

**IN THE MATTER OF JOHN PETTINATO  
COIB CASE NO. 2008-911  
NOVEMBER 18, 2009**

**SUMMARY:** The Board and the New York City Department of Education (“DOE”) concluded a three-way settlement with a DOE Principal who paid a total fine of \$7,500 for, among other things, intertwining the operations of his not-for-profit organization with those of his school, despite having received written instructions from the Board that the City’s conflicts of interest law prohibits such conduct. The Principal of the Institute for Collaborative Education in Manhattan (P.S. 407M) admitted that in September 1998 the Board granted him a waiver of the Chapter 68 provision that prohibits City employees from having a position with a firm that has business dealings with the City. This waiver allowed him to continue working as the paid Executive Director of his not-for-profit organization while it received funding from multiple City agencies, but not from DOE. The Principal acknowledged that the Board notified him in its September 1998 waiver letter that under Chapter 68 he may not use his official DOE position or title to obtain any private advantage for the not-for-profit organization or its clients and he may not use DOE equipment, letterhead, personnel, or any other City resources in connection with this work. The Principal admitted that, notwithstanding the terms of the Board’s waiver, his organization engaged in business dealings with DOE; he used his position as Principal to help a client of the not-for-profit get a job at P.S. 407M; and he intertwined the not-for-profit’s operations with those of P.S. 407M, including using the school’s phone numbers and mailing address for the organization. The Principal further admitted that he hired two of his DOE subordinates to work for him at his not-for-profit, including one to work as his personal assistant, and that he knew that neither DOE employee had obtained the necessary waiver from the Board to allow them to moonlight with a firm that does business with the City. He admitted that by doing so he caused these DOE subordinates to violate the Chapter 68 restriction on moonlighting with a firm engaged in business dealings with the City. The Principal acknowledged that his conduct violated the City’s conflicts of interest law, which prohibits a public servant from entering into a financial relationship with a superior or subordinate City employee and from knowingly inducing or causing another public servant to engage in conduct that violates any provision of Chapter 68. The Principal paid a \$6,000 fine to the Board and \$1,500 in restitution to DOE, for a total financial penalty of \$7,500. The amount of the fine reflects that the Board previously advised the Principal, in writing, that the City’s conflicts of interest law prohibits nearly all of the aforementioned conduct, yet he heeded almost none of the Board’s advice. *COIB v. Pettinato*, COIB Case No. 2008-911 (2009).

**STIPULATION AND DISPOSITION:**

**WHEREAS**, the New York City Conflicts of Interest Board (the “Board”), the New York City Department of Education (the “DOE”), and Respondent John Pettinato (“Respondent”) wish to resolve this matter on the following terms,

**IT IS HEREBY AGREED** by and between the parties as follows:

In full satisfaction of the above captioned matter, Respondent admits the following:

1. Since September 4, 1985, I have been employed by the New York City Department of Education (“DOE”) and its predecessor the Board of Education (herein, collectively “DOE”). Since 1995, I have been the Principal of the Institute for Collaborative Education in Manhattan (“P.S. 407”).
2. As such, I am a public servant within the meaning of Chapter 68 of the New York City Charter (“Chapter 68”).
3. Sometime prior to my employment with DOE, I founded the not-for-profit organization Greenwich Village Youth Council, Inc. (herein, the “Youth Council”). Since that time, I have served as the Executive Director of the Youth Council and currently receive approximately \$85,000 annually in compensation and benefits for my services.
4. Since 1991, the Youth Council has received more than \$4 million in City funds through contracts with the New York City Department of Health and Mental Hygiene and the New York City Department of Youth and Community Development. City Charter § 2604(a)(1)(b) states in relevant part: “no regular employee shall have an interest in a firm which such regular employee knows is engaged in business dealings with the city.” Under this provision, my position with the Youth Council violates Chapter 68 because the Youth Council is engaged in business dealings with the City through the aforementioned contracts. Had I not obtained a waiver of Section 2604(a)(1)(b) from the Board, my position with the Youth Council would have violated Chapter 68.
5. By letter dated June 2, 1998, I sought a waiver from the Board to allow me to continue my work as the paid Executive Director of the Youth Council while also working for DOE as the Principal of P.S. 407, in light of the Youth Council’s business dealings with City. In requesting the waiver, I represented to the Board that the Youth Council receives funding from various City agencies, but not from the DOE, to provide services to children in the community and that I worked for the Youth Council during the hours when I am not required to work for the DOE.
6. By letter dated September 25, 1998, the Board granted me a waiver of the restrictions of City Charter § 2604(a)(1)(b) pursuant to City Charter § 2604(e), which provides that a public servant may hold a prohibited position if the Board determines, after receiving the written approval of the public servant’s agency head, that such position does not conflict with the purposes and interests of the City. By its waiver, the Board permitted me to continue working as the Executive Director of the Youth Council while it engaged in business dealings with the City but not with the DOE.

