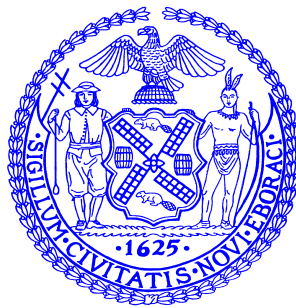


CITY OF NEW YORK
CONFLICTS OF INTEREST BOARD

ANNUAL REPORT

2006



Steven B. Rosenfeld
Chair

Monica Blum
Kevin B. Frawley
Angela Mariana Freyre
Andrew Irving
Members

Mark Davies
Executive Director

2 Lafayette Street
New York, New York 10007

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INTRODUCTION

In 2006, the Conflicts of Interest Board (“COIB”) celebrated its sixteenth anniversary and the forty-seventh 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.

Chapter 68 contains the City’s Conflicts of Interest Law, which is applicable to more than 300,000 public servants of the City of New York (http://www.nyc.gov/html/conflicts/downloads/pdf2/bluebook_1-07_final.pdf). That law, together with the new lobbyist gift law enacted in 2006 as sections 3-224 through 3-228 of the Administrative Code, vests in the Board four broad responsibilities: (1) training and educating City officials and employees about Chapter 68's ethical requirements and the City’s lobbyist gift law; (2) interpreting Chapter 68 and the lobbyist gift law through issuance of formal advisory opinions, promulgation of rules, and responses to requests from current and former public servants and lobbyists for advice and guidance; (3) prosecuting violators of Chapter 68 and the lobbyist gift law in administrative proceedings; and (4) administering and enforcing the City's financial disclosure law contained in section 12-110 of the Administrative Code.

This Report reviews the Board's accomplishments during 2006 under each of the following headings: (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 any other public office or any political party office.

The Board's Chair is Steven B. Rosenfeld, a partner in the law firm of Paul, Weiss, Rifkind, Wharton & Garrison. He was appointed to the Board in May 2002 and was named Chair in June 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 and reappointed in October 2006.

Andrew Irving, Senior Vice President and General Counsel of Independent Fiduciary Services, Inc., was appointed to the Board in March 2005.

Kevin B. Frawley, Executive Vice-President for Financial Administration Services at Crawford & Company, was appointed to the Board in October 2006, replacing Jane W. Parver, a partner at Kaye, Scholer, Fierman, Hays & Handler.

A list of the present and former members of the Board may be found in Exhibit 1 to this Report.

The Board's staff of 20 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 detailed in Exhibit 2, in 2006 the Board's Training and Education Unit conducted 194 training classes for public servants throughout City government, including 43 classes for the Department of Education ("DOE"). This represents a decrease from the number of classes taught in 2005 (242 total), a decrease explained by two factors. First, the Board's outreach to DOE schools has been hampered for the second year in a row by the elimination of professional development days for teachers. Thus, Chapter

68 training for teachers has been much less requested by school principals, and finding times to conduct training sessions has become harder. Therefore, for the second year in a row, the decrease in the overall number of classes came almost exclusively from the drop in DOE teacher training sessions. The number of training sessions at other City agencies was only slightly smaller in 2006 than it was in 2005. Second, the Unit operated essentially with a staff of only one from December 2005 until September 2006, when the Board's new senior trainer, Jonathan Wingo, was hired and sufficiently trained to be able to teach classes by himself. In contrast, prior to 2003, the Board's budget permitted a Training & Education Unit staff of four full-time employees and one three-fifth's-time employee. Nevertheless, the Unit discharged its responsibilities in 2006, while also producing several new initiatives.

As summarized in Exhibit 3, during 2006 COIB classes reached approximately 8,342 City employees in 36 City agencies and offices. 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 2006 COIB expanded its outreach to community board members throughout the City. Much of the material for those public servants 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.

Among the new initiatives was an interactive play about Chapter 68 issues, written by Alex Kipp, Director of Training, which was performed at the Board's annual Citywide Ethics Seminar at the New York Law School. Legal commentary was provided between scenes by two of the Board's attorneys. Acted by Alex Kipp and Robert Weinstein, a professional actor who graciously donated his time and talents to the Board, the play was well received by a capacity crowd. It was performed again at the United Nations at that organization's request, to illustrate non-traditional ethics training techniques.

In 2006, 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, continuing a model begun in 2004. The Training and Education Unit also worked with the Department of Citywide Administrative Services (“DCAS”) to establish several citywide CLE classes in Chapter 68, sponsored by the Citywide Training Center. COIB attorneys and Training staff also continued to write materials on Chapter 68 for publication, writing a monthly column, “Ask the City Ethicist, in *The Chief*, and publishing the Board’s own newsletter, *The Ethical Times*. 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 distribute it electronically to their entire staff.

As a testament to the fine reputation the Board’s Training and Education enjoys, DCAS asked Alex Kipp to lead a Citywide Training Directors’ Forum. He composed a curriculum and exercises on interactive training techniques for the half-day session, entitled “Am I Boring You?” The session was well received.

“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 lunchtime discussion group that takes a close look at specific areas of the conflicts of interest law. Participants included those 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 2007, with the goal of obtaining State certification to offer CLE credit to attorney attendees and presenters.

Department of Education

The Board’s training activities at the Department of Education (“DOE”) decreased in 2006, mostly because, as noted above, of a severe cut in professional development time for teachers. The COIB hopes that the restructuring of the DOE will offer the Training and Education Unit more flexibility in scheduling classes at schools. The Unit did conduct classes, though, for new types of staff, including new principals, principals-in-

training, and speech therapists. The Board's Training and Education Unit held 60 classes at DOE during the 2005-2006 school year, conducted 19 classes at DOE from June to December, and at year-end was scheduled to complete 23 classes for the 2006-2007 school year. The Board's trainers will be working with the DOE Ethics Officer to develop new means of outreach to the DOE and, if possible, to restore to previous levels the number of classes the COIB teaches at the DOE.

Website, Publications, and Media Outreach

Regular publications maintenance and improvement of the COIB website 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. This includes frequently asked questions, legal publications, plain language publications, interactive exercises, and an ever-growing list of links. Jonathan Wingo, Senior Trainer for the Board, has assumed web coordinator responsibilities and continues to do a fine job.

The Internet remains one of the most essential tools for Chapter 68 outreach. Indeed, in 2006 the Board's website (<http://nyc.gov/ethics>) had 239,140 visitors and 446,904 views. The Board continues to post new publications on the website, so that every Board publication, including the texts of Chapter 68, the Board's rules, the financial disclosure law, and the lobbyist gift law, and all COIB booklets and leaflets, is 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.

The Training and Education Unit also began a much needed update and rewrite of the Plain Language Guide to Chapter 68, a task that should be completed in early 2007. Recent articles by COIB attorneys and installments of *Ask the City Ethicist* 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 of the Unit. 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, are often 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 the Department of Investigation ("DOI") and 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 is complete. Artwork was provided for free by Kurt Marquart, with copy provided by the Training and Education Unit. Printing of the new poster will commence in 2007.

The Conference Room

The City Council has given COIB \$40,000 in the Fiscal Year 2007 budget to remodel and update the Board's conference room, creating a multi-purpose training center. Reconstruction should begin in early 2007 and will include new lighting, chairs, and technology for training.

Seminar

The Board's Eleventh Annual Seminar on Ethics in New York City Government at New York Law School in May 2006 was a great success. More than 250 public servants attended, representing approximately fifty City agencies. At the event's plenary session, the Board's Chair presented a short "State of the Board" overview, and the 2006 Powell Pierpoint Award for Service to the Conflicts of Interest Board was given to former Board member Bruce Green for his outstanding work for the Board during his ten-year tenure (1995-2005). The Board's 2007 seminar will be held on May 16, 2007.

International Visitors and Government Ethics Associations

In 2006, the Board sent three staff members - Jonathan Wingo, Wayne Hawley, and Carolyn Miller - to the annual conference of the international Council on Government Ethics Laws (COGEL), the premier government ethics organization in North America. Past COGEL conferences have provided the Board with a number of ideas for new initiatives, including the Board's game show, an interactive ethics quiz, and electronic filing.

