

CONFLICTS OF INTEREST
 CHAPTER 68 OF THE NEW YORK CITY CHARTER
 AMENDMENTS PROPOSED BY THE CONFLICTS OF INTEREST BOARD
 AUGUST 2009

Note: This document has been prepared by the staff of the Conflicts of Interest Board as a general guide. It has not been approved by the Board and is not intended to replace the text of the proposed amendments.

Proposed §	Current §	Amendment
2600	2600	Makes explicit that agencies may adopt rules stricter than Chapter 68
2601(2)	2601(2)	Adds to definition of covered “agency”: Board of Elections, Public Administrators, Campaign Finance Board, Community Education Councils, EDC, IDA, and HDC
2601(5)	2601(5)	Adds to definition of “associated”: grandchild, grandparent; parents, children, sibling of spouse/DP; step-relatives; major campaign contributors
2601(10)	2601(21)(b)	Transfers definition of “domestic partner” to its own subdivision
2601(11)	2601(10)	Adds district attorney to definition of “elected official”
2601(12)	None	Adds a definition of “elective office of the city”
	2601(12)	Deletes definition of “interest”
2601(15)	None	Adds a definition of “major campaign contributor”
2601(23)	None	Adds a definition of “represent”
2601(24)	2601(21)(b)	Shifts definition of “domestic partner” to its own subdivision in 2601(10)
2601(27)	2604(b)(5)	Transfers definition of “valuable gift”
2602(a)	2602(a)	Makes explicit that the COIB is an independent agency; authorizes appointment of one non-City resident Board member with ethics expertise

Proposed §	Current §	Amendment
2602(b)	2602(b)	Prohibits Board members from appearing directly before the City except on their own or employer's behalf
2602(c)	2602(c)	Deletes outdated reference to initial nominations of Board members
2602(d)	2602(d)	Authorizes reimbursement of reasonable expenses to Board members
2602(g)	2602(g)	Eliminates requirement that COIB executive director be an attorney
2602(i)	None	Provides a guaranteed budget for the COIB
2603(b)(2)	2603(b)(2)	Mandates Chapter 68 training for all public servants; requires agencies to assist COIB in such training; requires new public servants' statement of having read Chapter 68 to be filed in their personnel file (instead of at the COIB); provides that failure to receive training or receive or read Chapter 68 or to keep statement on file has no effect on duty of compliance
2603(c)(1)-(3)	2603(c)(1)-(3)	Makes explicit that Board may issue confidential advisory letters
2603(c)(4)	2603(c)(4)	Eliminates requirement that Board by rule adopt applicable Board of Ethics opinions, stating only that Board may adopt such opinions
2603(e)(2)(b)	2604(e)(2)(b)	Authorizes COIB to conduct investigations
2603(e)(2)(d)	2604(e)(2)(d)	Makes explicit that, when COIB refers matter to agency, agency must consult with Board before issuing a final decision
2603(e)(2)(e)	None	Makes explicit that the COIB may refer a complaint to a law enforcement agency
2603(f)(3)	None	Grants Board subpoena power
2603(g)(2)	2603(g)(2)	Makes explicit that an agency must inform the COIB of a Chapter 68 complaint or determination at the time of receipt or determination
2603(h)(1)	2603(h)(1)	Changes "public servant" to "any person" to reflect expanded COIB jurisdiction in 2605(b); makes explicit that probable cause notices are confidential; requires COIB to adopt rule setting response times; clarifies that Board need not grant oral argument on a probable cause notice

Proposed §	Current §	Amendment
2603(h)(2)	2603(h)(2)	Changes “public servant” to “respondent”; makes explicit that Board may act on a default and that dismissals, petitions, and referrals to agencies are confidential; makes explicit that agencies must notify COIB of agency’s determination whether to proceed with disciplinary action and that COIB retains jurisdiction after referral
2603(h)(3)	2603(h)(3), 2603(h)(4)	Makes explicit that recommendations to the Council regarding findings of violations by Council Members or staff are public; provides for imposition of penalties against non-public servants; shifts public nature of Board orders of violations from 2603(h)(4); makes explicit that agency head, Mayor, or Council must publicly report to Board action taken on Board recommendations of penalties
2603(h)(4)	2603(h)(4)	Changes “public servant” to “respondent”; shifts public nature of Board orders of violations to 2603(h)(3);
2603(h)(5)	2603(h)(5)	Deletes apparent typographical error that probable cause notices be public (see current 2603(h)(4))
2603(h)(6)	2603(h)(6)	Makes explicit that the Board may refer a matter to a law enforcement agency at any time
2603(i)	2603(i)	Changes “public servant” to “any person”
2603(k)	2603(k)	Makes explicit that a public servant may waive confidentiality and that COIB may release documents to a law enforcement agency at any time
2604(a)(1)	2604(a)(1)	Eliminates introductory proviso in 2604(a)(1); adds “ownership” before “interest” and adds “position” to reflect deletion of definition of “interest”
2604(a)(2)	2604(a)(2)	Adds “ownership” before “interest” to reflect deletion of definition of “interest”
2604(a)(3)(b)	2604(a)(3)(b), 2604(a)(4)	Folds orders into waivers but maintains current requirements for an order in current 2604(a)(4)
--	2604(a)(4)	Folds the order criteria into 2604(a)(3)

