

# ASK THE CITY ETHICIST

## *Outside Employment*

by

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**Question:** *I am a full-time employee at a City agency, and I would like to get a second job at a private company. Is this okay?*

**Answer:** Here's the first part of your answer: you must first check to see if the company does business with any City agency. Business dealings with the City include receiving City funds or having contracts with the City. **Note that it is your responsibility as a public servant to determine if your outside employer has City business dealings.** Common examples of organizations with City business dealings are private universities such as Fordham and NYU, large retailers such as Macy's and Home Depot, and social services organizations such as Catholic Charities. If you are not a full-time public servant (meaning that you work fewer than twenty hours per week for the City), the prohibition on outside employment is only for private firms or organizations with business dealings with your own agency, not the entire City.



If the company does have business dealings with the City, it would violate the City's conflicts of interest law for you to "moonlight" at the company, unless you receive **written permission** from the Conflicts of Interest Board. Getting this written permission (called a "waiver") from the Board is a two-step process. First, you must receive written approval from your agency head, detailing why your second job would not conflict with your City duties and the specific work hours and days for both your City job and your second job. Second, the Board must determine that your outside position would not be a conflict of interest. When determining whether to grant a waiver, the Board considers, among other factors, the hours involved and whether there is any possible relationship between your City duties and your outside job. If the Board sees no conflict, you will be granted a waiver, likely subject to certain common sense limitations.

Whether or not the company where you want to work has business dealings with the City, the conflicts of interest law requires the following:

- 1) **You must perform your outside work on your own time, not on City time.**
- 2) **You may not use City equipment, City supplies, City resources, City letterhead, or City employees for your outside work.**
- 3) **You may not use City confidential information in your outside job.** Never disclose confidential information. Never use confidential information for your own advantage, or to benefit your outside employer. Confidential information is any information that a member of the general public cannot obtain.
- 4) **You may never use your City position to help your outside employer.** This means that you may not use your City position to provide an advantage or benefit to your outside employer. For example, you cannot use your City position to help your outside employer obtain permits or contracts from City agencies.

**Question:** *Is there anything else I should know? For example, are there special rules for certain kinds of outside jobs?*

**Answer:** Another good question! Here are the rules for some of the jobs we are most frequently asked about:

### **Teaching**

Teaching waivers are very common, as many public servants hold adjunct or part-time teaching positions at colleges and universities located in the area. As we discussed above, many private universities, such as NYU and Fordham, have some business dealings with the City. Therefore, most public servants who are teaching (or otherwise working) for a college or university in the City will require a waiver. However, there is an exception to the waiver requirement: if you teach at one of the CUNY or SUNY colleges, your second job will not require a waiver. But, even if you do not need a waiver, you are still required to follow the rules we set out above, meaning that you cannot teach on City time, you cannot use City resources to teach your course, and you cannot use City confidential information. You also cannot teach your subordinates, if you have any, regardless of where you teach.

Additionally, it would be a violation of Chapter 68 for a public servant to teach a course for compensation about the workings of his or her agency. When considering a teaching waiver application, the Board looks at whether you could have reasonably been assigned to teach the course as part of your City duties. Since you cannot get paid by a private entity to do the same job you do for the City, you cannot in your outside job teach a subject you could be asked to teach for your agency.

### **Working for a Political Campaign**

Public servants, provided they follow certain restrictions, do not need a waiver to work for a political campaign. It is not necessary to obtain a waiver to work for a campaign, even one that receives Campaign Finance Board funding, as long as you do not communicate with any City agencies, including the Campaign Finance Board, on behalf of the campaign. But, again, you must follow the rules we set out above: you must work for the campaign on your own time and using your own resources; you cannot use City confidential information; and you cannot use your City title or position to benefit the campaign. Also, you cannot ask a subordinate to work on the campaign with you or to make any political contributions.

### **Outside Practice of Law**

Besides the strict limitations on City time and resources we discussed above, Chapter 68 imposes three specific restrictions on the outside practice of law:

- 1) You cannot represent clients who have any business dealings with the City.
- 2) You cannot work on any City-related matters.

- 3) You cannot represent your superior or your subordinate, even if you work for free.

Additionally, a lot of City agencies impose stricter rules on the outside practice of law, and may prohibit it entirely, so we encourage you to check with your own agency first before you start.

**Question:** *What if I have any more questions about outside work?*

**Answer:** If you have any doubt at all about 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.

In addition to all the outside employment rules we have discussed here, you must follow your agency’s disciplinary rules and guidelines, which may in some cases place further restrictions on your second job.

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“Ask the City Ethicist” is written monthly by the staff of the New York City Conflicts of Interest Board and appears originally in The Chief Leader. “Ask the City Ethicist” is provided as general information, and does not replace the text of Charter Chapter 68. For legal advice on City ethics matters, please call the Board at 212-442-1400. All calls are confidential. You may call anonymously if you wish.  
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