



# Ethical Times

**ETHICS LIGHTS THE WAY TO GOOD GOVERNMENT**

## Ethics Myths, Legal Realities: Leaving City Employment

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**The NYC Conflicts of Interest Board will provide the full text of any document reported in this issue.**

Phone: (212) 442-1400

Fax: (212) 442-1407

**Ethics Myth:** City employees do not have to worry about possible conflicts of interest when they seek a new job or leave City service.

**Legal Reality:** Once you leave City service, there are laws that apply to you.

It is not unusual for City employees to look for a new job, but if you are a City employee, there are a number of ethics rules you must follow when looking for another job or even after you have left City service and are working for a company in the private sector.

There are **five basic rules:** These rules apply to all City employees, and if you do not follow them, there can be penalties.

The first rule is that once you have decided that you want to look for another job, you must be careful where you decide to look. You may not send a resume to a company that you are working with in your City job. Also, you may not go on an interview with that company. If you had worked with a specific company in your City job, but do not now work with that company in your City job, then you can look for a job with that company.

You may wait until you have finished your work with the company and then send the resume and go on an interview. Or, you may tell your supervisor that you are looking for another job, and get yourself taken off the project involving the company. Once you are no longer working on the

project, you can send a resume and go interview with the company.

If you happen to go on an interview and then you are assigned to work involving that company, you cannot work on that project while your application is being considered, and you must let your agency know that you sent a resume to that company or went on the interview.

The second rule requires that for one year after leaving your City job, you may not appear before your old agency. This means that you may not write letters, make telephone calls, attend meetings, or have other business contacts with your old agency. The year starts on your last day of work, even if you get paid for several more weeks, for accrued

## Enforcement News

January 9, 2003

### TEACHER FINED \$7,500 FOR CERTIFYING THE RECEIPT OF GOODS IN A CONTRACT BETWEEN HER HUSBAND'S COMPANY AND THE DEPARTMENT OF EDUCATION

*COIB CASE NO. 2002-463 (2003)*

On January 9, 2003, the New York City Conflicts of Interest Board and the New York City Department of Education concluded a three-way settlement of a case involving a Dept. of Ed. teacher who was involved in the hiring and payment of her husband's company to perform services for her agency. This settlement came as a result of an investigation conducted by the Special Commissioner of Investigation for the New York City School District.

Dept. of Ed. teacher Cathy Mumford admitted that while she was a teacher and Project ARTS Program Liaison, she had a conflict of interest when she signed a purchase order certifying that her agency "received as ordered" goods from Soul'd Out Promotions ("Soul'd Out"), a company owned and operated by her husband. As Project ARTS Program Liaison, Ms. Mumford's duties included providing information and proposals to the principal for the expenditure of Project ARTS funds regarding art education equipment, supplies, and services. The purchase order indicated that Soul'd Out was hired to compose a school song for Ms. Mumford's school and to conduct workshops. Ms. Mumford signed the purchase order for purposes of remitting the order for payment to Soul'd Out. The Dept. of Ed. paid Ms. Mumford's husband \$3,500 for the school song, which they did not receive until approximately six months after Ms. Mumford certified the receipt of the song. In addition, Ms. Mumford acknowledged that she was aware that Soul'd Out was engaged in business dealings with another Dept of Ed. school, from which it received approximately \$25,000.

The Dept. of Ed. fined Ms. Mumford \$5,000 for the improper payment of \$3,500 to Soul'd Out, and Ms. Mumford agreed to pay a fine of \$2,500 for violating the conflicts of interest law, amounting to a fine totaling \$7,500.

Ms. Mumford acknowledged that she violated New York City Charter provisions that prohibit public servants from misusing their official positions for private gain for themselves or their family members, and from having an interest in a firm which the public servant knows is engaged in business dealings with his or her own agency. Ms. Mumford had an imputed ownership in her husband's company, which was engaged in business with the Dept. of Ed.

## Department of Ed. Alert

The Board took the occasion of the Mumford case (above) to remind City officials that public servants whose spouses have business dealings with the City should seek the advice of the Board, and must take no official action to obtain a financial gain or contract or other private or personal advantage for themselves or their family members. The Board's staff can be reached at 212-442-1400 for advice about the conflicts of interest law.

Richard J. Condon, Special Commissioner of Investigation for the New York City School District, said: "A major part of the investigative workload of the Special Commissioner's Office is investigating possible conflicts of interest by employees of the Department of Education and assisting the Conflicts of Interest Board and the Department of Education in resolving these important matters."

Joel Klein, Chancellor of the Dept. of Ed., said: "We at the Department of Education take the conflicts of interest law seriously. Teachers should not become involved in Department of Education business matters involving their family members."

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#### Conflicts of Interest Board

2 Lafayette Street, Suite 1010

NY, NY 10007

Phone: (212) 442-1400

Fax: (212) 442-1407



annual leave, compensatory time, and sick leave.

For very high-level employees—elected officials, Deputy Mayors, and heads of certain agencies—the rule is stricter.

