

# *ETHICS*

## **A PLAIN LANGUAGE GUIDE TO CHAPTER 68 -**

### ***NEW YORK CITY'S CONFLICTS OF INTEREST LAW***



NEW YORK CITY CONFLICTS OF INTEREST BOARD  
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**THE CONFLICTS OF INTEREST BOARD**  
**2 LAFAYETTE STREET**  
**SUITE 1010**  
**NEW YORK, NY 10007**

**(212) 442-1400**  
**(212) 442-1407**

**WWW.NYC.GOV/ETHICS**



## INTRODUCTION

New York City public servants make thousands of official decisions every day: whether or not buildings are up to code, what kinds of equipment to buy for an office, who is eligible for public assistance, or what kind of grades children in public schools get, just to name a few. One responsibility of every public servant is to **protect the integrity** of, and **public trust** in, those decisions by adhering to the Conflicts of Interest Laws set forth in Chapter 68 of the City Charter. These laws are summarized in “plain language” in this booklet. They often set a higher standard than in the private sector.

Chapter 68, the Conflicts of Interest Law, regulates conflicts between your public duties and private interests. The COIB, or New York City Conflicts of Interest Board, is the agency that administers, enforces, and interprets Chapter 68.

**For the most part, conflicts, under this law, are financial or political in nature.**

*Example: During the holiday season, a representative from a company your agency frequently deals with offers you an expensive gift.*

While a private company may allow its employees to receive expensive holiday gifts from firms with which they do business, City workers are prohibited from accepting such gifts. The reasons for such prohibitions are manifold. Obviously, if the gift is used to sway your opinion, or garner more attention towards a project, then the vendor is purchasing influence with this gift, which makes it look like your official decisions have as much to do with who gets you something special at holiday time as it does with what’s good for the public.

In fact, even the mere acceptance of a gift from someone with matters before you (whether it actually sways your opinion or not) can lead to an unseemly appearance where your integrity in dealing with this vendor is called into question by everyone else: by competing vendors, fellow-employees, and members of the public and the press. In other words, Chapter 68 of the City Charter prohibits not just the acceptance of the gift in exchange for special consideration (an impropriety), but also the acceptance of the gift **period** (an **appearance of impropriety**.)

Most of the conflicts of interest rules of conduct for City employees are found in Chapter 68. These rules set minimum standards, and a violation of the rules can result in serious penalties. The rules also protect you from abuses and from improper pressure from supervisors, vendors, or outside employers to commit acts which put you in a conflicts of interest situation. The City's conflicts of interest rules represent the bottom line, not necessarily the highest standards that one could aim for as a City employee. For example, you might refuse to accept **any** gift from a vendor with whom your agency does business, however small, because accepting it would send the vendor the wrong message. **And, in fact, some agencies do actually have regulations that prohibit their employees from accepting any gift from any entity with business before that agency. You should check with your agency counsel or personnel officer to find out if this applies to your agency.**



## WHO IS COVERED UNDER CHAPTER 68?

The rules of conduct discussed in this booklet apply to all paid City officers, employees, and officials, regardless of salary or rank, whether full-time, part-time, or *per diem*. Some of these rules also apply to those who are not paid for City service, but who play an important role in government, such as members of Community Boards and Community Education Councils.

## WHAT THIS BOOKLET WILL TELL YOU

**This Plain Language Guide** discusses the following areas where potential conflicts of interest for City employees arise:

- Accepting Gifts, Favors, Entertainment, Meals, Tips, and Travel
- Using or Disclosing Confidential Information for Private Purposes
- Misusing City Position for a Private Advantage
- Receiving Income from Second Jobs, Your Own Business, and Investments
- Volunteering for Not-for-Profit Organizations
- Engaging in Political Activities
- Leaving City Service (Post-Employment Restrictions)

The booklet also discusses:

- What Can Happen to Violators of Conflicts of Interest Rules
- How to Report Conflicts of Interest Violations
- Whistleblower Protection
- How to Obtain Information on the Conflicts of Interest Law
- Approval Letters and Waivers
- Requesting a Training Session for Your Agency



### **For More Information**

We hope this booklet makes you more aware of the ways your actions as a City employee might violate the City's conflicts of interest rules.

In the back of this booklet, you will find a **Quick Reference** to the Conflicts of Interest Law and the Board's rules on the topics discussed in this booklet.

For specific advice on the ways in which these general rules apply to you, contact the **NYC Conflicts of Interest Board at (212) 442-1400**. For advice on any special rules that your agency may have, contact your agency's general counsel or personnel officer.

**You may also consult our web site at: [www.nyc.gov/ethics](http://www.nyc.gov/ethics)**



## ACCEPTING GIFTS, FAVORS, ENTERTAINMENT, MEALS, TIPS, AND TRAVEL

Every New York City public servant is subject to Chapter 68's **Valuable Gift Rule**. This means that, in general, you are not permitted to accept a gift worth \$50 or more (\$50 is the current definition of "valuable" for Chapter 68 purposes) from any person or firm that you know, or should know, does, or intends to do, business with the City.

Whose responsibility is it to find out if the person giving you a gift has or intends to do business with the City? Yours, although if the gift is being offered to you in connection with your City job, it's probably certain that the giver does have some sort of dealings with the City.

This rule is aggregate and cumulative, basically meaning that two or more gifts that individually are worth less than \$50 would be counted together if you receive them within any twelve-month period from the same person or from relatives of the same person or from "affiliated" persons (like two employees of the same company).

When a City worker accepts a gift worth \$50 or more from someone who does business with the City, a conflicts of interest problem occurs. In some cases, it might even be a criminal violation. It doesn't matter whether the gift is in the form of money, a music player, a dinner at a local

restaurant, tickets to a football game, a trip to Atlantic City, renovations on your house, or anything else.



## **EXCEPTIONS**

A gift customary on social occasions may be permitted as long as the reason for the gift is a close personal friendship. It has to be clear, however, that the personal relationship is the motive for the gift. The entire circumstance of the gift giving must be considered to ensure that improprieties as well as **appearances** of impropriety are avoided. If the giver in question is an old friend, but now has matters directly under your consideration, the motive may not be so clear, and you may wish get an official opinion from the Board.