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 members attempt to

respond to those requests, whenever possible by e-mail, although occasionally in person. For example, in 2006 Executive Director Mark Davies spoke at the annual meeting of the New York State Association of Towns on “Article 18 of the New York State General Municipal Law”; at the Fall Meeting of the New York State Bar Association’s Municipal Law Section, on “Drafting Municipal Ethics Legislation”; and at a Rockland County Ethics Training, on “Ethics in the Office: Article 18 of the NYS General Municipal Law.” Louise Victor, then Associate Counsel in the Enforcement Unit, gave “An Overview of New York City’s Conflicts of Interest Law” to the 19th Annual Legislative Conference of the New York State Assembly, Puerto Rican/Hispanic Task Force.

The Board’s staff gave presentations at the Board’s offices to representatives from Croatia, Kosovo, Tanzania, Azerbaijan, and Hong Kong. The first two of those presentations were made at the request of the United States Department of State’s International Visitors Leadership Program and the third at the request of the City’s Commission for the United Nations, Consular Corps and Protocol.

Time permitting, COIB staff also assist other municipalities that are struggling to revise their ethics laws. For example, in 2006 the Executive Director testified before the Westchester County Board of Legislators on proposed amendments to their financial disclosure law. Also in 2006, the Board’s Director of Training and Education submitted written testimony to the Philadelphia City Council’s Legislative Oversight Committee on approaches to and problems in municipal government ethics training for their public hearing on establishing an ethics training program for public servants.

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 on the Board of Directors of Global Integrity.

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 small but dedicated training staff, Alex Kipp, Director of Training and Education, and Jonathan Wingo, newly appointed Senior Trainer/Training Coordinator, for coordinating all of the extensive activities described in this section.

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 plateaued in 2006 because of staff turnover.

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, 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 that year 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 that year.

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 2006, the Board received 568 written requests for advice, a 10% increase over 2005, compared to 691, 559, 535, and 515 for 2002, 2003, 2004, and 2005, respectively. At the same time, however, telephone requests for advice continued at near-record levels. In 2006, the Board's staff handled 2,895 phone calls, a 77% increase over 2001 and virtually the same level as the record 2,926 calls handled in 2005. 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 time available for drafting written advice and advisory opinions.

While written requests and telephone calls continued to pour in, the Board issued 415 pieces of legal advice in 2006, a drop from recent years

occasioned by the vacancy for six months in one of the Advice Unit's three attorney positions. As summarized in Exhibit 7, these 415 written responses included 178 staff advice letters, 158 waiver letters signed by the Chair on behalf of the Board, 74 Board letters and orders reflecting Board action, and five public Advisory Opinions.

The five Advisory Opinions were as follows:

AO 2006-1 – Community Education Councils

Members of the Community Education Councils (“CECs”) of the Department of Education (“DOE”) who work at private firms that have business dealings with DOE would, absent a waiver from the Board, be in violation of Charter Section 2604(a)(1)(a). However, upon the written approval of the DOE Chancellor, the Board will, in appropriate circumstances, grant Section 2604(e) waivers to permit CEC members to hold such positions but will condition any such waivers on the requirements that the member not participate at the CEC in any matter involving his or her outside employer; not communicate on behalf of that employer with staff of the district on whose CEC the member sits or with the staff of any school within that district; not use any DOE equipment, supplies, or other resources in connection with the outside employment; and not use or reveal confidential City information.

AO 2006-2 – Complimentary Tickets

An elected official may accept a complimentary ticket to a dinner, reception, or other function, where the ticket is a gift from a person, such as a lobbyist, who is not the sponsor of the function, *only* where the agency head certifies in writing that the attendance is in the interests of the City. Even where attendance is permissible, however, the elected official may not accept gifts of items (such as gift bags) valued at \$50.00 or more in the aggregate from the same donor or affiliated donors during a twelve-month period.

AO 2006-3 – Union Conventions

City employees may attend their own union's conventions, on their own time, and receive free food and accommodations paid for by that union. City employees may attend a convention of a union of which they are not members, on their own time, and receive free food and accommodations paid for by that union. City employees who attend a

union convention in connection with their official duties may attend the convention on City time and receive free food and accommodations paid for by that union, provided they have received prior approval from their Agency head or the Agency head's designee and otherwise meet the requirements of Board Rules § 1-01(h) as to length of stay and appropriateness of the accommodations and meals. City employees who attend union conventions may attend cocktail parties, dinners, and similar events which are part of the regular agenda of the convention and are open to all attendees, even if those events are sponsored by City vendors. City employees attending these conventions may not accept any gift worth \$50.00 or more, or a series of gifts during any twelve-month period with a cumulative value of \$50.00 or more, from a City vendor, including in particular invitations to private dinners or recreational events which are not part of the convention program, and also including the aggregate value of gifts such as hats, t-shirts, and coffee mugs. Notwithstanding the foregoing, at no time may any City employee accept any benefit, no matter the value, in exchange for taking, or refraining from taking, some future action in his or her official capacity or as a reward for having taken, or having refrained from taking, some official action.

AO 2006-4 – Travel Discounts

A City employee may accept, for the City employee's private use, a discount offered to government employees by a hotel chain, a car rental agency, a cellular service provider, or other similar vendor, where the discount is available generally to all government employees and the vendor has been made aware that the City employee is not on official City business.

AO 2006-5 – Frequent Flyer Miles

It would not be a violation of Chapter 68 for City employees to accumulate and use for personal travel frequent flyer miles earned while traveling on official business. A City employee must not, however, make a flight selection at additional expense to the City in order to receive or increase frequent flyer benefits. This opinion should not be read, however, to restrict individual City agencies from requiring that miles earned by their employees on City travel be used only for subsequent City travel.

Indexes to all of the Board's public advisory opinions since 1990 are annexed to this Report.

Because of the staff vacancy during 2006, the consequent reduction in the output of the Legal Advice Unit and the increase in written requests for advice, the Board's backlog of written requests for advice increased from 127 matters at the beginning of 2006 to 225 matters at the end of the year. Late in 2006, however, the Board not only filled the vacant attorney position but also filled a new fourth attorney position in the Unit, a position created in recognition of the demands on the Unit occasioned by the new lobbyist gift law. The Board therefore anticipates that it will substantially reduce this backlog in 2007.

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, seven law student interns, one volunteer lawyer, and four high school student interns worked part-time for the Legal Advice Unit. These individuals contributed substantially to the Board's output. As the result, in part, of their efforts and the substantial efforts by the existing staff of the Unit, the Legal Advice Unit was able to reduce the median age of pending requests for advice from 12 months at the beginning of 2006 to 7½ months at the end of the year. Although 7½ months remains far above the 18-day median age of advice requests at the beginning of 2002, the trend toward eliminating the backlog has been set; and the Board anticipates that the average age of pending requests, like the backlog, can be reduced dramatically during 2007.

Besides its work in responding to requests for advice from public servants, the Board's Legal Advice Unit planned and coordinated the Board's public hearings over two days early in 2006 on the question of the lobbying of public servants by persons who simultaneously serve them as political consultants. At these hearings the Board heard from a number of witnesses and received many written submissions. Also on the subject of lobbying, and following the passage of Local Law 16 of 2006 (the so-called "lobbyist gift ban"), the Board held hearings on and subsequently adopted a new rule, discussed in more detail below, implementing this gift ban.

The Board's appreciation for the Legal Advice Unit's achievements under considerable pressure go to Deputy Executive Director and General

Counsel Wayne Hawley and his superb staff, including Associate Counsel Sung Mo Kim, and to its two new members, Associate Counsel Karrie Ann Sheridan and Assistant Counsel Jessie Beller.

