



New York City Conflicts of Interest Board

Department of Education

INTRODUCTION

This booklet contains frequently asked questions about the Conflicts of Interest Law as it pertains to Board of Education employees. It is meant as a general guide and not as a substitute for legal guidance from the Conflicts of Interest Board or from the Board of Education's Ethics Officer. For confidential information about the Conflicts of Interest Law, call the Board at 212 442-1400, or call the Board of Ed Ethics Officer at 718 935-5300.

Q. What is the so-called *ethics law*?

A. The conflicts of interest law, contained in Chapter 68 of the revised City Charter, deals with the conflicts that might arise for any City employee between his or her public duties and private interests. Most conflicts are financial in nature, falling into the following categories:

- **SECOND JOBS (OUTSIDE CITY SERVICE)**
- **GIFTS & HONORARIA**
- **POST-CITY EMPLOYMENT**
- **OWNERSHIP INTERESTS**

- **FINANCIAL RELATIONSHIPS**
- **POLITICAL ACTIVITIES**
- **VOLUNTEER ACTIVITIES**

Q. What is the Conflicts of Interest Board?

A. The Conflicts of Interest Board was established in 1989 with the revision of the City Charter. It is the agency charged with the administration and enforcement of the City’s ethics law. The five Board members are nominated to their six-year terms by the Mayor, with the advice and consent of the City Council, and meet at least once a month to discuss and decide ethics questions and issues brought before it. On a day-to-day basis, a full-time staff attends to particular needs:

- **LEGAL ADVICE UNIT** staff answers questions about ethics issues from City employees who may call or write, anonymously if they prefer.
- **THE TRAINING AND EDUCATION UNIT** conducts classes in the law for any agency that requests it. They also create publications such as this one, and have produced an ethics video for Board of Ed employees and officials.
- **THE ENFORCEMENT UNIT** investigates allegations of, and prosecutes cases of, misconduct on the part of NY City employees and officials.
- **THE FINANCIAL DISCLOSURE UNIT** handles over 12,000 Financial Disclosure reports from City employees.

SECOND JOBS (OUTSIDE CITY SERVICE) “MOONLIGHTING”

Q. I’m considering seeking a part-time job. Are there restrictions?

A. Generally, the City’s conflicts of interest law does not prohibit second jobs, unless the second job is with a company that has business with the City, including the Board of Ed, such as City contracts or a license with a City agency. You also may not have a second job that puts you in personal, written, or telephone contact with the Board of Ed or any City employees. In addition, your second job must be done on your own time, and you may not use your official Board of Ed position, confidential information, or Board of Ed personnel or equipment to perform the job, or to benefit your non-Board of Ed employer. In *seeking* your outside job, you must follow these rules as well.

Q. What if the job is with a firm that has business dealings with the Board of Ed or another agency of the City?

A. Waivers are available, depending on circumstances. You must receive written approval from the Chancellor, stating that your second job would not conflict with your official Board of Ed duties. Contact the Board of Ed's Ethics Officer to see if the Chancellor will approve your request. The approval, if granted, will be forwarded to the Conflicts of Interest Board. If the Conflicts of Interest Board sees no conflict, you will be granted a waiver and you will be permitted to work the second job. If the firm has dealings with the Board of Ed, obtaining a waiver is more difficult, but each waiver request is handled on a case-by-case basis. Carefully examining your Board of Ed position and your outside job, the Conflicts of Interest Board will determine if there is a possible conflict of interest and will decide if you should receive a waiver.

Q. I work as a secretary for the Board of Ed, and I want to take a job working nights and weekends for a firm that does business with the Department of Consumer Affairs. May I do this?

A. A City employee is not permitted to accept a second job with – or have an ownership interest in – any firm, including a private university, that does business with the City. However, the Conflicts of Interest Board will grant waivers in situations where they feel that having the City employee work with a firm doing business with the Board of Ed or another City agency would not conflict with the interests of the Board of Ed or the City. Before you can work for this company, you would have to get an approval letter from the Chancellor's Office. The Board of Ed Ethics Officer will forward it on to the Conflicts of Interest Board. In such a case, the Conflicts of Interest Board would probably give the secretary a waiver.

