

ASK THE CITY ETHICIST

#11: Moonlighting

by
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Question: *I am a full-time employee at a City agency, and I want to get a second job with a private company to earn some extra money. Is it OK for me to have an outside job?*

Answer: Generally, it is OK for you to have an outside job. However, the City's conflicts of interest law imposes a variety of restrictions when you have an outside job. We will discuss these restrictions below. In addition, above and beyond the restrictions imposed by the City's conflicts of interest law, your own agency may have stricter rules, so you should check with your agency counsel before taking any second job.



The City's conflicts of interest law, contained in Chapter 68 of the City Charter, imposes the following restrictions when you have an outside job:

- 1) You must perform your outside work on your own time.**
- 2) You may not use City equipment, City supplies, City resources, City letterhead, or City employees for the outside work.**
- 3) You must always preserve confidentiality of confidential City Information.**

Never disclose confidential information. Never use confidential information for your own advantage – or for your outside employer's benefit. Confidential information is any information that a member of the general public cannot obtain.

- 4) Never, ever use your City position to help your outside employer.** You may not use your City position to “pull strings” to help your outside employer. For example, you cannot use your City position to help your outside employer obtain licenses or contracts from City agencies.

These restrictions in Chapter 68 exist to ensure that your outside sources of income do not cause a conflict of interest with your City job responsibilities. More specifically, the restrictions exist to prevent the appearance that you are using your City position to benefit your outside employer. Such conflicts can call your (and the City's) integrity into question. Recently, for example, a Supervising Appraiser was moonlighting as an appraiser for an outside private firm. One of her assigned

City duties was to select a private firm to perform property appraisals for her City agency. Out of all the firms she could have selected, she selected her private employer for the job. Obviously, this could raise serious questions about how the City hires private firms. The Board fined her for this violation of Chapter 68.

In addition to the restrictions mentioned above, the City's conflicts of interest law prohibits full-time public servants from working for a company that has business dealings with any City agency. Business dealings include receiving City funds or having City contracts. For example, an employee of the Department of Parks and Recreation works part-time at XYZ department store during the holiday season wrapping gifts, and XYZ has contracts with the Department of Education to provide certain goods. In this situation, the public servant, working in seemingly unrelated positions, one for the City and the other for the outside employer, would be in violation of Chapter 68 because he is moonlighting with a company that has business dealings with the City.

However, the Conflicts of Interest Board will, in appropriate circumstances, grant you a "moonlighting waiver" to permit you to work for a company that has business dealings with the City. To get a moonlighting waiver from the Board, you must first receive written approval from your agency head, detailing why your second job would not conflict with your official City duties. You must submit that written approval to the Board in a request for a moonlighting waiver. If the Board sees no conflict, you will be granted a waiver and you will be permitted to work the second job, subject to the restrictions we discussed earlier. With the approval of the Parks Commissioner, for example, the Board almost certainly would issue a waiver to permit the Parks employee to work part-time at XYZ.

If you are unsure whether your second job 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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