, candidates, and assessors), all filers file electronically

² The Unit consisted of four staff members from July through December after the departure of the Board's annual disclosure analyst.

NEW YORK CITY
CONFLICTS OF INTEREST BOARD

REPRESENTATIVES OF FOREIGN GOVERNMENTS
VISITING THE BOARD

Angola	Kosovo
Argentina	Kyrgyzstan
Armenia	Latvia
Azerbaijan	Lithuania
Beijing (China)	Macedonia
Brazil	Malawi
Bulgaria	Malaysia
Canada	Maldives
China	Mexico
Colombia	Moldova
Costa Rica	Montenegro
Croatia	New South Wales (Australia)
Czech Republic	Nicaragua
Dominican Republic	Pakistan
Ecuador	Panama
Egypt	Paraguay
El Salvador	Peru
Fujian Province (China)	Queensland (Australia)
Gaza	Romania
Georgia	Russian Republic
Guatemala	Senegal
Guyana	Serbia
Henan Province (China)	Shanghai (China)
Haiti	Shanxi Province (China)
Honduras	Slovak Republic
Hong Kong (China)	South Africa
Hungary	South Korea
Indonesia	Taipei (Taiwan)
Israel	Taiwan
Italy	Tanzania
Jamaica	Thailand
Jiangsu Province (China)	Tunisia
Johannesburg (South Africa)	Vietnam
Kazakhstan	Yunnan Province (China)
Kenya	Zambia
Korea	Zimbabwe

[Training: International Visitors Manual: March 2015: International Visitors March 2015]



**New York Conflicts of Interest Law, Covering New York City Public Servants
(Plain Language Version*)**

1. **Misuse of Office.** Public servants may not use or misuse the position to financially benefit themselves, their family members, or anyone with whom they have a business or financial relationship.
2. **Misuse of City Resources.** Public servants may not use City letterhead, personnel, equipment, supplies, or resources for a non-City purpose, nor may they pursue personal or private activities during times when they are required to work for the City.
3. **Gifts.** Public servants may not accept anything valued at \$50 or more from anyone that they know or should know is doing business or seeking to do business with the City.
4. **Gratuities.** Public servants may not accept anything from anyone other than the City for performing their official duties.
5. **Seeking Other Jobs.** Public servants may not seek or obtain a non-City job with anyone whom they are dealing with in their City job.
6. **Moonlighting.** Public servants may not have a job with anyone that they know or should know does business with the City or that receives a license, permit, grant, or benefit from the City.
7. **Owning Businesses.** Public Servants may not own any part of a business or firm that they know or should know does business with the City or that receives a license, permit, grant, or benefit from the City, nor may their spouses, or their domestic partners, nor any of their children.
8. **Confidential Information.** Public servants may not disclose confidential City information or use it for any non-City purpose, even after they leave City service.
9. **Appearances Before the City.** Public servants may not accept anything from anyone other than the City for communicating with any City agency or for appearing anywhere on a City matter.
10. **Lawyers and Experts.** Public servants 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.** Public servants 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.** Public servants may not enter into any business or financial dealings with a subordinate or supervisor.
13. **Political Solicitation of Subordinates.** Public servants may not directly or indirectly ask a subordinate to make a political contribution or to do any political activity.
14. **Coercive Political Activity.** Public servants may not force or try to force anyone to do any political activity.

15. ***Coercive Political Solicitation.*** Public servants 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.*** Deputy mayors, agency heads, deputy or assistant agency heads, chiefs of staff, directors, or members of boards or commissions may not ask anyone to contribute to the political campaign of anyone running for City office or to the political campaign of a City elected official running for any office. These appointed officials, and elected officials as well, may not hold certain political party positions.
17. ***Post-Employment One-Year Ban.*** For one year after leaving City service, former public servants may not accept anything from anyone, including the City, for communicating with their former City agency.
18. ***Post-Employment One-Year Ban for High-Level Officials.*** Elected officials, deputy mayors, the chair of the City Planning Commission, and the heads of the Office of Management and Budget, Law Department, or Departments of Citywide Administrative Services, Finance, or Investigation, for one year after they leave City service, may not accept anything from anyone, including the City, for communicating with their former branch of City government.
19. ***Post-Employment Particular Matter Bar.*** After leaving City service, former public servants may never work on a particular matter they personally and substantially worked on for the City.
20. ***Improper Conduct.*** Public servants may not take any action or have any position or interest, as defined by the Conflicts of Interest Board, that conflicts with their City duties.
21. ***Inducement of Others.*** Public servants 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 a public servant faces a possible conflict of interest under this Code of Ethics, he or she must disclose the conflict to the Conflicts of Interest Board and comply with the Board's instructions, which may include recusal, divestiture, or other actions.
23. ***Volunteer Activities.*** Public servants may be officers or directors of a not-for-profit with business dealings with the City if they do this work on their own time, they are not compensated for such work, the not-for-profit has no dealings with their City agency (unless the head of the agency has given approval), and the public servant is 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)
<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. Also, bear in mind that individual agencies may have additional restrictions on the acceptance of gifts, moonlighting, and other issues. Contact your agency counsel for more information.

