

Category: PERSONNEL

Issued: 6/29/09

Number: **C-110**

Subject: CONFLICTS OF INTEREST, COMMUNITY EDUCATION
COUNCIL MEMBERS, EMPLOYMENT OF FAMILY MEMBERS

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SUMMARY OF CHANGES

This regulation supersedes C-110 dated December 3, 2008.

The regulation sets forth the conflict of interest rules for officials and employees of the New York City Department of Education to comply with the Conflicts of Interests Law, Chapter 68 of the New York City Charter.

Changes:

- Section II.G has clarified that the New York City Conflicts of Interest Law applies to employees during leaves of absence.
- The regulation has been updated to conform to the Department's current structure.

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ABSTRACT

This regulation supersedes Chancellor's Regulation C-110, dated December 3, 2008. The Conflicts of Interest Law as well as Department of Education rules prohibit Department of Education officials and employees from having private interests that may conflict with official duties. They are designed to preserve the trust placed in Department of Education officials and employees by the public, to ensure the integrity of the decisions made by Department of Education officials and employees and, in general, to promote public confidence in the Department of Education.

I. THE NEW YORK CITY CHARTER - CHAPTER 68 - CONFLICTS OF INTEREST

By resolution dated April 18, 1990, the Board of Education adopted the Conflicts of Interest Law, which is contained in Chapter 68 of the New York City Charter. The Conflicts of Interest Law applies to all Department of Education officials, including members of community education councils, and Department of Education employees. The Conflicts of Interest Law contains important restrictions in the area of second jobs, gifts and honoraria, political activities, volunteer positions and post-employment activities (i.e., positions taken after leaving Department of Education employment). All employees and officials of the Department of Education are required to familiarize themselves with these provisions and the definitions contained therein. The full text of the Conflicts of Interest Law, the Conflicts of Interest Board's pamphlet devoted to Department of Education issues and other Conflicts of Interest Board publications can be found on the Conflicts of Interest Board's website at: www.nyc.gov/ethics.

Officials and employees of the Department of Education as well as firms and individuals in the private sector who deal with the Department of Education, including any community school district, should contact the Department of Education's Ethics Officer concerning Conflicts of Interest Law issues. In addition, officials and employees must contact the Ethics Officer in order to obtain waivers from the Conflicts of Interest Board and to report allegations of violations of the Conflicts of Interest Law:

Ethics Officer
Office of Ethics and Conflicts of Interest
52 Chambers Street – Room 308
New York, NY 10007
212-374-3438

Officials and employees of the Department of Education may also contact the Conflicts of Interest Board directly concerning Conflicts of Interest Law questions and violations of the Conflicts of Interest Law:

Conflicts of Interest Board
2 Lafayette Street - Suite 1010
New York, New York 10007
212-442-1400

II. DEPARTMENT OF EDUCATION CONFLICTS OF INTEREST RULES

In addition to the Conflicts of Interest Law, the Department of Education has adopted conflicts of interest rules applicable to all Department of Education officials and employees.

A. Outside Employment (Non-Department of Education) Activities - General Rules

1. Officials and employees shall not solicit, negotiate for, or engage in any private business, transaction, or professional or political activity during the hours they are scheduled to work for the New York City Department of Education or on Department of Education property. This includes lunch periods, preparation periods, breaks, or any other time that the official or employee is deemed officially to be performing

Department of Education duties. Officials and employees shall not use supplies or any other item purchased with Department of Education funds, which are considered to be the property of the Department of Education, in furtherance of their private business, professional, or personal activities.

2. Officials and employees shall not advertise their business, political, or professional activities on Department of Education property. Advertisements for any official or employee's private business, political, or professional activities shall not indicate the official or employee's specific office, division, school district, or program without written approval of the Department of Education or, where appropriate, the Chancellor. Duplication of these advertisements on Department of Education time is prohibited.
3. Officials and employees shall not engage in any business, transaction, political, or professional activity that interferes with the proper discharge of their duties by causing them to be absent during the hours they are scheduled to work for the Department of Education, provided, however, that personal business days may be taken in accordance with regulations, collective bargaining, or other employment agreements.

B. Authorship

1. Officials and employees who are contemplating writing materials to be published by publishers doing business with the City or the Department of Education or which will offer the materials for sale to the City or the Department of Education must receive a waiver from the Conflicts of Interest Board prior to commencing contractual negotiations with such publishers. In order to obtain a waiver from the Conflicts of Interest Board, officials and employees must contact the Office of Ethics and Conflicts of Interest.
2. Officials and employees may not collect data, use materials produced in the course of their official duties or in any other way use working hours, equipment, supplies, or any other item which is Department of Education property to prepare instructional materials for commercial purposes.
3. Officials and employees who receive stipends and/or grants from the Department of Education to produce materials are prohibited from using such materials in publications for commercial purposes.
4. Authors of publications or other instructional materials may not identify themselves as representing specific offices, divisions, schools, districts, or programs at the Department of Education.

