

# **ASK THE CITY ETHICIST**

## **#14: Outside Activities**

by

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*Question: I recently started working full-time for a City agency and I heard there may be restrictions on my activities outside my City job, could you explain these restrictions?*

**Answer:** For the purposes of this article, let's limit our discussion of outside activities to moonlighting jobs, ownership interests, and volunteering.

Generally, it is OK to engage in the abovementioned activities; however, as you mentioned in your question, there are a few restrictions imposed by the City's conflicts of interest law. These restrictions in Chapter 68 of the City Charter exist to ensure that your outside activities do not cause a conflict of interest with your City job responsibilities. More specifically, the restrictions exist not only to prevent impropriety but also the *appearance* impropriety. Public service is a public trust and it can be easily broken when a public servant's motivation for his or her official actions is called into question. We will discuss these restrictions below. And remember, as always: 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 engaging in these outside activities.

The City's conflicts of interest law, contained in Chapter 68 of the City Charter, imposes the following general restrictions on your outside activities:

- 1) You must perform your outside activities on your own time.  
The Board fined a City manager for conducting a part-time private printing business from his City office.
- 2) You may not use City equipment, City supplies, City resources, City letterhead, or City employees for your outside activities.  
The Board fined a Department of Education employee for using City workers, copiers, and computers on projects for a private children's organization.
- 3) Never disclose confidential information. Confidential information is any information that a member of the general public cannot obtain.
- 4) Never, ever use your City position to help the people or firms with whom or which you deal in your outside activities.  
The Board fined a former Director of Administration of a City agency who used her position to authorize the hiring of her own private company and her sister's company to clean her agency's offices.

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

- 1) 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.
- 2) The City's conflicts of interest law prohibits full-time public servants from having an ownership interest in a company (which exceeds 5% of the company or an investment of \$40,000) that has business dealings with any City agency. Ownership can be *imputed*, that is, you not only have ownership interest in firms held by you, but you also have ownership interest in firms held by your spouse, domestic partner, or unemancipated child.
- 3) The City not only allows but also strongly encourages public servants to participate in volunteer activities that help others. But if the organization for which you volunteer does business with your agency or if it is regulated or supervised by your agency, then you must get the permission of your agency head in order to volunteer for that organization. (You don't need the permission of the Conflicts of Interest Board, just that of your agency head.) Also, you can't be involved in the organization's business dealings with any City agency. For example, if you work for the Department of Buildings and the organization for which you volunteer is being audited by the Office of the City Comptroller, you can't be involved with the audit in any way, or even discuss the audit at the organization.

Finally, the Board will, in appropriate circumstances, issue waivers granting exceptions to these rules. To get a waiver from the Board, you must first receive written approval from your agency head, detailing why you're your outside activities would not conflict with your official City duties.

If you are unsure whether your outside activities 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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