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. However, 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 2006, the Board published notices of adoption of the following rules:

- Board Rules § 1-13(d). The Board amended its Rule 1-13(d) to more fully set forth the circumstances in which a public servant who is the accessory to a violation of the conflicts of interest law will himself or herself be found to have violated the law.
- Board Rules § 1-16. The Board adopted a new Rule 1-16, pursuant to the mandate of Local Law 16 of 2006, implementing the lobbyist gift ban. As mandated by the statute, the new rule defines what gifts from lobbyists will violate the ban and also delineates exceptions for *de minimis* gifts, for gifts from family and close friends, and for gifts to the City.
- Board Rules § 1-01. At the same time that it adopted Rule 1-16 on what gifts lobbyists may give, the Board amended its Rule 1-01 on what gifts public servants may receive, in essence fine-tuning that provision in light of experience. Again pursuant to legislative mandate, the Board's rule on gift receiving by public servants and

its rule on gift giving by lobbyists were synchronized to the greatest extent practicable.

The full text of all of the Board's rules may be found on the Board's website (http://www.nyc.gov/html/conflicts/downloads/pdf2/rules%201%2007_final.pdf).

5. ENFORCEMENT

In 2006, the Board's Enforcement Unit set a new benchmark of productivity. Despite being without a Director of Enforcement for almost three months, and losing two experienced attorneys to other positions in City service, the Unit resolved and published 26 dispositions, a 117% increase over 2005. These 2006 dispositions, which are a matter of public record, are as follows:

- (1) Bernard Kerik, former New York City Police Commissioner, pled guilty to misdemeanor charges that, when he was Correction Commissioner, he accepted a gift valued at approximately \$165,000 in renovation work on his apartment from a firm that was seeking to do business with the City, in violation of Charter § 2604(b)(5), and also failed to list indebtedness in excess of \$5,000 on his financial disclosure report filed with the Board in 2002, in violation of the City's financial disclosure law. Pursuant to a plea agreement, Kerik paid a criminal fine of \$206,000 and a civil fine to the Board in the amount of \$15,000. *People v. Kerik (2006)*.
- (2) The Board fined a New York City Department of Education ("DOE") secretary \$500 for printing on DOE letterhead a form letter to facilitate fingerprinting as part of her son's application for employment with the DOE, using a DOE printer, forging her principal's signature on the letter, and then faxing the letter using a DOE fax machine to the DOE Office of Personnel. The DOE secretary acknowledged that her conduct violated the City of New York's conflicts of interest law, which prohibits a public servant from using or attempting to use his or her position as a public servant to obtain any financial gain, contract, license, privilege, or other private or personal advantage, direct or

indirect, for the public servant or any person or firm associated with the public servant, which would include the public servant's child, and prohibits a public servant from using City letterhead, personnel, equipment, or supplies for any non-City purpose. *COIB v. Diaz*, COIB Case No. 2005-685 (2006).

- (3) The Board issued a public warning letter to a former Deputy Chief of Staff for the City Council who accompanied a landlord, with whom he had a prior business relationship, to meet a tenant at the landlord's building to discuss the possibility of the tenant's withdrawing his complaint filed with the New York State Department of Housing and Community Renewal against the landlord and, at the end of the discussion, provided the tenant with his City Council business card and the telephone number of a colleague at City Council where the former Deputy Chief of Staff could be reached. While not pursuing further enforcement action, the Board took the opportunity to remind public servants that the City Charter prohibits the use of City resources – including City business cards and City telephone numbers – for non-City purposes. *COIB v. Nieves*, COIB Case No. 200-470 (2006).
- (4) The Board and the New York City Housing Authority (“NYCHA”) concluded two three-way settlements in which a NYCHA community coordinator and a community associate were suspended for 25 workdays, valued at approximately \$4,262 and \$3,085, respectively, for accepting compensation from both NYCHA and a Resident Advisory Board for performing their official duties. The respondents each acknowledged that they accepted approximately \$130 and \$265, respectively, from the Glenwood Houses Advisory Board for supervising rentals at the Glenwood Houses Community Center when they also received compensation from NYCHA for supervising the same rentals. Both acknowledged that their conduct violated the provision of the conflicts of interest law which prohibits a public servant from using his or her position as a public servant to obtain any financial gain for the public servant or any person or firm associated with the public servant and from accepting compensation except from the City for performing his or her

official duties. *COIB v. Nelson and Jefferson*, COIB Case Nos. 2006-562 and 562b (2006).

- (5) The Board fined a former Department of Design and Construction (“DDC”) Deputy Director \$4,500 for maintaining a financial relationship with a vendor that had business dealings with DDC. The former DDC Deputy Director asked her subordinate to arrange for a loan for a person with whom the former Deputy Director had a financial relationship. The source of the loan was a principal of a company that had business dealings with DDC, which business dealings were handled by the former Deputy Director’s subordinate. In addition to arranging for the loan, the former Deputy Director also solicited the lender to purchase her associate’s business. The former DDC Deputy Director acknowledged that her conduct violated the provision of the conflicts of interest law which prohibits a public servant from using his or her position as a public servant to obtain any financial gain for the public servant or any person or firm associated with the public servant and that she failed to report monies that she owed, as required by the New York City Administrative Code, in the financial disclosure report she filed with the Board. *COIB v. Morros (a.k.a. Neira)*, COIB Case No. 2004-234a (2006).
- (6) The Board and the New York City Human Resources Administration (“HRA”) concluded a three-way settlement in which an HRA civil service caseworker was suspended for 45 workdays, valued at approximately \$6,224, for using her HRA cell phone to make excessive personal calls. The caseworker made calls on her HRA cell phone totaling approximately \$2,422 from November 2003 through March 2004, and approximately \$1,829 from April 2004 through June 2004. Of those amounts, the caseworker repaid HRA only \$450. The caseworker acknowledged that her conduct violated the provision of the conflicts of interest law which prohibits a public servant from using his or her position as a public servant to obtain any financial gain for the public servant or any person or firm associated with the public servant; pursuing personal and private activities during times when the public servant is required to perform services for the City; and using City letterhead,

personnel, equipment, resources, or supplies for non-City purposes. *COIB v. Tyner*, COIB Case No. 2006-048 (2006).

- (7) In a three-way settlement with HRA, the Board fined an HRA contracts manager \$1,250 for asking a vendor whose contract-payment requests the manager reviewed to help the manager's son find employment. The vendor interviewed the manager's son and offered his son a job working on a contract that the vendor had with HRA. The HRA manager acknowledged that his conduct violated the provision of the conflicts of interest law which prohibits a public servant from using his position to benefit his or her child, parent, spouse, domestic partner, or sibling, or any person with whom the public servant has a business or financial relationship. *COIB v. Okowitz*, COIB Case No. 2005-155 (2006).
- (8) The Board fined a former DOE Principal \$4,000 for recommending his wife, a retired DOE teacher, for a position with a DOE vendor, which hired her. The Board also fined the Principal's wife \$1,000 for appearing before DOE within one year of terminating her employment with DOE. *COIB v. Golubchick*, COIB Case No. 2004-700, and *COIB v. Golubchick*, COIB Case No. 2004-700a (2006).
- (9) A DOE employee reported to the Board that he had twice hired his daughter to work in a youth summer employment program that he supervised. In a three-way disposition with the Board and DOE, the youth program supervisor agreed to pay restitution to DOE of \$1,818, the amount his daughter earned from her summer employment, and to get training from DOE's Ethics Officer regarding the City's conflicts of interest law and DOE rules governing conflicts of interests. *COIB v. Whitlow*, COIB Case No. 2005-590 (2006).
- (10) The Board fined an investigator for the Office of the Special Commissioner of Investigation for the New York City School District ("SCI") \$1,500 for giving a photocopy of his SCI shield and identification to a friend for the friend's use in the event that he was arrested. The investigator admitted that he gave a copy of his SCI credentials to a friend, whom he referred to as his

brother-in-law, on which copy the investigator wrote: “Could you please extend courtesy to my brother-in-law Thank you.” In 2005, the investigator’s friend was arrested in New York City and the arresting officer found the photocopy of the investigator’s credentials in his friend’s wallet. The investigator also introduced himself as an SCI investigator in a conversation with the New York City Police Department concerning his friend’s arrest. City public servants, particularly those who serve the City in law enforcement and quasi-law enforcement capacities, are prohibited from abusing the powers that are vested in them as part of their official duties and the indicia of those powers, such as a shield and identification issued by the City, for any non-City purpose. *COIB v. Vance*, COIB Case No. 2005-146 (2006).