EXHIBIT 7
WRITTEN REQUESTS FOR ADVICE ON CHAPTER 68

<u>Year</u>	<u>Requests Received</u>
1996	359
1997	364
1998	496
1999	461
2000	535
2001	539
2002	691
2003	559
2004	535
2005	515
2006	568
2007	613
2008	624
2009	557
2010	599
2011	582
2012	581
2013	552
2014	597

EXHIBIT 8
WRITTEN RESPONSES TO REQUESTS FOR ADVICE ON CHAPTER 68

<u>Year</u>	<u>Staff Letters</u>	<u>Waivers/ (b)(2) Letters</u>	<u>Board Letters, Orders, Opinions</u>	<u>Total</u>
1996	212	49	25	286
1997	189	116	24	329
1998	264	111	45	420
1999	283	152	28	463
2000	241	179	52	472
2001	307	148	46	501
2002	332	147	26	505
2003	287	165	83	535
2004	252	157	61	470
2005	241	223	79	543
2006	178	158	79	415
2007	269	246	90	605
2008	253	226	95	574
2009	170	231	83	484
2010	208	234	81	523
2011	188	250	85	523
2012	155	246	70	471
2013	210	282	67	559
2014	221	210	49	480

CITY OF NEW YORK
CONFLICTS OF INTEREST BOARD

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

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

Charitable Contributions
Superior- Subordinate Relationship
Sale of Products

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

Advisory Opinion No. 98-12

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

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

Background

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

Discussion

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

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

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

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

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

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

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

Conclusion

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

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

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

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

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

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

Benito Romano
Acting Chair

Bruce A. Green
Jane W. Parver

Dated: December 31, 1998



CITY OF NEW YORK
CONFLICTS OF INTEREST BOARD

2 Lafayette Street, Suite 1010

New York, New York 10007

(212) 442-1400

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

August 13, 2001

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

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

Dear Commissioner Cohen:

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

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

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

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

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

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

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

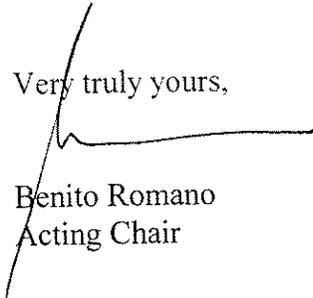
You are advised, based on your representations and written approval, that the Board has determined that Ms. Ross's position with and work for the Organization, as described above, including working with and appearing before DYCD regarding the Organization's contracts, would not conflict with the purposes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

