

CITY OF NEW YORK
CONFLICTS OF INTEREST BOARD

ANNUAL REPORT
2005

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INTRODUCTION

In 2005, the Conflicts of Interest Board (“COIB”) celebrated its fifteenth anniversary and the forty-sixth anniversary of its predecessor agency, the Board of Ethics. The Board was created in 1990 by Chapter 68 of the revised New York City Charter – the City’s Conflict of Interest Law applicable to more than 300,000 public servants of the City of New York (<http://www.nyc.gov/html/conflicts/downloads/pdf/bluebook.pdf>). Chapter 68 invests the Board with four broad responsibilities: (1) training and educating City officials and employees about Chapter 68's ethical standards; (2) interpreting Chapter 68 through the issuance of formal advisory opinions, the promulgation of rules, and the response to requests from current and former public servants for advice and guidance; (3) prosecuting violators of Chapter 68 in administrative proceedings; and (4) administering and enforcing the City's financial disclosure law.

This report reviews the Board's activities in each of the following areas during 2004: (1) members and staff of the Board; (2) training and education; (3) requests for guidance and advice; (4) administrative rules; (5) enforcement; (6) financial disclosure; and (7) budget, administration, and information technology.

1. MEMBERS AND STAFF OF THE CONFLICTS OF INTEREST BOARD

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

Steven B. Rosenfeld, a partner in the law firm of Paul, Weiss, Rifkind, Wharton & Garrison, was appointed to the Board in May 2002 and was named Chair in June 2002. Jane W. Parver, a partner at Kaye, Scholer, Fierman, Hays & Handler, was appointed to the Board in August 1994 and was reappointed in May 2002. Angela Mariana Freyre, Senior Vice President and Deputy General Counsel of Nielsen Media Research, Inc., was appointed to the Board in October 2002. Monica Blum, President of the Lincoln Square Business Improvement District, was appointed to the Board

in August 2004. Andrew Irving, Senior Vice President and General Counsel of Independent Fiduciary Services, Inc., was appointed to the Board in March 2005, replacing Bruce A. Green, a professor at Fordham University School of Law.

The Board's staff, which budget cuts have slashed by 19% since 2002 (from 23^{3/5} to 19), is divided into six units: Training and Education, Legal Advice, Enforcement, Financial Disclosure, Administration, and Information Technology. The staff, listed in Exhibit 1, is headed by the Executive Director, Mark Davies.

2. TRAINING AND EDUCATION

Training Sessions

As reported in Exhibit 2, in 2005 the Board conducted 242 training classes for public servants throughout City government, including 80 classes for the Department of Education. The slight decrease from the number of classes taught in 2004, when the number reached a near record of 288 classes, is explained by three factors. First, the Board's outreach to DOE schools has been hampered by the Department-wide standardization of professional development scheduling, which has moved faculty conferences in *every* school to Mondays at approximately 3 p.m. In fact, the drop in overall classes in 2005 came almost exclusively from DOE classes, the number of classes at other agencies having held relatively constant from 2004 to 2005. Second, the unit focused more resources on non-teaching ethics outreach, such as the website and publications. Third, the departure of unit's Director effectively limited the unit to one trainer, thus severely restricting the numbers of classes held in December. Despite a small decrease (16%) in classes taught for the year, the unit, with a staff of two, was able to restore the functions that existed in 2002, when training staff numbered 4^{3/5}. In short, the Training and Education Unit traded a few classes this year for a diversification of its services. In all, as summarized in Exhibit 3, COIB classes reached approximately 11,858 City employees in 34 City agencies and offices during 2005.

The Board's classes are interactive and engaging, explaining the basis and requirements of the law in plain language and letting public servants know how they can get answers regarding their specific situations. The sessions, which are often tailored to the specific agency or employees, can

include games, exercises, and ample opportunities for questions. For example, in 2005 COIB was invited to speak at information sessions for new members of community boards in the several borough offices. Much of the material focused on voting issues, such as when to disclose and when to recuse, as well as on specific questions about misuse of position that arise for community board members and their staffs. The feedback received from class participants continues to be virtually all positive, and usually quite enthusiastic.

In 2005, the Board's attorneys continued, with the Training and Education staff, to present a two-hour continuing legal education (CLE) class to City attorneys, including one class hosted by the Law Department that was open to attorneys from all City agencies. This is a continuation of a model started in 2004. COIB attorneys and Training staff also continued to write materials on Chapter 68 for publication, both in-house and for outside publications. While no longer writing for the *Public Employees' Press*, COIB staff have started a monthly column, "Ask the City Ethicist," that runs monthly in *The Chief*. This change is a positive one for the column, as *The Chief* is not only the more prominent publication, but it has have agreed to print 700-800 words per month, as compared with 200 words in *Public Employees Press*. 2005 also saw the resurrection of a more streamlined COIB newsletter, *The Ethical Times*, which features a simpler, black-and-white, two-page format with articles and summaries of recent advisory opinions and enforcement dispositions. This new *Ethical Times* was slated for semi-annual publication but has received so much positive feedback that the Board has decided to make it a quarterly publication. Internet and email have permitted virtually cost-free citywide distribution of the newsletter to general counsels and agency heads. Several agencies have reported that they have distributed it electronically to their entire staff.

"Train the Trainer"

In support of the Board's ongoing "Train the Trainer" initiative – a program in which the Board offers support to agencies that have chosen to conduct their own Chapter 68 training classes – the Training and Education Unit continued hosting its Brown-Bag Lunch series, a monthly lunch discussion group that takes a close look at specific areas of the conflicts of interest law. Participants included the training staff of several agencies who are involved in teaching ethics, as well as attorneys who work directly with

Chapter 68 issues at their agencies. This very successful program will continue in 2006.

Department of Education

The Board's training activities at the Department of Education (DOE) decreased in 2005, mostly because, as noted above, almost all faculty development in the Department now takes place throughout the City at the same time during the week. Briefings at regional principals' conferences, given by the COIB in conjunction with the DOE Ethics Officer, continued in 2005 and have kept requests for classes coming in almost daily. Meanwhile, almost all Monday afternoons between January 2006 and June 2006 are already booked with classes for DOE faculty. The COIB hopes that the new labor agreement between teachers and DOE, which goes into effect in February, will offer the Training and Education Unit more flexibility in scheduling classes at schools. Additionally, the unit will conduct a new series of trainings for Aspiring Principals in 2006. The Board's Training and Education Unit held 100 classes at DOE during the 2004-2005 school year, conducted 36 classes at DOE from June to December, and at year-end was scheduled to complete 58 classes for the 2005-2006 school year, with more requests for training every week.

Website, Publications, and Media Outreach

As a result of the layoff of the Board's website coordinator in May 2003, the agency has not been able to overhaul that critical educational resource. In particular, the Board has been forced to postpone indefinitely the development of an interactive Chapter 68 Ethics Certification Program, which would have permitted ethics officers, ethics liaisons, agency counsel, and others to learn about Chapter 68 in detail, at their own pace, by working through two dozen training modules on line and then, upon successfully answering quizzes, obtain certification of their expertise in the City's ethics law. However, regular publications maintenance and improvement of site design continue, as the unit strives to make the site as accessible as possible for those unfamiliar with Chapter 68, as well as for those who deal with it on a regular basis.

The Internet remains one of the most essential tools for Chapter 68 outreach. Indeed, in 2005 the Board's website (<http://nyc.gov/ethics>) had 243,193 visitors and 427,272 views. The number of visits represents nearly

a 67% increase from 2004. The Board hopes, if possible, to continue to post new publications on the website, so that in the future, as in the past, every Board publication, including the texts of Chapter 68, the Board's rules, and the financial disclosure law and all of COIB booklets and leaflets, are available to be downloaded from the website (<http://www.nyc.gov/html/conflicts/html/publications/index.shtml>), as well as from CityShare, the City's Intranet.

Despite the Board's lack of a web coordinator, Alex Kipp, the Board's new Director of Training and Education, was able to develop a new interactive exercise, dubbed "The Ownership Tree," which leads prospective public servants through a series of questions and answers in order to determine whether they have an ownership interest prohibited under Chapter 68. The Board expects this interactive training tool to go a long way in helping public servants to understand when they need to call for legal advice on this issue and hopes to be able to follow it with similar interactive tools on the COIB's website.

Two new leaflets were published in 2005, one for members of boards and commissions and one for members of community education councils. These new leaflets, combined with recent articles by COIB attorneys, installments of *Ask the City Ethicist*, and a plain language summary in Russian (originally prepared for visitors from Moldova), have meant a significant addition of publications available online.

Outreach to the public, calling attention to the agency's activities and responsibilities, is also an important priority. Much of the success of a municipal ethics program depends upon the public perception of the integrity of City officials and the effectiveness of the City's ethics system. Indeed, citizens, including City vendors, prove a significant source of complaints of ethics violations by public servants. Accordingly, Wayne Hawley, the Board's Deputy Executive Director and General Counsel, co-taught with Dan Brownell of the Department of Investigation ("DOI") and Marla Simpson of the Mayor's Office of Contracts Services a "GovTech" class in conflicts of interest and corruption for vendors working with the City.

Development of a new COIB poster has been moving along, if somewhat slowly. The artist, who is providing his services *pro bono*, is

nearing a final draft of his commissioned drawing. The Board hopes to have the poster finished and printed soon.

Seminar

The Board's Eleventh Annual Seminar on Ethics in New York City Government at New York Law School last May was a great success. More than 220 public servants attended, representing approximately fifty City agencies. Mayor Bloomberg was our keynote speaker for the event's plenary session. The 2005 Sheldon Oliensis Award was given to the Center for New York City Law at New York Law School for their continued support of ethics in New York City government. The Powell Pierpoint Award went to former Acting Chair of the Conflicts of Interest Board Benito Romano. The Board's 2006 seminar will be held on May 23rd.