### **There are other exceptions to the Gift Rules, such as:**

- Acceptance of awards and plaques valued at less than \$150 which are publicly presented in recognition of public service.
- Acceptance of free meals or refreshments in the course of and for the purpose of conducting City business when:
  - (1) offered during a meeting which you are attending for official reasons,
  - (2) offered at a company cafeteria, club, or any place where payment is impractical,
  - (3) the meeting continues through normal meal hours in a restaurant and a refusal to participate would be impractical,
  - (4) offered by the meeting's host when going somewhere else would be impractical,
  - (5) you have no alternative but to accept the meal or refreshment given the situation in which you have been called upon to represent the interests of the City, and



- (6) participating as a panelist or speaker in a professional or educational program and the meals or refreshments are provided to all panelists.
- Acceptance of travel-related expenses from a private entity as a gift to the City (rather than to you individually) when:
    - (1) The trip has been approved by your agency;
    - (2) the trip is for a City purpose and could therefore be paid for with City funds; and
    - (3) the travel arrangements are appropriate for that purpose; and
    - (4) the trip is no longer than reasonably necessary to accomplish the business which is its purpose.

*Example:* You are sent by your agency to inspect equipment it is buying from a vendor in Taos, New Mexico. The vendor is paying for your flight and accommodations. As long as the trip is approved by your agency and is not longer or more extravagant than necessary (this means you fly coach, in case you're wondering), then this would be seen as an acceptable gift to the City, not to you. After all, if the vendor doesn't pay for your ticket, the City would have to.

- Acceptance of a free ticket to:
  - (1) professional or educational programs as a guest of the sponsoring organization; or
  - (2) ceremonies or functions sponsored or encouraged by the City as a matter of City policy; or
  - (3) a public affair of an organization that is made up of representatives of business, labor, professions, or news media or organizations of a civic, charitable, or community nature as a guest of the sponsoring organization (unless it has a contract with your agency) (for elected officials and their staffs, this exception is not limited to annual public affairs); or
  - (4) a function or occasion where your agency head has, in writing, approved your attendance as being in the interests of the City.

*Example:* You work at the Department of Cultural Affairs, in close contact with a number of theaters that receive money and materials from DCA. One

*of the theatres you work with is hosting a yearly gala event, where they will thank funders and show excerpts from a number of their projects. They have invited you to this gala. In this circumstance, if your agency head deems it in the City's interest to have you there as a DCA representative, in order to see how they have put DCA's assistance to use, this would be acceptable.*

Exceptions of this nature are described in **Rules of the Board** available from the Conflicts of Interest Board. The Rules are also available on the Conflicts of Interest Board web site.

### **OTHER GIFT RULES**

In addition, you are generally prohibited from giving a gift to a supervisor or especially from receiving a gift from a subordinate if the gift is worth more than a negligible amount. For example, while you could give your boss a coffee mug as a holiday gift, you could not give an expensive pen. In all cases, common sense and circumspection should prevail. A collective gift by the office for birthdays, holidays, baby showers, "secret Santa" activities, and the like are usually permitted, with the understanding that these activities are organized by someone other than the person who signs everyone's evaluations. No employee should feel pressured into buying gifts for their superior, particularly with the expectation of a reward in the future.

#### **Gifts versus Tips:**

**The conflicts of interest law prohibits you from accepting anything of value from anyone for performing your City job.** This is what is referred to as an "illegal gratuity." You are also not allowed to accept any gratuity from any person whose interests may be affected by your actions as a City employee. Offers of such gratuities should put you on guard. Someone may be trying to influence your judgment or to **bribe** you. (A bribe is something offered to you with the understanding that it will influence your official conduct.) Even with the best of intentions, the acceptance of such gratuities creates an overall perception that a gratuity is **required** to obtain services that New Yorkers already pay for with their taxes. Remember that when it comes to tips and bribes (as opposed to gifts) there is **no** dollar amount that is permissible: not \$100, not \$50, not \$5.

What about flowers or chocolates, or other perishables of minimal value? Small tokens of appreciation, which as a practical matter cannot be returned, may sometimes be accepted as a gift to the City and placed in a common area for everyone to enjoy. So, flowers or a box of chocolates from a senior citizen whom you helped may be accepted and enjoyed by the entire office. (This way it's not **you** who's accepted the token of appreciation, but rather your agency.) Other, more sizeable gratuities, such as a radio or a TV, and any money, must be returned. And just to be clear, even the unreturnable gifts should be reported to your Inspector General. In general, public servants should be careful of any **offers** of gifts, as the person offering may be attempting bribery. You should immediately report the **offer** of a gratuity to the Inspector General of your agency or to the Department of Investigation.

As mentioned in the introduction, your own agency may have rules that are stricter than Chapter 68's conflicts of interest rules. For example, some agencies prohibit their employees from accepting **any** gifts from any firm the agency does business with. Each agency has a different business relationship with outside vendors, clients, and other City agencies, so employees in some agencies are more strictly regulated than in other agencies. Public servants must obey these stricter rules. In any case, no matter what your agency's gifts policy is, Executive Order No. 16 requires that all employees in mayoral agencies report gifts and offers of gifts, and other conflicts of interest, to the Department of Investigation.

## USING OR DISCLOSING CONFIDENTIAL INFORMATION FOR PRIVATE PURPOSES

Public servants are forbidden to disclose or use for personal gain any confidential information they have learned as a City employee. Confidential information is defined as any information unavailable to the public that you learn on the job as a City employee.

*Example: Suppose, as a result of your work for the City, you learn that a City agency is developing a plan to rent office space in a certain building and that the plan has not been made public.*

**It would be a violation of Chapter 68 for you to give this advantageous information to a friend, relative, or anyone else in the real**

estate business, or in any business, since the information is confidential; it was learned on the job and it is unavailable to the public. And giving an unfair advantage to one party through such a disclosure certainly throws the integrity of this City business, and your own, out the window.



