

# MUNICIPAL ETHICS BOARD SAMPLE FORMS

## Ethics Advice

- Caller information sheet
- Sample waiver letter
- Sample formal advisory opinion

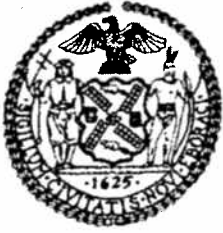
## Enforcement

- Ethics enforcement process
- Sample stipulation and disposition (settlement)

## Training

- Sample plain language version of code of ethics
- Sample summary of code of ethics





CITY OF NEW YORK  
CONFLICTS OF INTEREST BOARD

2 Lafayette Street, Suite 1010  
New York, New York 10007  
(212) 442-1400  
Fax: (212) 442-1407 TDD: (212) 442-1443

October 24, 2005

Anthony W. Crowell, Esq.  
Special Counsel to the Mayor  
Office of the Mayor  
City Hall  
New York, NY 10007

Re: Conflicts of Interest Board Case No. 2005-592 (Marie Delus)

Dear Mr. Crowell:

This is in response to your letter to the Conflicts of Interest Board (the "Board"), dated September 30, 2005 and subsequent communication between your office and Board staff, requesting an opinion as to whether, consistent with the conflicts of interest provisions of Chapter 68 of the City Charter, Marie Delus may work part-time for Macy's Department Store ("Macy's"), in light of her position with the Mayor's Office.

You have informed the Board that Ms. Delus is employed by the Mayor's Office as Deputy Agency Chief Contracting Officer; that she wishes to continue her position as a Part-time Sales Associate at Macy's; and that Macy's has business dealings with the City, although not with the Mayor's Office.

By letter to the Board, Peter Madonia, Chief of Staff to the Mayor, has approved of Ms. Delus's outside employment with Macy's.

Pursuant to Charter Section 2604(a)(1)(b), except as otherwise provided by Charter Section 2604(e), a public servant whose primary employment is with the City may not hold a position with a firm which is engaged in business dealings with the City.

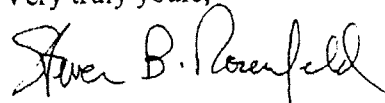
Charter Section 2604(e) provides that a public servant may hold a position, or engage in conduct, otherwise prohibited by Chapter 68, if the Board determines, after receiving written approval of the public servant's agency head, that such a position or conduct does not involve a conflict with the purposes and interests of the City.

*Visit our home page at <http://nyc.gov/ethics>*

You are advised that, based on your representations and Mr. Madonia's written approval, the Board has determined that it would not conflict with the purposes and interests of the City for Ms. Delus to work for Macy's as a Part-time Sales Associate, *provided that* she performs such work during times when she is not required to perform services for the City; that she does not use City equipment, letterhead, personnel, or other City resources in connection with this non-City work; that she does not use her official City position or title to obtain any private or personal advantage for herself or Macy's; and that she does not disclose or use for private advantage any confidential information obtained as a result of her City employment. See Charter Sections 2604(b)(2), (b)(3), and (b)(4), respectively. Moreover, Ms. Delus may not be involved, either at the Mayor's Office or at Macy's, in Macy's business dealings with the City.

The advice conveyed in this letter is conditioned on the correctness and completeness of the facts supplied to us. If such facts are in any respect incorrect or incomplete, the advice we have given to you may not apply. If at any time you would like further advice based on a change of circumstances or additional information, please contact us.

Very truly yours,



Steven B. Rosenfeld  
Chair

cc: Monica Blum  
Angela Mariana Freyre  
Andrew Irving  
Jane W. Parver

Marie Delus

2005-592e.ch/wh/je

CITY OF NEW YORK  
CONFLICTS OF INTEREST BOARD

2 Lafayette Street, Suite 1010  
New York, New York, 10007  
(212) 442-1400

Fax: (212) 442-1407 TDD: (212) 442-1443

Charitable Contributions  
Superior- Subordinate Relationship  
Sale of Products

Charter Sections: 2604(b)(2), (b)(3), (b)(4) and (b)(14)

**Advisory Opinion No. 98-12**

The Conflicts of Interest Board (the "Board") has received a request for an opinion from a public servant employed by a City agency (the "Agency"), asking whether, consistent with the conflicts of interest provisions of Chapter 68 of the City Charter, she may sell beauty products to her subordinates within the Agency. The Board has also been asked whether a superior may ask a subordinate to contribute to a charitable organization.

