

Continuing Ethics Education Series

City of Chicago
Richard M. Daley, Mayor



Dorothy J. Eng, Executive Director Darryl L. DePriest, Chair

A City of Chicago Board of Ethics Publication

SUBJECT: **OUTSIDE EMPLOYMENT & BUSINESS ACTIVITIES**

6TH ISSUE (July 2003)

Executive Director's Column

Many City employees and officials have secondary employment outside their City service, or have other business activities in the private sector. The City has no *per se* rule against earning outside income. However, these situations can create a myriad of ethics issues. The most notable is when an individual's outside employment or business interests can be affected by his or her action as an employee or official of the City. This edition of the *Continuing Ethics Education Series* covers the personnel rules on outside employment, and addresses the range of potential ethics problems when City employees or officials have outside employment or business activities.

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THE CITY'S PERSONNEL RULES ON OUTSIDE EMPLOYMENT



Rule XX of the City's Personnel Rules requires any employee who wishes to engage in outside employment to first file a request in writing with his or her department head for permission, and the rule sets forth certain conditions for all outside employment.

Please note that City departments may have more stringent rules than what is required under the Governmental Ethics Ordinance. Therefore, an employee should always check his or her department's rules before engaging in any outside employment.



Ethics Rules On **Outside Employment & Business Activities**

As the Executive Director indicated above, City law does not, *per se*, prohibit City officials or employees from having jobs or business activities in addition to their City positions. However, if a City official or employee has any outside employment or business activity, City law does restrict what that City official or employee can do with respect to his or her City position, and his or her outside employment or business activity.

Under City law, City officials and employees who have outside employment or business activities:



- ◆ **CANNOT use City time or City-owned property for their outside employment or business activities**



- ◆ **CANNOT use their City title or position to benefit their outside employer or business activities**
- ◆ **CANNOT make, participate in making, or attempt to influence any governmental decision with respect to their outside employment, employer or business activities**



- ◆ **CANNOT use or reveal confidential information gained in the course of their City position**



- ◆ **CANNOT give advice or assistance on matters concerning the operation or business of the City, unless it is wholly unrelated to their City duties and responsibilities and rendered as part of their non-City employment**



- ◆ **CANNOT represent their outside employer or business or any person other than the City in any proceeding or transaction before any City agency**
- ◆ **CANNOT represent their outside employer or business in a judicial or quasi-judicial proceeding before any agency or court, if the City is a party and the employer's or business's interest is adverse to the City**



- ◆ **CANNOT** have a financial interest* in their own names or in the names of any other persons in any contracts, work or business with the City

* Financial interest is defined as any interest with a cost or present value of \$5,000 or more, or any interest of which the owner currently receives or is entitled to receive in the future more than \$2,500 per year.



LOANS

- ◆ **CANNOT** apply for or receive a loan from any person doing or seeking to do business with the City, except for market rate loans from financial lending institutions made in the ordinary course of business



FROM OUR READERS

The Board has received numerous comments and questions generated by previous editions of this newsletter. In this issue, we share with you a sample letter from one of our readers. We plan on publishing other letters from our readers in future issues. We greatly appreciate your input, so keep those letters, questions, comments and suggestions coming!!

Dear Board of Ethics:

Possible topic to cover in your classes/newsletter:

If a middle manager receives a holiday gift from the supervisors of the 20 or so departments he/she supervises, and the middle manager buys small holiday gifts (mugs, pens, etc.) for each of them in return, can he/she claim City tax-exempt status when purchasing these gifts? Should he/she use "company time" to write individual thank-you's to the 20 supervisors? Isn't this considered "personal" and shouldn't it be done on his/her own "personal" time?

Anonymous

Dear Reader:

The Board, unfortunately, cannot advise you on the tax-exempt status of the small holiday gifts because tax questions are really beyond the Board's jurisdiction. With respect to the thank you notes to the supervisors, yes, this would be considered non-City business, and therefore City time and property may not be used to write these thank you notes. Thanks for writing.





Q & A



Q: I'm a City employee. Can I take an outside position as a sales associate with a local firm that has no City contracts? Can the firm print up and mail announcements of my affiliation with it to the offices of my fellow City employees?

A: City law does not prohibit you from taking this position, provided, of course, that you have received your department head's prior approval. It also does not prohibit the printing and mailing of these announcements, but it imposes several important restrictions on you. First, you owe a fiduciary duty to the City, which prohibits you from using your City position for a private benefit. So, you cannot directly access City records that would otherwise be available only through a standard Freedom of Information Act request (the addresses of City employees is publicly available information), or use or disclose confidential information gained through your City employment. Also, you cannot use City time or property in the course of your outside employment (including City-owned phones, computers and fax machines), and you can't hand out business cards for your outside position while working on City time, or represent your firm in any transaction before a City department or agency.