7. On or about November 4, 2004, the Youth Council engaged in business dealings with DOE by securing a \$15,000 grant from the DOE to provide crisis counseling.
8. Although I did not personally engage in discussions with DOE nor did I personally apply for the grant at issue, I acknowledge that I knew the Youth Council had engaged in business dealings with DOE and that by serving as its paid Executive Director I violated Chapter 68, specifically City Charter § 2604(a)(1)(a). City Charter § 2604(a)(1)(a) states in relevant part: “no public servant shall have an interest in a firm which such public servant knows is engaged in business dealings with the agency served by such public servant.”
9. In its September 25, 1998, letter, the Board notified me that under Chapter 68: my work the Youth Council may be performed only at times when I am not required to work for the DOE; I may not use my official DOE position or title to obtain any private advantage for myself, the Youth Council, or its clients; and I may not use DOE equipment, letterhead, personnel, or other City resources in connection with my work for the Youth Council.
10. Notwithstanding the written admonition from the Board, I have intertwined the operation of the Youth Council with my school, P.S. 407, and have used DOE resources for Youth Council purposes. Specifically, I permitted the Youth Council to both use and post on its website the P.S. 407 address and telephone numbers for the purposes of contacting Youth Council staff members, including myself and other P.S. 407 employees.
11. I acknowledge that by using DOE resources for Youth Council purposes I violated Chapter 68, specifically City Charter § 2604(b)(2) and Section 1-13(b) of the Rules of the Board, Title 53, Rules of the City of New York (the “Board Rules”). City Charter § 2604(b)(2) states: “[n]o 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.” Board Rules § 1-13(b) states in relevant part: “it shall be a violation of City Charter § 2604(b)(2) to use City letterhead, personnel, equipment, resources, or supplies for any non-City purpose.”
12. Notwithstanding the written admonition from the Board, in July 2008, I used my position as Principal of P.S. 407 to help a Youth Council client secure DOE employment. In doing so, I advanced the Youth Council’s mission, which includes, among other things, helping its clients find employment.
13. I acknowledge that by using my DOE position to obtain a private advantage for the Youth Council, I violated Chapter 68, specifically City Charter § 2604(b)(3). City Charter § 2604(b)(3) states: “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.” Chapter 68, as stated in Sections 2601(5), (12), and (18), defines a “firm associated with a public servant” as “each firm in which the public servant has a present or potential interest,” which includes “a position in a firm, such as an officer, director, trustee, employee, or any management position, or an attorney, agent, broker, or consultant to the firm, which does not constitute an ownership interest.” Therefore, the Youth Council is a firm associated with me within the meaning of Chapter 68.

14. From December 2006 to June 2008, I hired and employed a teacher who worked part-time at P.S. 407 and who was my DOE subordinate to work for me at the Youth Council as the Director of Development, for which she earned approximately \$30,000 annually.
15. From August 2007 to July 2009, I hired and employed a school aide who worked part-time at P.S. 407 and who was my DOE subordinate to work for me at the Youth Council as my personal assistant and/or as a record keeper, for which he earned approximately \$20,000 annually.
16. By hiring and employing my DOE subordinates to work for me at my not-for-profit organization, I entered in a financial relationship with them and, thus, violated Chapter 68, specifically City Charter § 2604(b)(14). City Charter § 2604(b)(14) states: “[n]o public servant shall enter into any business or financial relationship with another public servant who is a superior or subordinate of such public servant.”
17. When I hired and employed my DOE subordinates to work for the Youth Council, a firm which I knew was engaged in business dealings with the City, I knew that neither of my DOE subordinates had obtained a waiver of the restrictions of City Charter § 2604(a)(1)(b) from the Board. Therefore, I caused my DOE subordinates to violate City Charter § 2604(a)(1)(b), as cited in paragraph 4 above.
18. By causing other public servants to violate a provision of City Charter § 2604, I violated City Charter § 2604(b)(2), as cited in paragraph 11 above, and Board Rules § 1-13(d). Board Rules § 1-13(d) states in relevant part: “[i]t shall be a violation of City Charter § 2604(b)(2) for any public servant to intentionally or knowingly (1) solicit, request, command, importune, aid, induce or cause another public servant to engage in conduct that violates any provision of City Charter § 2604.”
19. In recognition of the foregoing, I agree to pay a fine of Seven Thousand Five Hundred Dollars (\$7,500.00) as follows:
  - a. Restitution to the DOE in the amount of One Thousand Five Hundred Dollars (\$1,500.00); and

- b. A fine of Six Thousand Dollars (\$6,000.00) to the Board upon signature of this Disposition, by money order or by cashier, bank, or certified check, made payable to the "New York City Conflicts of Interest Board."
20. I agree that this Disposition is a public and final resolution of the charges against me.
21. 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, and to contest the lawfulness, authority, jurisdiction, or power of the Board or the DOE 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 Board or the DOE, or any members or employees thereof relating to or arising out of this Disposition or the matters recited therein.
22. 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 Board or the DOE; and that I fully understand all the terms of this Disposition.
23. 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.
24. This Disposition shall not be effective until all parties have affixed their signatures below.
25. Respondent and the DOE consent to making the Board a party to this Disposition.
26. The Board and the DOE 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 DOE against Respondent based upon the facts and circumstances set forth herein, except that the Board and the DOE shall be entitled to take any and all actions necessary to enforce the terms of this Disposition.

Dated: October 9, 2009

\_\_\_\_\_/s/  
John Pettinato  
Respondent

Dated: October 9, 2009

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/s/

Barbara A. Jaccoma  
Council of School Supervisors &  
Administrators  
Counsel for Respondent

Dated: October 29, 2009

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/s/

Theresa Europe  
Deputy Counsel to the Chancellor  
Office of the General Counsel  
NYC Department of Education

Dated: November 18, 2009

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/s/

Steven B. Rosenfeld  
Chair  
NYC Conflicts of Interest Board