## MISUSING ONE'S CITY JOB FOR PRIVATE ADVANTAGE

Chapter 68 forbids using one's City position for private or personal gain or advantage for oneself, one's relatives, or one's business associates.

*Examples: Using your position as a City employee to obtain a favorable or speedy inspection for your brother's restaurant is a violation of the Conflicts of Interest Law.*

*If you have a tax problem, you cannot write to the Department of Finance on your City letterhead.*

Writing a letter on City agency letterhead for any personal reason is strictly forbidden, even if sending the letter to another City agency.

As a general rule the City Charter prohibits the use of City letterhead, personnel, equipment, resources, or supplies for any non-City purpose.

*Examples: You may not call a sick parent in Chicago (that is, using City long-distance) on a City phone or mail a personal letter using City postage, or type a term paper on an office computer, or take yellow pads home from the office for your or someone else's personal use (on a grand scale, this is referred to as "larceny" or "theft"), or ask a subordinate to run a personal errand for you.*

## **THE ACCEPTABLE USE POLICY**

Having said that, many agencies have adopted a COIB-approved “Acceptable Use Policy,” that lays out some guidelines for acceptable “incidental personal use” of some City resources. Under this policy, local personal calls may be acceptable, as long as they are of an incidental nature and don’t interfere with your job performance. The same goes with many other elements of office technology.

*Example: An occasional, short call to one’s mom in Brooklyn would probably be seen by the Board as an “incidental personal use” of City time and telephony, and therefore acceptable.*

That same call to one’s mom in Australia, using City long distance, would not, however, be acceptable, no matter how occasional or short.

**Not all agencies have adopted this “Acceptable Use Policy,” so it’s advisable to check with your agency counsel what your specific policy on incidental use of office technology and resources is.**

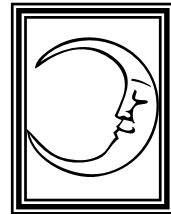
## **UNACCEPTABLE PERSONAL USE**

There are plenty of types of personal use of even small items of City property, however, that will always be unacceptable and may result in agency disciplinary action or in prosecution by the Conflicts of Interest Board. This is particularly true if the improper use was for a private business purpose, but there are non-business uses of City resources that clearly fall outside of the “Acceptable Use Policy”, too: *using a City car to drop off a child at the movie or sending hate speech or political literature on a City computer are examples.* The unauthorized use or borrowing of valuable items from your agency may even result in criminal prosecution.

Lastly, just to repeat: be aware that many agencies have stricter conflicts-related rules in many areas, including the use of City property for non-City purposes, than the general conditions this booklet has discussed. Public servants are bound to obey the stricter rules, so check with your agency counsel for your official policy.

## RECEIVING INCOME FROM SECOND JOBS, YOUR OWN BUSINESS, AND INVESTMENTS

Many City employees seek to supplement their City salaries through outside employment, businesses, investments, or “temping.” Generally, such activities are permissible, but you must be certain that outside sources of income do not cause a conflict of interest with your City job responsibilities.



### MOONLIGHTING

Anyone working 20 hours or more per week for the City needs permission in order to work for a person or company that has business dealings with *any* City agency. This includes any firm (including a private university) that receives funding from the City, any firm that contracts to sell goods or services to the City, or any firm that is licensed by a City agency.

To work for a company that has business dealings with a City agency, you need to obtain written approval for the job from your agency head and a **waiver** from the Conflicts of Interest Board. Further, it is **your** responsibility to find out if the firm has business dealings with the City. Check with the firm’s financial or accounting people to find out.

If you work for the City **less** than 20 hours per week, then you may work for a company that has business dealings with the City, as long as it does not do business with your City agency. If the firm **does** do business with your own agency you may not take a position at that firm unless you obtain the written approval of your agency head and a **waiver** from the Conflicts of Interest Board. This rule applies to all part-time public servants, whether or not they are paid, including Community Board members. It does not apply to unpaid members of advisory committees, such as an *ad hoc* committee of citizens set up by the Borough President to give their views on a zoning proposal.

## **CHECKLIST:**

### **When working for a private employer, public servants**

- May not use City position to obtain any advantage for that employer;
- May not use City letterhead, personnel, equipment, resources, or supplies for a private employer;
- May not conduct any business for the employer on City time;
- May not use or disclose any confidential City information to help a private employer;
- May not work for a private employer on any matter that is before **any** City agency, without getting a waiver from the Conflicts of Interest Board;
- May not appear as an attorney against the interests of the City in any case where the City is a party or a complainant, without getting a waiver from the Conflicts of Interest Board; and
- May not be paid as an expert against the interests of the City, without getting a waiver from the Conflicts of Interest Board.

If you work for the City **less** than 20 hours per week, the last three restrictions apply only with respect to **your own** City agency.

***Example:** If you work for the Human Resources Administration 15 hours per week, you may work for a private employer on a matter before the Sanitation Department.*

That is, provided that you comply with the other requirements discussed above and with any requirements that HRA has for outside employment.

In all cases you need to be careful to avoid any appearance that you are using your City job to help your private employer. This would certainly include helping your private employer in any matters that involve your City agency.

## **Outside Practices**

If you work as an attorney, agent, broker, or consultant to a firm, then you are regarded as having a position with that firm.

*Example: If you are a full-time employee with the Fire Department and are also a licensed real estate broker, you may not act as a broker for any person or firm which does business with the City without a waiver from the Conflicts of Interest Board.*

## **Temping Agencies**

There are also special rules for City employees who moonlight through private temporary employment agencies, especially if the temp agency you work for does business with City, **or if the company you are assigned to by the temp agency does so.** You should call the Board in these situations.

## **Second City Jobs**

It is permissible under Chapter 68 to take a second, part-time job with another City agency. However, you must first obtain the approval of your full-time City agency and you must notify the second agency that you are employed full-time by another City agency. In addition, all the standard caveats for any second job apply: you must perform the second City job during times when you are not required to perform your first City job, and you may not use equipment, letterhead, personnel, or other resources of your full-time City agency in your second City job.