- (11) The Board and the DOE concluded a three-way settlement in which a DOE assistant principal was fined a total of \$4,000 for maintaining an ownership interest in a firm that did business with her agency and for participating in purchasing goods for her school from her husband’s company. The Assistant Principal held a prohibited ownership interest in a firm that was engaged in business dealings with her agency, DOE, and with the school at which she works. She misused her official position by preparing and submitting to a DOE employee at her school a bid sheet concerning bids for the school’s purchase of sweatshirts for its dance program. The Assistant Principal’s husband’s company was listed as the lowest bidder on the bid sheet and was ultimately the successful bidder. The Board fined the Assistant Principal \$2,500, and DOE fined her \$1,500, for a total fine of \$4,000. In addition to paying the fine, the Assistant Principal agreed to undergo training related to the City’s conflicts of interest law and DOE rules governing conflicts of interest and to seek Board advice concerning her ownership interest in her husband’s firm if her husband’s firm is to engage in business dealings with any City agency in the future. *COIB v. Green*, COIB Case No. 2002-716 (2006).
- (12) The Board issued a public warning letter to a former Assistant Commissioner at the FDNY who violated the valuable gifts rule of the City’s conflicts of interest law when he accepted, from an

FDNY vendor, gifts of two dinners for his wife and himself. *COIB v. Gregory*, COIB Case No. 2006-175 (2006).

- (13) The Board issued public warning letters to two DOE employees who accepted valuable gifts from a DOE vendor. An Assistant Principal at a City high school and a secretary at that high school accepted \$100 gift certificates during the 2003 Christmas holiday season. Subsequently, the Assistant Principal returned his gift certificate to the vendor. *COIB v. Plutchok*, COIB Case No. 2004-136, and *COIB v. Messinger*, COIB Case No. 2004-136a (2006).
- (14) Two NYPD employees and one former NYPD employee accepted gifts of dinners and golf outings, and in one instance tickets to a New York Yankees game at Yankee Stadium, from a vendor that was engaged in business dealings with the City and NYPD, in which business dealings the current and former NYPD employees were involved. The Board settled this matter by issuing a public warning letter to the NYPD in part because the NYPD represented that the employees' actions resulted from a misunderstanding of the scope of their supervisor's directions that the employees develop a closer relationship with the vendor and because the NYPD agreed to undertake measures to train and educate its employees and vendors, with the Board's guidance and assistance, about the City's conflicts of interest law. *In re NYPD*, COIB Case No. 2004-553 (2006).
- (15) In a three-way settlement with the Board and the FDNY, an FDNY lieutenant was fined for moonlighting as a fire sprinkler inspector in the City and indirectly appearing before the FDNY as part of his non-City job. The firefighter's non-City job required him to prepare inspection reports that he knew would be reviewed by FDNY personnel. Public servants are prohibited from representing, for pay, private interests before the City and from appearing, even indirectly, in matters involving the City. The firefighter, who also admitted to violating various FDNY rules and regulations, agreed to forfeit 50 days' pay, which amounted to approximately \$11,267, and 10 days of annual leave. He was also placed on probation for three years. *COIB v. Valsamedis*, COIB Case No. 2005-238 (2006).

- (16) The Board fined a psychiatric technician at the New York City Health and Hospitals Corporation (“HHC”) \$2,500 for having an ownership interest in two companies that had business dealings with HHC. The psychiatric technician acknowledged that she was the registered owner of her husband’s two companies and that these companies each bid on a contract with HHC. At least one company was awarded a contract with HHC; the other was disqualified when HHC became aware that one of its employees was part owner. *COIB v. Goyol*, COIB Case No. 2004-159 (2006).
- (17) The Board issued a public warning letter to the Deputy Chief Medical Officer of the FDNY Bureau of Health Services, who moonlighted for a firm that had business dealings with FDNY. Although both he and FDNY had long-standing relationships with this City vendor, FDNY did not advise him to seek a waiver from the Board. *COIB v. Prezant*, COIB Case No. 2005-454 (2006).
- (18) The Board concluded a settlement with a former New York City Department of Youth and Community Development (“DYCD”) Contract Specialist in the Youth Program Operations Unit, who applied for and accepted a position with a vendor whose contract he monitored and who appeared before DYCD on behalf of that vendor within one year of his resignation from DYCD. The conflicts of interest law prohibits a public servant from soliciting for, negotiating for, or accepting any position with a firm involved in a particular City matter in which the public servant is directly concerned or personally participating and also prohibits any former public servant from appearing before his or her former City agency within one year of the termination of employment with the City. The Board fined the former Contract Specialist \$500. *COIB v. Fenster*, COIB Case No. 2002-140 (2006).
- (19) The Board issued a public warning letter to a former Chief Administrator of the Board of Review for the DOE, who contacted DOE within one year of his resignation concerning the status of a bid objection filed by a DOE contract vendor who was

then his private employer. While not pursuing further enforcement action, the Board took the opportunity to remind public servants that the City Charter prohibits former City employees from appearing before their City agency within one year of the termination of their City employment. *COIB v. Avedon*, COIB Case No. 2003-508 (2006).

- (20) The Board concluded a settlement with a former FDNY Assistant Project Manager in the Bulk Fuel Safety Unit of the Fire Prevention Unit who appeared before FDNY within one year of his resignation from FDNY on behalf of a private employer as a consultant for fuel and fire safety. This conduct violated the City of New York's conflicts of interest law, which prohibits any former public servant from appearing before his or her former City agency within one year of the termination of employment with the City. The Board fined the former Assistant Project Manager \$500. *COIB v. Sorkin*, COIB Case No. 2003-655 (2006).
- (21) The Board concluded a settlement involving a former DOE teacher who appeared before DOE within one year of the termination of the teacher's City employment. Less than two months after she had resigned from DOE, the former DOE teacher provided staff development training for her non-City employer at two DOE schools. This conduct violated the Board's post-employment law prohibiting appearances before one's former City agency within 12 months of termination from City service. The Board fined the former teacher \$500. *COIB v. Coppola*, COIB Case No. 2005-607 (2006).
- (22) The Board and the New York City Department of Environmental Protection ("DEP") concluded two three-way settlements with a DEP Supervising Mechanic and a DEP auto mechanic, fining them \$750 and \$460, respectively, for engaging in a prohibited superior-subordinate financial relationship. The subordinate mechanic sold a vintage Chevrolet Corvette to his superior, which the superior purchased for \$14,000, and performed a brake repair on another car owned by the superior, for which repair the subordinate was paid \$400 by the superior. The superior and subordinate DEP mechanics acknowledged that this conduct

violated the provision of the conflicts of interest law which prohibits any public servant from entering into a financial relationship with his superior or subordinate. *COIB v. Marchesi*, COIB Case No. 2005-271, and *COIB v. Parlante*, COIB Case No. 2005-271a (2006).

The Board's "Summaries of Enforcement Cases" provides a useful digest of all of the Board's enforcement results from 1990 to date. This document is available on CityShare, the City's Intranet, and on the Board's website (at http://www.nyc.gov/html/conflicts/downloads/pdf2/Enforcement_Case_Summaries.pdf) 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 CityLaw website free of charge to all in full-text searchable form (at <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 Department of Education in *Whitlow* and *Green*, the Fire Department in *Valsamedis*, the Department of Environmental Protection in *Marchesi* and *Parlante*, the Human Resources Administration in *Tyner* and *Okowitz*, and the New York City Housing Authority in *Nelson* and *Jefferson*. 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 *Morros (a.k.a. Neira)* case, 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 *Coppola*, *Fenster*, and *Sorkin*, the Board fined former public servants for violating the Charter's post-employment provisions, which prohibit former public servants from appearing before their former City agencies within one year after leaving City service and also prohibit former public servants from working after leaving City service on the same particular matters 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 law 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 2006 the Board received 328 new complaints and closed 530 cases, the latter representing a 126% increase from 2005. The Enforcement Unit referred 154 matters to the Department of Investigation, a 40% increase from 2005. In addition, the Enforcement Unit served 35 Private Warning Letters, a 218% increase from the 11 served in 2005, and served 49 Notices of Initial Determination of Probable Cause, a 227% increase from the 15 served in 2005. A total of 8 Petitions were served, a dramatic increase over 2005 in which none were served.