C. Coaching

It is a conflict of interest for any Department of Education official or employee who is directly or indirectly involved in the selection of staff, rating of staff or supervision of staff to conduct, for a fee or honorarium, any coaching course or training program relating to the Office of Recruitment, Personnel Assessment and Licensing's licensing examinations or to any other promotional examination or selection procedure. This does not apply to nonprofit training programs sponsored by the Department of Education.

D. Financial Relationships with Students – Private Practices, Tutoring

1. Private Practice

Department of Education officials and employees, including teachers, school psychologists, social workers, education evaluators, speech and language teachers, physical therapists, occupational therapists and others may maintain private practices or can be privately engaged to evaluate or provide therapy services to a child, other than a child who attends the school to which the official or employee is assigned. In addition, Department of Education officials and employees may not evaluate or provide therapy services to the siblings of children who attend the school to which the official or employee is assigned.

However, in maintaining a private practice, Department of Education officials and employees must comply with the restrictions of the Conflicts of Interest Law. Section 2604(b)(6) of the Conflicts of Interest Law prohibits Department of Education officials and employees from appearing, directly or indirectly, before the Department of Education and city agencies. This means that any written evaluations, progress reports, oral reports, testing results, clinical findings, etc., conducted by a Department of Education official or employee in a private capacity may not be presented to the Department of Education or any city agency. Such evaluations and reports may not be presented at IEP meetings concerning a child, including at Annual Reviews, CSE reviews, or at Impartial Hearings. All Department of Education officials or employees who enter into private practice relationships for services provided to a child must explain this rule to parents/guardians prior to initiating services. A written agreement to be signed by parents/guardians and maintained by the private practitioner should be obtained from the Office of Ethics and Conflicts of Interest.

2. Tutoring and Other Financial Relationships with Students

Department of Education officials and employees may not tutor a student for a fee or enter into any type of business relationship with a student who attends the school to which the staff member is assigned. In addition, officials and employees cannot tutor for a fee or enter into any type of business relationship with the siblings of any student who attends the school to which the official or employee is assigned. Officials and employees may apply for a waiver of this rule from the Office of Ethics and Conflicts of Interest. However, a waiver would be entertained only in a case where warranted by exigent circumstances.

This rule does not preclude officials and employees from privately tutoring students who do not attend the official or employee's assigned school. However, no one is permitted to tutor privately, for a fee, in any Department of Education building. The business of private tutoring cannot be facilitated through the use of Department of Education supplies, materials, or staff, and cannot be engaged in during the official or employee's regular hours of employment.

E. Gifts, Fundraising, and Celebrations for New or Newly-Promoted Staff Members

1. Gifts and Fundraising

No student, parent, guardian, school class, official, or employee is required or expected to contribute toward any gift or testimonial to an official or employee of the Department of Education. No class, student, parent, official, or employee shall be expected or required to participate in any fundraising activity.

a. Gifts from individual students, parents and/or guardians

Individual students, parents and/or guardians may wish to make gifts to officials and employees at the end of the year and at similar occasions, such as holidays, weddings, and the birth of an official's or employee's child. However, discretion must be used to ensure that officials and employees do not accept gifts of value from individual children, parents, or guardians. Only those gifts that are principally sentimental in nature and of small financial value may be accepted.

b. Gifts from School Classes

In addition to individual gifts, sometimes an entire school class may wish to make a gift to officials and employees at the end of the year and at similar occasions, such as holidays, weddings, and the birth of an official's or employee's child. Officials and employees may accept gifts from whole classes of students, their parents and/or guardians, provided that each student, parent or guardian in the class has the opportunity to sign the card or note that comes with the gift, whether or not the student, parent or guardian contributed to the cost of the gift.

In addition, students, their parents and/or guardians may not be asked to contribute more than a small amount of money toward such class gifts.

2. Celebrations for New or Newly Promoted School Staff Members

Employees may wish to celebrate the arrival of or promotion of a school employee. Such celebrations should be held in the school. All staff members in the school must be invited to the celebration. It is encouraged that celebrations for new principals be open to all members of the school community, including all parents of children attending the school. All such celebrations must have a modest financial cost. Participants can be asked to contribute food or non-alcoholic drink, or a small monetary donation.

F. Approval of Travel Related Expenses Paid by Non-Government Entities

The New York City Conflicts of Interest Board has rules which permit Department of Education officials and employees to accept offers of payment of travel related expenses from non-government entities under certain conditions. When these conditions are met, the Conflicts of Interest Board considers payments of travel related expenses to be "gifts" to the City. Generally, the Conflicts of Interest Board's rules consider the following:

- whether the trip is for a Department of Education purpose and could properly be paid for with Department funds; that is, if the Department had the funds available, the Department would be willing to pay for the trip;
- whether the travel arrangements are appropriate to the Department of Education purpose; that is, whether the employee is traveling first class or economy and whether the accommodations are luxury or economy; and
- whether the trip is no longer than necessary to accomplish the Department of Education purpose; for example, whether the employee has added days to a seminar to sightsee.

