

Ethics lights the way to good government

THE ETHICAL TIMES

A publication of the New York City Conflicts of Interest Board

Alex Kipp, Editor



Outside Jobs

Generally, it is OK for you to work for the City and have an outside job. However, the City's conflicts of interest law imposes a variety of restrictions that are meant to keep a clean separation between your City duties and that outside job. We'll discuss these restrictions below. In addition, 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 taking any second job.

The City's conflicts of interest law, contained in Chapter 68 of the City Charter, imposes the following restrictions when you have an outside job:

°**You must perform your outside work on your own time.**

°**You may not use City equipment, City supplies, City resources, City letterhead, or City employees for the outside work.**

°**You must always preserve confidentiality of confidential City Information.**

Never disclose confidential information. Never use confidential information for your own advantage – or for your outside employer's benefit. Confidential information is any information that a member of the general public cannot obtain.

°**Never, ever use your City position to help your outside employer.**

You may not use your City position to “pull strings” to help your outside employer. For example, you cannot use your City position to help your outside employer obtain licenses or contracts from City agencies.

These restrictions in Chapter 68 exist to ensure that your outside sources of income do not cause a conflict of interest with your City job responsibilities. The restrictions exist to prevent even the appearance that you are using your City position to benefit your outside employer. Such conflicts can call your (and the City's) integrity into question. Recently, for example, a Supervising Appraiser was moonlighting as an appraiser for an outside private firm. One of her assigned City duties was to select a private

firm to perform property appraisals for her City agency. Out of all the firms she could have selected, she selected her private employer for the job. Obviously, this could raise serious questions about how the City hires private firms. The Board fined her for this violation of Chapter 68.

In addition to the restrictions mentioned above, 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. For example, an employee of the Department of Parks and Recreation works part-time at XYZ department store during the holiday season wrapping gifts, and XYZ has contracts with the Department of Education to provide certain goods. In this situation, the public servant, working in seemingly unrelated positions, one for the City and the other for the outside employer, would be in violation of Chapter 68 because he is moonlighting with a company that has business dealings with the City.

However, the Conflicts of Interest Board will, in appropriate circumstances, grant you a “moonlighting waiver” to permit you to work for a company that has business dealings with the City. To get a moonlighting waiver from the Board, you must first receive written approval from your agency head, detailing why your second job would not conflict with your official City duties. You must submit that written approval to the Board in a request for a moonlighting waiver. If the Board sees no conflict, you will be granted a waiver and you will be permitted to work the second job, subject to the restrictions we discussed earlier. With the approval of the Parks Commissioner, for example, the Board almost certainly would issue a waiver to permit the Parks employee to work part-time at XYZ.

If you are unsure 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.”

(cont'd on back, first column)

All calls and emails are confidential, and you may contact us anonymously. □

—Sung Mo Kim
Associate Counsel
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Recent Enforcement Cases

◦ The Board and the New York City Department of Education (“DOE”) have concluded a three-way settlement of a case involving a DOE assistant principal (“AP”). The AP participated in purchasing goods from her husband’s company for her school. The Board fined her \$2,500, and the DOE fined her \$1,500.

◦ The Board concluded a settlement with an Investigator for the Special Commissioner of Investigation for the New York City School District (“SCI”).

The investigator admitted that he gave a photocopy of his SCI shield and identification to a friend, on which photocopy the investigator wrote: “Could you please extend courtesy to my brother-in-law Thank you.” He also included his telephone contact information on the photocopy of his credentials. The Board fined him \$1,500 for misuse of his City shield and identification.

◦ The Board and the New York City Fire Department (the “FDNY”) have concluded a three-way settlement of a case involving an FDNY lieutenant, whose moonlighting job required him to prepare fire sprinkler inspection

records that he knew would be reviewed by the FDNY. The lieutenant was fined 50 days’ pay, which has an approximate value of \$11,267, and 10 days of annual leave, and was also placed on disciplinary probation for three years.

◦ The Board and the Department of Education (the “DOE”) have concluded a three-way settlement of a case involving a DOE Youth Leadership Program director who twice hired his daughter for a DOE summer youth employment program he supervised. The director reported his conduct to the Board and to the DOE Ethics Officer after an associate of the director voiced concerns about nepotism. The director agreed to pay restitution to DOE of \$1,818, which is the amount that his daughter earned as a DOE summer youth program employee.

◦ The Board issued a letter pursuant to which the New York City Police Department agreed to undertake steps to increase awareness of, and compliance with, the City’s conflicts of interest law throughout the Police Department. The agreement came about after three Police Department employees, two active and one retired, accepted valuable gifts from a City vendor.

◦ The Board issued a public warning letter to two Department of Education employees, one an assistant principal and the other a school supply secretary at the same school, for accepting a gift from a vendor to the school. □

Recent Advisory

Opinions

◦ Members of Community Education Councils of the DOE who work at private firms that have business dealings with DOE would, absent a waiver from the Board, be in violation of Chapter 68. However, upon the written approval of the DOE chancellor, the Board will, in appropriate circumstances, grant waivers to permit CEC members to hold such positions, with certain conditions to be followed.

◦ An elected official may accept a complimentary ticket to a dinner, reception, or other function, where the ticket is a gift from a person, such as a lobbyist, who is not the sponsor of the function, only where the agency head certifies in writing that the attendance is in the interests of the City. Even where attendance is permissible, however, the elected official may not accept gifts of items (such as gift bags) valued at \$50.00 or more in the aggregate from the same donor or affiliated donors during a twelve-month period. □

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