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

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

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

Very truly yours,

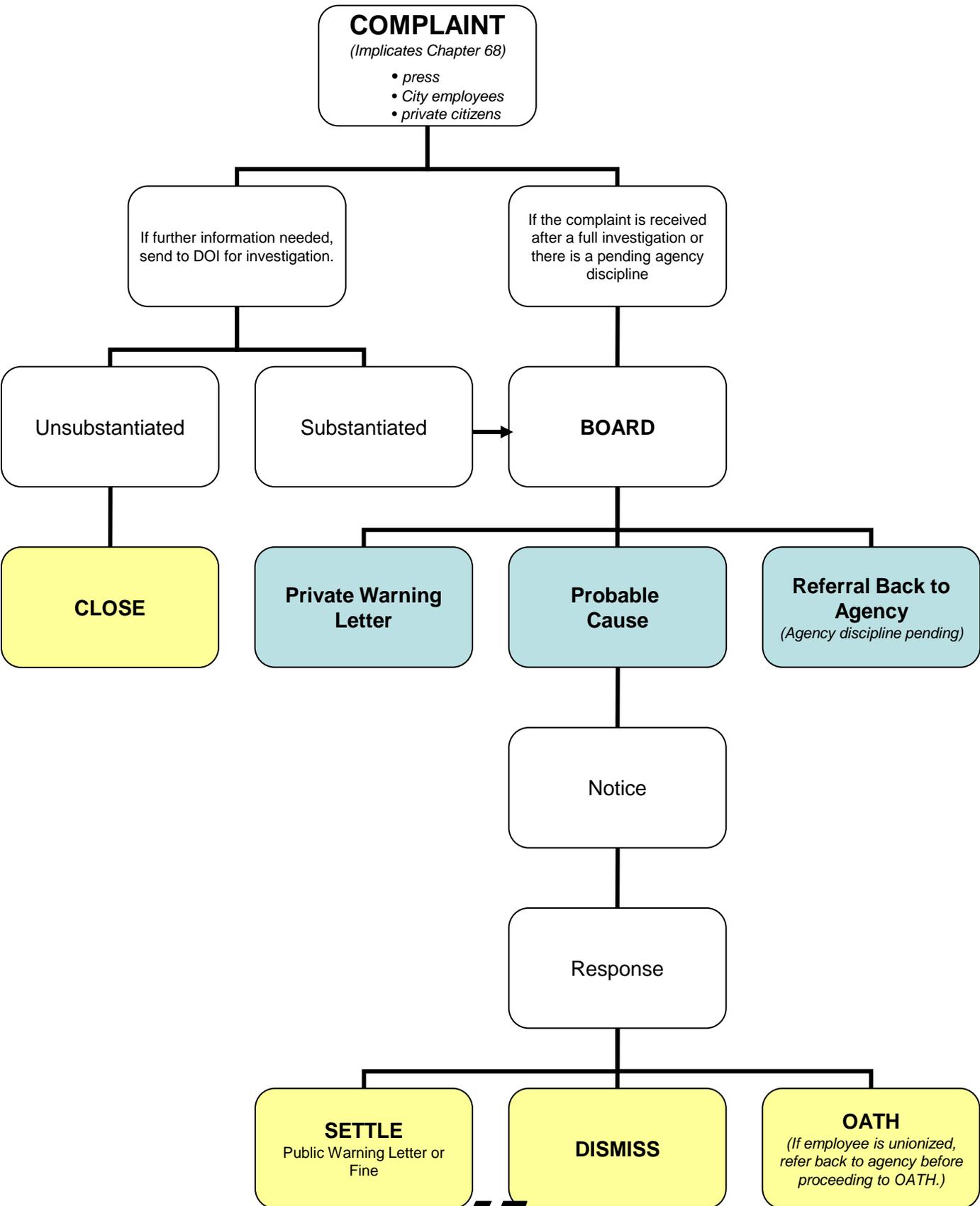

Benito Romano
Acting Chair

cc: Bruce A. Green
Jane W. Parver

William G. Martin, Esq.
Marcella Ross

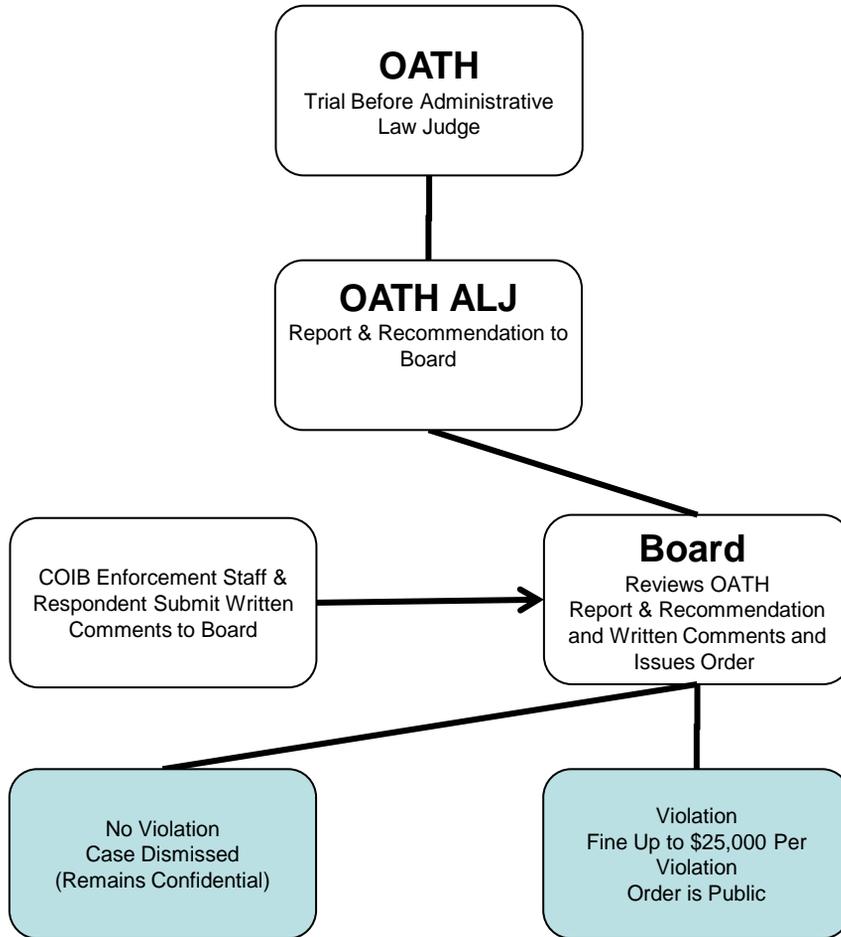
2001-242e.ch/jh

Chapter 68 Enforcement Process



Chapter 68 Enforcement Process

(Continued)



CONFLICTS OF INTERESTS BOARD

AGENCY COMPLAINT REPORTING FORM FOR CHAPTER 68 VIOLATIONS

INSTRUCTIONS:

- Fill out this form to the best of your ability, giving as much information as possible. The more detail you provide, the better we will be able to assess the matter. Mail, email or fax the completed form to:
Carolyn Lisa Miller, Director of Enforcement
NYC Conflicts of Interests Board
2 Lafayette Street, Suite 1010, New York, NY 10007
miller@coib.nyc.gov
Fax # (212) 442-1407
- You will receive a letter acknowledging receipt of your complaint within two weeks.
- If you need any further assistance, you can contact Carolyn Lisa Miller by email or phone at (212) 442-1419.

Please provide your information below:

Name of Reporting Agency Contact:	
Address:	
Phone Number:	Email Address:

Please provide below information on the City employee about whom you are reporting below:

Name of Employee:	Title:
Employee's Agency:	Start Date with Agency:
Duties and Responsibilities:	

Type of Violation (check all that apply):

- | | | |
|---|---|---|
| <input type="checkbox"/> Moonlighting | <input type="checkbox"/> Ownership Interest | <input type="checkbox"/> One-Year Post-Employment Ban |
| <input type="checkbox"/> Gifts/Honoraria | <input type="checkbox"/> Use of City Position | <input type="checkbox"/> Use of City Resources |
| <input type="checkbox"/> Volunteer Activities | <input type="checkbox"/> Political Activities | <input type="checkbox"/> Solicitation of Employment |
| <input type="checkbox"/> Other: _____ | | |

Description of Violation:

--

Please describe any agency action taken thus far (if applicable):