International Visitors and Government Ethics Associations

In 2005, the Board sent a group of representatives to the annual conference of the international Council on Government Ethics Laws (COGEL), the premier government ethics organization in North America. Joel Rogers, the Board's then Director of Training and Education, moderated a panel discussion on "Ethics Training: Useful or Useless" for the Municipal Ethics Series. Participants were Steve Rohan, Co-Ethics Officer of Jacksonville, FL, Cathy Clemens, Administrator of the King County Board of Ethics, and Linda Doering, Principal Ethics Representative for National Grid, Inc. Additionally, Rogers was involved with COGEL throughout the year, serving as a member of the Steering Committee, Chair of the Publications Committee, and Publishing Director of the COGEL *Guardian*.

The Board receives numerous requests from municipalities around the State and from foreign countries to assist them in updating and improving their ethics laws. Resources permitting, COIB staff attempt to respond to those requests, whenever possible by e-mail, although occasionally in person. For example, in 2005 the Executive Director met with the Westchester County Board of Legislators to consult on financial disclosure and also spoke at the annual meeting of the New York State Bar Association on "Drafting Municipal Ethics Legislation and Operating a Municipal Ethics Board." He and Astrid Gloade, the Board's Director of Enforcement, spoke

at the United Nations to the UN Panel of Counsel, as well as some delegates, on “The Nature and Enforcement of Conflicts of Interest Systems.”

In June, the Executive Director, as one of a handful of North Americans, spoke in Brazil at the request of the Brazilian government at the IV Global Forum on Fighting Corruption. In November, he spoke by video hook-up at the 6th Seminar of the Brazilian Commission of Public Ethics - Ethics in Public Management on “Administering an Effective Ethics Law: the Nuts and Bolts.” Board staff also met with delegations from Moldova and South Korea at the request of the U.S. State Department; the latter meeting was conducted in Korean by Associate Counsel Sung Mo Kim. In December, at the request of the United States Office of Government Ethics, Board staff provided the local government response on behalf of the United States in the periodic evaluation of U.S. anti-corruption efforts by the Group of States Against Corruption (GRECO), of which the U.S. is a member; the Board also hosted the GRECO evaluators at the Board’s offices.

Executive Director Mark Davies continues to serve as chair of the Government Ethics and Professional Responsibility Committee of the New York State Bar Association’s Municipal Law Section and was recently appointed to the Board of Directors of Global Integrity. Director of Enforcement Astrid Gloade serves on the Committee on Government Ethics of the Association of the Bar of the City of New York.

Although assistance and outreach falls within their City duties, COIB attorneys as a practical matter must often undertake these bar association and municipal association activities on their own time because the Board is so inundated with work.

The Board thanks its tiny but dedicated training staff, Joel Rogers, recently departed Director of Training and Education, and Alex Kipp, newly appointed Director, for coordinating all of the extensive activities described in this section. Staff for the moment has been reduced to one, as the Board initiates its search for a Senior Trainer/Training Coordinator.

3. REQUESTS FOR GUIDANCE AND ADVICE

Previous annual reports noted the significant increase in the quality and quantity of the advisory work of the Board and its hard-pressed Legal Advice Unit, over the past several years, and the enormous increase in

productivity. Exhibit 4 summarizes those gains, which continued in 2005, reaching record levels of advice output.

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

Since 2002, requests for written advice have abated slightly, as detailed in Exhibit 6, essentially returning to the already high levels prior to 2002. In 2005, the Board received 515 written requests for advice, compared to 691, 559, and 535 for 2002, 2003, and 2004, respectively. At the same time, however, telephone requests for advice continued to surge to yet another record high in 2005. In 2005, the Board's staff handled 2,926 phone calls, a 77% increase over 2001 (and 11% over 2004, the previous record high). Telephone advice provides the first line of defense against conflicts of interest violations and thus remains one of the Board's highest priorities, but such calls consume an enormous amount of staff time, sometimes hours a day, and therefore sharply limit the attorney time available for drafting written advice and advisory opinions.

While written requests and telephone calls continued to pour in, the Board issued 543 pieces of legal advice in 2005, another record high. As summarized in Exhibit 7, these 543 written responses included 241 staff advice letters, 223 waiver letters signed by the Chair on behalf of the Board, 76 Board letters and orders reflecting Board action, and three public Advisory Opinions. The three Advisory Opinions were as follows:

- (1) Some City agency heads proposed to pay members of their staffs a portion of their compensation in the form of payments from not-for-profit organizations typically closely affiliated with the City agencies, sometimes as explicit supplements to the staff members' City salaries for their regular City work and sometimes as compensation for additional or overtime services that they provide to the City or directly

to the not-for-profit organizations. In Advisory Opinion No. 2003-4 the Board set forth the requirements and procedures governing fundraising by public servants on behalf of such not-for-profits, so that the question here concerned one proposed use of the funds raised: to supplement the compensation of City employees. The Board determined that it would violate Chapter 68, absent a waiver from the Board, for City employees to receive compensation from any person or entity other than the City for performing their City work, whether such compensation is denominated overtime pay, a salary supplement, a bonus, or payment for consulting work. The Board will consider applications for such waivers on a case-by-case basis, provided that the applicant has also submitted the written approval of the agency head.

(2) Charter schools are not “firms” within the meaning of Charter Section 2604(a)(1)(b), so that public servants need not apply for Board waivers in order to work at a charter school; and charter schools are not “private interests” for the purposes of Charter Section 2604(b)(6) and are not “not-for-profit corporations” for the purposes of Section 2604(c)(6), so that a public servant who works at or volunteers for a charter school may communicate with the City on behalf of the charter school.

(3) Community board members do not violate Chapter 68 by voting at the community board concerning the rezoning of a large area in which they own homes, provided that they disclose their ownership interest on the minutes of the community board and to the Board.

(Indexes to the Board’s advisory opinions since 1990 are annexed to this report.)

The Board’s record level of output in 2005 was achieved despite having one of its three Legal Advice Unit positions vacant for six months during the year. As a result, the Board reduced its backlog of written requests from 191 matters to 127 matters. The Board anticipates that it will continue in 2006 to steadily and responsibly reduce this backlog.

In order to help address its mandate to advise public servants in a timely manner about the requirements of the conflicts of interest law, the Legal Advice Unit has relied on the services of part-time volunteers and

student interns. Over the year, five law student interns, one volunteer lawyer, and two high school student interns worked part-time for the Legal Advice Unit. These people contributed substantially to the Board's output. Nonetheless, the average age of pending requests for advice at year-end increased from 8 months in 2004 to 12 months in 2005, far above the 18 *day* figure at the beginning of 2002.

The Board's appreciation for the Legal Advice Unit's substantial increase in productivity and decrease in backlog, excellent results achieved under considerable pressure, go to Deputy Executive Director and General Counsel Wayne Hawley and his superb staff, including Deputy Counsel Jessica Hogan and Associate Counsel Sung Mo Kim, who joined the staff in mid-year, replacing Jesse Zigmund, as well as to the Board's volunteer retired attorney Bernard Belkin.

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

4. ADMINISTRATIVE RULES

In December of 2005, the Board published a notice of opportunity to comment on a proposed amendment to its rule setting the dollar amount for the definition of "ownership interest." The Charter requires the Board to amend this rule every four years to account for inflation. The proposed amendment will increase the dollar amount from \$35,000 to \$40,000. The full text of the Board's rules may be found on the Board's website (<http://www.nyc.gov/html/conflicts/downloads/pdf2/rules.2.04.pdf>).

5. ENFORCEMENT

2005 was a remarkably productive year for the Enforcement Unit. In the face of a record high number of new cases and the loss of a senior attorney, the unit concluded and published twelve dispositions, resulting in the imposition of \$37,050 in fines against those who violated the conflicts of interest law. The number of cases published by the Board in 2005 reflects a 100% increase over the number published in 2004.

The twelve formal dispositions published by the Board in 2005 are matters of public record. They were as follows:

- (1) The Board and the Human Resources Administration (“HRA”) concluded a settlement involving Benson Asemota, an HRA management auditor, who solicited a job with an HRA vendor that he audited. Asemota, as part of his HRA duties, conducted internal audits of HRA vendors and facilitated audits of HRA vendors by other HRA employees. During a conversation with a vendor that he oversaw as part of his official duties, Asemota expressed interest in being considered for employment with the vendor. Asemota also received from the same vendor information regarding an organization to which he later applied for a job. Asemota admitted that he sought a job with a City vendor while he was actively considering, directly concerned with, or personally participating in the vendor’s dealings with the City, and that he misused his official position for private gain. Asemota paid a fine of \$500 to the Board and forfeited six days annual leave, which is equivalent to approximately \$1,000, for a total fine of \$1,500. *COIB v. Benson Asemota*, COIB Case No. 2003- 788 (2005).
- (2) The Board concluded a settlement with former HRA Agency Chief Contracting Officer (“ACCO”) Richard Bonamarte. While Bonamarte served as ACCO at HRA, he was involved in every stage of awarding to Wildcat Services Corporation (“Wildcat”) an Employment Services Placement contract with HRA. He left HRA to serve as a Vice President at Wildcat; and, as a Wildcat employee, he worked on issues concerning the same contract that he had worked on as ACCO at HRA. In addition, Bonamarte contacted HRA on behalf of Wildcat within one year of leaving City service. Bonamarte acknowledged that he violated the New York City Charter’s post employment provisions and was fined

\$3,000. *COIB v. Richard Bonamarte*, COIB Case No. 2002-782 (2005).

