



**THE NEW YORK CITY DEPARTMENT OF EDUCATION**  
JOEL I. KLEIN, *Chancellor*

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OFFICE OF THE CHANCELLOR  
52 Chambers Street – New York, NY 10007

**MEMORANDUM**

September 19, 2002

**TO:** ALL SUPERINTENDENTS

**FROM:** David B. Schacher  
Ethics Officer

**RE:** Conflicts of Interest in Private Practice

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**Instructions:**  
**Please post in each school site and distribute to all  
clinical, instructional and supervisory staff.**

The New York City Conflicts of Interest Law establishes rules that govern a broad range of Department of Education employees' outside activities, including part-time jobs. Section 2604(b)(6) of the Conflicts Law prohibits public servants from representing private interests for compensation before any City agency or from appearing anywhere, directly or indirectly, on behalf of private interests in matters involving the City.

Department employees, including teachers, school psychologists, social workers, education evaluators, speech and language teachers, related service providers, physical therapists, occupational therapists, and others can maintain private practices or can be privately engaged **to evaluate or provide therapy services** to a child, other than to a child who attends the school the employee works at, and as long as the outside employment does not interfere or conflict with the employee's professional duties. Department employees may be privately engaged by parents and receive compensation for these services. The term "privately engaged" refers to an employee's outside activity that is not financed either directly by the Department of Education or indirectly through reimbursement by the Department of Education to the parent. Rather, the financial relationship is solely between the parent and the practitioner.

When Department employees are privately engaged to evaluate or provide services, they are prohibited from appearing anywhere, directly or indirectly, before the Department of Education. *This means that any written evaluations, progress reports, oral reports,*

***testing results, clinical findings, etc. conducted by a Department employee in a private capacity must not be presented or accepted as part of any student's IEP meeting including an Annual Review, a CSE Review or an Impartial Hearing.*** Failure to comply with this rule may subject the Department employee to penalties under the Conflicts Law. All Department employees who enter into private practice relationships for compensation for services provided to a child must explain this rule to parents/guardians prior to initiating services. A written agreement (see attached sample) must be signed by the parent/guardian and maintained as part of the record.

I will be happy to answer questions regarding this policy and can be reached at (718) 935-5300.

DBS:  
Attachment

**Sample**

To Department of Education Employee:

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Child's Name: \_\_\_\_\_ DOB: \_\_\_\_\_

I understand that Department of Education employee's name \_\_\_\_\_  
(\_\_\_\_\_ )  
will be providing service to (child's name \_\_\_\_\_ ) in a  
private capacity for compensation. I also understand that (Department of Education employee's name  
\_\_\_\_\_ ) is prohibited from providing any information such as  
written evaluations, progress reports, oral reports, testing results, clinical findings, etc. as part of any  
Department of Education meeting regarding my child including IEP meetings, Annual Reviews, CSE  
Reviews or Impartial Hearings. The Department of Education employee is not permitted to provide  
services to (child's name \_\_\_\_\_ ) under an RSA and IEP. By signing this release I  
have been made aware of and agree to the prohibition of any Department of Education employee working  
in a private capacity to appear either directly or indirectly, before the Department of Education.

Signature of Parent/Guardian: \_\_\_\_\_ Date: \_\_\_\_\_

- This release shall be maintained in the possession of the Department employee working in a private capacity.

**Note: Individual Evaluations**

As individual evaluation means any tests, observations and assessments given individually to your child to find out whether he or she has a disability and /or to identify his/her special education needs. The term does not include basic tests given to groups of children in a school, grade or class.

An independent educational evaluation means a test, observation or assessment done by a qualified examiner **who does not work for the school district or a state approved preschool evaluation site**. Any tests, observation or assessment conducted by such employees may not be considered an independent educational evaluation.

A parent may, at any time, arrange for an independent educational evaluation at his/her own expense and have it considered by the Committee on Special Education (CSE) or Committee on Preschool Special Education (CPSE).

Persons conducting independent educational evaluations must meet the same qualifications as school district evaluators and follow accepted evaluation procedures. The school district can set policy on the geographic location of the evaluation, but must allow for exceptional circumstances.

The law affords you additional rights concerning independent educational evaluations and other matters regarding your child's education. Consult your booklet. *A Parents Guide to Special Education for Children 5-21*, for further information. You may obtain a copy of the booklet from your child's school or the CSE.