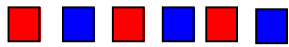
Q: I'm a City employee. Can I work as a part-time employee for a bill collection agency that has no City contracts?

A: City law does not prohibit you from taking this position, provided you have received your department head's prior approval. However, you are prohibited from using your City position to benefit the company or your position with it, and you may not make, participate in or try to influence any City decisions (whether before your own or any other City department) that particularly affect this company. In addition, you may not represent this company before any City agency, and may not use confidential information, City-owned property, or City time to benefit this company or your employment with it.

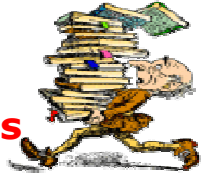
Q: I'm a City employee, and am interested in becoming either an employee or part-owner of a tavern located in the City. Does the Governmental Ethics Ordinance prohibit me from doing this?

A: The Governmental Ethics Ordinance does not prohibit you (or any City employee) from becoming the owner of a tavern. However, your City department may have rules or regulations that prohibit you from becoming employed by or owning (in part or in whole), any business that sells or serves liquor. So, check your department's rules and regulations regarding this.

Test Your Knowledge



. . . of the Rules on Outside Employment & Business Activities



Answer the following questions with either a **YES** or a **NO**, then check your answers.

Yes No

- Q Q 1. A City employee also works part-time for a consulting firm. Her City department issued an RFQ, to which the firm responded. She had no involvement in the preparation of the firm's response to the RFQ. However, her boss at the consulting firm has asked her if she could "put in a good word for the firm" with members of the City committee that will evaluate and score RFQ responses. May she do so?

Answer: City employees and officials may not make, participate in the making of, or attempt to influence any governmental decision in which they have an economic interest distinguishable from that of the general public. By virtue of her outside employment, she has an economic interest, distinguishable from that of the general public, in the consulting firm. Therefore, the answer to Question #1 is NO, she may not "put in a good word for the firm" with members of the City committee that will evaluate and score RFQ responses.

- Q Q 2. A City employee also works part-time as a real estate agent. His clients sometimes call him at his City job to talk about closings, or fax documents. May he take these phone calls or receive such faxes at his City job?

Answer: City employees and officials may not engage in the unauthorized use of City property, including both City time and City equipment. The employee in this case is using City property and time to conduct non-City business. Therefore, the answer to Question #2 is NO, he may not take such phone calls or receive such faxes at his City job.

- Q Q 3. A City employee also works part-time as an attorney in her own law office. One of her clients would like to purchase real property from the City. May the employee represent the client in the negotiation of the sale price of the property with the City's Planning and Development Department (not the employee's department)?

Answer: Under City law, no City employee may represent any person other than the City in any formal or informal proceeding or transaction before any City agency in which the agency's action is of a nonministerial nature—i.e., if the agency's actions involve their discretion. In this case, the Department's decision regarding the sale price of the property would be nonministerial. Therefore, the answer to Question #3 is NO, she may not represent her client in the negotiation of the sale price of the property with the Department.

- Q Q 4. A City employee recently started a business of which he is the 100% owner. The company, not the employee personally, entered into a City contract (not with employee's department) for \$50,000. Is the employee in violation of the Ethics Ordinance?

Answer: Under the Ethics Ordinance, no employee shall have a financial interest in his own name or in the name of another in any contract, work or business of the City. In this case, the employee would have a financial interest, in the name of his company, in a City contract. Therefore, the answer to Question #4 is YES, the employee is in violation of the Ethics Ordinance.

PLEASE NOTE

The opinions and answers as stated in this publication are for general information only and are NOT intended to provide specific advice for any individual. For specific advice, contact the Board office at (312) 744-9660.

Upcoming Ethics Training Classes

Regularly Scheduled Ethics Training Class Dates

**July 2 and 16, August 6 and 20
9 AM - 10:30 AM
740 North Sedgwick, Suite 500**

If you have any questions or need additional information, you can contact us at:

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www.cityofchicago.org/Ethics**

To see past issues of *Continuing Ethics Education Series*, see the webpage(s) listed below:

<u>Issue Topic</u>	<u>Date</u>	<u>Webpage</u>
Post Employment	September 2002	www.cityofchicago.org/Ethics/pdf/Newsletter.9.02.pdf
Gifts	November 2002	www.cityofchicago.org/Ethics/pdf/Newsletter.11.02.pdf
Political Fundraising	January 2003	www.cityofchicago.org/Ethics/pdf/Newsletter.01.03.pdf
Public Disclosures	March 2003	www.cityofchicago.org/Ethics/pdf/Newsletter.03.03.pdf
Lobbying	May 2003	www.cityofchicago.org/Ethics/pdf/Newsletter.5.03.pdf