## **OUTSIDE BUSINESSES AND INVESTMENTS**

There are restrictions on public servants having an ownership interest in a company that has business dealings with the City. These restrictions also apply to an ownership interest that your spouse or registered domestic partner or unemancipated child has in a company that does business with the City. (Your child is unemancipated if he or she is under 18, unmarried, and living in your home.)

### **CHECKLIST:**

You have an ownership interest in a firm if your interest is:

- More than 5% of the firm or
- Worth more than \$40,000 or
- More than 5% of the firm's debt (such as bonds) or



- More than \$40,000 of the firm's debt.

However, even if your interest is less than these amounts, if you or your spouse or registered domestic partner or unemancipated child *runs* the business (that is, you or they have a “managing interest”) you are still seen to have an ownership interest in the firm.

*Example: If you work for the Department of Sanitation 20 or more hours per week and your wife is a partner owning 20% of a stationery supplier that sells stationery to the Department of Citywide Administrative Services, then you are deemed to have a prohibited ownership interest.*

That leaves you with two choices: either the firm must stop selling stationery to the City or you must disclose the ownership interest to the Conflicts of Interest Board and ask for an order from the Board permitting your interest. (It is likely that the Board would permit the above interest, with some restrictions, but permission in such a case **must** be sought.)

If you work less than 20 hours per week for the City, then you and your spouse (or registered domestic partner) and your unemancipated children are allowed to have an ownership interest in a firm that does business with any City agency except **your own** City agency.

*Example: If you work two days a week for the Department of Sanitation, you may own a business that deals with Consumer Affairs but not a business that deals with the Department of Sanitation.*

By the way, ownership interest does **not** include an interest in a pension plan or deferred compensation plan or mutual fund if neither you nor your spouse (or registered domestic partner) nor your unemancipated child controls the investments made by the plan or fund. Likewise, interests held in qualified blind trusts are not considered to be prohibited ownership interests.



## SUPERIORS AND SUBORDINATES

All public servants are prohibited from having a business or financial relationship with a superior or a subordinate.

*Examples: If you own a small apartment building, you may not rent an apartment to someone you supervise.*

*If you do outside carpentry work, you may not do a private job for your boss, not even for free.*

*You also may not share an apartment with a superior or subordinate since splitting the rent would involve a financial relationship.*

All of these situations are potentially coercive and, even if they are not, will throw a supervisor's ability to give fair evaluations and job assignments into question.



## VOLUNTEERING FOR NOT-FOR-PROFIT ORGANIZATIONS

Volunteer work by City employees with not-for-profit organizations, such as charitable or religious groups, ordinarily creates no conflict of interest. (On the other hand, *paid* work with a not-for-profit organization is treated the same as any outside paid work—see “*Receiving Income from Second Jobs, Your Own Business, and Investments,*” above.)

If, however, you are involved with a not-for-profit organization that does business with the City or is interested in doing business with the City, you must be careful. You can still volunteer (on your own time, of course) for the not-for-profit organization, *but:*

- You can't take part in the organization's business dealings with the City; and
- You can't be paid for this volunteer work; and
- Your volunteer work for the organization has to be done on your own time, not on City time, and you can't use City letterhead, personnel, equipment, resources, or supplies for this work. (In some limited instances you may be able to get your agency head's approval to do volunteer work on City time using City resources, if your agency sees such activities to be in the agency's interest—check with your agency counsel if you're interested in exploring this. However, you may **never** use City letterhead for anything other than approved City business.)

*The following are several examples of different kinds of volunteering and the restrictions they may or may not carry.*

*1) You are a staff analyst at one City agency. You also voluntarily serve on the board of directors of a not-for-profit that receives a grant from another City agency. The not-for-profit has no dealings or contact whatsoever with your own agency.*

Extra caution should be taken on your part when you serve on the board of a not-for-profit that receives City funding. Anytime this board talks about **anything** having to do with **any** City agency (funding, programs, a lawsuit against the City, or anything else), you have to **recuse** yourself from partaking in any of these discussions. To be on the safe side, you should leave the room. You don't need to get permission from anyone to serve on this board, but conversations about City-related matters will come up on this board, and you will have to recuse yourself from all of them. You cannot even receive documents relating to the not-for-profit's City business. You also can't represent the not-for-profit in any of its City-related matters, so when the not-for-profit meets with City officials to discuss the renewal of City grants, or anything else, you can't attend those meetings. If you wanted to partake in the not-for-profit's City-related matters, you'd need agency head permission **and** a waiver from the COIB.

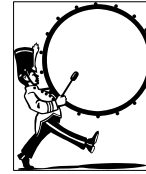
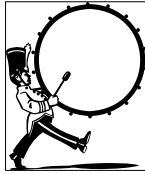
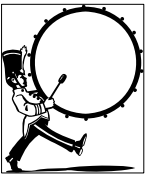
*2) You volunteer for the same not-for-profit, serving on its board, as in 1) above, but in this scenario, the organization deals **directly** with your agency.*

In this situation, recusal is not enough. For this case, if you want to continue to serve on this organization's board, you will need agency-head permission. Furthermore, if permission is granted, all of the requirements for recusal in example *I*) above would still be in effect. If you wanted to partake in matters between this organization and your agency, or **any** City agency, you'd need a waiver from the COIB in addition to agency head permission.

The volunteering rule is less strict if you do not have any policymaking or administrative responsibility at the not-for-profit organization and do not deal with the organization in your City job. In that event, you do not have to get your agency head's approval to do your volunteer work, even if the organization does business with your agency. For example, if you volunteer to read to a child for a literacy project that does business with your City agency (and all you do is read to children), you do not need to obtain your agency head's permission because this volunteer work does not involve any policymaking or administrative responsibility. All of the other rules discussed above apply, however.

## ENGAGING IN POLITICAL ACTIVITY

City employees may be involved in most volunteer political activities, such as contributing money to a candidate for office or working on a political campaign. But there are certain guidelines you must follow.



### ***Misuse of Position/Resources***

Public servants may never use your City position to help a political candidate or a political campaign.