--

Flowchart of "Referral Back" Process

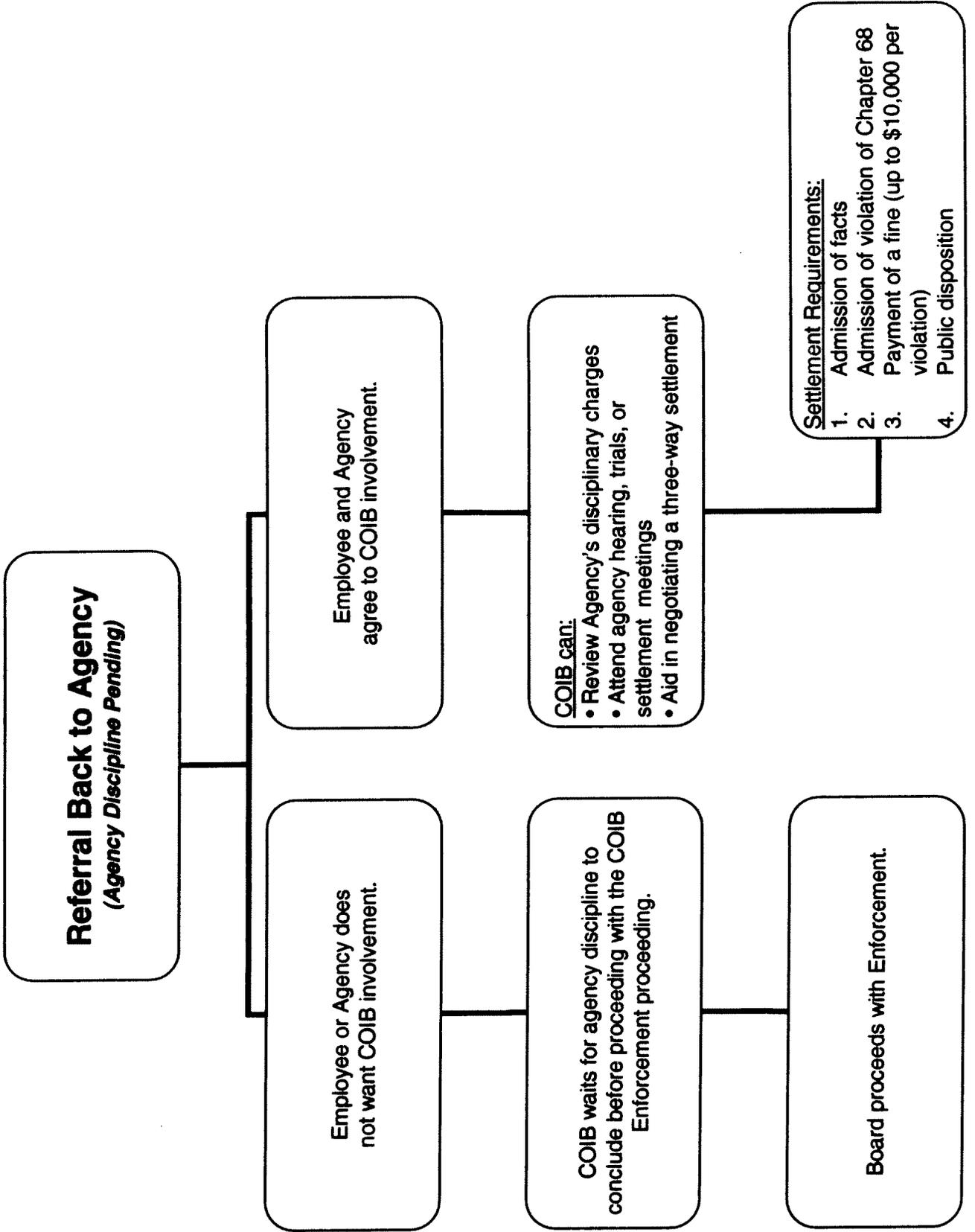


EXHIBIT 9
CHAPTER 68 ENFORCEMENT CASES

	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
New Complaints	29	50	64	63	81	148	124	221	346	307
Cases Closed	33	32	54	76	83	117	152	179	243	266
Dispositions Imposing Fines	1	1	2	9	4	10	9	6	3	6
Public Warning Letters	0	1	0	0	0	2	2	0	0	0

	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
New Complaints	370	330	466	510	445	526	441	437	506	488
Cases Closed	234	557	426	508	476	523	507	446	508	524
Dispositions Imposing Fines	11	21	62	136	98	74	66	89	67	78
Public Warning Letters	1	6	26	16	23	37	19	14	29	17

CITYADMIN



**New York City
Conflicts of Interest Board**
2 Lafayette Street, Suite 1010
New York, NY 10007
(212) 442-1400

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Decision - IN THE MATTER OF NORMAN WHITLOW

IN THE MATTER OF NORMAN WHITLOW

COIB CASE NO. **2005-590** ▶

April 3, 2006

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

STIPULATION AND DISPOSITON

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

Norman Whitlow states the following:

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

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

Charter § 2601(19).

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

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

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

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

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

[Section 2604(b)(3)]

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

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

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

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

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

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

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

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

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

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

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

Dated: March 3, 2006 _____/s/ _____

Norman Whitlow

Respondent

Dated: March 13, 2006 _____/s/ _____

Judy Nathan, Esq.

First Deputy Counsel to the Chancellor

NYC Department of Education

By: Theresa Europe, Esq.

.