For the reasons discussed below, it is the opinion of the Board that it would be a violation of Chapter 68 for the public servant to sell beauty products to her subordinates within the Agency. It would also be a violation of Chapter 68 for a superior to solicit charitable contributions from a subordinate. The Board has determined, however, that a subordinate may sell products to a superior, or solicit donations for charitable purposes from a superior, if the amount involved is de minimis. The Board considers de minimis to be \$25.00 or less. Further, the Board has also determined that agencies may determine whether and to what extent employees who are peers may sell products to each other or solicit donations from each other for charitable purposes.

### Background

From time to time, the Board receives requests from public servants regarding the propriety of selling items within their agency or soliciting donations to charitable causes. As examples, public servants sell sweets for their children's schools, seek sponsors within their agency for walkathons, or sell cosmetic products to earn outside, non-City income. The sale of items can include anything from Girl Scout cookies to raffle tickets for charity. In some cases it is a superior selling to a subordinate and in others it is a subordinate selling to a superior or a peer selling to a peer.

### Discussion

The sale of items, whether for charitable purposes or as part of a side business, is governed by several Charter provisions. These provisions are contained in Charter Sections 2604(b)(2), (b)(3) and (b)(14). The purpose of all of these provisions is to preserve the integrity of public service, to prevent City employees from being exposed to official coercion in their City positions, and to prevent employees from using their City positions for personal gain.

Charter Section 2604(b)(2) provides that no public servant shall engage in any business, transaction, or private employment, or have any financial or other private interest, direct or indirect, which is in conflict with the proper discharge of

his or her official duties. Charter Section 2604(b)(3) provides that no public servant shall use or attempt to use his or her official position 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.

Charter Section 2604(b)(14) states, "No public servant shall enter into any business or financial relationship with another public servant who is a superior or subordinate of such public servant."

The Charter Revision Commission defined the superior-subordinate relationship as follows:

Subordinates are not limited to individuals directly under and reporting to the public servant, but include all individuals in lower positions in the organizational hierarchy of the agency, whose work the public servant has the power to direct or whose terms and conditions of employment the public servant has the power to affect.

See Volume II, Report of the New York City Charter Revision Commission,  
December 1986 - November 1988, p. 178.

### Conclusion

It is the opinion of the Board that superiors may not ask subordinates to purchase items or contribute to charitable causes. Accordingly, the sale of raffle tickets, Girl Scout cookies, cosmetic products or similar items by a superior to a subordinate is entirely proscribed by Charter Section 2604(14) and therefore

would violate Chapter 68. In addition, it is the opinion of the Board that for a superior to request a subordinate to sign up for a bike-a-thon, walk-a-thon, or similar charitable activity or to request a charitable donation would also be in contravention of Charter Section 2604(14) and therefore would violate Chapter 68, unless the charitable activity or fundraiser is sponsored by the City.

The question then remains as to whether a subordinate may sell products to or solicit donations from superiors. In this regard, it is the opinion of the Board that if the amount involved is de minimis, then such an exchange would not violate Chapter 68. The Board considers de minimis to be \$25.00 or less. However, City agencies may determine that a lesser amount is appropriate. Further, it is the opinion of the Board that agencies may determine whether and to what extent employees who are peers may sell products to each other or solicit donations from each other for charitable purposes.

In addition, to the extent the above-mentioned activities are permitted, they must be conducted in accordance with Charter Sections 2604(b)(2) and (b)(3). This means that these activities must be performed at times when the public servants are not required to perform services for the City and that the public servants may not use their official City position or title to obtain any private or personal advantage; and that public servants do not use City equipment, letterhead, personnel or other City resources in connection with this non-City work. See Charter Sections 2604(b)(2) and (b)(3), respectively.