As Exhibit 10 shows, the Chapter 68 fines imposed in Board proceedings in 2006, including those fines made payable in part to other agencies in three-way settlements, amounted to \$49,738.50, of which \$20,460 was collected by the Board. In addition, as discussed above, former Police Commissioner Bernard Kerik, in pleading guilty to violation of Chapter 68 and the City's financial disclosure law, paid a criminal fine of \$206,000 and a fine to the Board of \$15,000. Total civil fines imposed in Board and criminal proceedings for substantive violations of Chapter 68 from 1993 through 2006 have amounted to \$433,883.50.

While the deterrent effect of fines is important, some of the Board's most important work involves public 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 Carolyn Lisa Miller, Director of Enforcement; Dinorah S. Nunez, Deputy Director of Enforcement; Vanessa Legagneur, Associate Counsel; Bre Injeski, Assistant Counsel; and Maritza Fernandez, Litigation Coordinator. The Board also gratefully acknowledges the work of Astrid B. Gloade, the former Director of Enforcement, who during her tenure increased the Unit's productivity significantly, as well as the work of two senior attorneys who left the Board this year to pursue other careers in City service: Marie Louise Victor, Associate Counsel, and Susan Bronson, Assistant Counsel. The Board also extends sincere thanks to DOI Commissioner Rose Gill Hearn, 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 rate of compliance with the financial disclosure law, set forth in section 12-110 of the New York City Administrative Code, exceeds 97%. This superb record must be attributed in large part to the excellent work of the Financial Disclosure Unit: Felicia A. Mennin, Director of Financial Disclosure and Special Counsel; Joanne Giura-Else, Deputy Director of Financial Disclosure; Holli Hellman, Senior Financial Disclosure Analyst; Veronica Martinez Garcia, Assistant to the Unit; and Michelle Burgos, Financial Disclosure Analyst.

Financial Disclosure Amendments

In 2005, City Council Member Helen Sears, at the request of the Mayor, introduced before the City Council a bill drafted by the COIB 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 officers and employees of 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 amendments specified 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. After public hearings on the bill during which COIB staff members gave testimony, the City Council unanimously passed the bill, which was signed into law on June 13, 2006, as Local Law 14 of 2006.

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. With the support of the City Administration and the City Council, and working with the Mayor’s Office of State Legislative Affairs, the Board initiated an effort in 2006 to 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. The Board is continuing this effort and hopes that it will bear fruit in 2007.

Indeed, with the enactment of the Public Authorities Accountability Act of 2005 (2005 N.Y. Laws ch. 766), authorizing 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. If it is so interpreted, this new 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.

Electronic Filing of Financial Disclosure Reports

In 2006, electronic filing of financial disclosure reports finally became a reality for all City filers.

In 2004, the Board achieved the beginning of a citywide electronic financial disclosure system ("EFD"), having worked steadily on that project 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.

Phase 2 of the implementation of electronic filing occurred 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 each of the financial disclosure liaisons for the agencies participating in the summer 2005 EFD pilot program.

Full roll-out of electronic filing took place in the summer of 2006. COIB staff conducted citywide liaison training sessions. By September 2006, 6,700 City employees required to file financial disclosure reports filed electronically. The Unit responded to over 2,700 calls for assistance.

Aside from reduced administrative overhead and paperwork for the COIB and all City agencies, the biggest benefit of the new system is the enhanced security features to protect the filers' confidential information. In addition, filers are able to complete the electronic report remotely using any

PC with access to the internet. Instructional videos have been linked to the application itself. Once filers have completed an electronic filing for one year, the next year's filing is pre-populated with answers from the previous year. The filer need only make necessary changes, further streamlining the filing process -- and for many filers reducing the completion time to a few minutes.

At year's end, the Board's staff was working with DOI to integrate DOI's financial reports into the electronic filing application. In 2007, those required to file both a COIB and DOI financial disclosure report will do so electronically.

Financial Disclosure Late Fines and Litigation

During 2006, the Board collected \$8,075 in late filing fines, a precipitous drop in such fines since 2003, when the Board collected \$22,625. The Board attributes this drop to the deterrent effect of the 2003 increase in the late filing fine from \$100 to \$250, with a sliding scale up to \$10,000, as part of the 2003 amendments to the financial disclosure law (Local Law 43 of 2003) that became effective on January 1, 2004. Since the Board assumed responsibility for financial disclosure in 1990, the Board has collected \$478,323 in financial disclosure fines.

In 2006 Financial Disclosure staff successfully implemented new enforcement procedures aimed at convincing delinquent filers for calendar year 2004 to file their reports and/or pay their late filing fines before the Board initiated costly and time-consuming administrative proceedings. In this way, staff was able to eliminate *all* active non-filers and non-payers for 2004 without the need for costly litigation and begin pursuing those individuals who were not in compliance for 2005 reports due in 2006.

7. BUDGET, ADMINISTRATION, AND INFORMATION TECHNOLOGY

The Board thanks its Director of Administration, Ute O'Malley, and her deputy, Varuni Bhagwant, for their continued perseverance in the face of increasing administrative burdens. The Board also thanks its Director of Information Technology, Derick Yu, 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 has supervised the implementation of upgrades to the Board's IT infrastructure.

After years of repeated budget and staff cuts, the Board received a significant reprieve in 2006 with the infusion of funds sufficient to baseline its two trainer positions and a Legal Advice attorney position, to hire an additional Legal Advice attorney to meet the substantial additional work occasioned by the enactment of the lobbying gift law, and to provide salary adjustments to bring the staff's salaries more in line with those of other City agencies. At year-end, the Board was fully staffed for the first time in several years. In addition, the City Council provided the Board with desperately needed OTPS funds to support a temporary receptionist and one-time funds to upgrade the Board's conference room into an ethics training center, thereby permitting Board staff to train staff of several small agencies at one time rather than expending time traveling to each of the various agencies.

For Fiscal Year 2008, the Board will require a modest infusion of additional funds for the Financial Disclosure Unit occasioned by the mandates of the Public Authorities Accountability Act of 2005, which will more than double the number of agencies whose employees file financial disclosure reports with the Board, and the need to collect, file, and administer a one-page signature form for all financial disclosure filers, necessitated by the integration of the DOI form into the electronic filing application. In addition, the lobbyist gift act and the increase in the staff of the Legal Advice Unit has necessitated the upgrading of a staff attorney line to a deputy counsel line in that Unit.

Consistent with the mandate in Charter § 2603(j), the Board has proposed a number of amendments to Chapter 68, in particular the enactment of 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 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, STAFF, AND FORMER MEMBERS
OF THE
CONFLICTS OF INTEREST BOARD

Members

Steven B. Rosenfeld, Chair
Monica Blum
Kevin B. Frawley (*beginning Oct 2006*)
Angela Mariana Freyre
Andrew Irving
Jane W. Parver (*until Sept. 2006*)

Staff

Executive

Mark Davies, Executive Director

Legal Advice

Wayne G. Hawley, Deputy Executive Director & General Counsel
Jessica Hogan, Deputy Counsel (*until April 2006*)
Sung Mo Kim, Associate Counsel
Karrie Ann Sheridan, Associate Counsel (*beginning Dec. 2006*)
Jessie Beller, Assistant Counsel (*beginning Oct. 2006*)

Enforcement

Carolyn Lisa Miller, Director of Enforcement (*beginning July 2006*)
Astrid B. Gloade, Director of Enforcement (*until April 2006*)
Dinorah Núñez, Deputy Director of Enforcement (*beginning Nov. 2006*)
Marie Louise Victor, Associate Counsel (*until Sept. 2006*)
Vanessa Legagneur, Associate Counsel
Susan Bronson, Assistant Counsel (*until Oct. 2006*)
Bre Injeski, Attorney Intern (*beginning Nov. 2006*)
Maritza Fernandez, Litigation Coordinator (*beginning March 2006*)

Training and Education

Alex Kipp, Director of Training and Education
Jonathan Wingo, Senior Trainer/Training Coordinator (*beginning July 2006*)

Financial Disclosure

Felicia A. Mennin, Director of Financial Disclosure & Special 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 Analyst

Administrative

Ute O'Malley, Director of Administration
Varuni Bhagwant, Deputy Administrator

Information Technology

Derick Yu, Director of IT (*beginning August 2006*)
Christopher M. Lall, Director of IT (*until July 2006*)

Former Members of the Board

Merrill E. Clarke, Jr., Chair	1989
Beryl Jones	1989-1995
Robert J. McGuire	1989-1994
Sheldon Oliensis, Chair	1990-1998
Shirley Adelson Siegel	1990-1998
Benjamin Gim	1990-1994
Benito Romano	1994-2004 (Acting Chair, 1998-2002)
Jane W. Parver	1994-2006
Bruce A. Green	1995-2005

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
2006 ³	43	151	194

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.