- (3) In *COIB v. Daniel Carroll*, COIB Case No. 2005-151 (2005), the Board and the Department of Design and Construction (“DDC”) concluded a settlement with DDC Project Manager Daniel Carroll. Carroll admitted that from January 2004 to September 2004, he made or received over 2,000 personal calls on his DDC telephone. These calls were mostly conference calls related to Carroll’s private business. Carroll also admitted that he used City resources to produce business flyers on which he listed his DDC telephone number. Carroll acknowledged that his conduct violated the City’s conflicts of interest law, which prohibits public servants from misusing City time and resources for any non-City purpose, and agreed to pay a fine of \$3,000 to the Board and to serve a 25-day suspension without pay, which was worth another \$3,000.
- (4) The Board concluded a settlement with Eduardo Genao, formerly a Department of Education (“DOE”) Local Instructional Superintendent in Region 2, who used a DOE computer to e-mail his brother’s resume to all principals in Region 2, including principals whom he supervised. Genao’s brother was offered an interview because of the e-mail Genao circulated among the principals in Region 2 but did not pursue the employment opportunity. Genao acknowledged that his conduct violated the New York City conflicts of interest law, which prohibits public servants from misusing City time and resources for any non-City purpose and from using their City position to benefit someone with whom the public servant is associated. The City Charter includes a brother among those persons associated with a public servant. The Board fined Genao \$1,000, a disposition that took into account the facts that Genao tried to recall his e-mail when advised that someone had complained and that he self-reported his conduct to the Board. *COIB v. Genao*, COIB Case No. 2004-515 (2005).
- (5) In *COIB v. Martin Guttman*, COIB Case No 2004-214 (2005), the Board fined former DOE Assistant Principal Martin Guttman \$2,800 for engaging in financial relationships with his subordinates and for misusing City resources. Guttman, who had a private tax preparation business, prepared income tax returns, for

compensation, for his DOE subordinates and also gave the fax number of the DOE school at which he worked to his private clients in order for them to send their tax information to him.

(6) & (7) Bruce Hoffman, formerly Director of Procurement at the DOE Office of School Food and Nutrition Services (“OSFNS”), and Vincent Romano, formerly Deputy Chief of the OSFNS, admitted that during their employment at DOE they accepted valuable gifts from DOE vendors. Hoffman and Romano each admitted accepting a laptop computer that cost over \$2,400, as well as tickets, dinners, and gifts of meat from DOE vendors. Hoffman and Romano each paid a fine of \$4,000. *COIB v. Bruce Hoffman*, COIB Case No. 2004-082 (2005) and *COIB v. Vincent Romano*, COIB Case No. 2004-082a (2005).

(8) The Board issued a public warning letter to Jane Paley-Price, a volunteer member of the New York City Board of Correction (“BOC”), who co-owned a firm that was engaged in business dealings with the New York City Department of Correction (“DOC”). The business consisted of updating an inspirational film previously produced by the firm and producing a videotape of 9-11 memorial services. The firm offered to produce the videotape at no charge to DOC and only billed for the work after certain DOC employees declined the offer. The public servant disclosed to BOC the company’s work for DOC. The Board articulated for the first time that the agency served by BOC members is both BOC and DOC and concluded that “business dealings with the city” may exist despite the absence of a profit and that ignorance of Chapter 68 provides no excuse for failure to comply with its requirements. Under the particular circumstances of the case, the Board determined that no further action was required in the matter, beyond the issuance of the public warning letter. *In Re Jane Paley-Price*, COIB Case No. 2003-096 (2005).

(9) In *COIB v. Rivington Powery*, COIB Case No. 2004-466 (2005), the Board fined Rivington Powery, a former school custodian at the Department of Education (“DOE”), \$1,000 for using personnel and equipment paid for by DOE for his private business. Powery acknowledged that he directed his custodial secretary, who was paid with DOE funds, to type and edit documents, using DOE

equipment, related to his private business. Powery's secretary performed this work during times when she was required to work on matters relating to custodial services for the school. Powery also used a DOE telephone in the custodian's office during his DOE workday to make telephone calls related to his private business.

- (10) The Board fined Department of Sanitation ("DOS") electrical engineer Roy Thomas \$2,000 for using City time and his DOS computer to store and maintain inspection reports and client files related to his private building inspection and consulting services business. Thomas maintained on his DOS computer folders that contained files relating to his private business for each year from 1995 to 2002. Each of the eight folders contained an average of one hundred and thirty-seven files, which files Thomas edited on a regular basis, sometimes during his City workday. Thomas acknowledged that his conduct violated the City's conflicts of interest law, which prohibits public servants from misusing City time and resources for any non-City purpose. The Board fined Thomas \$2,000 after taking into consideration his forfeiture of \$3,915 worth of leave time to DOS in an agency disciplinary proceeding. *COIB v. Roy Thomas*, COIB Case No. 2003-127 (2005).
- (11) The Board concluded a settlement with George Trica, a Fire Department ("FDNY") fire safety inspector who was moonlighting for a hotel in New York City as a watch engineer. In his official FDNY capacity, Trica inspected the hotel at which he was moonlighting. He also administered on-site exams to hotel employees, including his hotel supervisor, and determined that they were qualified to serve as fire safety directors of the hotel. Trica acknowledged that he violated conflicts of interest law provisions that prohibit a public servant from having an interest in a firm that has business dealings with his agency, from having any financial interest in conflict with the proper discharge of his official duties, and from using his City position to benefit himself or a person or firm with which he is associated. The Board fined Trica \$4,000. *COIB v. George Trica*, COIB Case No. 2004-418 (2005).

(12) The Board fined Conrad Vazquez, Director of the Emergency Service Department at the New York City Housing Authority (“NYCHA”), \$1,750 for selling his car to one of his subordinates. In a three-way settlement in which NYCHA was involved, Vazquez also forfeited four days of annual leave that he accrued at NYCHA, which is equivalent to approximately \$1,600. Vazquez acknowledged that his conduct violated the New York City conflicts of interest law, which prohibits public servants from entering into financial relationships with other public servants who are their subordinates or their superiors and from inducing or causing another public servant to engage in conduct that violates the conflicts of interest law. *COIB v. Conrad Vazquez*, COIB Case No. 2004-321 (2005).

The Board’s “Summaries of Enforcement Cases” provides a useful digest of the Board’s enforcement results from 1990 to date. This document is available on the City’s Intranet and on the Board’s website (<http://www.nyc.gov/ethics> - then “Enforcement Cases,” then “Enforcement Case Summaries”) for use by all City workers and members of the public as an easy reference guide to cases the Board has prosecuted. The dispositions themselves, like the Board’s advisory opinions, are available on the City Law website free of charge to all in full-text searchable form (<http://www.citylaw.org/cityadmin.php>).

The Enforcement Unit continued to utilize the “three-way settlement” procedure in resolving cases that overlap with disciplinary proceedings brought by other City agencies, such as the Human Resources Administration in *Asemota*, the Department of Design and Construction in *Carroll*, and the New York City Housing Authority in *Vazquez*. The Enforcement Unit also continued to prosecute cases involving former public servants, as it is empowered to do by the Charter. For example, in the *Powery*, *Genao*, *Hoffman*, *Romano*, and *Guttman* cases, the Board imposed fines against former public servants for conduct that occurred while they were public servants. Prosecution of such cases is an important reminder to public servants that they cannot insulate themselves from enforcement of the conflicts of interest law by resigning quietly in the face of an investigation or charges. The Board also prosecutes cases against former public servants for conduct that occurs after they leave City service. Thus, in *Bonamarte*, the Board fined a former public servant for violating the Charter’s post-employment provisions, which prohibit public servants from appearing

before their former City agency within one year after leaving City service and working on the same particular matter, upon leaving City service, that they worked on personally and substantially while public servants. Former public servants must comply with the post-employment provisions of the conflicts of interest law after they leave public service, or face a Board enforcement action.

In addition to working on complaints arising out of Chapter 68, the Enforcement Unit continued to assist the Legal Advice Unit in rendering telephone advice to public servants and members of the public who contact the Board daily. The Enforcement Unit also devoted considerable time to other matters that were not directly related to enforcement of the City's conflicts of interest laws but that went towards fulfilling the agency's broader mandate to promote public confidence in government and protect the integrity of government decision-making. For example, the unit participated in training and education efforts by conducting classes and seminars for public servants.

Exhibits 8 and 9 show that in 2005 the Board received 370 new complaints, a 21 % increase over the number of complaints it had received in 2004. The increased number of complaints that the unit received, coupled with the loss of a senior attorney in 2005, resulted in a backlog in certain areas. For example, in 2005, the Board disposed of 234 complaints, a 12% decrease over 2004. The Board also referred 110 matters to DOI for investigation, a 29% decrease over 2004. One should note, however, that, as the Enforcement Unit lacked one attorney for almost eleven months in 2005, the dispositions per attorney (productivity) actually increased 13%, from 67 dispositions per attorney in 2004 to 76 in 2005.

As Exhibit 10 shows, the fines imposed in 2005, including those fines made payable in part to other agencies in three-way settlements, amounted to \$42,650 (\$37,050 of which was collected by the Board). Included in this figure is \$10,000 paid to the City by Anthony Serra, former Bureau Chief of the City's Department of Correction ("DOC"), for violation of the conflicts of interest law. In March 2005, Serra plead guilty in State Supreme Court to grand larceny and violation of the City's conflict of interest law, a Class A misdemeanor. Serra admitted that, while serving as a high-ranking DOC official, he used his subordinates to work on construction projects at his home and improperly used his influence to recruit subordinates to work as "volunteers" in a poll watching operation in primary election campaigns.

Serra was sentenced to a term of one year in jail and was required to pay to the City \$75,000 in restitution, \$10,000 of which reflected payment for violating the City's conflicts of interest law.

Total fines imposed by the Board for substantive violations of Chapter 68 from 1990 through 2005 have amounted to \$283,275.

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

The Board thanks the Enforcement Unit staff for their continued excellence under pressure, including Astrid Gloade, Director of Enforcement; Marie Louise Victor, Associate Counsel; Susan Bronson, Assistant Counsel; and Varuni Bhagwant, Litigation Coordinator. The Board welcomes Vanessa Legagneur, Assistant Counsel, to its Enforcement Unit. The Board also extends sincere thanks to DOI Commissioner Rose Gill Hearn and Special Commissioner for the New York City School District Richard J. Condon, and their entire staffs, for the invaluable work of DOI and the Special Commissioner in investigating and reporting on complaints received by the Board.