The Conflicts of Interest Board "strongly suggests" that all employee trips which are paid for by non-government entities be approved by the agency. To ensure uniform interpretation of the Conflicts of Interest Board rules, all trips taken by Department of Education officials and employees on Department business that are funded by non-government entities, whether private or not-for-profit, must be reviewed by the Office of Ethics and Conflicts of Interest for final approval. This review is limited to the Conflicts of Interest Board's rules. Whether the trip serves a Department of Education purpose and whether it is in the scope of the official or employee's duties to attend, is a decision to be made by the Superintendent, Executive Director, or Head of Office. For Community Education Council Members, decisions as to whether a trip serves a Department purpose will be made by the Chief Family Engagement Officer of the Office of Family Engagement and Advocacy. Travel plans paid for by non-government entities must be approved by the Ethics Officer, Office of Ethics and Conflicts of Interest, before travel plans are finalized. Written permission will be provided to the Superintendent, Executive Director, or Head of Office indicating whether the travel expenses may be accepted as a gift to the Department of Education.

G. Employment and other activities during Leaves of Absence (see also Chancellor's Regulations: C-603, C-605, C-607, and C-650).

The Conflicts of Interest Law applies to employees on paid or unpaid leaves of absence, so in addition to the instructions and prohibitions contained in the various leave regulations, employees on leave must contact the Department of Education's Ethics Officer for advice regarding outside activities, including but not limited to outside employment, and owning or operating a business, to determine whether a waiver from the New York City Conflicts of Interest Board is needed.

III. COMMUNITY EDUCATION COUNCIL MEMBERS – EMPLOYMENT AND OTHER RULES

Community Education Council Members are prohibited from using their positions to secure employment or promotion in the New York City Public Schools.

Members of Community Education Councils and former members of Community School Boards may not be employed by that Community Education Council or the District in which the member served within three years from the effective date of resignation or completion of elective term; provided, however, that nothing contained herein shall preclude a member from returning to a pedagogical or administrative position held by such member prior to serving as a Community Education Council Member or a Community School Board member in accordance with applicable regulations or from being appointed to a position from a rank order eligible list.

**IV. EMPLOYMENT AND SUPERVISION OF RELATIVES: RELATED CONFLICTS OF INTEREST
LAW PROVISIONS**

- A. No person employed in the city school district, including but not limited to all locations in the Community School Districts or under the jurisdiction of the Department of Education, may hire or employ a near relative, except as provided in Paragraph D below.
- B. No person employed in the city school district, including but not limited to all locations in the Community School Districts or under the jurisdiction of the Department of Education, may supervise a near relative.
- C. For the purpose of this rule:
 - 1. “person employed in the city school district” shall mean any employee including members of the teaching, supervisory, administrative, or executive service, a school custodian, school custodian engineer, contract employees, and consultants.
 - 2. “near relative” shall mean a parent, spouse, registered domestic partner, child, brother, sister, aunt, uncle, niece, nephew, grandparent, grandchild, or the spouse or child of any of them or a person bearing the same relationship to the employee’s spouse or registered domestic partner.
 - 3. “supervise” shall include giving, furnishing, or supervising work assignments, ratings, approval of ratings, evaluation, or approval of recommendation for tenure or completion of probationary services or for continued service, or making a primary discretionary decision respecting the working conditions or privileges of another, whether direct or indirect.
 - 4. “hire or employ” shall include any substantial participation in the hiring, selection, promotion, or termination process, including requesting or approving employment, promotion, or a selection process involving the evaluation of credentials or experience of another.
- D. Requests for waivers should be directed to the Office of Ethics and Conflicts of Interest, which will process the requests. The Chancellor will grant waivers of these policies where such waiver will serve the best interests of the Department of Education. In granting such a waiver, consideration will be given to the nature of the employment, appointment or assignment involved, the degree of relationship, and the nature and extent of the supervisory relationship.
- E. Nothing in this rule shall be deemed or construed to prohibit or discourage the employment of the qualified individual by reason of the fact that a near relative of the individual is employed in the city school district. Nor shall anything in this policy be construed to add any additional qualification or disqualification to the requirements for employment in the city school district.
- F. Department of Education officials and employees are also public servants of the City of New York. As such, a Department of Education official or employee is prohibited by Section 2604(b)(3) of the New York City Conflicts of Interest Law from “using or attempting to use or attempt to use his or her position as a public servant to obtain any financial gain, contract, license, privilege, or other private or personal advantage, direct or indirect, for the

public servant or any person or firm associated with the public servant". Section 2601(5) of the Conflicts of Interest Law defines a person or firm associated with a public servant as "a spouse, domestic partner, child, parent or sibling; a person with whom the public servant has a business or other financial relationship; and each firm in which the public servant has a present or potential interest."

V. **INQUIRIES**

Inquiries pertaining to this regulation should be addressed to:

Telephone:	<i>Ethics Officer</i> <i>Office of Ethics and Conflicts of Interest</i> N.Y.C. Department of Education 52 Chambers Street – Room 308 New York, NY 10007	Fax:
212-374-3438		212-374-5596