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

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	2006 ²
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>	Comptroller DCAS DDC DOB Education Finance Sanitation <i>Community Boards</i> <i>DOC</i> <i>DOHMH</i> <i>DoITT</i> <i>DYCD</i> <i>HHC</i> <i>Manhattan Borough Pres</i> <i>TLC</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	Agencies Holding One or Two Classes: 21
Total Classes: 92 ³	Total Classes: 377 ³	Total Classes: 190 ³	Total Classes: 286 ³	Total Classes: 182 ³	Total Classes: 288 ³	Total Classes: 242 ³	Total Class: 194 ³

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

³ 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, 2005, 2006

<i>Agencywide</i>	1993	2001	2005	2006
Adopted Budget (Fiscal Year)	\$1,132,000 (FY94)	\$1,698,669 (FY02)	\$1,543,283 (FY06) ¹	\$1,834,584 (FY07)
Staff (budgeted)	26	23 ³ /5 ²	19 ³	20
Availability of materials	Hard copy only	Virtually all ethics publications on website; opinions & enforcement decisions on Westlaw & Lexis	2002: Added to website all advisory opinions & all enforcement decisions 2004: Redesigned website	Website visitors increased to 239,140, with 446,904 views
<i>Legal Advice</i>	1993	2001	2005	2006
Staff	6-½ (4-½ attorneys)	4 (3 attorneys)	3 attorneys	4 attorneys ⁴
Telephone requests for advice	?	1,650	2,926	2,895
Written requests for advice	321	539	515	568
Issued opinions, letters, waivers, orders	266	501	543	415
Opinions, etc. per attorney	53	167	181	172
Pending requests at year end	151	40	127	225
Median age of pending requests at year-end	8-½ months	18 days	12 months	7-½ months
<i>Enforcement</i>	1993	2001	2005	2006
Staff	½	5 (4 attorneys)	4 (3 attorneys)	5 (4 attorneys)
Complaints received	29	124	370	328
Cases closed	38	154	234	530
Dispositions imposing fines	1	10	11	19
Public censure letters	0	2	1	7
Fines collected	\$500	\$20,450	\$37,050	\$36,960 ⁵
Referrals to DOI	19	49	110	154
Reports from DOI	?	43	117	122

Training and Education	1993	2001	2005	2006
Staff	1	4 ³ /5 ³	2	2 ⁶
Training sessions	10	190 24 agencies; CLE	242 34 agencies Brown Bag lunches; class for vendors; training for new community board members	194 36 agencies Brown Bag Lunches; class for vendors; expanded community board outreach; new CLE offerings through DCAS; new training class for training directors of other agencies; interactive theatrical presentation in chapter 68 for citywide seminar & UN
Board of Education training	None	116 training sessions; BOE leaflet, booklet, videotape	Extended training to Aspiring Principals	Outreach to DOE speech therapists
Publications	6 Poster, Chapter 68, Plain Language Guide, Annual Reports	Over 50 Ethics & Financial Disclosure Laws & Rules; leaflets; <i>Myth of the Month</i> (CHIEF LEADER); Plain Language Guide; Board of Ed pamphlet; outlines for attorneys; <i>CityLaw</i> , <i>NY Law Journal</i> , <i>NYS Bar Ass'n</i> articles; chapters for ABA, NYSBA, & international ethics books; Annual Reports; poster; newsletter	Over 50 Monthly column in <i>The Chief</i> (replacing PEP); new leaflets	Over 50 Monthly column in <i>The Chief</i>

<i>Training and Education (cont'd)</i>	1993	2001	2005	2006
Ethics newsletter	None	<i>Ethical Times</i> (Quarterly)	Reconstituted quarterly <i>Ethical Times</i>	<i>Ethical Times</i> continued
Videotapes	None	3 half-hour training films; 2 PSA's		Old videos transferred to DVD; old videos digitized and posted on website
Electronic training	None	Computer game show; Crosswalks appearances	"Ownership Tree" on website	Computer game show updated; DoITT working on bid for creation of electronic learning platform
<i>Financial Disclosure</i>	1993	2001	2005	2006
Staff	12	5	5	5
6-year compliance rate	99%	98.6%	96.6%	97.4%
Fines collected	\$36,051	\$31,700	\$19,675	\$8,075
Reports reviewed for completeness (mandated by Charter & NYS law)	All (12,000)	400	400	6,700 ⁷
Reports reviewed for conflicts (mandated by law)	350	38	200	818
Electronic filing	None	In development	Phase 2 filing (600 filers)	Phase 3 filing (6,700 filers)

¹ Of the Board's total FY06 budget, only \$1,350,283 was 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.

² The part-time (3/5) position, a senior trainer, was not part of the Board's budgeted headcount of 23.

³ Of the 19 positions, only 16 were baselined.

⁴ The FY2007 budget added a fourth line for the Legal Advice Unit, which had only two attorneys from April through October 2006, when the third line was backfilled, and did not add the fourth attorney until December, for an average of 2.4 attorneys in 2006.

⁵ Includes, in addition to fines imposed by and paid to the Board in 2006, (1) a \$15,000 fine, payable to the Board, imposed in a criminal proceeding for violation of Chapter 68 and the financial disclosure law and (2) \$1,500 from a fine imposed in 2005 but paid in 2006 pursuant to a payment schedule.

⁶ From December 2005 to September 2006, the Training and Education Unit had an effective staff of one, as the Senior Trainer position was vacant from January to mid-July, and the new hire needed to be trained before he could begin teaching classes.

⁷ This figure reflects active City employees, all of whom, except assessors, filed electronically; an additional 500 filers, consisting of former public servants, filed paper reports.

EXHIBIT 5
LEGAL ADVICE WORKLOAD: 1993 TO 2006

	1993	2001	2002 (Increase v. 2001)	2003 (Increase v. 2002)	2004 (Increase v. 2003)	2005 (Increase v. 2004)	2006 (Increase v. 2005)
Staff	5 attorneys	3 attorneys	3 attorneys	3 attorneys	3 attorneys	3 attorneys	4 attorneys
Telephone requests for advice	N/A	1,650	2,410 (+46%)	2,342 (-3%)	2,633 (+12%)	2,926 (+11%)	2,895 (-1%)
Written requests for advice	321	539	691 (+28%)	559 (-19%)	535 (-4%)	515 (-4%)	568 (+10%)
Issued opinions, letters, waivers, orders	266	501	505	535 (+6%)	470 (-12%) ¹	543 (+16%)	415 (-24%) ²
Opinions, etc. per attorney (productivity)	53	167	168	178 (+6%)	157 (-12%) ¹	181 (+15%)	172 (-5%)
Pending written requests at year end	151	40	184	160 (-13%)	191 (+19%)	127 (-34%)	225 (+77%)
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	7- ¹ / ₂ 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.

² The FY2007 budget added a fourth line for the Legal Advice Unit, which had only two attorneys from April through October 2006, when the third line was backfilled, and did not add the fourth attorney until December, for an average of 2.4 attorneys in 2006.