6. FINANCIAL DISCLOSURE

City employees continue to show an excellent compliance record in filing mandated annual financial disclosure reports. As detailed in Exhibit 11, the overall compliance rate with the financial disclosure law, set forth in section 12-110 of the New York City Administrative Code, exceeds 96%. This superb record must be attributed in large part to the excellent work of the Financial Disclosure Unit: Deputy Director of Financial Disclosure Joanne Giura-Else; Holli Hellman, Senior Financial Disclosure Analyst; Veronica Martinez Garcia, Assistant to the unit; and Michelle Burgos, Financial Disclosure Assistant. The Board also hired a new Director in early 2005, Felicia A. Mennin, who also serves as the Board's Litigation Counsel.

Financial Disclosure Amendments

The Board continues its efforts to reduce the length and scope of the required disclosure form – an amendment to the financial disclosure law that would require State legislation. As the Board has repeatedly stated, the current financial disclosure form is far too long and invasive for most public servants. Such a burdensome form makes financial disclosure unnecessarily difficult for both the filers and the COIB. It may even drive good citizens out of public service, particularly as members of boards and commissions. For most public servants, a short form, consisting of approximately six questions and four pages, would suffice to provide all *material* information necessary for the public to assess potential conflicts of interest. However, the scope of the current form is mandated by State law, so State law must be amended before the Board can adopt a shorter financial disclosure form. The Board hopes that, with the support of the Administration, the City Council, unions, and civic groups, it may convince the State legislature and the Governor to enact legislation authorizing the Board to reduce the scope of the financial disclosure form for most City filers. Exhibit 12 sets out a draft bill that would implement this proposal. Exhibit 13 provides one possible version of a reduced financial disclosure form.

With the enactment of the Public Authorities Accountability Act of 2005 (2005 N.Y. Laws ch. 766), this effort to authorize the Board to reduce the scope of the City's financial disclosure form has taken on added significance and urgency. This new State law appears to require a significantly greater number of individuals to file financial disclosure reports, by mandating annual financial disclosure by members and certain staff of City-affiliated public authorities, public benefit corporations, industrial development agencies and authorities, and not-for-profit corporations, as well as the affiliates of all such entities. This State mandate would mean, for example, that board members of City-affiliated not-for-profit corporations must file the City's lengthy financial disclosure form with the Conflicts of Interest Board. Such a requirement may adversely affect the willingness of individuals to serve as board members of such not-for-profit corporations.

In February 2005, City Council Member Helen Sears, at the request of the Mayor, introduced before the City Council a bill drafted by the Board and staff to make certain technical amendments to the financial disclosure

law; to conform that law to the recent amendments to State law relating to financial disclosure, such as the inclusion of tax assessors and the Housing Development Corporation; and to conform the financial disclosure law to Board practices, such as permitting a filer whose privacy request the Board has denied 10 days in which to challenge that denial. In addition, to remedy confusion among filers, the proposed amendment specifies that direct payments by non-governmental entities for the travel expenses of City employees traveling on official City business would be reportable as a reimbursement, not as a gift. Despite the lack of any opposition, no action was taken on the bill in 2005. The Board anticipates the bill's re-introduction, with a few additional changes, in early 2006.

As a result of an amendment to State law, Board staff developed a short form financial disclosure report which 145 City Tax Assessors filed with the Board for the first time in May 2005.

Electronic Filing of Financial Disclosure Reports

In 2004, the Board finally achieved the beginning of a Citywide electronic financial disclosure system ("EFD"). Having financial disclosure reports filed electronically is a project on which the Board has been working since 1994. The effort was resurrected in 2003, and Local Law 43 of 2003 authorized such filing as of January 1, 2004, and made it mandatory for all filers as of January 1, 2006. Accordingly, the Board instituted pilot electronic filing programs in 2004 and 2005. The Board's staff worked closely with the Department of Information Technology and Telecommunications ("DoITT") and the Department of Investigation ("DOI") to implement the electronic filing system. In December 2004, 100 filers from five agencies (including two members of the Board itself) voluntarily participated in the Board's electronic financial disclosure filing pilot.

During the spring of 2005, staff, in coordination with DOI executives, Senior Counsel from the Law Department, and senior managers from DoITT developed security features protecting against a filer's ability to repudiate a finalized form, as well as protecting the filer against efforts to tamper with a finalized form. Financial disclosure staff presented these innovations as well as the other features of the new electronic system to an audience of over sixty during the Board's annual Ethics in New York City Government Seminar in May. The presentation also considered evidentiary implications

arising from use of the new electronic filing system as well as the impact of the State's Electronic Signatures Act, and staff was pleased to be joined in the presentation by a senior representative of the New York County District Attorney's Office.

Phase 2 of the implementation of electronic filing took place in the summer of 2005 and included 600 filers from approximately 25 City agencies. Financial disclosure staff participated in training sessions for the DoITT helpdesk and, along with the DoITT Senior Program manager for the EFD project, provided hands-on training for the each of the financial disclosure liaisons for the agencies participating in the summer 2005 EFD pilot program. By mid-2006, all of the approximately 8,000 City employees required to file financial disclosure reports will do so electronically.

Electronic filing offers considerable advantages over manual filing, not only for the COIB but also for the filers and City agencies. EFD will relieve the Financial Disclosure Unit staff of the extremely burdensome chore of receiving, checking, and filing thousands of lengthy paper report forms and will allow the Board to devote its scarce financial disclosure staff resources to reviewing reports for conflicts of interest, as mandated by both City and State law. Beginning in the second year, an electronic filer will need only to update his or her prior year's report, an effort that for most filers will require only a few minutes. No longer will filers need to file a completely new report every year. In addition, electronic filing is more secure and confidential than paper filings and will also eliminate the use of social security numbers; and, since the EFD application rejects incomplete reports, filers no longer face the embarrassment of filing an incomplete report or the wasted time and effort in obtaining and filing an amendment form to correct the omission. By 2008, filers will be notified electronically, and thus virtually instantly, when a reporter or member of the public views their report, instead of receiving a card in the mail the day after the article about them appears in the newspaper, as is the case with manual filing. The electronic system results in greater efficiency for the filer's agency as well. Liaisons in City agencies will no longer be required to pick up hundreds of blank financial disclosure reports from the COIB, distribute them to every filer in the agency, and collect, alphabetize, batch, and deliver to the COIB all of the completed reports; instead, the agency financial disclosure liaison will need to distribute only a small, sealed envelope to each filer.

Elections

Elections for City Council seats were held in November 2005. COIB financial disclosure staff worked closely with the Board of Elections and the Campaign Finance Board to notify candidates of their filing requirements with the COIB. Approximately 80% of those required to file did in fact file. Local Law 43 of 2003 prohibits candidates from receiving public matching funds until a certification of compliance has been received from the Board. A certification of compliance certifies that the candidate has filed all required financial disclosure reports with the Conflicts of Interest Board and fulfilled any other obligations required of the individual by the City's financial disclosure law. Staff issued certifications of compliance to 158 candidates.

Financial Disclosure Late Fines and Litigation

During 2005, the Board collected \$19,675 in late filing fines. Since the Board assumed responsibility for financial disclosure in 1990, the Board has collected \$470,248 in financial disclosure fines.

With the addition of a Director to the unit, staff was freed up to turn their attention to a backlog of enforcement matters which had languished because of the lack of resources. Using new procedures prior to the initiation of administrative proceedings, which are costly and time consuming, the unit undertook to collect financial disclosure reports and/or late fines from delinquent City employees who had failed to file required financial disclosure reports for calendar years 2002 and 2003, or who had filed their reports late but had failed to pay their late fine. In this way, staff was able to collect fines and reports from 45 public servants who were not in compliance with the financial disclosure law.

Staff was constrained to spend considerable time fully preparing for the administrative trials of two recalcitrant elected officials who ignored repeated notifications to file their 2004 financial disclosure reports. On the eve of trial, each appeared before Board staff with completed reports and paid substantial fines in the amounts of \$5,000 and \$1,000, respectively.

7. BUDGET, ADMINISTRATION, AND INFORMATION TECHNOLOGY

The Board thanks its Director of Administration, Ute O'Malley, for her perseverance in the face of increasing administrative burdens, particularly those occasioned by the departure of her longtime deputy, Myrna Mateo. The Board also thanks its Director of Information Technology, Christopher Lall, who single-handedly keeps the Board's computer and other technology resources running, has provided the Board with the technical expertise necessary to implement electronic financial disclosure filing, and obtained for the Board capital funding to upgrade its IT infrastructure and supervised the implementation of that upgrade.

After years of repeated budget and staff cuts, the Board received a slight reprieve in 2005 when a Legal Advice attorney position was restored, albeit for only one year. At year-end, the Board was hopeful that both this position and the two trainer positions would be baselined in the fiscal year 2007 budget.

In addition, the Board desperately needs restoration of the Deputy Director of Enforcement line. The Board was compelled to use that line for Director of Financial Disclosure position, whose line had been abolished in the 2002 budget cuts. Without a Financial Disclosure Director, the Board could not have implemented the unfunded electronic filing mandate. But the lack of a Deputy Enforcement Director has severely undermined the ability of the Enforcement Unit to meet the ever-surging enforcement caseload, a caseload that has tripled since 2001, with no increase in staff.

Similarly, as noted above, the Legal Advice Unit, despite having produced in 2005 the greatest number of opinions in the history of the Board, still faces a significant backlog of requests for advice, in large part because of the surge in telephone requests for advice (an increase of almost 77% since 2001). As a result, public servants must wait longer to receive answers to their conflicts of interest questions.

Accordingly, the Board's highest priorities remain, first, baselining the Legal Advice attorney and two trainer positions; second, restoring the Deputy Director of Enforcement line and adding a Legal Advice attorney; third, enacting a Charter amendment granting the Board budget protection. This last priority has been at the top of the Board's list of legislative

priorities for many years. Virtually alone among City agencies, the Board has the power to fine and sanction violations of the law by the very public officials who set its budget, in itself an unseemly conflict that can only undermine the Board's independence in the eyes of the public and of public servants. That circumstance should finally be rectified through a Charter amendment removing the Board's budget from the discretion of the public officials who are subject to the Board's jurisdiction.

