

Ask the City Ethicist

#23: Your Career After Your Career...

by

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Question: *I am considering leaving the New York City Department of Housing Preservation and Development, where I work in the Division of Tenant Resources, to work at a firm that manages residential buildings. Sometimes my new firm hosts meetings at which representatives from HPD attend. Is it okay for me to go to work for a firm that has business dealings with HPD? Once I start work at the firm, can I go to the meetings with HPD? Would it be okay to attend the meetings if I just don't say anything?*



Answer: As a City employee, you may neither seek a non-City job with anyone with whom you are dealing directly in your City job nor accept such a job if it is offered.

The City's Conflicts of Interest law prohibits a public servant from actively seeking a position with a firm while the public servant is involved with that firm as a City employee. If you regularly deal with this firm that manages residential buildings at your HPD job, you cannot send your resume to that firm or even speak to anyone who works at that firm about getting a job there. If you want a job at that firm, you must ask your supervisor to remove you from work that involves the firm before you have any contact with that firm about potential employment. Only after your supervisor agrees to your request and you have been removed from that work, is it okay to contact the firm about a job. If your supervisor cannot or will not reassign you, you must wait until your current assignment ends before approaching that firm about a job. And that assignment really has to have ended; if you expect that firm to contact you next week, or even next month, about another project, then you are still dealing with them in your City job.

Of course, you can always resign from your City job and then start your job search, but that approach has some obvious drawbacks.

The following rules apply to public servants who have left City service. The intent of the rules is not to handicap City employees who have switched to the private sector, but to prevent public servants from exploiting their confidential City information and misusing their City agency contacts to unfairly advantage themselves or their new employers.

Rule 1. *You cannot disclose confidential City information.*

Never disclose confidential information. Never use confidential information for your own—or your new employer’s—benefit. What is confidential information? Any information that a member of the general public cannot obtain (such as through the Freedom of Information Law).

Rule 2. *You cannot appear before your former City agency on business matters for one year after you leave.*

This prohibits former City employees from “appearing” before their former City agency by telephoning, writing, faxing, emailing, attending meetings, or having any other contact on behalf of their new employer on matters that require significant decision making at the City agency, within one year of their last day on the City payroll. And, in answer to the original question, you “appear” at a meeting even if you do not utter a word, if you are there at the request of your new private employer. The Board fined a former Deputy Agency Chief Contracting Officer \$1,500 for violating the one-year bar when, less than two weeks after the Deputy left City service, he contacted his former supervisor to ask if a contract had been awarded to his new employer.

Rule 3. *You cannot work on a matter or project that you were directly involved in as a public servant.*

There is a lifetime post-employment ban that prevents former public servants from appearing before any City agency—not just the public servant’s former agency—on the same matter in which they participated as public servants. This applies whether or not the former public servant gets paid for that appearance. Even if the work is done “behind the scenes,” former public servants are prohibited from engaging in any paid activity involving that same matter. This rule applies when the former public servant’s involvement in a decision, approval, recommendation, or investigation of the similar matter was “personal and substantial.”

There are three exceptions to the job-hunting rule, one-year bar, and lifetime post-employment ban. First, the rules do not apply if you are acting

on a ministerial matter, such as picking up papers from the receptionist at your former City agency or calling to ask for the fax number. Second, these rules do not apply if you are going to work for another government agency, such as another City agency, or the state or federal government. Third, in certain cases, the Board will issue waivers granting exceptions to these rules, but such waivers are rare and hard to get. Before you can apply for a Board waiver, you must get permission from the head of your former City agency.

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If you are unsure whether your job hunting as a City employee or your conduct as a former City employee creates a conflict of interest, call the Conflicts of Interest Board at 212-442-1400 and ask for the attorney of the day. You can also email us through our website (<http://www.nyc.gov/ethics>) by clicking on “Contact COIB.” All calls and emails are confidential, and you may contact us anonymously.

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