



## Ethical Issues in Practicing Law

### —*In General*—

**As with all City employees holding a second job or an outside practice, you must remember these rules:**

- ✓ You must perform all of your private practice work on your own time.
- ✓ You may not use City letterhead, office space, resources, materials, or equipment, such as computers, fax, or copy machines.
- ✓ You may not ask subordinates to perform legal research or any other tasks for your private cases.
- ✓ You may not disclose confidential City information or use it to benefit any private interest.
- ✓ You may not conduct any criminal practice within the City.
- ✓ You may not accept fees for referring criminal cases within the City.
- ✓ You may not litigate against the City.
- ✓ You may not enter into an attorney-client relationship with any person who is either superior or subordinate to you in the chain of command, nor may you enter into any financial relationship with such a person.

### —*COIB Restrictions vs. Agency Restrictions*—

**Q. Is a City attorney prohibited from maintaining a private practice?**

- A. That will depend on your agency. Some agencies have rules prohibiting their attorneys from maintaining a private practice. The City has rules regarding *all* City employees holding second jobs, including lawyers, but there is no City-wide prohibition against private practice. Check with your agency counsel about your agency's rules.

*—NYPD employees wishing to practice law—*

**Q. I am a sergeant with NYPD. I passed the Bar exam, am licensed, and I'm beginning a part-time private law practice. May I represent people charged with criminal offenses in my private practice?**

A. No. Your position as a police officer may create a perception of your capitalizing on your position and contacts in the judicial system to get preferential treatment for your clients. (No employee of ANY city agency is permitted to do criminal practice in the City, in fact.) You are not prohibited from handling non-criminal cases, however. Keep all of the restrictions on page one in mind.

*—Paid expert testimony against the City—*

**Q. May I serve as a paid expert witness for clients as well?**

A. There are several restrictions here:

- ✓ As with any second job, you may not work on private matters when you are supposed to be working for the City.
- ✓ You may not use your City position to obtain any advantage for your client or for yourself or any firm you may work for.
- ✓ You may not give opinion evidence against the City in any litigation brought by or against the City.

*—Post-employment restrictions—*

**Q. Are there restrictions on what I may do after I leave City service?**

A. Yes. You may not appear before your old agency on business for one year. In addition, you may never work on a particular matter that you were directly involved in while you were employed by the City, and you may not divulge

confidential City information to benefit yourself, your new firm, or your clients. Check with your agency counsel or contact the Board for advice on your particular situation.

*—Representing clients before the City—*

**Q. My friend wants to hire me to help her obtain a City license from an agency I have no dealings with as part of my City job. Is this okay?**

A. No. You may not represent private clients before the City. Even though you do not work for this particular agency, it may appear that you would be using your City position for your client's (and your own) benefit. For full-time employees, this applies not only to your own agency but also to any City agency. Part-time employees are restricted from appearing only before their own agency. "Appear" includes any communication for compensation, except those involving ministerial matters.

**Q. What if I merely wrote a letter or made a few phone calls on my clients' behalf. Is this a conflict?**

A. If those letters or phone calls go to City agencies then the answer is probably "yes." You are prohibited from appearing either directly or indirectly before the City on behalf of your client.

As long as you don't appear before any City agency, it is not a conflict for you to act as attorney for your client. However, it is a violation if you:

- ✓ Use City letterhead for your correspondence on your clients' behalf;
- ✓ Use your official City title in any correspondence or phone call;
- ✓ Threaten official action against your adversary to gain an advantage for your client.

*—Representing a supervisor or a subordinate—*

**Q. My secretary is buying a house and has asked me to represent her in that regard. May I take her on as a client?**

A. No. It is a violation of Chapter 68 of the City Charter, § 2604(b)(14), for a public servant to enter into any business or financial relationship with another public servant who is his or her superior or subordinate. Although your agency may provide an excellent client base, you'll have to look elsewhere.

***FOR ADDITIONAL INFORMATION, CONTACT***  
**NEW YORK CITY CONFLICTS OF INTEREST BOARD**  
**2 LAFAYETTE STREET, SUITE 1010**  
**NEW YORK, NY 10007**  
**212-442-1400 (TDD 212-442-1443)**  
***OR VISIT THE BOARD'S WEB SITE AT***  
**<http://nyc.gov/ethics>**

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