The Board has sponsored many other long-pending initiatives for Charter amendments, such as obtaining investigative authority, making ethics training mandatory for all City employees, and adding the remedy of disgorgement of ill-gotten gains to the Board's enforcement powers. As discussed above, the Board also seeks State authority to amend the scope of the financial disclosure form. These initiatives are set out in Exhibit 12, in the form of proposed State legislation.

EXHIBIT 1
MEMBERS AND STAFF
OF THE
CONFLICTS OF INTEREST BOARD
AS OF DECEMBER 31, 2005

Members

Steven B. Rosenfeld, Chair

Monica Blum	Angela Mariana Freyre
Andrew Irving (<i>beginning March 2005</i>)	Jane W. Parver
Bruce A. Green (<i>until March 2005</i>)	

Staff

Executive

Mark Davies, Executive Director

Legal Advice

Wayne G. Hawley, Deputy Executive Director & General Counsel

Jessica Hogan, Deputy Counsel

Sung Mo Kim (*beginning Sept. 2005*)

Jesse Zigmund, Attorney Intern (*until March 2005*)

Enforcement

Astrid B. Gloade, Director of Enforcement

Marie Louise Victor, Associate Counsel

Susan Bronson, Assistant Counsel

Vanessa Legagneur, Assistant Counsel (*beginning Nov. 2005*)

Varuni Bhagwant, Litigation Coordinator

Training and Education

Joel A. Rogers, Director of Training and Education (*until Dec. 2005*)

Alex Kipp, Director of Training and Education (*beginning Jan. 2006*)

Financial Disclosure

Felicia A. Mennin, Director of Financial Disclosure & Litigation Counsel

Joanne Giura-Else, Deputy Director of Financial Disclosure

Holli R. Hellman, Senior Financial Disclosure Analyst

Veronica Martinez Garcia, Administrative Assistant

Michelle Burgos, Financial Disclosure Assistant

Administrative

Ute O'Malley, Director of Administration

Myrna Mateo, Deputy Director of Administration (*until Sept. 2005*)

Information Technology

Christopher M. Lall, Director of Information Technology

EXHIBIT 2
TRAINING AND EDUCATION CLASSES ON CHAPTER 68

<u>Year</u>	<u>Department of Ed Classes</u>	<u>Other Agency Classes</u>	<u>Total Classes¹</u>
1995	0	24	24
1996	0	30	30
1997	0	90	90
1998	10	53	63
1999	23	69	92
2000	221	156	377
2001	116	74	190
2002	119	167	286
2003 ²	43	139	182
2004	119	169	288
2005	80	162	242

¹ These totals do not include classes conducted by agency training/legal staff under COIB's "Train the Trainer" program nor briefings set up and conducted exclusively by DOI.

² As a result of layoffs, the Board had no Training and Education Unit and therefore no training and education classes from May 15, 2003, to October 15, 2003.

EXHIBIT 3

COIB TRAINING CLASSES BY AGENCY

Agencies that held ten or more classes are in bold

Agencies that held three to nine classes are in italics

Agencies that held one or two classes are not separately listed

1999	2000	2001	2002	2003 ¹	2004	2005
Bd. of Education DCAS Finance <i>Correction</i> <i>DOT</i> <i>Sanitation</i> <i>School Const.</i> <i>Auth.</i>	Bd. of Education Buildings DEP DOT Finance Parks Sanitation <i>Correction</i> <i>DCAS</i> <i>DDC</i> <i>DOI</i> <i>EDC</i> <i>Health</i> <i>HPD</i> <i>HRA</i> <i>NYPD</i> <i>TLC</i>	Bd. of Education DCAS Finance HPD <i>DEP</i> <i>DDC</i> <i>FIRE</i> <i>DOITT</i> <i>Sanitation</i> <i>Transportation</i>	Buildings Correction DCAS Education Finance Sanitation SCA <i>ACS</i> <i>City Planning</i> <i>DDC</i> <i>DEP</i> <i>DOT</i> <i>Health</i> <i>HPD</i> <i>NYCERS</i> <i>Parks</i> <i>Transportation</i>	Correction Education DOHMH HRA NYCERS <i>Buildings</i> <i>DCAS</i> <i>DHS</i> <i>DYCD</i> <i>Finance</i> <i>Law</i>	Buildings DCAS Education DHS HRA <i>DCLA</i> <i>DFTA</i> <i>Finance</i> <i>DOHMH</i> <i>DOITT</i> <i>NYCERS</i>	Parks Finance DCA DYCD DOB Education <i>DDC</i> <i>HRA</i> <i>TLC</i> <i>DOITT</i> <i>DCAS</i> <i>Community Boards</i> <i>HHC</i> <i>HPD</i> <i>DOC</i> <i>DOHMH</i> <i>Comptroller</i>
Agencies Holding One or Two Classes: 15	Agencies Holding One or Two Classes: 22	Agencies Holding One or Two Classes: 14	Agencies Holding One or Two Classes: 29	Agencies Holding One or Two Classes: 12	Agencies Holding One or Two Classes: 27	Agencies Holding One or Two Classes: 17
Total Classes: 92²	Total Classes: 377²	Total Classes: 190²	Total Classes: 286²	Total Classes: 182²	Total Classes: 288²	Total Classes: 242²

¹ As a result of layoffs, the Board had no Training and Education Unit and therefore no training and education classes from May 15, 2003, to October 15, 2003.

² These totals do not include classes conducted by agency training/legal staff under COIB's "Train the Trainer" program nor briefings set up and conducted exclusively by DOI.

EXHIBIT 4
REINVIGORATING AN ETHICS BOARD AND THE NEED FOR BUDGET PROTECTION
CONFLICTS OF INTEREST BOARD: 1993, 2001, 2004, 2005

<i>Agencywide</i>	1993	2001	2004	2005
Adopted Budget (Fiscal Year)	\$1,132,000 (FY94)	\$1,698,669 (FY02)	\$1,533,852 (FY05) ¹	\$1,543,283 (FY06) ²
Staff (budgeted)	26	23 ³ /5 ³	19 ⁴	19 ⁵
Availability of materials	Hard copy only	Virtually all ethics publications on website; opinions & enforcement decisions on Westlaw & Lexis; 24/7 audiotext & faxback services	2002: Added to website all advisory opinions & all enforcement decisions 2004: Redesigned website	Website visitors increased to 243,193
<i>Legal Advice</i>	1993	2001	2004	2005
Staff	6-½ (4-½ attorneys)	4 (3 attorneys)	4 (3 attorneys)	3 attorneys
Telephone requests for advice	?	1,650	2,633	2,926 (+11%)
Written requests for advice	321	539	535	515 (-4%)
Issued opinions, letters, waivers, orders	266	501	470 ⁶	543 (+16%)
Opinions, etc. per attorney	53	167	157	181 (+15%)
Pending requests at year end	151	40	191	127 (-34%)
Median age of pending requests at year-end	8-½ months	18 days	8 months	12 months
<i>Enforcement</i>	1993	2001	2004	2005
Staff	½	5 (4 attorneys)	5 (4 attorneys)	4 (3 attorneys) ⁷
Complaints received	29	124	307	370 (+21%)
Dispositions	38	154	266	234 (-12%) ⁸
Dispositions imposing fines	1	10	6	11 (+83%)
Public censure letters	0	2	0	1
Fines collected	\$500	\$20,450	\$8,450	\$37,050
Referrals to DOI	19	49	156	110 (-29%)
Reports from DOI	?	43	93	117 (+26%)

Training and Education	1993	2001	2004	2005
Staff	1	4 ³ / ₅ ¹	2	2
Training sessions	10	190 24 agencies; CLE	288 38 agencies Trained entire DOB; train the trainer lunches; citywide CLE classes	242 34 agencies Brown Bag lunches; class for vendors; training for new community board members
Ethics newsletter	None	<i>Ethical Times</i> (Quarterly)	Reinstated <i>Ethics Times</i> (discontinued in 2003)	Reconstituted quarterly <i>Ethical Times</i>
Videotapes	None	3 half-hour training films; 2 PSA's	Template for agency-specific videotapes	
Board of Education training	None	116 training sessions; BOE leaflet, booklet, videotape	Expanded training to Chancellor's staff, central staff, ROC's, senior administrators	Extended training to Aspiring Principals
Electronic training	None	Computer game show; Crosswalks appearances	2002: Game show added 2004: PSA's on commercial radio stations	"Ownership Tree" on website
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 Monthly column in <i>Public Employees Press</i> ; new leaflets (e.g., on Community Education Councils); revised and updated all leaflets	Over 50 Monthly column in <i>The Chief</i> (replacing PEP); new leaflets

Financial Disclosure	1993	2001	2004	2005
Staff	12	5	4	5
6-year compliance rate	99%	98.6%	97.6%	96.6%
Fines collected	\$36,051	\$31,700	\$15,075	\$19,675
Reports reviewed for completeness (mandated by Charter & NYS law)	12,000	400	400	400
Reports reviewed for conflicts (mandated by law)	350	38	200	200
Electronic filing	None	In development	Pilot filing (100 filers)	Phase 2 filing (600 filers)

¹ Of the Board's total FY05 budget, only \$1,390,852 was baselined. The remaining \$143,000 was restored by the Council for FY2005 only.

² Of the Board's total FY06 budget, only \$1,350,283 is baselined. Of the remaining \$193,000, \$143,000 was restored by the Council for FY2006 only and \$50,000 was added by the administration for FY2006 only.

³ The part-time (³/₅) position, a senior trainer, was not part of the Board's budgeted headcount of 23.

⁴ Of the 19 positions, only 17 were baselined.

⁵ Of the 19 positions, only 16 were baselined.

⁶ The Legal Advice Unit lost its longtime Special Counsel and lacked an attorney for two months in 2004 before hiring an attorney intern.

⁷ From January to November 21, 2005, the Board had only three enforcement attorneys.

