

ASK THE CITY ETHICIST

#13: Enforcing Chapter 68 Against Former City Employees

by

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Question: My agency started a disciplinary case against me, so I resigned from City service. Can the Board pursue an enforcement case against me for violating the conflicts of interest law even though I have left City service?



Answer:

The City Charter gives the Board the power to bring cases against current and former City employees for violations of the City's conflicts of interest law. This means that City employees may not escape a Board penalty by resigning from City service in the face of an agency disciplinary proceeding concerning conduct that violates the City's conflicts of interest rules. It also does not matter whether you've resigned or retired with your agency's blessing, or whether you were terminated from City service because of your conduct. If you have violated the City's conflicts of interest law, your leaving City service does not end the Board's power to impose discipline.

The Board has exercised this power in the past. For example, the Board fined a former Department of Education ("DOE") custodian \$1,000 for using DOE personnel and equipment for private business while he was in City service. The DOE custodian retired from City service in 2004, and the Board imposed the fine in 2005. In another case, the Board fined a former Department of Correction Commissioner \$500 for having three subordinate correction officers perform repairs on his above-ground swimming pool. The Commissioner retired in 2003, and the Board imposed an enforcement fine on him in 2004. The Board, after a full trial, imposed a \$1,000 fine on a former District Attorney who issued a false grand jury summons to a police officer to interfere with his testimony against the Assistant District Attorney's husband in traffic court on the same day, or to inconvenience the officer or take petty revenge against him. The Assistant District Attorney had previously been dismissed by the District Attorney's office.

There are also instances where City employees leave City service with a clean Chapter 68 record, but then violate the Charter. It is also within the Board's power to bring enforcement cases against those employees. This is because City employees are required to abide by the City's post-employment rules after leaving public service. These prohibitions are to prevent former public servants from exploiting public office for personal gain, and have been enforced by the Board. For example, a former City employee is not allowed to communicate with his or her former agency, for pay, within one year of leaving City service, nor is a former City employee permitted to work, after

leaving City service, on the same matter that he or she worked on while in City service. The Board recently fined a former HRA ACCO \$3,000 for working in the private sector on issues concerning a contract that he had worked on while employed at HRA, and for contacting HRA within one year of leaving that agency. The former ACCO resigned from City service in 2001, violated the law in 2002, and paid a fine to the Board in 2005.

Public servants who face disciplinary proceedings at their agencies for violating the City's conflicts of interest law are encouraged to contact the Board's enforcement staff to resolve the conflicts of interest issues. Leaving City service does not mean that public servants can walk away from the consequences of their conduct. For more information, please contact the Board at 212-442-1400.

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"Answers from the City Ethicist" is written monthly by the staff of the New York City Conflicts of Interest Board. "Answers from the City Ethicist" is provided as general information, and should 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. <http://nyc.gov/ethics>.

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