Proposed §	Current §	Amendment
2604(a)(4)(c)	2604(a)(5)(c)	Deletes this provision since the Board of Estimate has been abolished
2604(b)(1)	None	Folds 2604(b)(1) into 2604(b)(3); adds misuse of City time and resources as a new 2604(b)(1)
2604(b)(2)	2604(b)(2)	Adds “conduct” since 2604(b) generally applies to conduct
2604(b)(3)	2604(b)(1), 2604(b)(3)	Incorporates current 2604(b)(1) into 2604(b)(3), with changes, and adds other exceptions (see below)
2604(b)(3)(a)	2604(b)(1)(a)	Limits the safe harbor to voting by Council Members (not actions by all elected officials); clarifies what must be disclosed
2604(b)(3)(b)	2604(b)(1)(b)	Makes explicit, consistent with Board advisory opinions, that the exception applies only to discussing a matter before the community board and that disclosure is required
2604(b)(3)(c)	2604(b)(1)(c)	Moves this provision from current 2604(b)(1)(c) to a new 2604(b)(3)(c)
2604(b)(3)(d), 2604(b)(3)(e)	None	Adds exceptions for actions affecting a de minimis association or interest
2604(b)(4)	2604(b)(4)	Replaces “use any such information to advance any direct or indirect financial or other private interest” with “use for private advantage” (as in current 2604(d)(5)); eliminates requirement that the confidential information concern City property, affairs, or government; changes “obtained as a result of the official duties” to “obtained as a result of such public servant’s city position”
2604(b)(5)	2604(b)(5)	Makes explicit that solicitation of a gift of any size is prohibited; shifts definition of “valuable gift” to new 2601(27); restricts prohibition on gifts to part-time public servants to donors doing business with public servant’s own agency; eliminates doing business with City requirement for gifts to high-level public servants

Proposed §	Current §	Amendment
2604(b)(6), 2604(b)(7)	2604(b)(6), 2604(b)(7)	Includes appearances before the City in 2604(b)(6) and representation of clients in 2604(b)(7); replaces appearances on behalf of “private interests” with appearances on behalf of persons “except in the course of...official duties”; corrects inconsistency in use of litigation, action, and proceeding
2604(b)(8)	2604(b)(8)	Makes use of litigation, action, or proceeding consistent with 2604(b)(7)
2604(b)(9)	2604(b)(9)	Adds a prohibition on coercing anyone to participate in a political campaign and thus shifts definition of “participation in a political campaign” to a new 2604(b)(9)(d); prohibits requesting political activity from persons with matters before the requesting public servant’s agency where he/she has authority over the matter
2604(b)(11)	2604(b)(11)	Adds a prohibition on requesting political contributions from persons with matters before the requesting public servant’s agency where he/she has authority over the matter
2604(b)(14)	2604(b)(14)	Makes explicit that one may not maintain a previous business or financial relationship with superior or subordinate
2604(b)(16)	2604(d)(1)	Shifts from 2604(d)(1)(ii) prohibition on negotiating for a position with someone one is dealing with in one’s City job; eliminates 2604(d)(1)(i)
2604(c)(2)	2604(c)(2)	Makes explicit that a public servant may personally and individually receive City benefit or use City facility on same terms and conditions as public and must otherwise comply with Chapter 68
2604(c)(3)- 2604(c)(5)	2604(c)(3)- 2604(c)(5)	Makes explicit that public servant must otherwise comply with Chapter 68
2604(c)(6)	2604(c)(6)	Replaces “interested in” with “that engages in or seeks to engage in”; replaces “is in furtherance of” with “would not be in conflict with” (2604(e) standard)

Proposed §	Current §	Amendment
2604(c)(7), 2604(c)(8)	2604(c)(7), 2604(c)(8)	Makes explicit that public servant must otherwise comply with Chapter 68
2604(d)(1)	2604(d)(7)	Shifts 2604(d)(1)(ii) to a new 2604(b)(16); shifts 2604(d)(7) to 2604(d)(1)
2604(d)(2)	2604(d)(2)	Eliminates reference to the no longer extant Board of Estimate
2604(d)(4)	2604(d)(4)	Strikes “involving the same party or parties”
2604(d)(5)	2604(d)(5)	Makes explicit that “for private advantage” modifies only “use,” not “disclose,” and that provision applies only to former public servants; conforms provision to analogous provision for current public servants (2604(b)(4))
2604(d)(6)	2604(d)(6)	Clarifies that 2604(d)(5), restricting the use or disclosure of confidential information, applies to public servants who go to work for another government agency
--	2604(d)(7)	Shifts 2604(d)(7) to 2604(d)(1)
2604(e)	2604(e)	Changes subdivision name to “waivers”; folds current 2604(a) orders into waivers; makes explicit that waivers may be granted for conduct otherwise prohibited under Chapter 68 and that Board may impose conditions on the waiver; requires that waivers be available to the public, not that they be made public
2605	2605	Changes heading to “Legislation; Inducement”; adds a prohibition on anyone inducing, causing, or aiding a public servant to violate Chapter 68
2606(a)	2606(a)	Makes explicit Board’s authority to initiate debarment proceedings under PPB rules
2606(b)	2606(b)	Corrects typo (lack of verb); increases maximum penalty from \$10,000 to \$25,000; authorizes Board to order repayment of ill-gotten gains from Chapter 68 violation

[Charter Amendments: Charter Revision 2009: Chapter 68 Amendments 2009 Chart]