***Example:*** *You may not send out a fundraising letter on City letterhead or use a City telephone to make calls on behalf of a candidate or photocopy a campaign flier on a City photocopier.*

### ***Coercion/Perceived Coercion***

Public servants may not coerce anyone, or **even request** a subordinate, to work on a political campaign or contribute to a candidate or party. (Requesting someone whose evaluation you sign to do something political can be easily mistaken as a veiled order.)

### ***Buying Office***

Public servants and potential public servants are forbidden to buy a City position or promotion with a political contribution. In fact, they can't give or promise anything to anyone in order to be nominated for office or to obtain a City position. And no one can ask you to do so either.

### ***Fundraising by High-Level Appointees***

Some higher level City servants may not request **anyone** to make a political contribution to any candidate for a City office or to any City elected official who is running for any office. Such higher level City servants are also prohibited from holding certain political party positions.

### ***Paid Work for a Local Political Campaign***

Having a paid position with a local political campaign is treated much like any other outside employment you might have, with one big exception.

Like any other outside job, if you work on a local campaign for elective office, you are not permitted to:

- Use your City position to obtain any advantage for that campaign;
- Use City letterhead, personnel, equipment, resources, or supplies for the campaign;
- Conduct any business for the campaign on City time;
- Use or disclose any confidential City information to help the campaign;

- Work for the campaign on any matter that is before **any** City agency, unless you get a waiver from the Conflicts of Interest Board.

However, there is one crucial difference between moonlighting for a local campaign and any other kind of moonlighting: even though local campaigns **do** have matters before City agencies (such as the Campaign Finance Board and the Board of Elections) you do **not** need a waiver from the Conflicts of Interest Board. You may still need to get permission from your agency to take the job, if your agency has such a policy (again, check with your agency's general counsel or personnel officer), but the Board has made it clear that it would not violate Chapter 68 to have a paid position with a local campaign, as long as all of the above restrictions are followed.



## LEAVING CITY SERVICE (POST-EMPLOYMENT RESTRICTIONS)

### SEEKING A JOB

As a City employee, you may often deal with companies in the private sector. If you are thinking about leaving City service, you may want to contact some of the firms you deal with to talk about the possibility of going to work for them. But **stop!** This kind of networking is prohibited. Similarly, a private firm with which you have some official business dealings may let you know about a job opening in that firm for someone with your City experience. Exploring these possibilities, a common practice in the private sector, could present a conflict of interest for a City employee. To any outside observer, trying to get a job with a company that you're dealing with in your City capacity can raise serious questions about your integrity.

Before you talk to a company, say, XYZ Development Corp., about a possible job, you must make sure that you do not currently have any business dealings with XYZ in your City job.

*Example: If you are reviewing a permit application that XYZ has submitted to your agency, you may not discuss a job with XYZ **until** either (1) your work on the permit application is completed, or (2) your supervisor has, at your request, assigned your duties concerning XYZ to someone else in your unit.*

### **AFTER YOU LEAVE**

Once you leave City service and take a job at XYZ Development Corp., you still have to comply with three restrictions in the Conflicts of Interest Law:

- First, you may **never** work for XYZ on any specific matter on which **you personally worked** on in a **substantial way** as a City employee. This restriction is called the **lifetime bar**. Generally it is interpreted narrowly, but you should contact the Conflicts of Interest Board or your agency’s counsel to see if your involvement in a specific matter was personal and substantial.
- Second, for one year after you leave City service, you may not contact anyone in your former City agency on behalf of XYZ. This is called the **one-year ban**. This includes meetings, telephone calls, and letters. But you may work on a job that involves your former City agency so long as you do not work on any assignment you had as a City employee and so long as you do not contact your former agency within one year after you leave City service. The one-year period begins to run on the date on which you effectively resign and stop working for the City. However, if you are “on leave” from your City position, you are still a City employee.
- Third, you may never disclose or use for private advantage any confidential City information learned through your City job. (Again, confidential information is information that is not available to the public.) Check with your agency counsel or with the Conflicts of Interest Board if you have a question about the confidentiality of information.

If you wanted to do any of the above: that is, contact your former agency for your private employer within one year, or work on the same matter that you were personally and substantially involved with, etc., you’d

need obtain the **approval** of your (former) **agency head** and a **waiver** from the Conflicts of Interest Board. You should know that the Board does not often grant post-employment waivers. Call the Board for specific information and advice related to your post-employment situation.

### **MOVING TO ANOTHER GOVERNMENT POSITION**

The above restrictions apply to you if you go into business for yourself, or move to any kind of private employment. However, the post-employment restrictions do not apply if you go to work for another government agency, whether federal, state, or local.

Because everyone's City employment history is different, you should ask your agency's general counsel, personnel officer, or the Conflicts of Interest Board for help in answering your questions about whether a particular job offer in the private sector would create any problems under the post-employment rules. Getting this advice is especially important since it is possible, under some circumstances, that you may be prohibited entirely from working for XYZ Development Corp. Former public servants have been fined thousands of dollars for violating these restrictions.

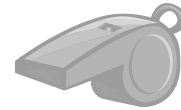
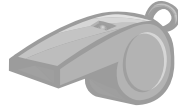
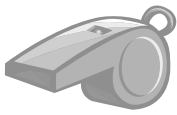


## WHAT CAN HAPPEN IF I VIOLATE CONFLICTS OF INTEREST RULES?

**Violators of the City's conflicts of interest restrictions may face severe penalties, both from the Board and from their own respective agencies. Through an agency's disciplinary process, violators may be demoted or suspended for some period or even fired. The Conflicts of Interest Board can impose a fine of up to \$10,000 for each violation of the Conflicts of Interest Law and recommend to a violator's agency that s/he be disciplined or fired. A violation of the Conflicts of Interest Law is also a misdemeanor that the District Attorney's office may prosecute. Upon such a conviction, a violator could be fined, sent to jail and lose his/her City job. The Conflicts of Interest Board may also void any contract or transaction that violates the Conflicts of Interest Law.**

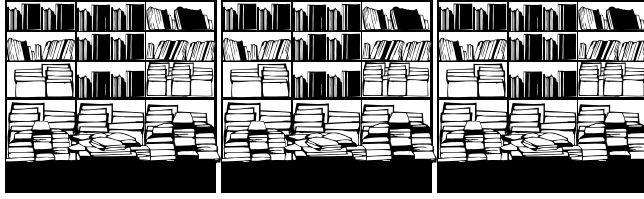
## HOW TO REPORT CONFLICTS OF INTEREST VIOLATIONS

As City employees and residents, we all suffer when ethics laws are violated. To report a conflict of interest violation, call the Department of Investigation, 24 hours a day, at (212) 825-5959, or call the Inspector General of your agency, or call or write the Conflicts of Interest Board, 2 Lafayette Street, Suite 1010, NY, NY, 10007, (212) 442-1400. All complaints are confidential.