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

Chair

NYC Conflicts of Interest Board

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New York City Officers and Employees¹ Required to File
Annual Statements of Financial Disclosure
Under New York State Mandate and New York City Law

	New York State Mandate (NYS Gen. Mun. Law § 811(1))	New York City Law (as of 1/1/14) (NYC Ad. Code § 12-110)
1.	Elected officials (<i>see</i> § 810(2))	Elected officers (mayor, public advocate, Council members, borough presidents, comptroller, district attorneys) (§ 12-110(b)(1))
2.	Heads of agencies, departments, divisions, councils, boards, commissions, and bureaus and their deputies and assistants (<i>see</i> § 810(3))	Agency heads, deputy agency heads, assistant agency heads, & members of City boards and commissions (§ 12-110(b)(3)(a)(1))
3.	Officers and employees holding policy-making positions (“contracting employees”) (<i>see</i> § 810(3))	(a) Members of City boards and commissions (§ 12-110(b)(3)(a)(1)) ² (b) City employees in management pay plan in levels M4 and above (§ 12-110(b)(3)(a)(3)) ³ (c) Policymakers (§ 12-110(b)(3)(a)(2), (3))
4.	Non-policy-makers whose duties involve negotiation, authorization, or approval of certain documents or actions (<i>see</i> § 813(9)(k))	Employees whose duties involve negotiation, authorization, or approval of contracts, leases, franchises, revocable consents, concessions, or applications for zoning changes, variances, or special permits (§ 12-110(b)(3)(a)(4))
5.	Tax assessors (RPTL § 336)	Tax assessors (§ 12-110(b)(3)(a)(5))
6.	Members, officers, and employees of City-affiliated local public authorities (“PAAA filers”) (Pub. Auth. Law § 2, 2825(3))	Members, heads, deputy heads, assistant heads, policymakers, contracting employees of City-affiliated public authorities (§ 12-110(b)(3)(a)(6))

¹ State and City law also require filing by local political party officials and candidates for elective City office. *See* NYS Gen. Mun. Law §§ 810(6), 811(1)(a)-(b), 812(1); NYC Ad. Code §§ 12-110(b)(1), 12-110(b)(2). “Local political party official” is defined in NYS Gen. Mun. Law § 810(6); NYC Ad. Code § 12-110(a)(11).

² Tax assessors file a shorter form than other filers; uncompensated members of City boards and commissions and PAAA filers file a short form. *See* NYC Ad. Code §§ 12-110(b)(1), 12-110(d).

³ Mayor’s office, Council, and DA employees: independent exercise of managerial or policymaking functions (§ 12-110(b)(3)(a)(2)).

[Training: Website Ethics Link: FD Filers March 2013]

EXHIBIT 12 ANNUAL DISCLOSURE REPORTS

Reporting Year ¹ ("R.Y.")	Number of Reports Required for R.Y.	Reports Filed for R.Y.	Compliance Rate for R.Y. ²	Number of Fines Waived for R.Y.	Number of Fines Paid for R.Y.	Amount of Fines Paid for R.Y.	Current Non-Filers for R.Y. Act.Inact. ³		Current Non-Payers for R.Y. Act.Inact.	
2008*	7,866	7,676	97.9%	117	42	\$13,625	0	63	0	43
2009*	7,921	7,763	98.7%	67	61	\$20,550	0	54	0	52
2010*	8,244	8,089	98.1%	63	51	\$17,250	0	67	0	92
2011*	8,239	8,117	98.8%	64	44	\$15,250	0	63	0	68
2012*	8,805	8,615	98.1%	123	63	\$24,500	0	83	0	73
2013	9,050	8,827	97.7%	89	36	\$13,000	10	122	10	80
TOTALS	50,125	49,087	98.2%	523	297	\$104,175 ⁴	10	452	10	408

¹ The reporting year is the year to which the annual disclosure report pertains; the report is submitted the following calendar year.

² Includes those individuals who have appealed their agency's determination that they were required filers.

³ "Act." indicates active City employees; "inact." indicates inactive City employees.

⁴ The total amount of fines collected since the Board assumed responsibility for annual disclosure in 1990 is \$621,448.

* The numbers reported in this chart have been updated to reflect activity since the 2013 annual report.