The Board notes that the City endorses and promotes certain charitable initiatives on an on-going or annual basis. The Board's decision excludes these types of charitable events sponsored by the City. Such events would include the annual Combined Municipal Campaign, blood drives, toy drives, or other City sponsored charitable activities.

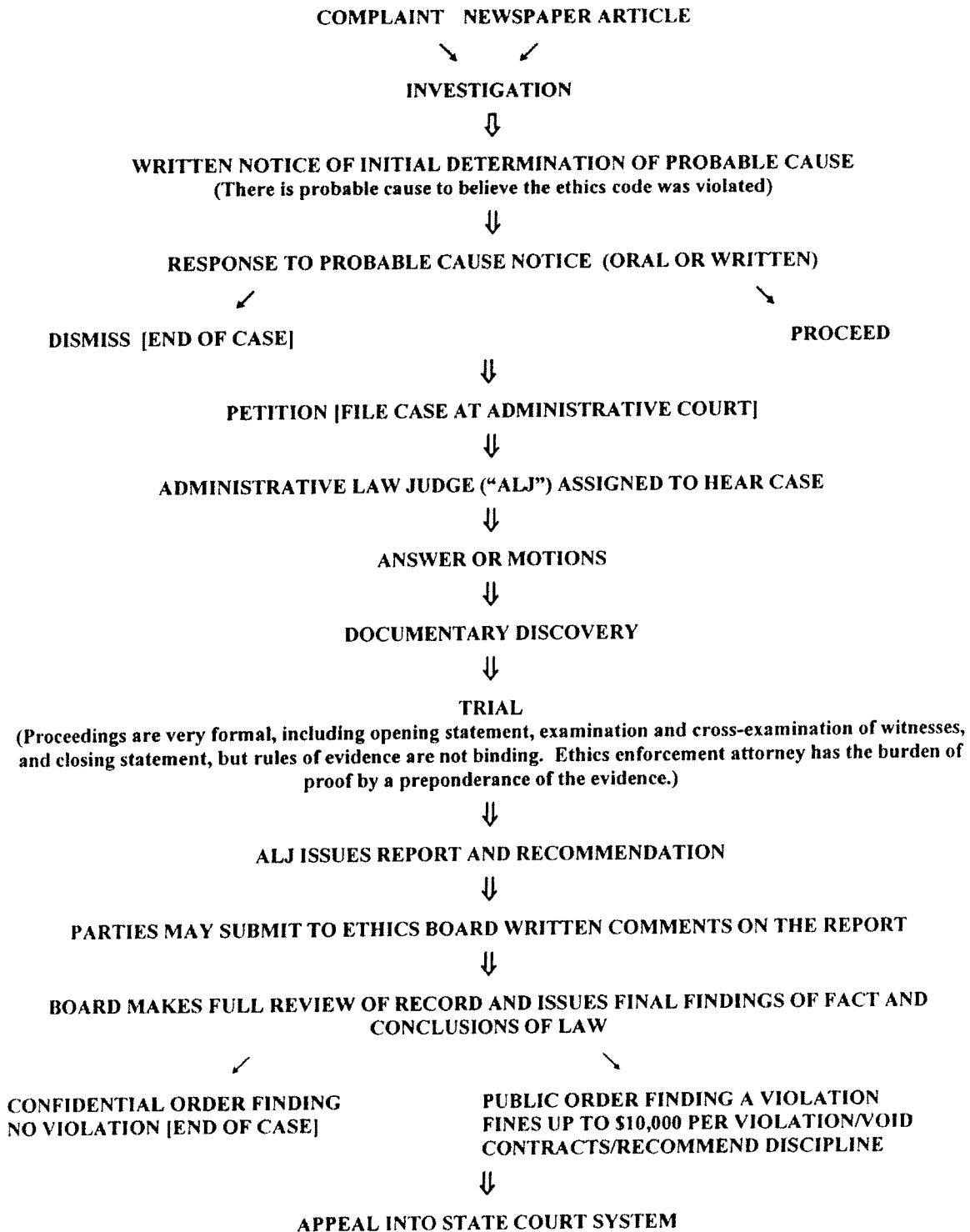
The Board's decision on this matter is conditioned on the correctness and completeness of the facts supplied to us. If such facts are in any respect incorrect or incomplete, the advice we have given in this opinion may not apply.

