

Ask the City Ethicist

Outside Practice of Law

by

Sung Mo Kim



Question: *I am an attorney who recently joined City service as a full-time employee. Prior to joining City service, I operated a solo law practice, handling real estate, wills and estates, and civil lawsuits. I don't want to give up my private practice. Would it be permissible for me to maintain my outside practice of law, handling a limited number of cases?*

Answer: Generally, yes. But, as you might have guessed, there are number of restrictions that exist to ensure that your outside practice of law does not cause a conflict of interest with your City job responsibilities. We will discuss these restrictions in more detail below. To make it a little easier to understand, I've broken the restrictions in to two sets, the first set includes restrictions that are generally applicable to all outside employment. The second set includes restrictions that are specific to outside practice of law.

The first set of restrictions should be familiar to all public servants since these restrictions, as mentioned above, are applicable in all outside employment situations:

- 1) You must perform your outside work on your own time.
- 2) You may not use City equipment (for example, your City telephone, computer, or email), City supplies, City resources, City letterhead, or City employees for your outside work.
- 3) You may not use your City position or title to obtain any private advantage for yourself or your clients.
- 4) You may not promote your outside work to anyone with whom you deal in your City work.
- 5) You may not disclose or use confidential information. Confidential information is any information that a member of the general public cannot obtain.

In addition to these general restrictions, the City's conflicts of interest law also has additional restrictions specific to outside practice of law. Here are some examples:

- 1) You may not provide counsel or advice to any client that has business dealings with the City.
- 2) You may not, directly or indirectly, appear on behalf of private interests in matters involving the City or represent private interests before the City.

- 3) You may not appear as attorney or counsel against the interests of the City in any litigation to which the City is a party, or in any action or proceeding in which the City or any employee of the City, acting in the course of official duties, is a complainant.
- 4) You may not appear as attorney or counsel in any criminal defense matter in State court within the City and you may not receive any referral fee in connection with such matters, whether or not you perform any services in connection therewith.
- 5) You may not represent or provide services to any of your City superiors or subordinates.
- 6) Moreover, if one of your clients has a matter before the City you may not in your City position participate in any manner in the consideration of that matter.

And remember, as always: above and beyond the restrictions in the City's conflicts of interest law, your own agency may have stricter rules, so you should check with your agency counsel before engaging in any outside employment.

If you have questions about whether your outside practice of law would create a conflict of interest, or you have any other questions about the City's conflicts of interest laws, 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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