



## CITY OF PHILADELPHIA BOARD OF ETHICS

### OVERVIEW OF POST-EMPLOYMENT RESTRICTIONS FOR CITY OFFICERS & EMPLOYEES

City and State ethics laws include three rules that may apply to prohibit a former City officer or employee from engaging in certain activities with respect to his or her former City work and limit certain interactions with the City. These post-employment restrictions apply to a former City official's activities in a private capacity after leaving City service or employment, including at a new job.

**1. Two-Year Ban on Acquiring a Financial Interest in Official Action.** The City Ethics Code extends the conflict of interest restriction applicable to current City officials and provides that, for two years after leaving City service or employment, a former City official is prohibited from becoming financially interested in actions the official took in an official capacity as a City officer or employee. For example, if a former City official was involved in the award of a grant to an entity that later becomes the official's employer, the former City official cannot be paid out of that grant for two years after leaving City employment.

**2. Ban on Assisting with a Matter Participated In.** The City Ethics Code prohibits a former City officer or employee who has served for compensation from assisting another individual or an organization in a transaction involving the City in which the former City official participated during City service or employment. Transactions involving the City include matters that are or will be the subject of City action, matters in which the City is a party, and matters in which the City has a proprietary interest. This restriction applies any time after the official leaves City service, regardless of whether the official is compensated for the assistance. For example, a former City official may not help a client dispute the results of an inspection the official performed as part of the official's City work. As another example, if a City official participated in negotiations with a corporation regarding a contract with the City, the official would be prohibited after leaving City office from assisting the corporation in its continuing negotiations with the official's successor on that contract. This restriction would not prohibit the former official from assisting the same corporation in transactions involving the City in which the official did not participate as a City employee or in matters that do not involve the City.

**3. One-Year Ban on Representation Before Former Governmental Body.** The State Ethics Act prohibits a former public official or public employee from being paid to represent any individual or organization before his or her former governmental body for one year after leaving that body. This rule only applies to former City officials who qualify as a former public official or public employee as defined by the State Ethics Act. The State Ethics Commission has interpreted "represent" to have a broad meaning and to include personal appearances, lobbying, or submission of proposals containing the name of a former employee, or being identified on a document submitted to the body. This prohibition would not prevent a former official from assisting in the preparation of a document submitted to the former governmental body if the official's name does not appear in the document; from counseling any person regarding that person's appearance before the governmental body, as long as that counseling is not revealed to the body; or from making general informational inquiries to the governmental body to obtain information that is available to the general public, so long as it is not done in a way to influence the body based on use of the official's name. The Commission has advised that a public employee's "former governmental body" includes the governmental body to which the public official or employee is or has been appointed or elected and the subdivisions and offices within that governmental body. It is not limited to the unit where the employee had control or influence, but extends to the entire body, such as an entire City agency. The City Board of Ethics can provide limited advice about the State Ethics Act, and further guidance can be obtained from the State Ethics Commission and City Law Department. Contact information for both is on the reverse page.

## **If an official is still with the City and is looking for a new job . . . .**

**Conflict of Interest Restrictions.** The City Code conflict of interest restriction prohibits a City officer or employee from being financially interested in actions the officer or employee takes in an official capacity. An entity becomes a prospective employer when the City officer or employee has taken action that a reasonable person would consider a job application to the entity or when the entity has taken action that a reasonable person would consider a job offer to the officer or employee. If there is a pending or anticipated City matter or decision affecting or involving such a prospective employer in which a City official would take official action – any act or omission in an official capacity that requires discretion and is not ministerial in nature – then the City official has a conflict of interest. The City official must publicly disclose the conflict and disqualify himself or herself from taking official action on the matter involving the prospective employer. This procedure in most cases involves the filing of a public letter with multiple City agencies, including the Board of Ethics. Public disclosure of a conflict of interest related to prospective employment is required even if a City official or a prospective employer may consider the job offer or application to be a private matter.

The conflict prohibition under the State Ethics Act is triggered earlier in the typical job search process than it is under the City Code. In particular, a City officer or employee would have a conflict of interest with regard to matters pertaining to a prospective employer with which the individual was pursuing or reasonably anticipated pursuing employment, or with which the individual had accepted employment. For example, a City officer or employee may not take any part in an official matter concerning a private entity with which that individual had entered into employment negotiations or discussions or with which the individual reasonably anticipated such discussions.

## **Questions?**

Thank you for your concern about compliance with ethics restrictions. Please note that application of the ethics laws is highly fact-specific, and as a result, you may wish to seek advice when you have identified specific opportunities you may pursue. If you have questions about how these laws apply to your own situation, please contact the Board of Ethics. Use the [“Ask for Advice”](#) feature on the Board’s website or call 215-686-9450. Both current and former City officers and employees can request advice about how laws within the Board’s jurisdiction apply to them. Anyone who provides full facts and receives and reasonably relies on an advisory opinion will not be subject to penalties under the laws within the Board’s jurisdiction. [Board General Counsel Opinion \(2014-503\)](#) is a recent advisory opinion that applies the post-employment restrictions.

The Board of Ethics has jurisdiction over the City Ethics Code. For definitive guidance on the State Ethics Act, contact the State Ethics Commission at **1-800-932-0936** or visit their website at <http://www.ethics.pa.gov>.

**Note regarding attorneys:** Application of post-employment restrictions to former City officials practicing law may be limited, as the State Supreme Court has sole authority to regulate attorneys engaging in the practice of law.