## WHISTLEBLOWER PROTECTION

City employees who file reports of possible ethical violations are protected by the Administrative Code of the City of New York Section 12-113, commonly called the Whistleblower Statute. This law was designed to prevent retaliation in the form of any adverse personnel action by one City employee against another who reports corruption, criminal activity, a conflict of interest, gross mismanagement or abuse of authority by another city officer or employee, or by persons dealing with the city, **HOWEVER, whistleblower protection is NOT automatic.** In order to qualify, you have to have reported one of the above types of activity to the Department of Investigation, the Comptroller, the Public Advocate, or a Council member. In other words, reporting a conflict of interest violation to your boss doesn't cut it. If you are interested in whistleblower protection, contact DOI with your complaint directly.



## HOW CAN I OBTAIN INFORMATION ON THE CONFLICTS OF INTEREST LAW?

If you have questions regarding the Conflicts of Interest Law, call the Conflicts of Interest Board during business hours at (212) 442-1400. As far as the COIB is concerned, the only silly question about Chapter 68 is the one you should've asked, but didn't. While enforcement is a crucial component of what we do, we also place a heavy emphasis on trying to prevent conflicts from occurring. We do this by giving public servants free legal advice on conflicts-related questions. You may call anonymously, and all calls are, with limited exceptions, confidential. You may also write or fax the Board at 2 Lafayette Street, Suite 1010, New York, NY 10007; FAX: (212) 442-1407.

The Board has created numerous publications addressing various aspects of the Conflicts of Interest Law. These publications include leaflets, outlines, articles, newsletters, videos, and a poster. The Board also makes available copies of Chapter 68, the Board's rules, the Financial Disclosure Law, the Board's advisory opinions and enforcement dispositions, and selections from the COIB's current monograph.

*You may request publications by fax or by phone, or by downloading them from our Web Site at: <http://nyc.gov/ethics>. There, you will find information about the Conflicts of Interest Law, about our agency and its mission, FAQ's on selected topics, a complete and updated list of all the Board's publications, which can be downloaded in PDF format, as well as interactive exercises, videos, links to related government ethics sites, and (courtesy of the New York Law School) a link to a searchable index of all of the COIB's advisory opinions and enforcement dispositions.*

# APPROVAL LETTERS AND WAIVERS



Sometimes you may need a letter of approval for an activity in which you wish to engage. Working a second job for an organization that has business dealings with the City would be an example. If you do need this approval, you'll need to write a letter to the Conflicts of Interest Board. That letter should contain the following information:

- who you are and where you work,
- your official City job title,
- your responsibilities,
- your question,
- your address where you want the Board's answer sent and a daytime telephone. (If you do not want to be called at work, say so in your letter and give another number or an e-mail address where Board staff can contact you.)

*Example: If you are seeking advice about taking a second job, first tell the Conflicts of Interest Board who you are, including your City job title and duties, and then describe the job you want to take. The description should include the name of the company, the position and the duties you will have, the person for whom you will work, whether or not you will be paid and, if so, how much, the days and hours you will work, how long the job will last, if it is temporary, and whether or not the company does business with the City.*

That last piece of information in the preceding paragraph is crucial. If the company does ANY kind of business with the City, you're going to need a waiver from the Conflicts of Interest Board in order to take that particular job. (A full-time City employee, working for a company that does business with the City without a waiver is in violation of Chapter 68.) The waiver, if granted, will basically allow you to have that job, even though technically it would be a violation. Waivers are given on a case by case basis.

*Example: If you are a full-time City employee who wishes to work part-time as an electrician with a company that does business with the City, you would need a waiver from the Board.*

Is it likely that you'd get a waiver from the Board? A lot depends on your duties in your City job, but if the Board feels there is no real conflict between your City job and your private job, then, yes, it is likely. However, under the law, the Board cannot grant a waiver unless the City employee's own agency head **first** approves the request. Therefore, before coming to the Board for the waiver, you will need to obtain approval from your agency head (not just your supervisor).

**For information on how to obtain that approval, speak with your agency's general counsel or personnel officer, or call the Conflicts of Interest Board at (212) 442-1400.**

The more complete the information in your written request, the quicker the Board can return a written opinion or waiver. Turnaround time is generally fast.

## CONFIDENTIALITY

Conflicts of interest issues can get pretty contentious. For this and other reasons, the Board is subject to a very strict confidentiality law. Board staff will not ordinarily tell anyone – not even your agency - about your oral request. In fact, you can call the Board anonymously. Your written request and the Board's response are also confidential, with the exception of waivers and orders. As discussed above, the Board **cannot** grant a waiver without written approval from your agency, so your agency will have to be involved with your waiver request, should you end up needing one. The Board also requires agency approval for an order. By law, all waivers and some orders are available to the public, but your *request* for the order or waiver remains confidential, unless you waive your right to confidentiality. If you have any concern about confidentiality, call the Board.

**Example:** Suppose you call the Board to ask whether you can moonlight for a certain firm and a Board attorney tells you that you will need a waiver.

You may decide you'd prefer not to take the job so that you do not have to seek approval from your agency. You can do that and ordinarily no one will ever know, except you and the Board.

