

Advisory Opinion No. 92-17

The Conflicts of Interest Board has received a request from a public servant for a waiver of the prohibition in Section 2604(d)(2), contained in Chapter 68 of the City Charter, which provides in pertinent part that: "[n]o former public servant shall, within a period of one year after termination of such person's service with the city, appear before the city agency served by such public servant...."*

The public servant was offered a position with a not-for-profit entity which has several contracts with her agency to provide services to the agency's constituency. In accepting this position, the public servant would be involved in frequent appearances before her former agency concerning these contracts. The agency head represented to the Board that the availability of the public servant's expertise as an

*"Appear" means to make any communication, for compensation, other than those involving ministerial matters. See Charter Section 2601(4). A "ministerial matter" means an administrative act, including the issuance of a license, permit or other permission by the City which is carried out in a prescribed manner and which does not involve substantial personal discretion. See Charter Section 2601(15).

employee of this entity would help remedy pending contractual disputes between the entity and the agency as well as ensure that the entity complies with detailed and complex City and State regulations, thereby making effective the entity's delivery of services to the community and preserving State funding to the City for such services.

In Opinion No. 91-8, the Board interpreted Charter Section 2604(e) to permit it to waive the one-year appearance ban in Charter Section 2604(d)(2), "when justified by compelling circumstances in a particular case." It is the opinion of the Board that the request for a waiver of Charter Section 2604(d)(2) should be granted under these circumstances so that the public servant may appear before her former agency within one year after the conclusion of her City service to assist in ameliorating these contractual and programmatic deficiencies.

Beryl R. Jones
Acting Chair

Benjamin Gim

Robert J. McGuire

Sheldon Oliensis

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Dated: August 3, 1992