



Ethical Times

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Ethics Myths: Legal Realities Superior-Subordinate Relationships

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The NYC Conflicts of Interest Board will provide the full text of any document reported in this issue.

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SUPERIOR-SUBORDINATE RELATIONSHIPS

By Isabeth A. Gluck

Myth: Superiors and subordinates may not establish friendships with one another.

In the course of their work, City employees have ongoing contact with one another, out of which friendships often develop. *City employees may believe that the conflicts of interest law prohibits them from having a friendship with their superior or subordinate. This is a myth.* As a City employee, you may certainly maintain a friendship with your superior or subordinate. However, you must be

very careful not to have any business or financial relationship with your superior or subordinate.

The conflicts of interest law prohibits public servants of the City from entering into any business or financial relationship with another public servant who is their superior or subordinate. The reason for this prohibition is to eliminate the possibility of coercion and favoritism that might exist when co-workers who occupy different positions in the hierarchy of a City agency enter into business or financial relationships. This law prevents partiality or coercion or even the appearance of partiality or coercion in the City workplace.

Your subordinates are not just those employees who report directly to you. They include all em-

ployees in lower positions in the organizational structure of the agency if you can affect the terms and conditions of their employment or if you can direct their work.

So, if, for example, you own an apartment building, you may not rent one of your apartments to your subordinate; or if you engage in outside repair work, you may not contract with your supervisor to do a repair job. Similarly, you may not share an apartment with a superior or a subordinate because sharing the rent would constitute a financial relationship. For this reason, romantic relationships between a superior and subordinate, whatever personnel issues such relationships may raise, often also violate conflicts of interest law because they involve

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ENFORCEMENT ACTIONS

BOARD OF ED OFFICIAL FINED \$8,000 FOR MISUSE OF OFFICE

COIB Case No. 2002-188

July 30, 2002

The New York City Conflicts of Interest Board and the New York City Board of Education ("BOE"), now The Department of Education, concluded a settlement with Birdie Blake-Reid, Executive Director of the Office of Parent and Community Partnerships at BOE. Ms. Blake-Reid misused her City position habitually by directing subordinates to work on projects for her church and for a private children's organization, on City time using City copiers and computers. She also had BOE workers do personal errands for her.

Ms. Blake-Reid

admitted that over a four-year period, she had four of her BOE subordinates perform non-City work at her direction, including making numerous copies, typing, preparing financial charts and spreadsheets and a contact list, stuffing envelopes, e-mailing, working on brochures, typing a college application for one of Ms. Blake-Reid's children, and running personal errands for Ms. Blake-Reid. The subordinates performed this non-City work for her on City time and using City equipment. These subordinates believed that their jobs with the City could be jeopardized if they re-

fused to work on Ms. Blake-Reid's non-BOE matters. One temporary worker sometimes fell behind in his BOE work when Ms. Blake-Reid directed him to make her private work a priority. BOE funded overtime payments to him when he stayed to finish his BOE work.

Ms. Blake-Reid agreed to pay an \$8,000 fine and acknowledged that she violated City Charter provisions and Board Rules that prohibit public servants from misusing their official positions to divert City workers from their assigned City work and misapplying City resources for their private projects.

DIRECTOR OF COLLECTION OF CONSUMER AFFAIRS PAYS \$500 FINE FOR WORKING PRIVATELY FOR REGULATED RESTAURANTS

COIB Case No. 2001-593

July 2, 2002

As Director of Collections at the Department of Consumer Affairs ("DCA"), David Cottes supervises a staff responsible for collecting fines that DCA imposes on restaurants and other businesses. Mr. Cottes acknowledged that he created menus for two restaurants in 2001. After agreeing to supply the menus, he learned that these restaurants operate sidewalk cafés licensed by DCA. He prepared the menus on his home computer. In June 2001, he received \$1,500 from the first restaurant for the menus. He completed work

on menus for the second restaurant but did not accept payment for the second set of menus.

One of these restaurants had been delinquent in paying fines owed to DCA for regulatory violations relating to its sidewalk café. Those fines were outstanding during the time Mr. Cottes created the menus for the restaurants. After Mr. Cottes agreed to make the menus, the restaurant owner asked him to intercede on the owner's behalf with the former DCA Commissioner to help the restaurant regarding a DCA order suspending one of its sidewalk café licenses. Mr.

Cottes stated that he did not intercede with the former DCA Commissioner.

