

POST EMPLOYMENT

A summary of the post employment restrictions contained in Louisiana's Code of Governmental Ethics



Louisiana Board of Ethics

P.O. Box 4368
Baton Rouge, LA 70821

Revised: February 2009

Information Sheet #5

The provisions restricting post employment options for public servants are found in §1121 of Louisiana's Code of Governmental Ethics. (LSA-R.S. 42:1101 et seq.) Generally there is a two year waiting period before a former public servant can render services relating to his former state agency to or for another. The purpose of this information sheet is to outline the post employment restrictions which exist as to public servants and to highlight some common misconceptions and related issues regarding §1121 of the Code.

AGENCY HEADS AND ELECTED OFFICIALS

- **No former agency head or elected official shall, for a period of two years following the termination of his public service, assist another person, for compensation, in a transaction or in an appearance in connection with a transaction, involving his former agency.**

AND

- **No former agency head or elected official shall render any service on a contractual basis to or for his former agency for two years following the termination of his public service.**

"Agency Head" is defined by §1102(3) of the Code as "the chief executive or administrative officer of an agency or any member of a board or commission who exercises supervision over the agency."



Example #1: You are the director of a state agency. You are about to retire from state service and accept a position as a consultant with a company which is regulated by your state agency. Once you retire, may you represent your new employer in connection with an issue which comes before your former state agency?

Answer: No. Because you classify as an agency head, once you terminate your public service, you are strictly prohibited by §1121A(1) of the Code for a period of two years, from assisting another person for compensation, in connection with any appearance involving a transaction before your former agency. Representing your new employer on an issue before your former agency would classify as an appearance in connection with a transaction. You may perform other services for the company that do not involve your former agency.

Example #2: You were the director of a state agency. Two month ago you terminated your public service as the agency head. Now your former agency approaches you about rendering computer services to the agency. You did not render any computer services while you were employed as the agency head of this state agency. May you provide the computer services?



Answer: No. Because you were the agency head, you would be prohibited for a period of two full years following the termination of your public service, from rendering any service to your former agency on a contractual basis. It does not matter that the services you would render are not the same type of services that you provided to the agency while you were employed there. You are permitted to be rehired, but you may not be contracted to perform any service for your former agency.

- **No former member of a board or commission shall, for a period of two years following the termination of his public service, contract with, be employed in any capacity by, or be appointed to any position by his former board or commission.**



Example #3: You are an appointed member of a parish water board. The executive director of the board is retiring. The board would like you to resign and accept the executive director position. May you?

Answer: No. Your former water board may not appoint you to any position for a period of two years following the termination of your board membership.

NOTE: Police juries, parish or municipal councils, selectmen, boards of aldermen, school boards and like bodies have been interpreted to be included within the meaning of “boards and commissions” for purposes of Section 1121A(2) of the Code. The Board has said that a collective group of people who act as one body and who share responsibility for the actions of the group as a whole, may classify as a board or commission.

OTHER PUBLIC EMPLOYEES

- **No former public employee shall, for a period of two years following the termination of his public employment, assist another person, for compensation, in a transaction or in an appearance in connection with a transaction in which the former public employee participated* at any time during his public employment and which involves his former public employer.**

AND

- **No former public employee shall, for a period of two years following the termination of his public employment, render on a contractual basis to or for the agency with which he was formerly employed, any service he rendered to the agency during his public employment.**

Example #4: Six months ago, you were employed by the city government as a personnel director, however, you did not classify as an agency head. You have ceased your public employment and now want to contract with the city to provide maintenance services. May you do this without violating the Ethics Code?



Answer: Yes. Because the services you would provide on a contractual

basis with the city are not services you had previously provided while employed by the city, you would not be prohibited by §1121B of the Code from entering into such a contract. Further, the maintenance department would appear to be a separate agency from the Personnel Department.

