

# the Ethical Times

## Annual Disclosure is No Illusion

By Gavin Kendall

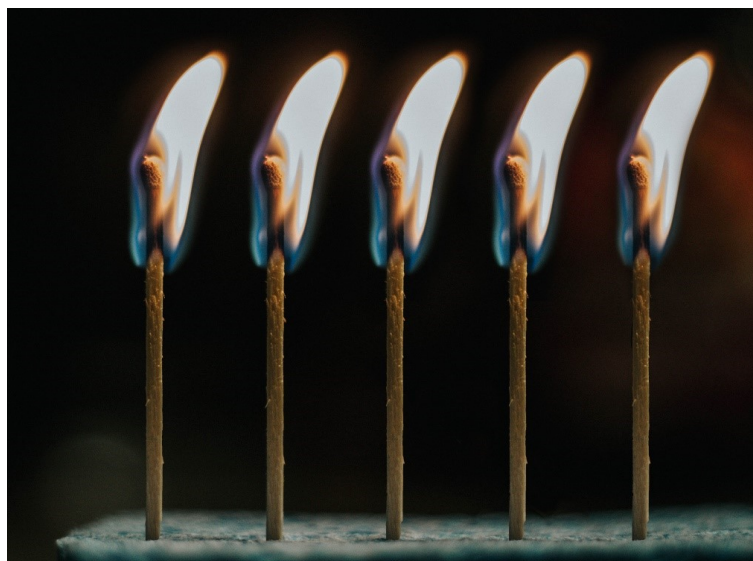
**F**requency Illusion is the idea that once something is noticed it seems to appear everywhere, creating the *illusion* of its *frequency*. Let's say I look up "deflagration" in the dictionary: "heating a substance until it burns away rapidly." The next day I see the word used in a news article about a house fire. Then, the word shows up in a book I'm reading, describing the protagonist's ardent love for his paramour. Then it's the answer in a crossword puzzle (clue: "might make a hot item?"). I seem to be encountering "deflagration" everywhere! Is this word following me around? Has it suddenly become a common term? No, of course not. "Deflagration" is, and has always been, rarely used. But because I just learned its definition, I'm primed to notice those rare occasions when the word does appear, with each time priming me even more for the next.

Now, I'd like you think about two words: Annual Disclosure. More specifically, think about New York City's Annual Disclosure Law. [Section 12-110 of the New York City Administrative Code](#) is a law administered by the Conflicts of Interest Board, in addition to Chapter 68 of the City Charter, the City's conflicts of interest law. This 45-year-old law requires certain public servants to disclose their outside financial interests every year. Annual Disclosure helps maintain the public's trust in government decision-making. It also forces the filer to think about their potential conflicts of interest at least once per year.

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If you're unfamiliar with Annual Disclosure, that could be because it only affects about 10,000 current and hopeful public servants — elected officials, agency heads, deputy agency heads, those who deal with contracts, members of boards and commissions, tax assessors, those with "substantial policy discretion," and candidates for City elected office — plus members of local public authorities. If you're wondering if you're one of that 3% of the City workforce who has to file, don't worry. [Any public servant who is required to file annually](#) already knows, thanks to [the dedicated cadre of liaisons](#) at each agency who assist with compliance with this law. So if that promotion comes through and vaults you into the top tiers of City management, expect an email from your liaison. And now that I've planted that idea into your head, you might start seeing Annual Disclosure more and more over the coming



weeks and months. However, not all of that will be from the frequency illusion because, SURPRISE, the Annual Disclosure filing period is [going on right now!](#)

Delayed from its usual springtime slot due to the pandemic, it is now the time when the City's select few report their financial ties from the previous calendar year: positions at outside firms and not-for-profits, large loans, owned property and stocks, and more. These go on an electronic form, saving both trees and time. Every report is analyzed by COIB staff, and potential conflicts of interest are identified.

Of course, sometimes people forget to include things they need to report. The ultimate goal of the City's Annual Disclosure Law is compliance, which is why, as needed, there is the opportunity for extensions and amending reports. But it's important that nothing gets left out. Intentionally omitting information that is required to be disclosed is a misdemeanor.

Policymakers, contract officers, high level managers, and elected officials have the public's trust in their hands when they make decisions that steer City budgets, initiatives, and agencies. With trust comes responsibility. With responsibility comes accountability. And with accountability comes transparency. Therefore, every report is available for public inspection [upon request](#) (the reports of elected officials are [posted on our website](#)). This way, the public can keep an eye on the financial ties of the people spending their tax dollars.

