



THE ETHICS REVIEW

A JOINT COMMISSION ON PUBLIC ETHICS NEWSLETTER

SUMMER 2020

Taking Stock of Your Stock

You may have recently read reports of government officials allegedly using nonpublic information regarding the COVID-19 pandemic—obtained through their official positions—in order to profit personally in the stock market. As a State officer or employee, you may have wondered if buying, selling, or owning shares of stock in a corporation poses a conflict of interest with your State position.

We first look to Public Officers Law section 74—the State Code of Ethics—to examine this question. The law prohibits State officers and employees from engaging in activity that creates a *substantial* conflict of interest with their State job *or* gives the *appearance* of such a conflict. Specifically:

- State employees cannot have any financial or other interest, or engage in any business activity or outside employment, that is in conflict with their State responsibilities;
- State employees cannot, as part of their State job, conduct business with an entity in which they have a direct or indirect financial interest that might conflict with their State responsibilities;
- State employees should not make a personal investment in any business which they have reason to believe may be involved in any decision they make in the course of their State job; and

- State employees cannot use their State job or position to obtain an unwarranted benefit for themselves or anyone else, including, for instance, using confidential information gained in the performance of their State job to obtain a benefit not otherwise available to the public.

Owning stock in a company does not automatically mean that you have a conflict of interest; it all depends on your particular situation. Further, if you have a “financial interest” in a company, under Public Officers Law section 73, there may be restrictions on that company’s ability to do business with the State. You will need to determine whether the company’s stock is traded in a stock exchange; how many shares you own; whether the stock comprises a large portion of your personal investments; whether you own individual shares of the stock or your ownership is through a mutual fund or similar investment vehicle; if the nature of the company’s State business involves you; and what, if any, responsibility you have regarding the company’s State business.

Your best course of action is to contact the JCOPE Attorney of the Day or your agency’s Ethics Officer who can assist you in examining your specific situation and help answer any other ethics questions.

Dear JCOPE

I am an employee at the Department of Labor. My spouse lost his job during the COVID-19 shutdown. Do I need to seek approval to take on an outside job?

-Desperately Seeking a Second Job

Questions about Ethics rules?

Contact JCOPE at legal@jcope.ny.gov or

800-87-ETHICS (873-8442) – press 2

Answer:

The COVID-19 shutdown has affected so many New York State families, so I am glad you are seeking guidance before taking another job. First, you should know that, in most cases, a State employee is permitted to have an outside job. However, under the ethics rules, a State employee may not engage in any outside employment or professional activity that “interferes or is in conflict with” their State job. Each agency may also have its own policies regarding outside activities that may be more restrictive than the requirements under JCOPE regulations.

Your first stop should be your agency’s Ethics Officer, who can guide you through your agency’s policies and procedures for approving an outside activity. If your agency has designated you a “policymaker,” then your outside activity may also require JCOPE’s approval, and your Ethics Officer can assist with that as well. Good luck!

Enforcement Actions

FINANCIAL DISCLOSURE STATEMENT VIOLATION

A former State attorney admitted failing to report outside activities and related income in his financial disclosure statement over a two-year period. The attorney, who was employed for over a decade with the New York Liquidation Bureau, agreed to pay \$3,000 to settle two violations of Public Officers Law § 73-a for failing to disclose income he received in 2015 and 2016, totaling over \$8,700, for providing legal services to private clients. In addition to the financial penalty, the attorney was required to submit accurate amended forms.