CITY OF NEW YORK
CONFLICTS OF INTEREST BOARD

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

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

of appeals, dates of notices of non-filing, etc.);

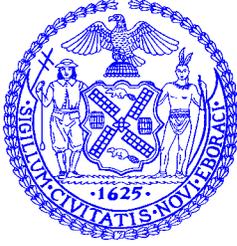
12. Repeatedly check the database against the financial disclosure reports filed (name, employee identification number, agency, and date filed) and check that reports are filed in the correct location ("sweeps");
13. Review all reports for completeness, notify filers of incomplete reports, and provide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

non-payers;

25. Litigate non-filer/non-payer cases against agencies' employees (draft documents, negotiate settlements and draft settlement agreements, prepare and try cases);

Other Activities

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



CITY OF NEW YORK
CONFLICTS OF INTEREST BOARD

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

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

To: Electronic Financial Disclosure Filers

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

Date: March 29, 2006

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

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

1. Security Features

A. Security Testing

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

B. Deletion of Social Security Numbers

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

C. Higher Security in the Transmission of Information to COIB

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

2. Convenience Features

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

A. Remote Access

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

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

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

C. Instructions are Integrated into the Report

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

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

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

E. Forms of Assistance

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

3. The Process, in a Nutshell

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

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

4. The Filing Schedule

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

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

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

EXHIBIT 3
TRAINING AND EDUCATION CLASSES ON CHAPTER 68

<u>Year</u>	<u>DOE Classes</u>	<u>Other Agency Classes</u>	<u>Total Classes¹</u>
1996	0	30	30
1997	0	90	90
1998	10	53	63
1999	23	69	92
2000	221	156	377
2001	116	74	190
2002	119	167	286
2003 ²	43	139	182
2004	119	169	288
2005	80	162	242
2006 ³	43	151	194
2007	75	341	416
2008	51	484	535
2009 ⁴	33	253	286
2010 ⁵	9	270	279
2011	21	297	318
2012 ⁶	34	307	341
2013	18	524	542
2014	320	279	599

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 mandated layoffs, the Board had no Training and Education Unit and therefore no training and education classes from May 15 to October 15, 2003.

³ From December 2005 to September 2006, the Training and Education Unit had an effective staff of one, as the Senior Trainer position was vacant from December 2005 to mid-July 2006, and the new trainer then needed to be trained before he could begin teaching classes.

⁴ For five months during 2009 the Unit had a staff of only one.

⁵ For eight months during 2010 the Unit had a staff of only one.

⁶ The Unit's compliment was expanded from two to four in July 2012.

EXHIBIT 4

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.

2007	2008	2009 ¹	2010 ²	2011	2012 ³	2013	2014
Buildings DCAS DDC DOHMH Education FDNY Finance FISA HHC NYCHA TLC CCRB Community Boards DCP DoITT DYCD EDC HPD HRA NYCERS NYPD Parks	Buildings DCAS DDC Education OATH/ECB Health Sanitation TLC ACS Aging City Council Community Boards Correction DoITT EDC Finance Fire Dept. Law MOCS NYCERS NYCHA	Buildings City Council DCAS DoITT Education FISA NYCHA TLC CCHR CCRB Community Boards DCA DDC DOHMH DOF DOT DPR DSNY DYCD EDC FDNY HRA NYCERS OATH SBS	Buildings City Council DCAS DOF DOT HRA Not-for-profits Receiving Discretionary Grants Bronx Borough President Community Boards DDC DOHMH DoITT DPR FDNY HHC HPD	Buildings City Council DCAS DDC DOE DOF OATH SCA Community Boards DOHMH DoITT DYCD EDC FDNY HRA Manhattan BP MOCS NYCERS Not-for-profits Receiving Discretionary Grants OEM SBS	ACS City Council Comptroller DCAS DOE DOHMH DOT HRA NYCERS TLC Borough President (M) Community Boards DDC DEP DOB DOF DoITT DSNY EDC FDNY FISA OLR Police Pension Richmond Cty. DA's Office	ACS City Council BOE BoERS DA (M) DCAS DDC DFTA DHS DOB DOE DOF DoITT DOT DOT HRA SCA TRS Parks Community Boards DA - Bx DEP DOHMH DSNY DYCD EDC FDNY HDC MOCS OEM OPA	City Council Community Boards Comptroller DDC DOE DOF DOHMH DoITT DOT HRA Parks COIB DA - M DCAS DEP DOB DOC DSNY EDC FDNY Mayor's Office Mayor's Office Vs. Domestic Violence NYCHA OEM Public Advocate SBS
Agencies Holding One or Two Classes: 39	Agencies Holding One or Two Classes: 23	Agencies Holding One or Two Classes: 24	Agencies Holding One or Two Classes: 20	Agencies Holding One or Two Classes: 16	Agencies Holding One or Two Classes: 17	Agencies Holding One or Two Classes: 13	Agencies Holding One or Two Classes: 17
Total Classes: 416	Total Classes: 535	Total Classes: 286	Total Classes: 279	Total Classes: 318	Total Classes: 341	Total Classes: 542	Total Classes: 599