Example #5: You recently retired from a state agency where your official duties included reviewing applications for grant monies administered by your agency. For purposes of the Code, you were not an agency head in your agency. Now a person who has submitted applications in the past for grant monies administered by your agency wants to hire you to handle all of the paperwork for all of his grant applications involving your former agency. May you accept this employment opportunity?



Answer: Because you are not any agency head, the answer depends on your level of involvement with the applications. If the applications for grant monies your potential employer wants you to handle were in the process of being handled by your office when you retired, then you would be prohibited by §1121B of the Code from assisting the potential employer in the completion of those applications. However, if the potential employer is submitting new applications for grant monies, then these applications are new transactions in which you did not participate while still employed by your former agency, therefore, you would not be prohibited by §1121B of the Code from assisting the potential employer in the submittal of these new applications.

OTHERS RESTRICTED

- **No legal entity in which the former public servant is an officer, director, trustee, partner or employee shall, for a period of two years following the termination of the public servant’s service, assist another person, for compensation, in a transaction, or in an appearance in connection with a transaction in which the former public servant participated* at any time during his public service and which involves the agency with which he was formerly employed or in which he formerly held office.**



Example #6: You just left your public position with a state agency where you reviewed applications for various permits. You now own Consulting Firm, Inc. which aids companies in the preparation and submission of applications for various permits to various state agencies. ABC Company, Inc. is a potential client which currently has an application pending before your former state agency and you had begun reviewing that application before you left public service. May your company, Consulting Firm, Inc., assist ABC Company, Inc. in finalizing its application with your former agency?

Answer: According to §1121C, your company would be prohibited from being hired by ABC Company, Inc. for such a task. Because you began reviewing the ABC Company, Inc. application while still employed by the state agency, your new company would be prohibited from rendering any compensated service to ABC Company, Inc. which deals with that application. If your company was to provide compensated services to ABC Company, Inc. concerning a different application, then no violation of this section would appear to occur.

COMMON MISCONCEPTIONS AND RELATED ISSUES

A common misconception concerning §1121 of the Code is that if you classified as an agency head in your former public agency, then you may provide contractual services to your former agency as long as the services to be rendered are not the same services nor are they related to the services you provided as the agency head. This is simply not the case. Agency heads are strictly prohibited from rendering any contractual services to their former agency for a two-year period. Other former public employees do not have such a strict restriction.





Another common misconception surrounding §1121 of the Code is that if as a public employee you did not have direct involvement in a specific matter while employed by your former agency, then once you leave public service, you may provide services relating to that matter to a private employer. This is not entirely true. Former public employees are prohibited from rendering services to a private employer in connection with a transaction in which they participated* while employed by their former agency.

**§1102(15) of the Code defines “participate” to mean:*

To take part in or to have or share responsibility for action of a governmental entity or a proceeding, personally, as a public servant of the governmental entity, through approval, disapproval, decision, recommendation, the rendering of advice, investigation or the failure to act or perform a duty.

Therefore, actual “hands on” involvement is not the only means by which a public employee may be considered to have “participated” in a certain transaction. Questions to ask yourself: Did you make any recommendations as to the matter? Did your department have any supervision over the matter? Who had ultimate responsibility for the matter? The answers to these questions will help you determine if you participated in a particular circumstance.

 The Board encourages public servants to seek advice from the Board as to how the law applies to their specific situation(s) by writing and requesting an advisory opinion. Advisory opinions are not issued as to past conduct, but can provide crucial advice on how to avoid problems in the future. If you wish to obtain an advisory opinion, please send your request to the address provided at the beginning of this fact sheet. You may call our staff which is available to provide informal advice over the telephone at (225) 219-5600 or toll free 1-800-842-6630.

The Board has a web site located at: www.ethics.state.la.us 

This information sheet is only a summary of the financial disclosure provisions contained in §1121 of the Code of Governmental Ethics. If interpretations of this information sheet conflict with the provisions of the Code, the Code will control.