Q. As a teacher, can I tutor the siblings of three of my students as a side job?

A. No. While teachers may have an excellent built-in client base, they are prohibited from tutoring students in their own school and the siblings of those students. In addition, they may not advertise their services anywhere on Board of Ed property or in any Board of Ed publication. However, teachers may advertise in publications of the PTA or other parent's organizations of *other* schools.

Q. I am a high school math teacher, and I have written a math book on my own time. My publisher wants to sell the book to Board of Ed schools, including my own school. Is this allowed?

A. You will first need an approval letter from the Chancellor's Office, and a waiver from the Conflicts of Interest Board. However, you may not accept any royalties from the sale of the book to your own high school. In the case of an elementary or middle school teacher writing a book, he or she would not be able to accept royalties from the sale of the book to the

entire district where his or her school is located. In addition, no Board of Ed employee who wants to sell a book to the Board of Ed can be involved in any sales of the book to the Board of Ed, or in the selection of books to be purchased by the Board of Ed.

Q. I am a teacher, and I would like to be a counselor at a camp that is part of the Break-Aways Program. Is this okay?

A. The Conflicts of Interest Board has decided that participants in this program should be granted waivers. The camp should write a letter to the Board of Ed Ethics Officer listing all the teachers that will be working in the program. That list will be provided to the Conflicts of Interest Board, and those teachers will be granted a waiver.

Q. I am a school psychologist. *Excellent Evaluators*, a psychological testing firm, wishes to hire me to perform evaluations of children who attend Board of Ed schools. *Excellent Evaluators* does not do business with the Board of Ed, but my evaluations would be submitted and reviewed at Impartial Hearings concerning the children I have evaluated. Board of Ed employees participate in the Impartial Hearings. I might even have to appear at Impartial Hearings. May I perform this work for *Excellent Evaluators*?

A. No, you may not. The Conflicts Law prohibits City employees from appearing, directly or indirectly, before any City agency, including the Board of Ed. Your personal appearances at Impartial Hearings, and the submission and review of your evaluations would be appearances before the Board of Ed, which are prohibited by the Conflicts Law.

GIFTS AND HONORARIA

Q. I've heard about the "valuable gifts" rule. Could you explain it?

A. Board of Ed employees are restricted from accepting gifts with a value of \$50 or more from any person or firm doing business with the City, not just the Board of Ed. This includes cash, tickets to concerts, plays, or sports events, travel expenses, meals, or anything else of value. The Board's "aggregate rule" further restricts you from taking two or more gifts from a vendor that cumulatively add up to \$50 or more in any twelve month period.

Q. What about gifts from students? Am I prohibited from taking those?

A. Be careful. Students often give small gifts to teachers, especially during the end-of-year holiday season. You can accept such gifts; just be certain that they are of minimal value. In other words, a \$6 "World's

Greatest Teacher” mug from a student is an acceptable gift; a wristwatch from a student or parent is not.

Q. My students have collectively contributed to a \$60 fruit basket for me for the end-of-the-year holidays. Can I accept this gift?

A. In this case, even though the gift is of greater than negligible value, a number of students contributed smaller amounts of money to buy the basket. But the gift must be identified as being from the entire class, not from the individual students who contributed.

Q. Vendors that sell to the Board of Ed often invite me out to a business lunch, which they pay for. Is this prohibited?

A. If it costs \$50 or more, it probably is. Even if it doesn't, a free meal is rarely just that, and to avoid the appearance of impropriety, one should be extremely cautious about accepting *any* meal. As there are some minor exceptions regarding the acceptance of meals valued at \$50 or more, contact the Board of Ed Ethics Officer in any such situation where you have been offered a valuable meal.

And of course the aggregate rule mentioned above applies here as well.

Q. What's the rule regarding trips paid for by a firm doing business with the Board of Ed?

A. The trip must have a definite Board of Ed purpose. In addition, the airfare and accommodations must be reasonable, and generally not luxurious. The trip should take only as long as it takes to conduct whatever business must be performed. *It is required that travel arrangements be approved by the Board of Ed Ethics Officer.*

Q. My school PTA has selected a teacher of the year, and would like to give her a plaque. This is okay, isn't it?

A. Generally, this would be okay, provided the value of the plaque does not exceed \$150. The Conflicts of Interest Board has established \$150 as the maximum value of such an award that any City employee may receive.