There is, however, one big warning about confidentiality and legal advice: advice can only be given about **proposed future activities**. In other words, if you call for advice and mention that you already have violated the law, the Board may share your information with the appropriate law enforcement authorities. Conversations about future conduct are potentially much easier than ones about past conduct.



## REQUESTING A TRAINING SESSION FOR YOUR AGENCY

Conflicts of interest can occur on every level of City government. One of the most effective ways to avoid them in your agency is to get your staff trained. The Board maintains a Training & Education Unit that provides in depth, entertaining training sessions on an almost daily basis. If your agency is interested in scheduling a training session covering the basics of the conflicts of interest rules, ask for the Director of Training and Education, Conflicts of Interest Board at (212) 442-1421. We will be happy to send a professional to your agency at a time that is convenient for your staff and provide as many interactive training sessions as you need.

## TEST YOUR KNOWLEDGE OF THE CONFLICTS OF INTEREST LAW

Below you will find 10 questions on the laws in this booklet. Answer them with either a **yes** (the activity is permitted) or a **no** (it is not permitted), then check your answers against the key provided on page 34 of this booklet.

Your score will tell you how clear the material you have read was. If you receive a low score, you might want to spot-read the sections of the booklet again, addressing the topics you missed.

The answers can be found on the page that immediately follows the “Quick Reference” listing.

- 1. You want to work in your spare time for a firm that does business with the City, but not with your agency. Can you accept the job?*
- 2. A firm you do business with in your City job sends you two tickets to the NBA playoffs at Madison Square Garden as a holiday present. Can you accept them?*
- 3. You leave your City job to accept a position with a state agency where you will work on the same project that you worked on for the City. Is this all right?*
- 4. You are soon to be married (congratulations!). You will, of course, invite old friends who work for various firms that do business with the City. Can you accept gifts from them?*
- 5. You would like a second job and want to send your resume in response to an ad. Is that a problem?*
- 6. You want to volunteer to work for a political campaign. Is that ok?*
- 7. Your new job in the private sector suddenly requires that you work on a project you worked on when you were a City employee. Is this activity permitted?*

8. *Your City agency often deals with a not-for-profit organization for which you want to volunteer service on the Board of Directors. Can you volunteer?*
9. *Because of your City position, you have learned potentially valuable information regarding real estate investments in the City. It hasn't been released to the public yet. You would like to pass the information to your spouse, who owns a real estate business. Can you?*
10. *You have an important letter to write, endorsing a person for political office whom you highly esteem. Can you use City letterhead to write the letter?*

## QUICK REFERENCE

Below, you will find a list of the technical provisions of the conflicts of interest provisions we have discussed in plain language in this booklet. Section and paragraph numbers refer to the Conflicts of Interest Law, set forth in Chapter 68 of the New York City Charter, and the Board's rules, found in title 53 of the Rules of the City of New York.

For more information regarding the Conflicts of Interest Law, and for a listing of our publications, which focuses on specific topics such as "Moonlighting" and "Post-Employment Restrictions," see our homepage on the web. Our Internet address is: <http://www.nyc.gov/ethics>

### **Who is covered?**

See City Charter Section 2601, especially subdivision (19), "public servant."



**Accepting gifts, favors, entertainment, meals, tips, and travel**

See City Charter Section 2604 (b) (5) and (13); Conflicts of Interest Board Rules Section 1-01, entitled “Valuable Gifts.”

**Using or disclosing confidential information for private purposes**

See City Charter Section 2604 (b) (4) and (d) (5).

**Misusing one’s City job for private advantage**

See City Charter Section 2604 (b) (2) and (3); Conflicts of Interest Board Rules Section 1-13.

**Receiving outside income from second jobs, your own business, and investments**

See City Charter Section 2604 (a), (b) (1) through (3), (6) through (8), and (14); Conflicts of Interest Board Rules Sections 1-04 through 1-06, 1-09, and 1-11. See City Charter Section 2601 for definitions of “ownership interest,” “firm,” “position,” “business dealings with the City,” and other relevant terms.

**Volunteering for not-for-profit organizations**

See City Charter Section 2604 (b) (2) and (3) and (c) (6); Conflicts of Interest Board Rules Section 1-13.

**Engaging in political activity**

See City Charter Section 2604 (b) (9) through (12) and (15); Conflicts of Interest Board Rules Sections 1-02 and 1-03.

**Leaving City service (post-employment restrictions)**

See City Charter Section 2604 (d); Conflicts of Interest Board Rules Sections 1-07 and 1-12.

**Obtaining orders and waivers**

See City Charter Section 2604 (a) (3) and (4) and (e).

**Whistleblower Protection**

See New York City Administrative Code Section 12-113.

**What can happen if you violate City conflicts of interest rules?**

See City Charter Section 2606; Conflict of Interest Board Rules Sections 2-01 through 2-05.



**ANSWERS TO THE QUIZ ON PAGE 31**

1. If you are a part-time City employee, the answer is “Yes.” If you are a full-time City employee, then the answer is “No,” unless you receive approval from your agency and a waiver from the Board.

2. The Board has established \$49.99 as the cut-off on the value of anything that a City worker may accept as a gift from a firm doing business with the City. Since the tickets in all likelihood are worth \$50 or more, you cannot accept them.

3. You may accept the position with the state and do the job because there is a “government-to-government” exception to the post-employment rules. You do not need a waiver from the Conflicts of Interest Board or approval from your agency head.

4. Customary gifts for social occasions such as weddings are generally OK. This is true for gifts exchanged between co-workers and between City employees and old friends at firms doing business with the City—but the gift must be reasonable, and the main reason for the gift must be your

friendship with the person. Remember, however: there are no new best friends! This friend has to be someone you became friends with outside of the context of your official City duties.

5. Sending your resume in response to an ad is generally OK. You must conduct the job search on your own time, and you may not use City letterhead or in any way use your City position to gain advantage. And be sure to check with the Conflicts of Interest Board before even thinking of seeking a position with a firm which you or your agency does business with.

6. Yes. Being a public servant does not diminish your right to engage in political activity. However, you must perform all of your political activities on your own time and you may not coerce anyone, or even ask a subordinate, to contribute to the campaign or work on it.

