

**Political Fundraising and Other Political Activities (excerpt from the ‘Political Activities’ chapter of the Board’s Monograph)**

**1. Solicitation of Political Activity**

Public servants are prohibited from coercing or attempting to coerce other public servants to engage in political activities and from requesting any subordinate public servant to engage in political activities or participate in a political campaign.

<sup>1</sup> In 2007, the Board fined a former Assistant Commissioner at the New York City Department of Sanitation \$2,000 for, among other violations, recruiting his subordinates to work on a mayoral campaign.<sup>2</sup> For purposes of this Charter section, participation in a political campaign includes managing or aiding in the management of a campaign, soliciting votes or canvassing voters for a particular candidate, or performing any similar acts that are unrelated to the public servant's official duties or responsibilities.

Nothing in this provision prohibits a public servant from requesting a subordinate to speak on behalf of a candidate or provide information, if such acts are related to the person's duties or responsibilities. For example, a policy analyst may be required by the elected official for whom he or she works to prepare talking points of the highlights of the official's record, notwithstanding that the official is campaigning for re-election and plans to integrate the talking points into a campaign speech or into campaign literature.

In Advisory Opinion Number 95-24, the Board decided that City Council Members may use City employees and resources in conducting non-partisan voter registration drives, provided that the drive is conducted in a manner that makes clear that the drive is not designed to promote private political interests.

**2. Buying City Office or Employment**

A public servant may not allot a portion of his or her salary, or give or promise to give anything of value, to any person "in consideration of having been or being nominated, appointed, elected or employed as a public servant."<sup>3</sup> This provision prevents public servants from paying to obtain their City employment.

**3. Soliciting Political Contributions**

Public servants are prohibited from directly or indirectly compelling, inducing, or requesting any person to make political contributions under threat of prejudice, or promise of advantage, to job-related status or function or to request any subordinate public servant to make any political contribution.<sup>4</sup> Nothing prohibits public servants from voluntarily making political contributions, however.

In a 2000 Board enforcement case, a principal at the Board of Education admitted to violating Charter § 2604(b)(11)(c) by selling, to a subordinate teacher during school hours on school grounds,

tickets that were worth a total of \$80 for a political fundraiser supporting a community school board candidate and agreed to pay a \$2,500 fine to the Board.<sup>5</sup>

In Advisory Opinion Number 2001-2, the Board considered the Chapter 68 implications of several members of the now-abolished community school boards running for City elective office, particularly with respect to their efforts to raise campaign funds from Board of Education (“BOE”) employees. The Board determined that the members’ only subordinates, and therefore the only public servants from whom Charter § 2604(b)(11)(c) prohibited the members from soliciting campaign contributions, were their district superintendent and the school board secretary. The Board further determined, however, that it would violate Charter § 2604(b)(3) for the community school board members to “target” BOE personnel *from their community school district* for contributions. Prohibited “targeted” fundraising includes face-to-face requests, requests sent to an employee’s BOE workplace, and requests that identify the recipient by BOE title or position. Requests to a general mailing list that happens to contain names of some BOE employees will not violate Chapter 68.

**Outside Work for or with One’s Superior or Subordinate (excerpt from the ‘Outside Activities’ Chapter of the Board’s Monograph)**

The Charter prohibits superior and subordinate public servants from entering into a business or financial relationship with each other.<sup>6</sup> This means, for example, that a City employee and his or her subordinate may not become partners in a business; that one may not work for the other in an outside business; and that one may not borrow money from the other. The Board fined a City employee \$2,800 for preparing, for compensation, the income tax returns of several of his subordinates.<sup>7</sup> Conversely, the Board fined a City employee \$1,250 for preparing the tax returns of her superior for four years, for which the superior paid her approximately \$250 per year.<sup>8</sup> In its comprehensive opinion on the outside practice of law, Advisory Opinion Number 2001-3, the Board stated that it would violate the Charter for a public servant to provide legal services to his or her superior or subordinate, whether compensated or uncompensated. The Board fined a Deputy Chief Administrative Law Judge (“ALJ”) at the Parking Violations Bureau for the New York City Department of Finance \$1,450 for accepting from his subordinate ALJ in the Parking Violations Bureau free legal representation in connection with his divorce. The subordinate ALJ was fined \$750.<sup>9</sup>

The prohibition, while serving, among other purposes, to protect subordinates from coercion from superiors, will thus in the appropriate case result in penalties for the subordinate as well as the superior. In 2006, the Board fined both a supervising mechanic *and* his subordinate mechanic (\$750 for the former and \$460 for the latter) for engaging in a prohibited superior-subordinate financial relationship. The subordinate sold a vintage Corvette to his superior for \$14,000 and also performed a brake repair, for \$400, on another car owned by the superior.<sup>10</sup>

In 2007, the Board fined a former supervisor of roofers at the New York City Department of Education \$2,000 for recommending three of his subordinate roofers for private roofing work

and then accepting commissions for his referrals.<sup>11</sup> In 2008, the Board fined a former Captain of the New York City Police Department (“NYPD”) \$5,000 for using six subordinates to perform work on his private residence. The former NYPD Captain acknowledged that, from in or around 2002 through 2003, he asked six NYPD subordinates to perform remodeling and landscaping work around his home and compensated some of those subordinates for their work. In setting the amount of the fine, the Board took into consideration that the former NYPD Captain forfeited terminal leave valued at approximately \$37,000 as a result of departmental charges pending against him at the time of his retirement, which charges arose, in part, out of the same facts recited above.<sup>12</sup>

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<sup>1</sup> Charter § 2604(b)(9).

<sup>2</sup> *COIB v. Russo*, COIB Case No. 2001-494 (2007).

<sup>3</sup> Charter § 2604(b)(10).

<sup>4</sup> Charter § 2604(b)(11).

<sup>5</sup> *COIB v. Rene*, COIB Case No. 1997-237 (2000).

<sup>6</sup> Charter § 2604(b)(14).

<sup>7</sup> *COIB v. Guttman*, COIB Case No. 2004-214 (2005).

<sup>8</sup> *COIB v. Ennis*, COIB Case No. 2010-276a (2011).

<sup>9</sup> *COIB v. Keeney*, COIB Case No. 2007-565 (2009); *COIB v. Horowitz*, COIB Case No. 2007-565a (2009).

<sup>10</sup> *COIB v. Marchesi*, COIB Case No. 2005-271 (2006); *COIB v. Parlante*, COIB Case No. 2005-271a (2006).

<sup>11</sup> *COIB v. Della Monica*, COIB Case No. 2004-697 (2007).

<sup>12</sup> *COIB v. Byrne*, COIB Case No. 2005-243 (2008).