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
2006	568

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
2006	178	158	79	415

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>	<u>2006</u>
New Complaints Received	8	20	22	29	31	29	50	64	63	81	148	124	221	346	307	370	328
Cases Closed	2	6	25	38	4	33	32	54	76	83	117	152	179	243	266	234	530
Dispositions Imposing Fines	0	0	1	1	2	1	1	2	9	4	10	9	6	3	6	11	19
Public Censure Letters	0	0	0	0	0	0	1	0	0	0	2	2	0	0	0	1	7

EXHIBIT 9
ENFORCEMENT WORKLOAD: 1993 to 2006

	1993	2001	2002 (Increase v. 2001)	2003 (Increase v. 2002)	2004 (Increase v. 2003)	2005 (Increase v. 2004)	2006 (Increase v. 2005)
Staff	½ attorney	5 (4 attorneys)	5 (4 attorneys)	5 (4 attorneys)	5 (4 attorneys)	4 (3 attorneys ¹)	5 (4 attorneys)
Complaints received	29	124	221 (+78%)	346 (+57%)	307 (-11%)	370 (+21%)	328 (-13%)
Cases closed	38	154	179 (+16%)	243 (+36%)	266 (+9%)	234 (-12%)	530 (+127%)
Dispositions imposing fines	1	10	6	3	6	11 (+83%)	19 (+73%)
Public censure letters	0	2	0	0	0	1	7 (+600%)
Fines Collected	\$500	\$20,450 (\$105,766 in 2000)	\$15,300	\$6,500	\$8,450	\$37,050	\$36,960 ²
Referrals to DOI	19	49	84 (+71%)	136 (+62%)	156 (+15%)	110 (-29%)	154 (+40%)
Reports from DOI	N/A	43	74 (+72%)	62 (-16%)	93 (+50%)	117 (+26%)	122 (+4%)

¹ The Enforcement Unit had three attorneys from January to November 21, 2005.

² Includes, in addition to fines imposed by and paid to the Board in 2006, (1) a \$15,000 fine, payable to the Board, imposed in a criminal proceeding for violation of Chapter 68 and the financial disclosure law and (2) \$1,500 from a fine imposed in 2005 but paid in 2006 pursuant to a payment schedule.

EXHIBIT 10 ENFORCEMENT FINES

DATE	CASE NUMBER	CASE NAME	AMOUNT PAID TO COIB	AMOUNT PAID TO AGENCY	ADDITIONAL FINE(S)	3/WAY SETTLEMENT	SUSPENDED DAYS/EQUAL TO DOLLAR AMOUNT	
12/19/06	2005-685	Diaz	500					
12/15/06	2002-140	Fenster	500					
12/11/06	2006-562b	Jefferson				X	25	3,085
12/11/06	2006-562	Nelson				X	25	4,262
11/10/06	2003-655	Sorkin	500					
11/10/06	2005-271a	Parlante	460			X		
11/10/06	2005-271	Marchesi	750			X		
8/24/06	2004-324a	Neira	4,500					
8/24/06	2006-048	Tyner				X	45	6,224
7/28/06	2004-700a	L. Golubchick	4,000					
7/28/06	2004-700	J. Golubchick	1,000					
6/30/06	2003-097	Kerik	10,000		5,000 FD & 206,000 Criminal			
6/20/06	2004-159	Goyol	2,500					
6/6/06	2005-155	Okowitz	1,250			X		
5/10/06	2003-423a	Coppola	500					
3/28/06	2005-590	Whitlow		1,818		X		
2/23/06	2005-238	Valsamedis				X	50 (plus 10 days annual leave)	11,267.50
2/15/06	2005-146	Vance	1,500				Annual leave	1,122
2/3/06	2002-716	Green	2,500	1,500		X		
11/16/05	2004-214	Guttman	2,800					
11/16/05	2004-418	Trica	4,000					
7/23/05	2002-677y	Serra ¹	10,000					
6/22/05	2005-151	Carroll	3,000			X	Suspension w/out pay	3,000
6/7/05	2004-082a	Romano	4,000					
5/25/05	2004-082	Hoffman	4,000					
3/29/05	2003-788	Asemota	500			X	Annual leave	1,000
3/29/05	2004-466	Powery	1,000					
2/28/05	2004-515	Genao	1,000					
2/28/05	2004-321a	Vasquez	1,750			X	Annual leave	1,600

DATE	CASE NUMBER	CASE NAME	AMOUNT PAID TO COIB	AMOUNT PAID TO AGENCY	ADDITIONAL FINE(s)	3/WAY SETTLEMENT	SUSPENDED DAYS/EQUAL TO DOLLAR AMOUNT	
1/31/05	2003-127	Thomas	2,000				Annual leave	3,915
1/31/05	2002-782	Bonamarte	3,000					
12/21/04	2004-180	Berkowitz	3,500					
10/30/04	2002-770	Fraser	500					
10/21/04	2004-305	McKen	450	450		X		
6/22/04	2003-359	Campbell	2,000					
5/20/04	2002-528	Fleishman	1,000	5,000	1,300 Restitution			
3/5/04	2001-618	Andersson	1,000					
4/3/03	2002-304	Arriaga	1,000	2,500		X	30 days w/out pay	
3/25/03	2002-088	Adams	1,500					
1/7/03	2002-463	Mumford		2,500	5,000 for violation of Reg. C-110			
7/18/02	2002-188	Blake-Reid	4,000				Annual leave	4,000
6/27/02	2001-593	Cottes	500			X		
6/21/02	2000-456	Silverman	500					
3/27/02	2000-192	Smith	3,000					
2/27/02	2001-569	Kerik	2,500					
2/22/02	2000-407	Loughran	800					
12/13/01	1998-508	King	1,000			X		
11/13/01	2000-581	Hill-Grier	700			X		
9/25/01	2000-533	Denizac		4,000		X		
8/15/01	1999-501	Moran					Annual leave (plus 30 days w/out pay and demoted)	2,500
7/16/01	1999-157	Capetanakis	4,000					
6/25/01	2000-005	Rieue	2,000					
6/7/01	2000-231	Steinhandler	1,500			X		
5/23/01	1999-121	Camarata	1,000					
3/8/01	1999-173	Peterson	1,500					
2/26/01	1999-199	Finkel	2,250					
10/24/00	1999-200	Hoover	8,500					
10/16/00	1999-200	Turner	6,500					
8/14/00	1999-511	Paniccia	1,500					
8/7/00	1999-500	Chapin	500					
7/24/00	2000-254	Lizzio	250					
5/24/00	1999-358	Rosenberg	1,000					
4/26/00	1998-169	Marrone	5,000					
3/26/00	1998-288	Sullivan	625			X		
3/10/00	1999-250	Carlin	800			X		
1/6/00	1997-237d	Rene		2,500		X		
11/23/99	1994-082	Davila	500					

DATE	CASE NUMBER	CASE NAME	AMOUNT PAID TO COIB	AMOUNT PAID TO AGENCY	ADDITIONAL FINE(s)	3/WAY SETTLEMENT	SUSPENDED DAYS/EQUAL TO DOLLAR AMOUNT	
11/22/99	1999-334	McGann	3,000			X		
6/29/99	1998-190	Sass	20,000					
2/3/99	1997-247	Ludewig	7,500			X		
10/9/98	1997-247	Morello	6,000				Resigned & forfeited annual leave	93,105
9/17/98	1994-351	Katsorhis	84,000					
7/14/98	1997-394	Weinstein	1,250			X	Annual leave	3,750
6/22/98	1996-404	Fodera	3,000		100 for late FD filing			
6/22/98	1995-045	Wills	1,500					
6/15/98	1998-102	Hahn	1,000			X		
5/22/98	1997-368	Harvey ²	200					
5/8/98	1997-247	Cioffi	100					
12/22/97	1997-076	N. Ross	1,000					
12/10/97	1997-225	M. Ross	1,000			X		
6/17/97	1997-060	Quennell	100					
4/3/96	1993-121	Holtzman	7,500					
3/8/96	1994-368	Matos ³	1,000/250					
8/4/95	1993-282a	Baer	5,000					
2/11/94	1993-282	Bryson	500					
1/24/94	1991-214	McAuliffe	2,500					
4/27/93	1991-223	Ubinas	500					
TOTALS			274,785	20,268				138,830.50

TOTAL: \$433,883.50

¹ This fine was paid to the Board as part of Mr. Serra's plea of guilty to grand larceny and violation of the conflicts of interest law.