The third rule is called the “lifetime ban.” This rule involves projects that you may and may not work on in your new, non-City job. You may seek and obtain a position with a company that does business with the City. You may also seek and obtain a job with a company that does business with your old agency.

*But you may not work on a project in your new position that you worked on in your City job.*

The prohibition is permanent (hence, “the lifetime ban”). For the rule to apply, you must have worked on a specific project, called “a particular matter,” both personally and substantially.

The purpose of the rule is to prevent a private company from gaining a special advantage in its relationship with the City (its “doing business with the City”) by hiring a former City employee knowledgeable and experienced with that “particular matter.”

The fourth rule says you may not use or disclose confidential City information.

The fifth rule involves the government-to-government excep-

tion. The rule says that if you get a job with another government agency, the post-employment restrictions do **not** apply.

The government-to-government exception applies to jobs with other municipalities, the state government, or the federal government.

These are the rules you need to keep in mind when planning or leaving City service.

If you have questions regarding these rules, call the Conflicts of Interest Board at (212) 442-1400. All calls are confidential.

### The COIB Ethicist

*(Frequently asked questions to COIB Trainers. This quarter’s question was submitted by Alex Kipp.)*

***How can I make a complaint of a violation of the conflicts of interest law? And if I do, what protections are available to me, if I feel retaliated against? And, how come I never hear anything about the status of my complaint after I have made it?***

Complaints should be made to the Conflicts of Interest Board (the “Board”), 2 Lafayette Street, Suite 1010, New York, NY 10007 and to the Department of Investigation (“DOI”), 80 Maiden Lane, New York, NY 10038. *You can even make an anonymous complaint, if you wish, although a callback number is often helpful in case investigators or the Board staff have any follow-up questions. If you file a complaint directly with the Conflicts of Interest Board and you believe you have suffered retaliation for complaining (e.g., a demotion, a bad evaluation, firing, even being moved to a smaller office), make sure that you also report to the Department of Investigation, to ensure eligibility for whistleblower protection.* There are protections in the newly revised “whistleblower law,” Section 12-113 of the New York City Administrative Code. **These protections are available only if you report to DOI,**

**a City Council Member, the Comptroller, or the Public Advocate** “information concerning conduct which [you] know or reasonably believe to involve corruption, criminal activity, conflict of interest, gross mismanagement or abuse of authority by another city officer or employee, which concerns his or her office or employment, or by persons dealing with the city, which concerns their dealings with the city,” and you report to DOI that you believe you have suffered retaliation for complaining. ***The text of the law is available on the web at <http://www.council.nyc.ny.us/textfiles/Int%200063-2002A.htm>.*** These protections are called remedial actions, such as reinstatement to full seniority rights and payment of lost compensation (if DOI finds that you suffered an “adverse personnel action” for complaining), and are made available through DOI, which investigates claims of retaliation. Under the new whistleblower law, DOI acknowledges the complaint in writing and gives you the name of the investigator assigned. DOI will also notify you of the outcome of the investigation of your retaliation complaint. The Board will acknowledge your complaint, which is confidential. We cannot keep you informed of the progress of your complaint unless and until the Board publishes an order or settlement finding a violation of the conflicts of interest law. That is because the law provides that the records and proceedings of the Board are confidential except after full due process proceedings or settlements where a violation is found.



## NYC CONFLICTS OF INTEREST BOARD

2 Lafayette Street  
Suite 1010  
New York, N.Y. 10007

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### Ethics Liaisons Forum Held at the COIB

**On February 7, 2003**, the COIB hosted a small forum dedicated to City agency ethics liaisons and the conflicts issues they face on a daily basis. Representatives from over ten City agencies attended the forum, which served as an opportunity for the liaisons to meet each other, as well as the staff of the COIB, and to participate in an in-depth discussion of Chapter 68 issues. Among the varied topics of discussion were the impact of Charter Section 2604(b)(13) on teaching classes at both private schools and CUNY/SUNY schools and the factors the Board considers in

determining whether to grant a waiver of Chapter 68's post-employment provisions.

As a result of suggestions made by attendees, COIB staff plans to send e-mails periodically to agency ethics liaisons that will contain not only interesting conflicts law updates, but practical information as well, such as the dates of upcoming Board meetings. Further, since COIB staff has received such positive feedback on the Forum, staff plans to hold these discussion groups regularly in the future. The Board encourages all City agencies to appoint ethics liaisons, who act as the link between their agencies and the Board on Chapter 68 matters.

### COIB Bulletin Board

**Save the Date!** The ninth annual **"Citywide Seminar on Ethics in New York City Government"** will take place on **Wednesday, May 28<sup>th</sup> from 8:00 a.m. to 1:00 p.m. at New York Law School, 47 Worth Street in Manhattan**. The event is co-sponsored by the Conflicts of Interest Board and the Law School's Center for New York City Law. **CLE credit** is available to qualified participants. A highlight of the seminar will be the presentation of the annual **Sheldon Oliensis Ethics in Government Award**. The deadline for submission of nominations is April 1, 2003. **For details, visit the Board's website at <http://nyc.gov/ethics>.**