



Prohibited Appearances Before the City

Many public servants have heard about Chapter 68's "Moonlighting" restrictions. For a more detailed discussion on Moonlighting, click [here](#). This leaflet will focus more narrowly on an area of restricted conduct that is perhaps less well-known. That area might be called, "prohibited appearances before the City." (For a related discussion, see our leaflet, "[Practicing Law](#)".)

In general, full-time public servants have a duty of undivided loyalty to the City. Specifically, this means that full-time public servants are prohibited from representing private interests (interests such as those of an outside employer, a not-for-profit, a private client, or a political campaign) before ANY City agency.

There are a few exceptions, of course. Representing yourself as a homeowner before a City agency might be one example. Suing the City on your own behalf (as opposed to on someone else's behalf) might be another example.

Below are some frequently asked questions about prohibited appearances before City agencies.

Q. I work at the Department of Education as a School Psychologist. I also have a private practice where I see children, some of whom are DOE students. None of those DOE students I see privately attend the schools in which I work. Is that OK?

A. This is a more complicated question than appears at first glance. Let's separate the potential problems:

- 1) First, while you may privately see DOE students as long as they or their siblings do not attend the schools in which you work, you may not represent those students at impartial hearings. This also means that your evaluations cannot appear at those hearings either.

- 2) Second, you must know who is paying you. Specifically, you need to know whether the DOE is providing money to the parents to pay you. If it is, you will not be able to see the child in question unless you receive agency permission and a *waiver* from the Conflicts of Interest Board to do so. Historically waivers have been granted in areas where there are critical shortages of providers.

Q. I work for NYCHA as an electrician. I also do some private electrical jobs on the side. Recently I saw a request for proposals for a Parks Department job. Can I submit a bid to the Parks Department?

A. This presents a couple of problems. First, under Chapter 68, public servants may not *own* a business or part of a business that does business with *any* City agency.

Second, another of the restrictions under Chapter 68 prohibits public servants from representing private interests before the City.

Now, if it is clear that this outside business of yours has nothing to do with your City job (and that's what it looks like in the "Parks" example above), you are probably eligible for a WAIVER from the Conflicts of Interest Board. Waivers involve two steps. First, you must get agency permission to do this otherwise impermissible activity or have this otherwise impermissible interest (in your case, you need permission for both the activity and the interest). Your agency counsel can help you with this. Second, once you get this permission, apply for the waiver from the Board. You can learn more about waivers by clicking [here](#).

Q. I work for a City agency. I also volunteer for a not-for-profit in my neighborhood. The not-for-profit is seeking to apply for a grant from a City agency, but it's not the one where I work. May I assist them on this?

A. No. You may not work on this not-for-profit's City-related matters, even behind the scenes.

Q. I am currently on an extended leave of absence from my City agency. I want to take a job as a security guard. The company has contracts with businesses all over the City, including some subcontracts to provide security on construction sites of new public schools.

A. There are a few things to keep in mind here:

- 1) Being on a leave of absence does not relieve you of your responsibility to comply with the Conflicts Law.
- 2) You may not work for ANY company that has business with ANY City agency unless you receive agency permission and a waiver from COIB to do so. In this case, it is unclear if this subcontractor would be deemed to have business dealings with the City or just with the contractor. Since it is unclear, call the Board for a specific ruling on your set of facts.

Q. I work for a City agency and would like to take a private job as a fire safety director. The management company that's hiring me doesn't have City business dealings. Can I do it?

A. As a fire safety director, you will have to make appearances before the Fire Department on matters regarding certificates of fitness. To make such an appearance before a City agency, you will need agency permission and a waiver from COIB. Waivers are possible, depending on your City position and responsibility.

Q. My cousin is currently involved in a disciplinary proceeding at the City agency where he works. May I represent him if I don't charge him a fee?

A. No. Even uncompensated lawyering before the City on behalf of private interests is prohibited.

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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