² This fine was forgiven due to extreme financial hardship.

³ 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. ¹	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. <u>Act. Inact.</u> ²		Current Non-Payers for C.Y. <u>Act. Inact.</u>	
2000	12,811	12,446	97.9%	576	338	\$34,250	0	267	0	59
2001	12,055	11,766	98.7%	531	176	\$19,725	0	152	0	33
2002	13,636	13,233	98.1%	626	230	\$25,525	0	254	0	77
2003	7,840 ³	7,476	96.7%	293	62	\$13,700	0	262	0	29
2004	7,549	7,232	97.1%	945	46	\$17,925	0	219	0	43
2005 ⁴	7,605	7,233	96.3%	215	4	\$1,000	48	230	39	2
TOTALS	61,496	59,386	97.4%	3,186	856	\$478,323 ⁵	48	1,384	39	243

¹ Includes those individuals who have appealed their agency's determination that they are required filers and who are thus currently in compliance.

² "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.

³ 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.

⁴ In 2006, virtually all reports were filed electronically for the first time, for calendar year 2005.

⁵ Includes fines collected for calendar years 1989 through 1999, the reports for which have been discarded pursuant to the Board's retention policy.

1 **EXHIBIT 12**
2 **NEW YORK CITY CONFLICTS OF INTEREST BOARD**
3 **PROPOSED STATE LEGISLATION**
4 **December 2006**
5

6
7 **AN ACT to amend the general municipal law, in relation to financial**
8 **disclosure for any city with a population of one million or more; and to**
9 **amend the charter of the city of New York, in relation to the New York**
10 **City conflicts of interest board**

11
12 *The People of the State of New York, represented in Senate and Assembly, do enact*
13 *as follows:*
14

15 Section 1. Short title. This act shall be known and may be cited at the “ethics
16 empowerment act of 2005.”
17

18 § 2. Declaration of policy and findings of fact. The legislature hereby finds that
19 ethics laws promote both the reality and the perception of integrity in government
20 by preventing conflicts of interest before they occur. The effectiveness of these
21 laws rests largely upon the effectiveness of the agency enforcing them. The city of
22 New York, which first enacted conflicts of interest provisions almost 200 years
23 ago, established an ethics board in 1959, perhaps the first of its kind in the nation,
24 and in 1989 significantly increased that board’s responsibilities, renaming it the
25 conflicts of interest board. New York City is the largest city in the state and
26 nation, with over 300,000 public servants subject to its conflicts of interest law and
27 with a budget greater than that of all but a handful of governments in the country.
28 Although current and former administrations and councils of that city have
29 expressed support for the work of the board, across-the-board budget cuts in city
30 agencies have fallen particularly hard on the board, cutting its permanent staff by
31 over a quarter and its budget by over a fifth. In addition, the conflicts of interest
32 board, virtually alone among ethics boards in the United States possessing
33 enforcement authority, lacks the power to conduct its own investigations but must
34 instead rely upon other, mayoral agencies to conduct those investigations,
35 undermining the public perception of the board’s independence. Furthermore, the
36 prevention of conflicts of interest necessitates an effective ethics training program.
37 Currently, chapter 68 of the charter requires the board to train all public servants in
38 the conflicts of interest law but fails to mandate that public servants receive such
39 training. As a result, many public servants receive no training in that law, resulting

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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199

(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 2007

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
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[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.

<u>Creditor</u>	<u>Debtor</u>	<u>Type of Obligation</u>
<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: 2006-1

DATE: 1/18/06

CHARTER SECTION(S) INTERPRETED:

2601(12)
2604(a)(1)(a)
2604(b)(6)
2604(e)

SUBJECT(S): Community Education Councils
Moonlighting Waivers

SUMMARY: Members of the Community Education Councils (“CECs”) of the Department of Education (the “DOE”) who work at private firms that have business dealings with DOE would, absent a waiver from the Board, be in violation of Charter Section 2604(a)(1)(a). However, upon the written approval of the DOE Chancellor, the Board will, in appropriate circumstances, grant Section 2604(e) waivers to permit CEC members to hold such positions but will condition any such waivers on the requirements that the member not participate at the CEC in any matter involving his or her outside employer; not communicate on behalf of that employer with staff of the district on whose CEC the member sits or with the staff of any school within that district; not use any DOE equipment, supplies, or other resources in connection with the outside employment; and not use or reveal confidential City information.

OPINION SUMMARY

OPINION NO: 2006-2

DATE: 4/10/06

CHARTER SECTION(S) INTERPRETED:
2604(b)(2), (b)(3), (b)(5)

SUBJECT(S):
Gifts
Tickets

OTHER OPINION(S) CITED: 2000-4

SUMMARY: An elected official may accept a complimentary ticket to a dinner, reception, or other function, where the ticket is a gift from a person, such as a lobbyist, who is not the sponsor of the function, only where the agency head certifies in writing that the attendance is in the interests of the City. Even where attendance is permissible, however, the elected official may not accept gifts of items (such as gift bags) valued at \$50.00 or more in the aggregate from the same donor or affiliated donors during a twelve-month period.

OPINION SUMMARY

OPINION NO: 2006-3

DATE: 5/17/06

CHARTER SECTION(S) INTERPRETED:

2604(b)(2), (b)(3), (b)(5),
(b)(13), and (b)(14)

SUBJECT(S):

Gifts
Labor Union Conventions

SUMMARY:

1. City employees may attend their own union's conventions, on their own time, and receive free food and accommodation paid for by that union.
2. City employees may attend a convention of a union of which they are not members, on their own time, and receive free food and accommodation paid for by that union.
3. City employees who attend a union convention in connection with their official duties may attend the convention on City time and receive free food and accommodation paid for by that union, provided they have received prior approval from their Agency head or the Agency head's designee and otherwise meet the requirements of Board Rules Section 1-01(h) as to length of stay and appropriateness of the accommodations and meals.
4. City employees who attend union conventions may attend cocktail parties, dinners, and similar events which are part of the regular

agenda of the convention and are open to all attendees, even if those events are sponsored by City vendors.

5. City employees may not accept any gift worth \$50.00 or more, or a series of gifts during any twelve-month period with a cumulative value of \$50.00 or more, from a City vendor while attending these conventions, including, in particular, invitations to private dinners or recreational events which are not part of the convention program and also including the aggregate value of gifts of such items as hats, t-shirts, and coffee mugs.

Notwithstanding the foregoing, at no time may any City employee accept any benefit, no matter the value, in exchange for taking, or refraining from taking, some future action in his or her official capacity, or as a reward for having taken, or having refrained from taking, some official action.

OPINION SUMMARY

OPINION NO: 2006-4

DATE: 7/28/06

CHARTER SECTION(S) INTERPRETED:
2604(b)(3), (b)(5), (b)(13)

SUBJECT(S):
Gifts
Commercial Discounts

OTHER OPINION(S) CITED: 2000-4

SUMMARY: A City employee may accept a discount offered to government employees by a hotel chain, a car rental agency, a cellular service provider, or other similar vendor for the City employee's private use, where the discount is available generally to all government employees and the vendor has been made aware that the City employee is not on official City business.

OPINION SUMMARY

OPINION NO: 2006-5

DATE: 8/24/06

CHARTER SECTION(S) INTERPRETED: 2604(b)(2), (b)(3), (b)(5), (b)(13)

SUBJECT(S): Gifts
Frequent Flyer Miles

OTHER OPINION(S) CITED: 92-10, 92-23, 94-09, 95-14,
2000-4, and 2006-4

SUMMARY: It would not be a violation of Chapter 68 for City employees to accumulate and use for personal travel frequent flyer miles earned while traveling on official business. A City employee must not, however, make a flight selection at additional expense to the City in order to receive or increase frequent flyer benefits. This opinion should not be read to restrict a City agency from determining to require that miles earned on City travel be used only for subsequent City travel.

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