Benito Romano  
Acting Chair

Bruce A. Green  
Jane W. Parver

Dated: December 31, 1998

# ETHICS ENFORCEMENT PROCESS IN NEW YORK CITY



# CITYADMIN



**New York City  
Conflicts of Interest Board**  
2 Lafayette Street, Suite 1010  
New York, NY 10007  
(212) 442-1400

CITYADMIN

CITYLAW

CITYREGS

CITYLAND

WEB CAST EVENTS

EVENTS >

CITYLAW CASE COMMENTS >

SUBSCRIP & PURCHASES >

NYC CHARTER LIBRARY >

NY LEGISLATIVE SERVICE >

ABOUT US >

CONTACT US >

Center for  
New York City Law  
New York Law School  
47 Worth Street  
NY, NY 10013

T.212.431.2115  
F.212.941.4735  
nycitylaw@nyls.edu

NEW YORK  
LAW SCHOOL

<a href="#">prev decision</a>	<a href="#">next decision</a>	<a href="#">back to results</a>	<a href="#">new search</a>
-------------------------------	-------------------------------	---------------------------------	----------------------------

## Decision - IN THE MATTER OF NORMAN WHITLOW

IN THE MATTER OF NORMAN WHITLOW

COIB CASE NO. **2005-590** >

April 3, 2006

SUMMARY: In Norman Whitlow v. COIB, COIB Case No. **2005-590** (2006), a Department of Education ("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, Whitlow agreed to pay restitution to DOE of 1,818.00, which is the amount that 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.

### STIPULATION AND DISPOSITON

WHEREAS the New York City Conflicts of Interest Board (the "Board"), the New York City Department of Education ("DOE"), and Norman Whitlow wish to resolve this matter on the following terms,

Norman Whitlow states the following:

1. I have been employed by DOE (formerly, the Board of Education) since 1982. I am currently Director of DOE's Youth Leadership Program (the "Program") in Community School District 1, Region 9.

As such, at all relevant times, I was a public servant within the meaning of New York City

Charter § 2601(19).

2. My job responsibilities include hiring high school students to work part time in the Program each summer. I hired my daughter, a high school student, to work in the Program, which I supervise, during the summer of 2004 and the summer of 2005. I represent that my daughter earned a total of \$1,818.00 for both summers.

3. In September 2005, I received an e-mail from a colleague who raised questions about my hiring my daughter to work for the Program. As a result of that e-mail, I reviewed the Chancellor's Regulations and anonymously called the DOE Ethics Officer, from whom I learned that the conflicts of interest law prohibits public servants from hiring family members. I also called the Board's staff and described my conduct to a Board attorney.

4. In a letter to the Board dated September 29, 2005, I reported my conduct to the Board and offered to make restitution for the total amount that my daughter had earned.

5. I acknowledge that my use of my City position to obtain a summer job for my daughter violated Chapter 68 of the New York City Charter (the "Charter"), Sections 2604(b)(3) and 2604(b)(2), which provide:

No public servant shall use or attempt 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.

[Section 2604(b)(3)]

No public servant shall engage in any business, transaction or private employment, or have any financial or other private interest, direct or indirect, which is in conflict with the proper discharge of his or her official duties. [Section 2604(b)(2)]

6. I understand that my daughter is a person with whom I am "associated" within the meaning of Charter Section 2601(5).

7. In recognition of the foregoing, I agree to pay the fine of \$1,818.00 to the Department of Education as follows: The Eighteen Hundred and Eighteen Dollar (\$1,818.00) fine shall be paid to the Department of Education over five months by deducting \$181.80 from my bi-weekly paycheck in ten equal installments. In the event that I resign or retire from DOE or my employment is terminated, the remainder owed under this Disposition will become due to DOE at the time of my resignation, retirement, or termination. I understand that the New York City Conflicts of Interest Board would normally impose a separate fine upon me for violating the above Charter provisions, but has considered the fact that I reported my conduct to the Board, cooperated in the resolution of this matter, and offered to make restitution of the amount that my daughter earned working in the Program.