Not all the information in an Annual Disclosure Report is viewable by the public, though. Confidential personal information like home addresses is scrubbed. Filers can also request that certain details be withheld if they feel there is an unwarranted invasion of privacy or risk of a safety or security should that information become public; all privacy requests are reviewed prior to making a report publicly available.

The City's Annual Disclosure requirements should not be confused with the background checks required of certain City employees when they are hired. Background checks are performed by the Department of Investigation, and that process is not public.

Now that you've learned more about Annual Disclosure, you might hear about it everywhere – the frequency illusion at work. What shouldn't be an illusion is the importance of holding public servants accountable to the people they serve. The City's Annual Disclosure process helps protect the public's trust in the important decisions – whether approving contracts, passing legislation, and everything in between – that public servants make.

If you have a question about Annual Disclosure, or any other topic related to COIB's work, give us a call Monday to Friday, 9am to 5pm, at 212-442-1400.



You can also send us your question [online](#). All advice is confidential, and it can be anonymous.

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## COIB and COVID-19

COIB is operational and here for you. The Attorney of the Day is available to answer your ethics questions at (212) 442-1400 or via the [legal advice request form](#).

We encourage New Yorkers to follow DOHMH at [@nycHealthy](#) and/or text COVID to 692-692 to receive updates.



[nyc.gov/ethics](https://nyc.gov/ethics)

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## Recent Enforcement Cases

**Misuse of City Resources.** For several months in 2016, four NYC Health + Hospitals (H+H) Special Officers at Elmhurst Hospital Center displayed counterfeit parking placards in their personal vehicles to park illegally or to avoid paying for metered spaces. The counterfeit parking placards included an image of the H+H Police shield. In a series of joint dispositions with the Board and H+H, the Special Officers each paid fines of \$1,200 to \$1,600.

**Misuse of City Position.** As part of his official City duties, a Senior Assistant Vice President for Clinical Pharmacy Services at H+H worked to expand and centralize clinical training programs at H+H facilities. The spouse of the Senior Assistant Vice President is an Associate Clinical Professor of Pharmacy at St. John's University College of Pharmacy and Health Sciences (SJU) and, in that role, serves as a preceptor for SJU students in clinical training programs at hospitals or pharmacies. In early 2018, the spouse told the Senior Assistant Vice President that she wanted to be a preceptor at H+H/Coney Island (CIH). The Senior Assistant Vice President helped his spouse become a preceptor at CIH, and H+H and SJU entered into a centralized Student Clinical Training Agreement. The Senior Assistant Vice President paid a \$1,500 fine to the Board.

**Job-Seeking Violation.** In the spring of 2016, the President & Chief Executive Officer of H+H began discussing a potential position with Northwell Health. During the same period of time, the President and the H+H Chief Medical Officer discussed having Northwell manage the day-to-day operations of the CIH clinical laboratory, which had failed a state inspection and needed to be brought into compliance to avoid a shutdown. The President signed an Exception to Policy to permit H+H to execute an agreement with Northwell to manage the laboratory. The

President received an offer of employment from Northwell in September 2016 and worked for Northwell from January 2017 until June 2020.

The President paid a \$2,500 fine to the Board, which took into account that he did not personally suggest Northwell to manage the CIH laboratory and that his approval of the Exception to Policy appears to have been motivated by the need to act quickly.

**Misuse of City Resources.** The Chief Project Officer for the Bronx at the NYC School Construction Authority (SCA) was assigned a City vehicle and E-ZPass to commute between his residence and the SCA office and to travel to SCA construction sites. Over the course of two years, the Chief Project Officer used his assigned City vehicle and E-ZPass to take 22 personal trips and used his City vehicle (but not his City E-ZPass) to take one additional personal trip. To resolve related agency disciplinary charges, the Chief Project Officer agreed to a one-year salary reduction of \$18,109, which included restitution for the cost of unauthorized mileage and tolls. The Board accepted the SCA-imposed penalty as sufficient and imposed no additional penalty.

A [searchable index](#) of all the COIB Enforcement Dispositions and Advisory Opinions is available courtesy of New York Law School.

## THE PUBLIC SERVICE PUZZLER

Congratulations to the winner of our recent Public Service Puzzler, **Robert Rolandi** of DOF, who has been in a movie you've probably seen.



In this month's [contest](#), flex your visual skills to figure out some Chapter 68 words and phrases. Entries are due **Nov 13<sup>th</sup>**.