

*Ethics lights the way  
to good government*

# THE ETHICAL TIMES

A publication of the New York City Conflicts of Interest Board

Alex Kipp, Editor



## *Post-Employment Issues*

*By Carolyn Lisa Miller*

**Question:** *I am considering leaving the New York City Department of Housing Preservation and Development, where I work in the Division of Tenant Resources, to work at a firm that manages residential buildings. Sometimes this firm hosts meetings which HPD representatives attend. Is it okay for me to go to work for a firm that has business dealings with HPD? Can I even interview for a job with this firm? Once I start work at the firm, can I go to the meetings with HPD? Would it be okay to attend the meetings if I just don't say anything?*

**Answer:** As a City employee, you may neither seek a non-City job with anyone with whom you are dealing directly in your City job nor accept such a job if it is offered. You can't even contact them to "network."

The City's conflicts of interest law prohibits a public servant from actively seeking a position with a firm while the public servant is involved with that firm as a City employee. If you regularly deal with this firm that manages residential buildings at your HPD job, you cannot send your resume to that firm or even speak to anyone who works at that firm about getting a job there. If you want a job at that firm, you must ask your supervisor to remove you from work that involves the firm before you have any contact with that firm about potential employment. Only after your supervisor agrees to your request and you have been removed from that work, is it okay to contact the firm about a job. If your supervisor cannot or will not reassign you, you must wait until your current assignment ends before approaching that firm about a job. And that assignment really has to have ended; if you expect that firm to contact you next week, or even next month, about another project, then you are still dealing with them in your City job.

Of course, you can always resign from your City job and then start your job search, but that approach has some obvious drawbacks.

*The following rules apply to public servants who have left City service. The intent of the rules is not to handicap*

*City employees who have switched to the private sector, but to prevent public servants from exploiting their confidential City information and misusing their City agency contacts to unfairly advantage themselves or their new employers.*

### **Rule 1. You cannot disclose confidential City information.**

Never disclose confidential information. Never use confidential information for your own—or your new employer's—benefit. What is confidential information? Any information that a member of the general public cannot obtain (such as through the Freedom of Information Law).

### **Rule 2. You cannot appear before your former City agency on business matters for one year after you leave.**

This prohibits former City employees from "appearing" before their former City agency by telephoning, writing, faxing, emailing, attending meetings, or having any other contact on behalf of their new employer on matters that require significant decision making at the City agency, within one year of their last day on the City payroll. And, in answer to the original question, you "appear" at a meeting even if you do not utter a word, if you are there at the request of your new private employer. The Board fined a former Deputy Agency Chief Contracting Officer \$1,500 for violating the one-year bar when, less than two weeks after the Deputy left City service, he contacted his former supervisor to ask if a contract had been awarded to his new employer.

### **Rule 3. You cannot work on a matter or project that you were directly and substantially involved in as a public servant.**

There is a lifetime post-employment ban that prevents former public servants from appearing before any City agency—not just the public servant's former agency—on the same matter in which they participated as public servants. This applies whether or not the former public servant gets paid for that appearance. Even if the work is done "behind the scenes," former public servants are prohibited from engaging in any paid activity involving that same matter. This rule

applies when the former public servant's involvement in a decision, approval, recommendation, or investigation of the similar matter was "personal and substantial."

There are three exceptions to the job-hunting rule, one-year bar, and lifetime post-employment ban. First, the rules do not apply if you are acting on a ministerial matter, such as picking up papers from the receptionist at your former City agency or calling to ask for the fax number. Second, these rules do not apply if you are going to work for another government agency, such as another City agency, or the state or federal government. Third, in certain cases, the Board will issue waivers granting exceptions to these rules, but such waivers are rare and hard to get. Before you can apply for a Board waiver, you must get permission from the head of your former City agency.

\* \* \*

If you are unsure whether your job hunting as a City employee or your conduct as a former City employee creates a conflict of interest, call the Conflicts of Interest Board at 212-442-1400 and ask for the attorney of the day. You can also email us through our website (<http://www.nyc.gov/ethics>) by clicking on "Contact COIB." All calls and emails are confidential, and you may contact us anonymously. □

*Carolyn Lisa Miller is Director of Enforcement at the Conflicts of Interest Board.*

*(This article originally appeared in The Chief Leader.)*

### **Recent Enforcement Cases**

▶ The Board fined a former NYCHA Community Service Aide \$500 for accepting compensation from both NYCHA and a Resident Advisory Board for supervising NYCHA rentals.

▶ The Board fined a former Administration for Children's Services Child Protective Manager \$1,000 who obtained a position with a foster care agency that did business with ACS and that conflicted with her official duties at ACS.

▶ The Board fined a former Vice President of Information Technology for the New York City School Construction Authority ("SCA") \$1500 for using City resources and personnel in connection with his political campaign.

▶ The Board fined a former Director of Nursing for Bellevue Hospital Center, part of the New York City Health and Hospitals Corporation ("HHC"), \$500 for using her position to obtain a temporary position for her husband with HHC.

▶ The Board concluded a settlement with a City Council member who misused City resources and personnel for his own private purposes.

▶ The Board concluded a settlement with the Chief of Staff to a City Council member who misused City resources and personnel for his own private purposes.

▶ The Board and the New York City Department of Homeless Services ("DHS") concluded a three-way settlement with a DHS Administrative Director of Social Services for making multiple sales of consumer goods to her DHS subordinates while on City time and out of her City office. She was suspended for 5 days (valued at \$1273.25) by DHS and fined \$3000 by the Board.

▶ The Board and the New York City Department of Education ("DOE") concluded a three-way settlement with a DOE Principal who sent a letter on DOE letterhead to the parents of the students at his school in support of two political candidates. The Principal also asked his DOE secretary to prepare this letter on DOE time, using DOE letterhead, and then directed that this letter be distributed to teachers to provide to students to bring home to their parents. He was fined \$5000, \$2500 payable to the Board and \$2500 to the DOE.

▶ The Board fined a Deputy Executive Director of Recruitment for the New York City Department of Education ("DOE") \$1000 for accepting gifts, including US Open tickets and circus tickets, from a DOE vendor.

▶ The Board fined a former Bridge Painter for the New York City Department of Transportation ("DOT") \$750 who, while on leave, worked for a firm that was doing business with DOT.

▶ The Board and the New York City Department of Education ("DOE") concluded a three-way settlement with a DOE Parent Coordinator who sent an e-mail seeking volunteers to support a political candidate from her DOE e-mail address to the parents of the students at her school. She was fined \$1500, \$750 going to the DOE and \$750 to the Board.

▶ The Board fined the former General Counsel and Deputy Commissioner for Legal Affairs for the New York City Taxi and Limousine Commission ("TLC") \$2000 for disclosing confidential information he gained while at the TLC after he left City service.

▶ The Board fined a New York City Council Member \$1000. After having married his Chief of Staff, he kept her on in that capacity after they were married. □

*Interested in more information?  
Get in touch with COIB's Training & Education Unit to arrange a class in Chapter 68 for you and your staff.  
Contact Alex Kipp, Director of Training  
[kipp@coib.nyc.gov](mailto:kipp@coib.nyc.gov)*

**The New York City  
Conflicts of Interest Board  
2 Lafayette St.  
Suite 1010  
NYC, 10007**

**Phone: 212-442-1400  
Fax: 212-442-1407  
TDD: 212-442-1443  
[www.nyc.gov/ethics](http://www.nyc.gov/ethics)**

*A searchable index of all the COIB Enforcement Dispositions and Advisory Opinions is available courtesy of New York Law School at:*

**<http://www.citylaw.org/cityadmin.php>**

