Post-Employment: Relevant Sections of Chapter 68 and Board Rules

§2601. Definitions.

2. “Agency” means a city, county, borough or other office, position, administration, department, division, bureau, board, commission, authority, corporation, advisory committee or other agency of government, the expenses of which are paid in whole or in part from the city treasury, and shall include but not be limited to, the council, the offices of each elected official, the board of education, community school boards, community boards, the financial services corporation, the health and hospitals corporation, the public development corporation, and the New York city housing authority, but shall not include any court or any corporation or institution maintaining or operating a public library, museum, botanical garden, arboretum, tomb, memorial building, aquarium, zoological garden or similar facility.

3. "Agency served by a public servant" means (a) in the case of a paid public servant, the agency employing such public servant or (b) in the case of an unpaid public servant, the agency employing the official who has appointed such unpaid public servant unless the body to which the unpaid public servant has been appointed does not report to, or is not under the control of, the official or the agency of the official that has appointed the unpaid public servant, in which case the agency served by the unpaid public servant is the body to which the unpaid public servant has been appointed.

4. "Appear" means to make any communication, for compensation, other than those involving ministerial matters.

15. "Ministerial matter" means an administrative act, including the issuance of a license, permit or other permission by the city, which is carried out in a prescribed manner and which does not involve substantial personal discretion.

17. "Particular matter" means any case, proceeding, application, request for a ruling or benefit, determination, contract limited to the duration of the contract as specified therein, investigation, charge, accusation, arrest, or other similar action which involves a specific party or parties, including actions leading up to the particular matter; provided that a particular matter shall not be construed to include the proposal, consideration, or enactment of local laws or resolutions by the council, or any action on the budget or text of the zoning resolution.

18. "Position" means a position in a firm, such as an officer, director, trustee, employee, or any management position, or as an attorney, agent, broker, or consultant to the firm, which does not constitute an ownership interest in the firm.

§2604. <u>Prohibited interests and conduct</u>.

a.

5. For the purposes of this subdivision, the agency served by

(a) an elected official, other than a member of the council, shall be the executive branch of the city government,

(b) a public servant who is a deputy mayor, the director to the office of management and budget, commissioner of citywide administrative services, corporation counsel, commissioner of finance, commissioner of investigation or chair of the city planning commission, or who serves in the executive branch of city government and is charged with substantial policy discretion involving city-wide policy as determined by the board, shall be the executive branch of the city government,

(c) a public servant designated by a member of the board of estimate to act in the place of such member as a member of the board of estimate, shall include the board of estimate, and

(d) a member of the council shall be the legislative branch of the city government.

d. Post-employment restrictions.

1. No public servant shall solicit, negotiate for or accept any position (i) from which, after leaving city service, the public servant would be disqualified under this subdivision, or (ii) with any person or firm who or which is involved in a particular matter with the city, while such public servant is actively considering, or is directly concerned or personally participating in such particular matter on behalf of the city.

2. No former public servant shall, within a period of one year after termination of such person's service with the city, appear before the city agency served by such public servant; provided, however, that nothing contained herein shall be deemed to prohibit a former public servant from

making communications with the agency served by the public servant which are incidental to an otherwise permitted appearance in an adjudicative proceeding before another agency or body, or a court, unless the proceeding was pending in the agency served during the period of the public servant's service with that agency. For the purposes of this paragraph, the agency served by a public servant designated by a member of the board of estimate to act in the place of such member as a member of the board of estimate, shall include the board of estimate.

3. No elected official, nor the holder of the position of deputy mayor, director of the office of management and budget, commissioner of citywide administrative services, corporation counsel, commissioner of finance, commissioner of investigation or chair of the city planning commission shall, within a period of one year after termination of such person's employment with the city, appear before any agency in the branch of city government served by such person. For the purposes of this paragraph, the legislative branch of the city consists of the council and the offices of the council, and the executive branch of the city consists of all other agencies of the city, including the office of the public advocate.

4. No person who has served as a public servant shall appear, whether paid or unpaid, before the city, or receive compensation for any services rendered, in relation to any particular matter involving the same party or parties with respect to which particular matter such person had participated personally and substantially as a public servant through decision, approval, recommendation, investigation or other similar activities.

5. No public servant shall, after leaving city service, disclose or use for private advantage any confidential information gained from public service which is not otherwise made available to the public; provided, however, that this shall not prohibit any public servant from disclosing any information concerning conduct which the public servant knows or reasonably believes to involve waste, inefficiency, corruption, criminal activity or conflict of interest.

6. The prohibitions on negotiating for and having certain positions after leaving city service, shall not apply to positions with or representation on behalf of any local, state or federal agency.

7. Nothing contained in this subdivision shall prohibit a former public servant from being associated with or having a position in a firm which appears before a city agency or from acting in a ministerial matter regarding business dealings with the city.

e. Allowed positions.

A public servant or former public servant may hold or negotiate for a position otherwise prohibited by this section, where the holding of the position would not be in conflict with the purposes and interests of the city, if, after written approval by the head of the agency or agencies involved, the board determines that the position involves no such conflict. Such findings shall be in writing and made public by the board.

RULES OF THE CITY OF NEW YORK
TITLE 53

§1-07 Definition of Agency Served by a Former Public Servant.

For the purposes of Charter §2604(d)(2), when a former public servant has served more than one agency within one year prior to the termination of such person's service with the City, the former public servant shall not appear before each such City agency for a period of one year after the termination of service from each such agency.

§1-12 Definition of "Particular Matter" for Tax Commissioners and Certain Other Public Servants in the Tax Commission, Department of Finance, Comptroller's Office, and Law Department in Relation to Real Estate Tax Assessments.

(a) Pursuant to City Charter **§**2604(d)(4), no former public servant who has served on or been employed by the Tax Commission, the Department of Finance, the Comptroller's Office, or the Law Department shall appear, whether paid or unpaid, before the City, or receive compensation for any services rendered, in relation to a proceeding involving a tax year or the immediately subsequent tax year for a given parcel of property with respect to which the public servant engaged in one or more of the activities described in subdivision (b).

(b) Subdivision (a) shall apply with respect to a parcel and tax year about which the former public servant: (1) heard an application for correction of assessment for taxation ("protest") from any real estate tax assessment; or (2) reviewed any proposal to settle or offer to reduce the assessment with respect to any such protest; or (3) participated personally and substantially in (i) the preparation or review of an appraisal, (ii) the

review, analysis, or recommendation of a real estate tax assessment, or (iii) the conducting of a tax *certiorari* proceeding, which shall include but not be limited to its negotiation, settlement, trial, or review.