⁸ The Enforcement Unit lacked one attorney for almost 11 months in 2005. Dispositions per attorney actually *increased* from 67 in 2004 to 76 in 2005.

EXHIBIT 5
LEGAL ADVICE WORKLOAD: 1993 TO 2005

	1993	2001	2002 (Increase v. 2001)	2003 (Increase v. 2002)	2004 (Increase v. 2003)	2005 (Increase v. 2004)
Staff	5 attorneys	3 attorneys	3 attorneys	3 attorneys	3 attorneys	3 attorneys
Telephone requests for advice	N/A	1,650	2,410 (+46%)	2,342 (-3%)	2,633 (+12%)	2,926 (+11%)
Written requests for advice	321	539	691 (+28%)	559 (-19%)	535 (-4%)	515 (-4%)
Issued opinions, letters, waivers, orders	266	501	505	535 (+6%)	470 (-12%) ¹	543 (+16%)
Opinions, etc. per attorney (productivity)	53	167	168	178 (+6%)	157 (-12%) ¹	181 (+15%)
Pending written requests at year end	151	40	184	160 (-13%)	191 (+19%)	127 (-34%)
Median age of pending requests at year end	8- ¹ / ₂ months	18 days	3- ¹ / ₂ months	5- ¹ / ₂ months	8 months	12 months

¹ The Legal Advice Unit lost its longtime Special Counsel and lacked an attorney for two months in 2004 before hiring an attorney intern.

EXHIBIT 6
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

EXHIBIT 7
RESPONSES TO REQUESTS FOR ADVICE ON CHAPTER 68

<u>Year</u>	<u>Staff Letters</u>	<u>Waivers/ (b)(2) Letters</u>	<u>Board Letters, Orders, Opinions</u>	<u>Total</u>
1996	212	49	25	286
1997	189	116	24	329
1998	264	111	45	420
1999	283	152	28	463
2000	241	179	52	472
2001	307	148	46	501
2002	332	147	26	505
2003	287	165	83	535
2004	252	157	61	470
2005	241	223	79	543

EXHIBIT 8
ENFORCEMENT CASES (CHAPTER 68)

	<u>1990</u>	<u>1991</u>	<u>1992</u>	<u>1993</u>	<u>1994</u>	<u>1995</u>	<u>1996</u>	<u>1997</u>	<u>1998</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>
New Complaints Received	8	20	22	29	31	29	50	64	63	81	148	124	221	346	307	370
Dispositions	2	6	25	38	4 ¹	33	32	54	76	83	117	152	179	243	266	234 ²
Dispositions Imposing Fines	0	0	1	1	2	1	1	2	9	4	10	9	6	3	6	11
Public Censure Letters	0	0	0	0	0	0	1	0	0	0	2	2	0	0	0	1

¹ The Board lacked an enforcement attorney during much of 1994.

² The Enforcement Unit lacked one attorney for almost 11 months in 2005. Dispositions per attorney actually *increased* from 67 in 2004 to 76 in 2005.

EXHIBIT 9
ENFORCEMENT WORKLOAD: 1993 to 2005

	1993	2001	2002 (Increase v. 2001)	2003 (Increase v. 2002)	2004 (Increase v. 2003)	2005 (Increase v. 2004)
Staff	½ attorney	5 (4 attorneys)	5 (4 attorneys)	5 (4 attorneys)	5 (4 attorneys)	4 (3 attorneys ¹)
Complaints received	29	124	221 (+78%)	346 (+57%)	307 (-11%)	370 (+21%)
Dispositions	38	154	179 (+16%)	243 (+36%)	266 (+9%)	234 (-12% ²)
Dispositions imposing fines ³	1	10	6	3	6	11 (+83%)
Public censure letters	0	2	0	0	0	1
Fines Collected	\$500	\$20,450 (\$105,766 in 2000)	\$15,300	\$6,500	\$8,450	\$37,050
Referrals to DOI	19	49	84 (+71%)	136 (+62%)	156 (+15%)	110 (-29%)
Reports from DOI	?	43	74 (+72%)	62 (-16%)	93 (+50%)	117 (+26%)

¹ From January to November 21, 2005, the Board had only three enforcement attorneys.

² The Enforcement Unit lacked one attorney for almost 11 months in 2005. Dispositions per attorney actually *increased* from 67 in 2004 to 76 in 2005.

³ The amounts of the fines assessed and collected vary from year to year, depending on when lengthy litigation involving complex or multiple violations is concluded.

EXHIBIT 10 ENFORCEMENT FINES

DATE	CASE NAME OR NUMBER	AMOUNT
11/16/05	Guttman	2,800
11/16/05	Trica	4,000
7/23/05	Serra ¹ T	10,000
6/30/05	Carroll*	6,000
6/7/05	Romano	4,000
5/25/05	Hoffman	4,000
4/20/05	Asemota*	1,500
4/7/05	Powery	1,000
3/11/05	Vasquez*	3,350
3/3/05	Genao	1,000
2/15/05	Thomas ²	2,000
2/15/05	Bonamarte	3,000
12/28/04	Berkowitz	3,500
10/04	McKen*	900
10/30/04	Fraser	500
6/25/04	Campbell	2,000
6/2/04	Fleishman ³ *	7,300
3/8/04	Andersson	1,000
4/9/03	Arriaga*	3,500
3/31/03	Adams	1,500
1/9/03	Mumford*	7,500
7/30/02	Blake-Reid*	8,000
7/2/02	Cottes	500
6/26/02	Silverman	500
4/1/02	Smith	3,000
2/28/02	Kerik	2,500
2/26/02	Loughran	800
12/18/01	King	1,000
11/16/01	Hill-Grier	700
9/28/01	Denizac*	4,000
8/16/01	Moran*	2,500
7/17/01	Capetanakis	4,000
7/26/01	Rieue	2,000
6/13/01	Steinhandler	1,500
5/24/01	Camarata	1,000
4/19/01	Peterson	1,500
3/5/01	Finkel	2,250
10/25/00	Hoover	8,500
10/16/00	Turner	6,500
8/15/00	Paniccia	1,500
8/7/00	Chapin	500
7/24/00	Lizzio	250
6/6/00	Rosenberg	1,000

5/3/00	Sullivan	625
4/27/00	Vella-Marrone	5,000
4/4/00	Carlin	800
1/7/00	Rene*	2,500
11/23/99	Davila	500
11/22/99	McGann	3,000
7/1/99	Sass	20,000
2/3/99	Ludewig	7,500
10/15/98	Morello ⁴	6,000
9/17/98	Katsorhis	84,000
7/15/98	Weinstein ⁵	5,000
6/29/98	Fodera	3,100
6/24/98	Wills	1,500
6/24/98	Hahn	1,000
6/24/98	Harvey ⁶	200
5/14/98	Cioffi	100
4/30/98	Holtzman	7,500
1/8/98	Ross	1,000
6/17/97	Quennell	100
3/11/96	Matos ⁷	1,000
7/6/95	Baer	5,000
1/28/94	Bryson	500
1/14/94	McAuliffe	2,500
4/9/93	Ubinas	500

TOTAL: \$283,275

*Indicates fines made payable in part to other agencies in three-way settlements.

¹ This fine was paid to the Board as part of a guilty plea by Anthony Serra, former Bureau Chief of the City's Department of Correction. Serra pled guilty in New York State Supreme Court to Grand Larceny and violation of the City's conflicts of interest law. This case is not included in the count of COIB enforcement dispositions.

² In addition to paying a fine to the Board, Mr. Thomas, in a separate disciplinary proceeding at his agency, forfeited \$3,915 worth of leave time.

³ Includes restitution in the amount of \$1,300.

⁴ As a result of departmental charges arising out of the same matter, Mr. Morello resigned from the New York City Fire Department and forfeited his entire accrued leave balances, worth \$93,105. Therefore, this case actually represented nearly \$100,000 in penalties recovered by the City.

⁵ Includes a \$1,250 fine and forfeited annual leave worth \$3,750.

⁶ This fine was forgiven due to extreme financial hardship.

⁷ This fine was reduced to \$250 on proof of financial hardship one year following the settlement of the matter, pursuant to the terms of the settlement.

EXHIBIT 11

FINANCIAL DISCLOSURE REPORTS

Calendar Year ("C.Y.")	Number of Reports Required for C.Y.	Reports Filed for C.Y.	Compliance Rate for C.Y.	Number of Fines Waived for C.Y.	Number of Fines Paid for C.Y.	Amount of Fines Paid for C.Y.	Current Non-Filers for C.Y. Act. Inact. ¹	Current Non-Payers for C.Y. Act. Inact.
1999	12,386	12,071	97.5%	246	309	\$30,900	0 140	0 48
2000	12,813	12,448	97.2%	576	338	\$34,250	0 267	0 59
2001	12,062	11,773	97.6%	532	176	\$19,725	0 152	0 33
2002	13,638	13,233	97.0%	625	226	\$24,200	2 254	0 77
2003	8,096 ²	7,550	93.3%	365	62	\$13,700	0 444	0 28
2004	7,546	7,194	95.3%	919	26	\$14,925	45 196	26 24
TOTALS	66,541	64,269	96.6%	3,263	1,137	\$470,248 ³	47 1,453	26 269

¹ "Act." indicates current non-filers or non-payers who are current City employees. ("Non-payers" are late filers who have failed to pay their late filing fine.) "Inact." indicates current non-filers or non-payers who are no longer City employees.

² Local Law 43 of 2003 amended the financial disclosure law, NYC Ad. Code § 12-110, to, among other things, eliminate certain classifications of filers and add others.

³ Includes fines collected for calendar years 1989 through 1997, the reports for which have been discarded pursuant to the Board's retention policy.

