



Enforcement

Q. What is the Conflicts of Interest Board?

A. The Board is an independent body whose five members are appointed by the Mayor with the advice and consent of the City Council. It enforces both the City's financial disclosure law and the ethics law, Chapter 68 of the City Charter (known as the conflicts of interest law.) The conflicts of interest law is intended to "preserve the trust placed in public servants" and contains rules regarding abuse of office, gifts, second jobs, ownership interests, post-employment restrictions, volunteer activities for non-profits, and political activities. The law applies to over 300,000 City employees, including employees of the Department of Education.

Q. I thought the Board just gave advice and held training classes.

A. It is the Board's highest priority to educate the City workforce about the law by holding training sessions and seminars, as well as answering questions by phone and by mail about the possible conflicts that may arise between a public servant's private needs and public responsibilities. However, there is a strong need for enforcement in cases where the law has been broken.

Q. What are the steps in an enforcement case?

A. There are five steps: (1) investigation, (2) notice of probable cause and response, (3) petition and answer, (4) hearing, and (5) Board decision.

Q. How do you catch people breaking the ethics law?

A. Reports of alleged wrongdoing come from co-workers, subordinates, supervisors, the media, and members of the public. We also get information as a result of investigations into related matters.

Q. How are investigations carried out?

A. Based on the information it receives, the Board may, when appropriate, dismiss the complaint, or it may direct the Department of Investigation to investigate the allegations. DOI will report back to the Board confidentially on its findings.

Q. What happens next?

A. The Board will decide whether there is “probable cause” to believe a violation occurred. If there is insufficient or no evidence to support the charges, the case will probably be closed. If there is probable cause, however, the Board will send a confidential written notice to the alleged offender that the Board has probable cause to believe a violation has occurred. If, after reviewing the alleged offender’s response, the Board still believes probable cause exists, the Board will serve a confidential petition, which the alleged offender will answer. The Board will direct that a hearing be held at the New York City Office of Administrative Trials and Hearings (OATH), which makes recommendations to the Board, after which the Board will issue a final order.

Q. Does the alleged law-breaker get to defend himself?

A. Due process is a guarantee. The alleged offender may respond to the charges in writing and may be represented by an attorney or any other representative of his/her choosing.

Q. What kind of evidence is required to justify bringing such a case?

A. By the time it gets to OATH, the Board’s enforcement unit must have assembled a bona fide case, often requiring witnesses who have personal knowledge of violations as well as physical documentation of

the alleged violation. Rumors (“Everyone said he did it”) and newspaper articles or editorials (“CITY WORKERS STEALING FROM PUBLIC”) are not enough.

Q. Are these hearings open to the public?

A. No. These hearings are not open to the public unless requested by the accused public servant. Hearings generally follow a standard procedure, complete with opening and closing statements, witnesses’ testimony under oath, as well as documentary evidence. OATH will issue a confidential, non-binding written report and recommendation, which the Board will consider before issuing its order and findings. If the Board finds no violation, the order is not made public. If the Board does find a violation, however, the order and final findings are made public.

Q. Can a charged public servant “settle out of court”?

A. At any point it is possible to dispose of the case by agreement. The agreement will necessarily contain the public servant’s acknowledgment of the violation and will be made public.

Q. What are the penalties for such violations?

A. Violations of either the conflicts of interest law or the rules regarding financial disclosure are misdemeanors and may result in:

- ▶ Civil fines up to \$25,000.
- ▶ Disgorgement: the Board may require a person who profited from violating the law to pay all profits to the city in addition to paying any fine that has been levied.
- ▶ Possible suspension or removal from office.
- ▶ Voiding a contract or transaction (if applicable).
- ▶ Charges in criminal proceedings by a District Attorney’s office, which may lead to forfeiture of public office or employment, criminal fines, and imprisonment up to one year.

In addition, conviction for buying public office leads to a lifetime ban from being elected, appointed, or employed in City service.

FOR ADDITIONAL INFORMATION, CONTACT

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OR VISIT THE BOARD'S WEB SITE AT
<http://nyc.gov/ethics>

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