8. I agree that during the 2006 calendar year, I will meet with the Department of Education Ethics Officer for training related to the City's conflicts of interest law and the Department of Education's rules governing conflicts of interest. I understand that my failure to comply with the provisions of this Disposition may result in further disciplinary action.

9. I agree that this Disposition is a public and final resolution of the charges against me. Furthermore, I agree to provide a copy of the Disposition to any City agency where I may apply for employment upon the request of such agency or in response to any inquiry calling for such information. I understand that an executed copy of this Disposition will be kept in the Department of Education Office of Legal Services and will be incorporated permanently into my personnel file.

10. I knowingly waive on my behalf and on behalf of my successors and assigns any rights to commence any judicial or administrative proceeding or appeal before any court of competent jurisdiction, administrative tribunal, political subdivision, or office of the City or the State of New York or the United States with respect to this proceeding of the Conflicts of Interest Board and the Department of Education, and to contest the lawfulness, authority, jurisdiction, or power of the Conflicts of Interest Board and the Department of Education in imposing the penalty

which is embodied in this Disposition, and I waive any right to make any legal or equitable claims or to initiate legal proceedings of any kind against the Conflicts of Interest Board and the Department of Education or any members or employees thereof relating to or arising out of this Disposition or the matters recited therein.

11. I confirm that I have entered into this Disposition freely, knowingly, and intentionally, without coercion or duress, and after having had the opportunity to be represented by an attorney of my choice; that I accept all terms and conditions contained herein without reliance on any other promises or offers previously made or tendered by any past or present representative of the New York City Conflicts of Interest Board or the Department of Education; and that I fully understand all the terms of this Disposition.

12. Any material misstatement of the facts of this matter, including of the Disposition, by me or by my attorney or agent shall, at the discretion of the Board, be deemed a waiver of confidentiality of this matter.

13. The Conflicts of Interest Board and the Department of Education accept this Disposition and the terms contained herein as a final disposition of the above-captioned matter only, and affirmatively state that other than as recited herein, no further action will be taken by the Board or the Department of Education against Respondent based upon the facts and circumstances set forth herein, except that the Conflicts of Interest Board and the New York City Department of Education shall be entitled to take any and all actions necessary to enforce the terms of this Disposition.

14. This Disposition shall not be effective until all parties have affixed their signatures below.

Dated: March 3, 2006 \_\_\_\_\_/s/\_\_\_\_\_

Norman Whitlow

Respondent

Dated: March 13, 2006 \_\_\_\_\_/s/\_\_\_\_\_

Judy Nathan, Esq.

First Deputy Counsel to the Chancellor

NYC Department of Education

By: Theresa Europe, Esq.

Dated: March 28, 2006 \_\_\_\_\_/s/\_\_\_\_\_ Steven B. Rosenfeld, Esq.

Chair

NYC Conflicts of Interest Board

<a href="#">prev decision</a>	<a href="#">next decision</a>	<a href="#">back to results</a>	<a href="#">new search</a>
-------------------------------	-------------------------------	---------------------------------	----------------------------

[back to top](#)

all text and images © 2004 New York Law School

[copyright](#) | [disclaimer](#) | [privacy policy](#) | [site map](#)

