



Office of the Inspector General Ethics Division

Formal Advisory Opinion 2021-1: Ethical Challenges with Outside Jobs in a Remote Work Environment

Opinion Summary

City employees working remotely must comply with all organizational rules, policies, protocols, and procedures, including those governing the use of city property and outside employment.

Question Presented

What circumstances could raise a conflict of interest or appearance of impropriety for remote city employees with outside jobs?

Background

Historically, government employees have not worked remotely. The COVID-19 pandemic changed this practice and employees had to quickly adjust to working virtually from their homes. The issue of outside employment has also raised ethical concerns for the Ethics Division, given the number of inquiries received from City of Atlanta employees. Some of the Division's concerns stem from whether city employees are using city property, time, or resources inappropriately while working remotely. City law does not prohibit employees from engaging in outside employment, however, employees are expected to comply with citywide and departmental rules and procedures.

The Center for State and Local Government Excellence spelled out six important trends to watch for in 2021. One key trend was an increase in remote working in government post-COVID-19. With this increase, the virtual workspace has triggered new ethical risks for government employers concerning the misuse of city resources by employees working outside jobs. <https://slge.org/news-posts/six-workforce-trends-to-watch-in-2021>

Remote work is becoming a permanent fixture in government operations. Employees must maintain an "office mindset" while working from home and adhere to citywide and departmental rules, policies, procedures, and protocols regarding the use of city property and outside employment. Further, employees must learn to adjust and effectively manage their time and productivity. Remote city employees with outside jobs create added risk to efficiency and

accountability such as: availability during work shifts, interruption of work schedules, increased risk of exposure to proprietary information, as well as health and safety concerns.

<https://blog.moonlighting.com/2020/11/what-will-the-future-of-work-look-like-in-the-post-covid-era/>; <https://www.shrm.org/resourcesandtools/legal-and-compliance/employment-law/pages/moonlighting-ban-worded-too-broadly.aspx>

Discussion

Section 2-811 of the Code of Ethics prohibits the use of city property, vehicles, equipment, labor, or services for the private advantage of any employee or private entity. Section 2-820(b) of the Code of Ethics prohibits city employees from engaging in private employment that is adverse to and incompatible with the proper discharge of the employee's official duties.

Generally, the Code of Ethics does not prohibit employees from having outside jobs as long they do not use city property, vehicles, equipment, labor, or services for their personal benefit or to benefit any other person. The definition of city property includes **city work hours**. Employees may only use city property when acting in an official capacity and performing official work on behalf of the City.

An outside job must not interfere with the proper discharge of the employee's official duties, and there should not be a direct connection between the city employee's city work duties and private work duties. See Atlanta, Ga. Code §§ 2-811, 2-820(b); City of Atlanta Board of Ethics Formal Advisory Op. 2004-1, (2004) ("What Constitutes Official City Business"); City of Atlanta Board of Ethics Formal Advisory Op. 2007-3, (2007) ("Police Department Employees Working for National Airline").

The examples below illustrate and provide general guidance to employees who are working remotely and engaging in outside employment:

1. The Uber Driver

A city engineer works remotely on a regular day shift. He considers driving UBER during the pandemic to make extra money and interact with people because he is bored being home all the time. However, the engineer wants to drive for UBER in the morning and late afternoon, and adjust his city work hours around his ride share schedule.

The engineer cannot adjust his city work hours to drive for UBER because he could potentially use city time to drive for UBER. The Ethics Code does not prohibit this outside job and he can still work for UBER. However, the best option is for the engineer to drive for UBER *after his city work shift ends* to avoid any potential conflict of interest or appearance of impropriety.

2. The Security Guard

A city administrative analyst works a remote day shift. A popular downtown hotel is short staffed, and she applies for a security position that requires her to work an overnight shift. She plans to rest in the evenings in between jobs. The analyst's proposed outside work raises potential ethical concerns, as she will be working two full-time jobs. Primarily, when will she rest and how effective will she be at her city job after working overnight? The outside job may affect

the productivity of her city job and possibly pose a health risk for the analyst. The analyst will need to reduce her hours at the hotel, or she cannot accept the outside job.

3. The Campaign Aide

The local municipal elections are in full swing. A city firefighter routinely works a 24-hour shift with off days, depending on the day of the week, and he wants to work on the campaign for one of the candidates for office. He plans to work on the campaign only on his off days. He will not use city time to complete the work and the proposed campaign work does not appear to interfere with the proper discharge of his city duties. The firefighter's request appears to comply with the Ethics Code.

Ethical reminders for city employees working remotely

- Employees are bound by the same city policies and procedures regarding the use of city property while working from home.
- City property includes designated city work hours.
- Employees are required to complete city work assignments at full performance.
- Employees must be reasonably available during work shifts.
- Employees are prohibited from engaging in activities that would not be permissible in city offices or departments.
- Employees must maintain confidentiality in accordance with city law.

Conclusion

Navigating the remote work environment presents its own unique challenges for government employers. The ethical risks surrounding the misuse of city property, primarily city time, increase when a remote employee has an outside job. Therefore, it is important that outside employment is carefully reviewed to ensure compliance with the Ethics Code and reduce the risk of potential conflicts of interest and the appearance of impropriety.

Persons with questions not covered under these guidelines are encouraged to seek advice with the Ethics Division about their specific situation.

Adopted December 1, 2021
City of Atlanta Ethics Division