POST-CITY EMPLOYMENT

Q. A vendor I work with at the Board of Ed asked me if I might be interested in working for them. May I interview for a position with that firm?

A. You could pursue the opportunity, but first you'd have to be removed from your dealings with that firm. Once the negotiations are over, you may return to the project you were working on with that firm, unless you accept a job with the firm. Also, the interviews have to be on your own time, you

may not use Board of Ed supplies or personnel, and you couldn't use Board of Ed letterhead for any correspondence regarding the position. Remember also that you may not use your Board of Ed position or confidential Board of Ed information to benefit your job search or your prospective new employer.

Q. The job would involve me returning to the Board of Ed on behalf of the new firm to discuss business. Is this a problem?

A. Yes. Former Board of Ed employees are prohibited from "appearing" before the Board of Ed on business for a period of one year. "Appearance" is a legal term and it means, basically: any communication you might have with the Board of Ed for which you are getting paid by your new employer. This means you may not appear in person, write letters, or make phone calls to the Board of Ed as part of your new job for one full year after leaving City employment. You can appear for lunch with friends as long as your purpose is social, not business.

Q. My prospective new employer probably wants me because of the work I did on a particular project for the Board of Ed. Can I work on that project, this time for the new firm?

A. The post-employment restriction goes even further regarding involvement in "particular matters." You would be prohibited from ever working on that project. Your name could not appear on any papers; you couldn't appear before the Board of Ed (phone calls, letters, or in-person visits) on the project for the life of the project. You could not even work behind the scenes on that project. If the project or contract is renewed, in most cases it is considered to be a new project and you would be allowed to work on it. This does not prohibit you from working for the firm -- only from working on that particular project.

Q. Suppose I retired from the Board of Ed where I did purchasing, and then six months later I wanted to establish a consulting firm representing businesses that want to sell to the Board of Ed. Would this be a problem?

A. Again, you cannot, as a former employee, appear before your old agency for one year. So you can't make phone calls, attend meetings, or write letters on behalf of your clients to the Board of Ed.

Q. I just accepted a position with the State Board of Regents doing the same thing I am doing for the Board of Ed. Is this a conflict?

A. No. Under the "government-to-government exception," this would not pose a conflict of interest.

Q. I was a teacher for the Board of Ed for 25 years, and I just retired to work as a speech therapist for a firm that is a Board of Ed vendor. Can I provide therapy *this semester* to children as part of the firm's contract with the Board of Ed and appear before the Board of Ed? (In other words, can the one year ban be lifted in my case?)

A. The Chancellor has usually, but not always, given an approval letter for requests for waivers for *retired* Board of Ed employees, but not for those who have left the Board of Ed before retirement. The Conflicts of Interest Board has usually granted waivers where the Chancellor has given an approval letter. Because the Board of Ed's needs and shortage areas may vary, contact the Board of Ed Ethics Officer at (718) 935-5300 if you want to do this kind of work.

OWNERSHIP INTERESTS

Q. What is the prohibition on having an ownership interest in a business?

A. The restriction is only on having an interest in a firm that does business with the City. If you have such an interest, you will need a letter of approval from the Chancellor and an order from the Conflicts of Interest Board, both of which the Board of Ed's Ethics Officer can help you get. Decisions are made on a case-by-case basis, and getting approval will depend on what you do at the Board of Ed and what your firm is selling to what City agency. If you are selling to the Board of Ed, obtaining an order will be more difficult. If it is your spouse or registered domestic partner who has the interest, you still need to get approval from the Chancellor and the Conflicts of Interest Board.

Q. So what exactly is an ownership interest?

A. Any time you (or your spouse, domestic partner, or unemancipated child) own more than five percent of a firm, or have an investment in a firm that is \$32,000 or more, you are said to have an ownership interest. (If you have any kind of managerial control or responsibility concerning that firm, however, there is no minimum percentage or dollar amount you need to have invested in order to have an ownership interest.)

It is okay, however, to have these investments if they are in the form of publicly traded stock, unless the company whose stock you own *does business with your agency*. There are many other details involving ownership interests that may affect you. Contact the Conflicts of Interest Board to determine if your interest in a firm might cause a conflict with your Board of Ed position.

