

ASK THE CITY ETHICIST

Post-Employment

by

Jessie M. Beller

Question: *I am thinking about leaving City service and joining the private sector. Are there any rules about looking for jobs?*

Answer: As a City employee, you may not seek, negotiate for, or accept a non-City job with any firm or entity that you are personally involved with in your City job. This rule applies not only to the specific firm you are dealing with at your City job, but also to its parent firm, subsidiaries, and sister firms. So, if you are interested in applying for a job with a private firm, it is your responsibility to determine whether the firm is connected to a firm that you deal with in your City job. Just because your agency or office is involved with a firm does not make you involved with the firm. But you should assume that the rule applies if you have anything to do with the firm as part of your City job. For example, if you sign any documents, such as a purchase order or a contract, involving the firm, you are personally involved with the firm under the City's Conflicts of Interest laws.



You can avoid violating the law by asking your supervisor to remove you from work that involves the firm whose contracts you administer, purchase orders you sign, or work you approve, etc. If your supervisor agrees to this request, it would be okay for you to contact the firm about job hunting. But if your supervisor is unable or unwilling to reassign you, you must wait until your current assignment ends before approaching the firm about job hunting.

Your job search must be done on your own time, and you **may not** use your City position (or City letterhead, personnel, equipment, or supplies) to promote your job search, unless you are explicitly authorized to do so by your agency head. For example, you may not use a City fax machine to fax your resume.

Question: *I left my City job a few weeks ago and now work for a private firm. Can I set up a meeting at my former agency to make a presentation about my new firm?*

Answer: No. Public servants who have left City service are bound by the following rules, which are intended to prevent public servants from exploiting confidential City information and misusing their City agency contacts to advance themselves or to give their new employers an unfair advantage.

Rule 1. *You may not appear before your former City agency on business matters for one year after you leave.*

This rule prohibits former City employees from “appearing” before their former City agency during the first year after their have resigned or retired from City service.

“Appear” means any substantive communication, such as telephoning, writing, faxing, emailing, attending meetings, or having any other contact on behalf of your new employer. The 12-month prohibited contact period begins the day that you leave the City payroll. You are permitted to have “ministerial” communications with your former agency, such as calling to ask for the fax number or picking up papers from the office receptionist.

Rule 2. *You cannot work on a matter that you were directly involved in as a public servant.*

Unlike the communication rule explained above, this rule is a lifetime ban prohibiting all former City employees from working in the private sector on the same particular matter they worked on as a public servant. This rule applies even to work “behind the scenes.”

Particular matters are defined as decisions, approvals, investigations, contracts, agreements, or similar activities where the public servant’s involvement was “personal and substantial.” This term is narrowly defined and applies only to the life of a specific contract or agreement, meaning that a public servant who is barred from working on a particular matter between the City and his current employer may work on a new matter between the same parties, provided that he or she was not involved with that new matter while in City service.

Rule 3. *Any confidential information you obtained while in City service remains confidential even after you leave.*

You are not allowed to disclose or use any confidential information after leaving City service. Confidential information is any information that a member of the general public cannot obtain. It cannot be used for your own personal advantage or for the benefit of your new employer.

Question: *I’m thinking of leaving City service to work for the State. Do these rules apply to me?*

Answer: Under the so-called “government-to-government” exception, the post-employment rules **do not** apply if you are going to work for another government agency. So you are permitted to contact your former agency and work on matters you were personally and substantially involved with if your employer is a municipal, state, or federal agency. But you still can’t disclose or use confidential City information.

Question: *Are there any other exceptions to these rules? What if I really need to contact my former agency or if my former agency needs to contact me?*

Answer: In certain cases, the Board will issue waivers granting exceptions to these rules, but these waivers are rare and difficult to obtain. Before you can apply for a Board waiver, you must first get permission from the head of your former City agency.

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