7. No, if you personally worked on the specific project other than in a minor way for the City. There is a lifetime ban on your working on the same particular project for anyone else, except another government agency.

8. No. You must get prior approval, **in writing**, from your agency head saying that your volunteer work promotes the interests of the City. If you want to be involved in the organization's dealing with the City, then you must also get a waiver from the Conflicts of Interest Board. Where, however, you do not have any policymaking or administrative responsibility at the not-for-profit organization (*e.g.*, You volunteer to distribute food in a food pantry that has a contract with your agency); you do not need the approval of your agency head to do your volunteer work.

9. No. You may not use your City position to get an advantage for yourself, a relative, or someone with whom you have a business or a financial relationship, nor may you in any way disclose confidential City information.

10. No, you must not use City letterhead, supplies, equipment, or personnel in non-City matters.

## FOR YOUR INFORMATION

All the Board's publications are available on the Board's web site.

To receive any of the materials listed below, call:

(212) 442-1400 or fax (212) 442-1407

Most publications may also be downloaded in PDF format from the Publications Page on the Board's web site at: <http://nyc.gov/ethics>

### BOOKS

Chapter 68 of the New York City Charter. The Board's "Blue Book."

Rules of the Board. The Board's "Red Book."

Financial Disclosure: Section 12-110 of the NYC Administration Code. The Board's "Green Book."

The Acceptable Use Policy.

The policy regarding acceptable incidental personal use of City office and technology resources.

Ethics: A Plain Language Guide to NYC's Conflicts of Interest Law.

An Employee's Guide to New York City's Ethics Law, with the Answers to Many Frequently Asked Questions.

International Visitors' Manual

Explains the basis, structure, and administration of Conflicts of Interest (Government Ethics) laws and Annual Financial Disclosure (Asset Declaration) laws. Also included is an article on establishing and maintaining values-based conflicts of interest compliance systems.

Annual Reports of the Conflicts of Interest Board

Year-end summaries of activities, budget, staff, etc; cumulative index to advisory opinions. (Available: 1990 – 2006)

## **OTHER MATERIALS**

### **Outlines of Selected Topics** (taken from our current monograph)

A breakdown of the law, citing Charter sections, rules, and official opinions regarding the major provisions of the Conflicts of Interest Law. Topics covered:

- **Community Boards**
- **Enforcement**
- **Gifts and Honoraria**
- **Misuse of City Property**
- **Outside Activities**
- **Ownership Interests**
- **Political Activities**
- **Post-Employment Restrictions**

### **Advisory Opinions** of the Conflicts of Interest Board:

Official answers from the Board to request for opinions regarding possible conflicts of interest.

### **Enforcement Dispositions:**

All published enforcement dispositions.

### **Enforcement Case Summaries and Enforcement Fines**

### **The Ethical Times: The Board's Newsletter.**

Download back copies or become a subscriber.

### **Answers from the City Ethicist:**

A monthly column featured in *The Chief Leader*, tackling potential conflicts in plain language.

## **FAQ LEAFLETS**

### ***An Introduction:***

Answers to some commonly asked general questions about the Conflicts of Interest law.

### ***Community Boards***

**Frequently asked questions about how the law applies to Community Board members.**

### ***Dept of Education: Community Education Councils***

**Even unpaid members of the local CEC's are subject to the conflicts of Interest Law. Find out what you need to know.**

### ***Dept of Education: Teachers***

### ***Enforcement***

**Find out about the Board's enforcement program and procedures.**

### ***Ethics Issues in Doing Business with the City of New York***

**Important information for firms who do business or are interested in doing business with the City.**

### ***Financial Disclosure Reports***

### ***Gifts and Honoraria***

**Details the restrictions on accepting gifts. If you deal with any vendors doing business with the City, this information will be especially important.**

### ***Job Hunting***

### ***Misuse of City Resources***

**Explains the rules about using City equipment, personnel, time, and other resources for non-City purposes.**

### ***Moonlighting***

**Important information for public servants who wish to take a second job.**

### ***NYC's Financial Disclosure Law***

**A Guide to Section 12-110 of the NYC Administrative Code for all employees required to file Financial Disclosure Reports with the Conflicts of Interest Board.**

***Ownership of Real Property, Co-ops, and Condos***

**Frequently asked questions about how an employee can and cannot interact with the City on real estate and housing matters.**

***Plain Language Guide***

**Bullet points on major points of the law in both one and two-page formats.**

***Post-Employment Issues***

***Practicing Law***

**Important conflicts of interest information for public servants who are attorneys and are interested in outside practice.**

***Rules on Political Activities***

**Being involved in political activities is OK, but this leaflet describes some legal pitfalls to avoid.**

***Rules on Volunteer Activities***

**What you should know about doing volunteer work for not-for-profit organizations.**

***Signposts: Are You Violating the City's Ethics Law?***

***Temping***

**What you should know if you are thinking of taking work with a temp agency to supplement your income.**

**What You Need to Know (Series)**

- **Waivers: The Ethics Rules**
- **Job Hunting: The Ethics Rules**
- **Political Activities: The Ethics Rules**

**Poster**

**What is a Conflict of Interest? Poster. Approx. 14" x 22", with basic information, including the Board's phone number and website.**

## Videos

***It's a Question of Ethics:* Short, dramatized scenarios of conflict situations with commentary by Board attorneys.**

***It's a Question of Ethics: The Game Show:* Three City employees learn about the Conflicts of Interest Law by playing the Ethics Game, with expert commentary.**

***It's a Question of Ethics: The Board of Education Game Show:* Three Board of Ed employees learn about how New York's Ethics law applies to them.**

***City Rap:* A 2-minute PSA about Chapter 68 issues in contemporary verse, written by the Honorable MC Joan Salzman.**



NYC Conflicts of Interest Board  
2 Lafayette Street  
Suite 1010  
New York, NY 10007

Phone: (212) 442-1400 Fax: (212) 442-1407 [www.nyc.gov/ethics](http://www.nyc.gov/ethics)