40 in unnecessary ethics violations. So, too, while public enforcement reassures the
41 public and complainants that an enforcement matter is being pursued and would
42 perform an educational function by alerting city employees to the requirements of
43 the conflicts of interest law, the confidentiality restrictions upon the board
44 significantly exceed those imposed upon the state ethics commission, discouraging
45 complainants and generating cynicism about the efficacy of the conflicts of interest
46 law. Moreover, the maximum fine for a violation of chapter 68, currently \$10,000,
47 has not been increased since 1989. Finally, inequity results when a violation of the
48 conflicts of interest law produces a profit to the violator that far exceeds the
49 maximum civil fine. Similarly, many public servants, though subject to the board's
50 jurisdiction, may not be fined at all by the board. It is therefore declared that New
51 York City requires an independent agency with the power and resources to enforce
52 effectively the New York City conflicts of interest law and the related financial
53 disclosure law. In particular, the conflicts of interest board of that city requires a
54 guaranteed budget protected against retribution by the very officials the board
55 regulates; investigative authority and subpoena power; mandated conflicts of
56 interest training and education for all public servants of the city; the power to
57 impose civil fines upon all public servants subject to its jurisdiction who commit
58 conflicts of interest law violations; an increase in the maximum civil fine for a
59 violation of the conflicts of interest law; and the authority to seek civil forfeiture of
60 economic benefits received by anyone in violation of that law. The board also
61 requires the authority to modify the scope of the annual statement of financial
62 disclosure for those types of public servants for whom the board finds the current
63 form unnecessarily extensive and to tie the form to the city's conflicts of interest
64 law.

65
66 § 3. Paragraph (a) of subdivision (1) of section 811 of the general municipal law is
67 amended to read as follows:

68
69 (a) The governing body of each political subdivision may, not later than
70 January first, nineteen hundred ninety-one, and the governing body of any other
71 municipality may at any time subsequent to the effective date of this section, adopt
72 a local law, ordinance, or resolution: (i) wherein it promulgates a form of annual
73 statement of financial disclosure which is designed to assure disclosure by
74 municipal officers and employees, which for the purposes of this section, the
75 definition for which shall be modified so as to also include a city with a population
76 of one million or more, and (in the case of a political subdivision or any other
77 county, city, town or village) which is designed to assure disclosure by local
78 elected officials and/or by local political party officials of such financial
79 information as is determined necessary by the governing body, or (ii) wherein it

80 resolves to continue the use of an authorized form of annual statement of financial
81 disclosure in use on the date such local law, ordinance or resolution is adopted. In
82 either event, such local law, ordinance or resolution if and when adopted shall
83 specify by name of office or by title or classification those municipal officers and
84 employees and (in the case of a political subdivision or any other county, city,
85 town or village) those local elected officials and/or those local political party
86 officials which shall be required to complete and file such annual statement. In a
87 city with a population of one million or more, such local law, ordinance or
88 resolution shall be at least as stringent in scope and substance as the provisions of
89 section eight hundred twelve of this article, **except as otherwise provided by the**
90 **conflicts of interest board of any such city.**

91
92 § 4. Subdivision (a) of section 2602 of the charter of the city of New York is
93 amended to read as follows:

94
95 (a) There shall be a conflicts of interest board, **which shall be an independent**
96 **non-mayoral agency,** consisting of five members, appointed by the mayor with the
97 advice and consent of the council. The mayor shall designate a chair. **The**
98 **appropriations available to pay for the expenses of the board during each fiscal**
99 **year shall not be less than seven thousandths of one percent of the net total**
100 **expense budget of the city. Not later than three months after the close of each**
101 **fiscal year, the board shall submit to the mayor and the council a public detailed**
102 **accounting of all of its expenditures during such fiscal year.**

103
104 § 5. Paragraph (2) of subdivision (b) of section 2603 of the charter of the city of
105 New York is amended to read as follows:

106
107 (2) **Training as to the provisions of this chapter shall be mandatory for all**
108 **public servants.** The board shall [provide training to all individuals who become
109 **public servants to inform them of the provisions of this chapter, shall] assist
110 agencies in conducting ongoing training programs, **as determined by rule of the**
111 **board in consultation with the agencies,** and shall make information concerning
112 this chapter available and known to all public servants, **with such assistance by the**
113 **agency as determined by rule of the board in consultation with the agency.** On or
114 before the tenth day after an individual becomes a public servant, such public servant
115 must [file] **sign** a written statement [with the board], **which shall be maintained in**
116 **his or her personnel file,** that such public servant has read and shall conform with
117 the provisions of this chapter, **provided, however, that the failure of a public**
118 **servant to receive such training or to sign such a statement or to receive a copy**
119 **of this chapter or the failure to maintain the statement on file shall have no****

120 **effect on the duty of compliance with this chapter or on the enforcement of the**
121 **provisions thereof.**

122

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

125

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

127 (a) dismiss the complaint if it determines that no further action is required by the
128 board; or

129 (b) refer the complaint to the commissioner of investigation if further investigation
130 **by that agency** is required for the board to determine what action is appropriate; or

131 (c) make an initial determination that there is probable cause to believe that a public
132 servant has violated a provision of this chapter; or

133 (d) refer an alleged violation of this chapter to the head of the agency served by the
134 public servant, if the board deems the violation to be minor or if related disciplinary
135 charges are pending against the public servant, **in which event the agency shall**

136 **consult with the board before issuing a final decision; or**

137 **(e) conduct an investigation; or**

138 **(f) refer the complaint to a law enforcement agency.**

139

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

142

143 (1) The board shall have the power to **conduct or** direct the department of
144 investigation to conduct an investigation of any matter related to the board's
145 responsibilities under this chapter. The commissioner of investigation shall, within a
146 reasonable time, investigate any such matter and submit a confidential written report
147 of factual findings to the board. **For the purpose of ascertaining facts in**

148 **connection with any investigation authorized by this chapter, any two members**
149 **or the chair of the board shall have full power to compel the attendance of**
150 **witnesses and the production of books, papers, records, documents, and other**

151 **things. Each member of the board or any agent or employee of the board duly**
152 **designated by the board in writing for such purposes may administer oaths or**
153 **affirmations, and examine such persons as he or she may deem necessary,**

154 **examine witnesses in a public or private hearing, receive evidence and preside at**
155 **or conduct any such investigation, but subpoenas issued in connection with an**
156 **investigation may be issued only by two members or the chair of the board.**

157

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

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

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

(3) **If the board determines, after a hearing or the opportunity for a hearing, that a public servant has not violated any of the provisions of this chapter, it shall issue an order to that effect.** If the board determines, after a hearing or the opportunity for a hearing, that a public servant has violated provisions of this chapter, it shall, after consultation with the head of the agency served or formerly served by

200 the public servant, or in the case of an agency head, with the mayor, issue an order
201 either imposing such penalties provided for by this chapter as it deems appropriate, or
202 recommending such penalties to the head of the agency served or formerly served by
203 the public servant, or in the case of an agency head, to the mayor; provided, however,
204 that the board shall not impose penalties against members of the council, or public
205 servants employed by the council or by members of the council, but may recommend
206 to the council such penalties as it deems appropriate. **[The] An order determining**
207 **that a violation occurred** shall include findings of fact and conclusions of law.
208 When a penalty is recommended, the head of the agency **or the mayor, in the case**
209 **of an agency head,** or the council shall report to the board what action was taken;
210 **such report shall be public, to the extent permitted by law. Orders issued**
211 **pursuant to this paragraph, whether or not they determine that a violation of**
212 **this chapter occurred, shall be public.**

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

216 **[(5)](4) The board shall maintain [an] a public index of all persons found to be in**
217 **violation of this chapter, by name, office and date of order. [The index and the**
218 **determinations of probable cause and orders in such cases shall be made**
219 **available for public inspection and copying.]**

220 **[(6)](5) Nothing contained in this section shall prohibit the appointing officer of a**
221 **public servant from terminating or otherwise disciplining such public servant, where**
222 **such appointing officer is otherwise authorized to do so; provided, however, that such**
223 **action by the appointing officer shall not preclude the board from exercising its**
224 **powers and duties under this chapter with respect to the actions of any such public**
225 **servant. Nothing contained in this section shall prohibit the board from**
226 **referring any matter to a law enforcement agency at any time.**

227 **[(7)](6) For the purposes of this subdivision, the term public servant shall include a**
228 **former public servant.**

229
230 § 9. Subdivision (k) of section 2603 of the charter of the city of New York is
231 amended to read as follows:
232

233 (k) **Confidentiality.** Except as otherwise provided in this chapter, the records,
234 reports, memoranda and files of the board shall be confidential and shall not be
235 subject to public scrutiny. **The board may, but need not, release such documents**
236 **if their confidentiality is waived by the public servant. Nothing contained in this**
237 **section shall prohibit the board from releasing records, reports, memoranda or**
238 **files of the board to a law enforcement agency, pursuant to subpoena.**
239

240
241 § 10. Subdivision (b) of section 2606 of the charter of the city of New York is
242 amended and a new subdivision (e) is added to read as follows:

243
244 (b) Upon a determination by the board that a violation of section twenty-six
245 hundred four or twenty-six hundred five of this chapter has occurred, the board, after
246 consultation with the head of the agency involved, or in the case of an agency head,
247 with the mayor, **shall have the power** to impose fines of up to **[ten] twenty-five**
248 **thousand dollars**, and **if applicable**, to recommend to the appointing authority, or
249 person or body charged by law with responsibility for imposing such penalties,
250 suspension or removal from office or employment.

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

256
257 § 11. This act shall take effect immediately.

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

ANNUAL DISCLOSURE STATEMENT
FOR CALENDAR YEAR 2006

Last Name	First Name	Initial
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Title	Department or Agency
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Work Address	Work Phone No.
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If the answer to any of the following questions is “none,” please so state. Attach additional pages if necessary.

1. Outside Employers and Businesses. List the name of every employer or business, other than the City of New York, from which you received more than \$1,000 for services performed or for goods sold or produced, or of which you were a paid member, officer, director, or employee during the year 2003. Do not list individual customers or clients of the business. Do not list businesses in which you were an investor only (they are listed in Question 2 below). Identify the nature of the business and the type of business, such as a partnership, corporation, or sole proprietorship, and list your relationship(s) to the employer or business (*i.e.*, owner, partner, officer, director, member, employee, and/or shareholder). Provide the same information for your relatives. “Relative” means your spouse, registered domestic partner, child, stepchild, brother, sister, parent, stepparent, or a person you claimed as a dependent on your latest income tax return.