¹ For five months during 2009 the Unit had a staff of one.

² For eight months during 2010 the Unit had a staff of one.

³ The Training Unit's compliment was expanded from two to four in July 2012.

<http://nyc.gov/ethics>

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NYC Conflicts of Interest Board

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- Law & Publications
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COIB News

West 45th Housing Lottery Applicants
If you are applying for housing through the West 45th Lottery and need a letter from the Conflicts of Interest Board, you must fill out and submit a Letter Request Form. Click [this link](#) to download a version of the form in PDF format, and [this link](#) for a version of the form in MS Word format. The text of the form contains further instructions for submitting your letter request to COIB.

- Book a Class »
- Get Legal Advice »
- File a Complaint »
- File an AD Report »

Quick Links

- Advisory Opinions & Enforcement Dispositions
- Annual Disclosure
- Breakdowns of Conflicts of Interest by Topic
- Guides for Lawyers
- Plain Language Materials
- Interactive Exercises
- Videos

File Edit View Favorites Tools Help
X Convert Select
MNR Schedules Google Maps CAP Capital New York Politics, amazon.com AOL CityShare

New Video Series
The Conflicts of Interest Board announces a new web-series, *Ethics Express: Conflicts of Interest Explained in Five Minutes or Less*. This series of short videos takes a thoughtful, talk-show-style approach to explaining basic principles of the City's Conflicts of Interest Law. Watch the first installment on Political Activities below, and stay tuned for more!



Financial Disclosure Filers Leaving City Service
Financial disclosure filers who are leaving City service are required to file their final financial disclosure report within 60 days of separation from service or on the date designated for filing, whichever is earlier. In order to receive their final paycheck or final lump sum payment, public servant filers who have separated from City service must be certified by the Conflicts of Interest Board as having filed all Financial Disclosure reports and paid any fines. Please contact your agency's financial disclosure liaison for additional information.

- http://www.nyc.gov/html/conflicts/downloads/pdf2/fd%20docs/agency_contacts_for_financial_disclosure.pdf (in PDF)

Proposed Charter Amendments

NYC Charter Section 2602(j) requires that the Conflicts of Interest Board periodically recommend to the NYC Council such revisions to Chapter 68 of the Charter, the City's conflicts of interest (ethics) law, as the Board "may consider appropriate or desirable." [Click here](#) to see the Board's proposals.

Services

Introduction to Chapter 68

Want to know exactly what a "conflict of interest" is as defined by Chapter 68 of the City Charter?

- [Read Chapter 68 of the City Charter \(in PDF\)](#)
- [A Plain Language Guide to Chapter 68 \(in PDF\)](#)
- [A Brief Overview of Chapter 68 \(in PDF\)](#)

Policymaker Lists

Below you will find a link to a page that hosts a list of all public servants deemed by their respective agencies to be "policymakers."

- [Policymaker Lists](#)

COIB Documents

Certain COIB documents are available to the public. Click the link below for a list of those documents and an explanation of how to access them.

- [List of Public COIB Documents \(in PDF\)](#).

Training Video

The Training & Education Unit has created an entertaining and informative video that covers the basic requirements of the Conflicts of Interest Law. The video has been broken into segments which can be viewed by clicking on the link to our "Multimedia" page below.

- [Go to the Training Video on the Supplementary Materials Page](#)

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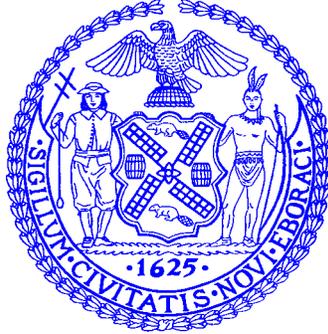
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