**New York City Conflicts of Interest Law, Covering New York City Public Servants  
(Plain Language Version\*)**

1. **Misuse of Office.** Public servants may not use or misuse the position to financially benefit themselves, their family members, or anyone with whom they have a business or financial relationship.
2. **Misuse of City Resources.** Public servants may not use City letterhead, personnel, equipment, supplies, or resources for a non-City purpose, nor may they pursue personal or private activities during times when they are required to work for the City.
3. **Gifts.** Public servants may not accept anything valued at \$50 or more from anyone that they know or should know is doing business or seeking to do business with the City.
4. **Gratuities.** Public servants may not accept anything from anyone other than the City for performing their official duties.
5. **Seeking Other Jobs.** Public servants may not seek or obtain a non-City job with anyone whom they are dealing with in their City job.
6. **Moonlighting.** Public servants may not have a job with anyone that they know or should know does business with the City or that receives a license, permit, grant, or benefit from the City.
7. **Owning Businesses.** Public Servants may not own any part of a business or firm that they know or should know does business with the City or that receives a license, permit, grant, or benefit from the City, nor may their spouses, or their domestic partners, nor any of their children.
8. **Confidential Information.** Public servants may not disclose confidential City information or use it for any non-City purpose, even after they leave City service.
9. **Appearances Before the City.** Public servants may not accept anything from anyone other than the City for communicating with any City agency or for appearing anywhere on a City matter.
10. **Lawyers and Experts.** Public servants 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.** Public servants 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.** Public servants may not enter into any business or financial dealings with a subordinate or supervisor.
13. **Political Solicitation of Subordinates.** Public servants may not directly or indirectly ask a subordinate to make a political contribution or to do any political activity.
14. **Coercive Political Activity.** Public servants may not force or try to force anyone to do any political activity.



15. ***Coercive Political Solicitation.*** Public servants 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.*** Elected officials, deputy mayors, agency heads, deputy or assistant agency heads, chiefs of staff, directors, or members of boards or commissions may not hold political party office or ask anyone to contribute to the political campaign of anyone running for City office or to the political campaign of a City elected official running for any office.
17. ***Post-Employment One-Year Ban.*** For one year after leaving City service, former public servants may not accept anything from anyone, including the City, for communicating with their former City agency.
18. ***Post-Employment One-Year Ban for High-Level Officials.*** Elected officials, deputy mayors, the chair of the City Planning Commission, and the heads of the Office of Management and Budget, Law Department, or Departments of Citywide Administrative Services, Finance, or Investigation, for one year after they leave City service, may not accept anything from anyone, including the City, for communicating with their former branch of City government.
19. ***Post-Employment Particular Matter Bar.*** After leaving City service, former public servants may never work on a particular matter they personally and substantially worked on for the City.
20. ***Improper Conduct.*** Public servants may not take any action or have any position or interest, as defined by the Conflicts of Interest Board, that conflicts with their City duties.
21. ***Inducement of Others.*** Public servants 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 a public servant faces a possible conflict of interest under this Code of Ethics, he or she must disclose the conflict to the Conflicts of Interest Board and comply with the Board's instructions, which may include recusal, divestiture, or other actions.
23. ***Volunteer Activities.*** A public servant may be an officer or director of a not-for-profit with business dealings with the City if they do this work on their own time, they are not compensated for such work, the not-for-profit has no dealings with their City agency (unless the head of the agency has given approval), and said public servant is 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)  
<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. Also, bear in mind that individual agencies may have additional restrictions on the acceptance of gifts, moonlighting, and other issues. Contact your agency counsel for more information.



The City's Conflicts of Interest Law prohibits public servants from using or appearing to use their City positions for their own personal benefit. To comply with the law, you cannot:

- Use your City position to gain any private advantage for yourself, a close family member, or anyone with whom you have a financial relationship.
- Use City resources for any non-City purpose, or disclose confidential City information to any private person or firm.
- Accept any valuable gift from someone doing business with any City agency, or *anything* from anyone for performing your City job.
- Take a second job with a firm, or own all or part of a firm, that has business with any City agency, unless you receive approval from the Board and your agency.
- Enter into any kind of private financial relationship with a superior or subordinate.
- Ask a subordinate to work on a political campaign or make a political contribution.
- Take part in a not-for-profit organization's business dealings with any City agency.
- Discuss possible future employment with a firm you are currently dealing with in your City job.
- Communicate with your former agency on behalf of a private firm for one year after you leave City service, or ever work on a matter you personally and substantially worked on while with the City.

---

For information or to get advice on the City's Ethics Law, call the Conflicts of Interest Board at 212-442-1400 (calls are confidential) or visit our website at <http://nyc.gov/ethics>

This material is intended as a general guide. It is not intended to replace the text of the law (Charter § 2604). For more particular information or answers to specific questions, please write or call the Board. Also, bear in mind that individual agencies may have additional restrictions on the acceptance of gifts, moonlighting, and other issues. Contact your agency counsel for more information.