Name of Family Member	Relationship to You	Name of Employer or Business	Nature of Business	Type of Business	Relationship to Business
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<i>[E.g.: Rose Smith]</i>	<i>Wife</i>	<i>Monument Realty</i>	<i>Real Estate</i>	<i>Partnership</i>	<i>Employee]</i>
<i>[E.g.: John Smith]</i>	<i>Self</i>	<i>IBM</i>	<i>Computers</i>	<i>Corp.</i>	<i>Pres./ Shareholder]</i>

2. **Investments.** List the name of any entity in which you have an investment of at least 5% of the stock or debt of the entity or \$10,000, whichever is less. Do not list any entity listed in response to Question 1 above. Identify the nature of the business and the type of business (*e.g.*, corporation). Provide the same information for your spouse and any of your children who are under age 18.

Name of Family Member	Relationship to You	Name of Entity	Nature of Business	Type of Business
------------------------------	----------------------------	-----------------------	---------------------------	-------------------------

[E.g.: John Smith Self Verizon Communications Corp.]

3. **Real Estate.** List the address of each piece of real estate that you or your relatives , as defined in Question 1, own or have a financial interest in. List only real estate that is located in the City of New York and the counties of Nassau and Westchester. If you or your relative lives at the address, list as the address only the city, town, or village in which the property is located.

Name of Family Member	Relationship to You	Address of Real Estate	Type of Investment
------------------------------	----------------------------	-------------------------------	---------------------------

[E.g.: Robert Smith Father 2 Main St., Yonkers Rent]

4. **Gifts.** List each gift that you or your spouse or registered domestic partner received worth \$50 or more during the year 2003, except gifts from relatives, as defined in Question 1. A “gift” means anything of value for which you or your spouse paid nothing or paid less than the fair market value and may be in the form of money, services, reduced interest on a loan, travel, travel reimbursements, entertainment, hospitality, or in any other form. Separate gifts from the same or affiliated donors during the year must be added together for purposes of the \$50 rule. You do not need to list a gift if you know that the donor has no business dealings with the City of New York.

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

5. **Money You Owe.** List each person or firm to which you or your spouse or your registered domestic partner owes \$1,000 or more. Do not list money owed to relatives, as defined in Question 1. Do not list credit card debts unless you have owed the money for at least 60 days.

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

6. Money Owed to You. List each person or firm that owes you or your spouse or your registered domestic partner \$1,000 or more. Do not list money owed by relatives, as defined in Question 1.

Creditor	Debtor	Type of Obligation
<i>E.g.: John Smith</i>	<i>Alexis Doe</i>	<i>Mortgage loan]</i>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

I certify that all of the above information is true to the best of my knowledge and that, within the past two weeks, I have read the two-page ethics guide attached to this form.

Signed: _____

Date Signed: _____

ETHICS GUIDE: NYC CONFLICTS OF INTEREST LAW (PLAIN LANGUAGE VERSION*)

1. **Misuse of Office.** You may not take an action or fail to take an action as a public servant if doing so might financially benefit you, a family member, or anyone with whom you have a business or financial relationship.
2. **Misuse of City Resources.** You may not use City letterhead, personnel, equipment, supplies, or resources for a non-City purpose, nor may you pursue personal or private activities during times when you are required to work for the City.
3. **Gifts.** You may not accept anything of value for less than its fair market value from anyone that you know or should know is seeking or receiving anything of value from the City.
4. **Gratuities.** You may not accept anything from anyone other than the City for doing your City job.
5. **Seeking Other Jobs.** You may not seek or obtain a non-City job with anyone you are dealing with in your City job.
6. **Moonlighting.** You may not have a job with anyone that you know or should know does business with the City or receives a license, permit, grant, or benefit from the City.
7. **Owning Businesses.** You may not own any part of a business or firm that you know or should know does business with the City or receives a license, permit, grant, or benefit from the City, nor may your spouse, nor your domestic partner, nor any of your children if they are under 18.
8. **Confidential Information.** You may not disclose confidential City information or use it for any non-City purpose, even after you leave City service.
9. **Appearances.** You may not accept anything from anyone other than the City for communicating with any City agency or for appearing anywhere on a matter involving the City.
10. **Lawyers and Experts.** You may not receive anything from anyone to act as a lawyer or expert against the City's interests in any lawsuit brought by or against the City.
11. **Buying Office or Promotion.** You may not give or promise to give anything to anyone for being elected or appointed to City service or for receiving a promotion or raise.
12. **Business with Subordinates.** You may not enter into any business or financial dealings with a subordinate or superior.
13. **Political Solicitation of Subordinates.** You may not directly or indirectly ask a subordinate to make a political contribution or to do any political activity.
14. **Coercive Political Activity.** You may not force or try to force anyone to do any political activity.
15. **Coercive Political Solicitation.** You may not directly or indirectly threaten anyone or promise anything to anyone in order to obtain a political contribution.

16. **Political Activities by High-Level Officials.** If you are an elected official, deputy mayor, agency head, deputy or assistant agency head, chief of staff, or director or member of a board or commission, you may not hold political party office or ask anyone to contribute to the political campaign of a City officer or City employee or to the political campaign of anyone running for City office.
17. **Post-Employment One-Year Ban.** For one year after you leave City service, you may not accept anything from anyone, including the City, for communicating with your former City agency.
18. **Post-Employment One-Year Ban for High-Level Officials.** If you are an elected official, deputy mayor, chair of the city planning commission, or head of the office of management and budget, law department, or department of citywide administrative services, finance, or investigation, for one year after you leave City service, you may not accept anything from anyone, including the City, for communicating with your former branch of City government.
19. **Post-Employment Particular Matter Bar.** After you leave City service, you may never work on a particular matter you personally and substantially worked on for the City.
20. **Improper Conduct.** You may not take any action or have any position or interest, as defined by the Conflicts of Interest Board, that conflicts with your City duties.
21. **Inducement of Others.** You may not cause, try to cause, or help another public servant to do anything that would violate this Code of Ethics.
22. **Disclosure and Recusal.** As soon as you face a possible conflict of interest under this Code of Ethics, you must disclose the conflict to the Conflicts of Interest Board and recuse yourself from dealing with the matter.
23. **Volunteer Activities.** You may be an officer or director of a not-for-profit with business dealings with the City if you do this work on your own time, you are unpaid, the not-for-profit has no dealings with your City agency (unless your agency head approves), and you are in no way involved in the not-for-profit's business with the City.

FOR ADDITIONAL INFORMATION, CONTACT

**NEW YORK CITY CONFLICTS OF INTEREST BOARD
2 LAFAYETTE STREET, SUITE 1010
NEW YORK, NY 10007
212-442-1400 (TDD 212-442-1443)**

OR VISIT THE BOARD'S WEB SITE AT

<http://nyc.gov/ethics>

* This material is intended as a general guide. It is not intended to replace the text of the law (NYC Charter § 2604). For more particular information or to obtain answers to specific questions, you may write or call the Board.

ADVISORY OPINIONS OF THE BOARD

SUMMARIES AND INDEXES

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

OPINION SUMMARY

OPINION NO: **2005-1**

DATE: 10/05/05

CHARTER SECTION(S) INTERPRETED:

2604(b)(2), (b)(4), (b)(13)
2604(e)

SUBJECT(S): Salary supplements

OTHER OPINION(S) CITED: 92-34, 99-4, 2003-4

SUMMARY: It would violate Chapter 68, absent a waiver from the Board, for City employees to receive compensation from any person or entity other than the City for performing their City work, whether such compensation is denominated overtime pay, a salary supplement, a bonus, or payment for consulting work. The Board will consider applications for such waivers on a case-by-case basis, provided that the applicant has also submitted the written approval of the agency head. In the present case, the Board determines to grant waivers and permit such payments by two not-for-profit corporations closely affiliated with the City agencies in question, because it is satisfied that the purpose advanced by such payments is for the benefit of the public at-large.

OPINION SUMMARY

OPINION NO: 2005-2

DATE: 10/17/05

CHARTER SECTION(S) INTERPRETED:

2601(4), (11), (12)
2604(a)(1)(b)
2604(b)(2), (b)(3), (b)(4), (b)(6)
2604(c)(6)
2604(d)(6)
2604(e)

SUBJECT(S): Charter schools

OTHER OPINION(S) CITED: 94-10, 98-11, 99-6, 2000-1

SUMMARY: Charter schools are not “firms” within the meaning of Charter Section 2604(a)(1)(b), so that public servants need not apply for Board waivers in order to work at a charter school; and charter schools are not “private interests” for the purposes of Charter Section 2604(b)(6) and are not “not-for-profit corporations” for the purposes of Section 2604(c)(6), so that those provisions do not prohibit a public servant who works at or volunteers for a charter school from communicating with the City on behalf of the charter school. Charter Section 2604(b)(2) may, however, restrict such communications by DOE employees or officials to their DOE subordinates or by certain public servants, such as employees of the DOE’s Office of Charter Schools and their superiors, whose official duties require them to oversee charter schools; such employees should consult with the Board before making such communications. In all other respects, the provisions of Chapter 68 apply to the activities of public servants who work or volunteer for charter schools.

OPINION SUMMARY

OPINION NO: 2005-3

DATE: 11/07/05

CHARTER SECTION(S) INTERPRETED:

2601(8)

2604(b)(1)(a), (b)(1)(b), (b)(3)

SUBJECT(S): Community Boards Voting

OTHER OPINION(S) CITED: 91-3, 2003-2

SUMMARY: Community board members will not violate Chapter 68 if they vote at the community board concerning the rezoning of a large area in which they own homes, provided that they disclose the interest on the minutes of the community board and to the Board.

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1990-2005**

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