FINANCIAL RELATIONSHIPS

Q. My subordinate is a skilled tradesperson who does great work. Can I hire her to do work for me at home?

A. No. One of the most important protections from abuses that City employees have is contained in the City's ethics law. Superiors and subordinates are prohibited from having any kind of financial relationship. This includes lending money, other than a nominal amount, going into business together, employing one another, or paying for goods and/or services. This prohibition serves as protection to all City employees from abuses by co-workers who may expect payback, positive or negative, some time in the future.

Q. I am a teacher and I'd like to get my recently graduated son a teaching job in a school in a neighboring district. He's certainly qualified for the position. Is that a conflict?

A. You may not use your official Board of Ed position to directly or indirectly benefit a close family member or someone with whom you have a financial relationship. You also may not divulge confidential information. If the job information is not available to the public, you couldn't tell your son about the job in the first place. It is okay, however, to tell your son about a new job that is known to the general public, as long as you don't use your position or influence to get him that job.

POLITICAL ACTIVITIES

Q. What are the restrictions on political activities?

A. Being a public servant does not diminish your right to engage in political activity. You may work on campaigns or even run for office. However there are a few rules:

- You must perform all your political activities on your own time.**
- You may not use Board of Ed letterhead, supplies, equipment, or personnel.**
- You may not coerce or induce fellow employees to participate in or contribute to a campaign by threatening their jobs or by promising them raises or promotions.**
- You may not even *ask* subordinates if they want to contribute to or participate in a campaign.**
- Your contribution may not be in return for your appointment or promotion as a public servant.**
- If you are a high-ranking Board of Ed official you may not engage in fund-raising for certain political campaigns.**

For further information and guidelines, contact the Board of Ed's Ethics Officer.

Q. The principal at the school where I teach is running for City Council and has asked several teachers to work on his campaign. He can't really do this, can he?

A. No. Again, a City employee may not even *ask* his subordinates if they want to participate in or contribute to a campaign – his or someone else's. And, of course, he certainly may not coerce or in any way induce co-workers or subordinates to participate or contribute to the campaign by threatening their jobs or by promising them raises or promotions.

VOLUNTEER ACTIVITIES

Q. I would like to volunteer to be on the Board of Directors or take an administrative position for a not-for-profit that has dealings with the Board of Ed. Is that a conflict of interest?

A. It could be. In such a case, you must first obtain written approval from the Chancellor's Office stating that your volunteer work would be in the best interests of the City. If you receive approval you will have to abide by the following restrictions:

- All of your volunteer work must be done on your own time.
- You may not use Board of Ed letterhead, supplies, equipment, or personnel for the work.
- You may not take part in any business the not-for-profit has with the City.
- You may not be compensated (if you are, you would be subject to the second jobs restrictions above).
- You may not use confidential Board of Ed or City information nor may you use your Board of Ed position to benefit your not-for-profit.

Q. I serve without pay on the Board of Directors of a not-for-profit organization that receives a grant from the Parks Department but has no dealings with the Board of Ed. Is this okay?

A. Yes, provided that you have nothing to do with the organization's business dealings with the City and that none of the work is done on City time or using City resources or personnel.

Q. I am thinking of volunteering as a basketball coach in a program sponsored by a not-for-profit that gets funding from the Board of Ed. I would have no administrative or decision making authority. I can do this, right?

A. If you have no administrative or decision-making authority at the organization and are not doing the work of a paid employee, you can volunteer there without receiving Board of Ed approval. But you may not be involved with the organization as part of your City job.

CONFIDENTIAL INFORMATION

Q. I just learned through my Board of Ed job that the Board of Ed is considering purchasing a new state-of-the-art alarm system that uses brand-new technology. I have a friend who's in that field, and I'd like to discuss it with him. I can do this, can't I?

A. No. A public servant may not disclose confidential information concerning the property, affairs, or government of the City, including the Board of Ed, that is obtained as a result of his or her official duties and that is not otherwise available to the public.

Questions???

Call the Board at (212) 442-1400 or visit the Board at 2 Lafayette Street, Suite 1010, NY, NY 10007, in the City Hall area.