

PAYMENT FROM NONPUBLIC SOURCES

A Summary of the prohibitions contained in Sections
1111C(1) & 1111C(2)(d) of the Code of Governmental Ethics



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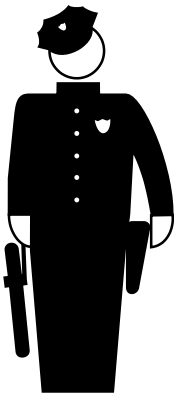
Information Sheet #8

Section 1111 of Louisiana's Code of Governmental Ethics prohibits a public servant from receiving any thing of economic value from a source other than his governmental employer for the performance or any service which is too closely related to his public duties or for any service which draws upon official information which is not a part of the public record or if the person making the payment is a prohibited source. The purpose of this information sheet is to outline some of these restrictions and to highlight some of the most common misconceptions regarding §1111 of the Ethics Code.

1111C(1) RESTRICTIONS

A public servant is prohibited from receiving any thing of economic value for any service which:

- 1. Is substantially related to the duties and responsibilities, programs, or operations of the agency of the public servant AND in which the public servant participated;**
- OR**
- 2. Substantially draws upon official data or ideas of the agency which have not been made a part of public information.**



Example #1: If you are a Sheriff's Deputy who arrests and detains suspects, could you work for a private detention facility located in your parish which sometimes houses suspects when the parish prison is full?

Answer: No, because you participate in the arrest and detention of suspects who could be housed in the private detention facility. It is the responsibility of the Sheriff's Office to house the suspects it arrests and when the parish contracts this responsibility out to the private facility, the private facility becomes a prohibited source of income to you because the duties and responsibilities you would perform for the private facility would be too closely related to what you are paid to do for the Sheriff's Office. However, if we change the facts and the private detention center is located in another parish, then you could work for the private facility because the suspects who would be housed there are out of your jurisdiction and you would not have participated in their arrest and/or detention. Your duties and responsibilities at the private facility in a different parish would not be substantially related to your duties and responsibilities at the Sheriff's Office because it is located in a different jurisdiction.

1111C(2)(d) RESTRICTIONS

A public servant and a legal entity in which the public servant exercises control or owns in excess of 25%, are prohibited from receiving any thing of economic value for services rendered or to be rendered to or for the following persons (from persons whom the public servant is also prohibited from receiving a gift):

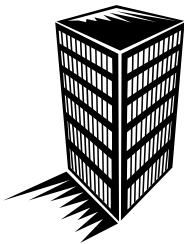
1. Any person who has or is seeking to obtain a contractual, business or financial relationship with the public servant's agency; OR
2. Any person who conducts operations or activities which are regulated by the public employee's agency; OR
3. Any person who has a substantial economic interest which may be substantially affected by the performance or nonperformance of the public employee's official job duties.

*NOTE: A "public servant" is an elected official or a public employee.



Example #2: You are an employee of the Department of Environmental Quality whose official job duty is to visit alleged hazardous waste sites and determine if the area is dangerous to the health of nearby residents. Could you work, on the weekend, for the owner of the land you have to analyze?

Answer: No, because the landowner has a substantial economic interest in the outcome of your survey. For example, he may have to pay expensive clean up costs or his property value may fall depending on the results of your survey. This being the case, the landowner would be a prohibited source of income for you.



Example #3: You are a member of a police jury. Could you work for a private company that is negotiating with the police jury to construct a new building to house the offices for the police jury?

Answer: No. Because that private company is seeking a contractual relationship with the police jury, it would be a prohibited source of income for you. If the negotiations fail and the private company will not construct the new building, then it would cease being a prohibited source of income for you. However, if negotiations were to resume at a later date, the company would once again be a prohibited source of income for you.

COMMON MISCONCEPTIONS

Section **1111C(1)** of the Code evokes a couple of common misconceptions. For example, public servants often believe that if the services to be rendered are to be provided after hours, then there can be no Ethics Code violation in providing those services. This is not true. Providing the services after hours does not prevent a violation of the Code from occurring. This restriction depends on the type of services you want to provide.

Another common misconception surrounding Section **1111C(1)** is that if the additional services are not services you normally provide as a part of your job, then there can be no Ethics Code violation in providing those services. This is also not true. This Section was specifically designed to cover situations where the additional services to be provided are not identical to the services provided during work hours, but are so close or similar in nature to

what is done during normal business hours, that they could logically be viewed as either stemming from the work hour services or as a direct consequence or necessity because of a public servant's work hour services.

Section **1111C(2)(d)** of the Code also evokes a few common misconceptions. For example, public servants often believe that because they are actually providing the additional services and are being paid at a fair rate for those services, there can be no Ethics Code violation in providing those services. This is not true. Just because you are actually doing the work and are being paid a reasonable market rate for doing the work does not erase the fact that the services are being rendered to a prohibited source. The Ethics Code views this situation as a conflict of interest which cannot be resolved other than by avoiding the situation all together. You simply may not provide compensated services to the groups of people earlier discussed in this fact sheet.

Another common misconception surrounding Section **1111C(2)(d)** is that as long as the services to be provided are not related to the contract, business or financial relationship the person has with your public agency, then there can be no Ethics Code violation in providing those services. This, as well, is not true. Section 1111C(2)(d) deals with prohibited sources of income and once someone is a prohibited source because of one of the enumerated relationships, then they are a prohibited source of income for you as long as that relationship lasts. Period. The nature of the services you are to provide is irrelevant.



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 also call our staff which is available to provide informal advice over the telephone at (225) 219-5600 or 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 §1111 of the Code of Governmental Ethics. If interpretations of this information sheet conflict with the provisions of the Code, the Code will control.