In a settlement with the Board, Mr. Cottes paid a \$500 fine and acknowledged that he had violated City Charter provisions that prohibit moonlighting with a firm a City employee knows is engaged in business dealings with his own agency; that prohibit use or attempted use of official position to obtain any financial gain, contract, license, privilege or other private or personal advantage, direct or indirect, for the City worker or his family or associates; and that prohibit private employment that conflicts with the proper discharge of official duties.

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financial entanglements. Similarly, you may never accept a loan from your superior or subordinate or offer a loan to your superior or subordinate. Other than negligible amounts (like a one-day loan for bus fare or for a modest lunch if you forget your wallet), loans, particularly those sought by superiors from subordinates, will always involve a suggestion of coercion and for that reason are forbidden. But even loans from a superior to a subordinate are prohibited since they may give the superior inappropriate leverage over the subordinate and may create an appearance of favoritism.

Over the years, the COIB has imposed fines for violating this prohibition against superior-subordinate financial entanglements. In 1997, an assistant principal of a City school was fined \$1,000 for borrowing \$1,000 from a subordinate teacher. The teacher said he refused to loan more money to the assistant principal. There, the teacher claimed that this financial relationship affected the assistant principal's impartiality during the teacher's annual performance evaluation. In 1998, the Board fined a Deputy Commissioner \$1,500 for, among other violations, subleasing an apartment from a subordinate. More recently, in 2000, a supervisor was fined \$1,000 for purchasing computer

equipment from one of his subordinates. These are exactly the types of situations that the conflicts of interest law seeks to prevent.

City employees may exchange holiday gifts with their co-workers who are neither superiors nor subordinates so long as the giver is not using or attempting to use his or her official position for private gain. For example, giving a co-worker an expensive holiday gift in order to encourage the recipient to place one's reimbursement requests on the top of the pile would be improper. In general, gifts, even among peers, should be moderate. Supervisors and subordinates should be particularly careful when exchanging gifts with one another. For example, an expensive gift from a subordinate to his or her supervisor could be inappropriate because it could give the appearance that the gift was given in order to influence the supervisor to offer some work-related benefit, such as a raise or promotion. Similarly, an expensive gift from a supervisor to a subordinate could likewise give the appearance of an attempt to obtain a personal benefit or advantage. Gifts between superiors and subordinates should be modest indeed (certainly under \$25). Lastly, with regard to political

activities, no City employee is allowed to ask a subordinate to participate in any political activity. In addition, no public servant can request a subordinate to contribute money to a candidate or to work on a political campaign.

Of course, in the instances where City agencies have established their own rules that are stricter than the ones outlined in the City's conflicts of interest law, that agency's rules apply.

All of these rules exist to protect both subordinates and their supervisors, as well as the City. If you are in doubt about whether your present or future conduct with your superior or subordinate presents a conflict of interest, call the Conflicts of Interest Board for specific information and advice related to your particular situation. All requests for guidance will be kept confidential. The number is (212) 442-1400. Just ask for the "attorney of the day."

Isabeth A. Gluck is Associate Counsel for Enforcement at the Conflicts of Interest Board.

FORMER NEW YORK CITY DEPARTMENT FOR THE AGING EMPLOYEE FINED \$500 FOR MISUSING OFFICIAL CITY LETTERHEAD

COIB Case No. 2000-456

June 26, 2002

The New York City Conflicts of Interest Board has concluded a settlement with Janet Silverman, a former New York City Department For The Aging

field auditor who admitted violating the conflicts of interest law by misusing official City letterhead to gain a private or personal advantage. Without authorization, Ms. Silverman sent a notice to a

DFTA contractor, on official, City letterhead, as if from the City, threatening the vendor with litigation if she were injured on the contractor's property.



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Bloomberg Advisory Opinion on Ownership Interests: Summary AO 2002-1

August 29, 2002

In response to a request from Mayor Michael R. Bloomberg for advice concerning his outside financial interests, the Board determined the following: 1) Mr. Bloomberg's ownership in Bloomberg L.P. will not violate Chapter 68, provided that, as he has agreed, (a) the gift of Bloomberg L.P. terminals to the City under stated terms remains in effect, (b) Mr. Bloomberg recuses himself from all City cable television matters, including all cable matters coming before the Franchise and Concession Review Committee; (c) he recuses himself from all City matters involving Merrill Lynch; and (d) he seeks the Board's advice if, in the future, any Bloomberg entity has any matter before any City agency. 2) Mr. Bloomberg's actions as Mayor with respect to customers of Bloomberg L.P. will not violate Chapter 68, provided that, as he has already done, he discloses the one hundred leading customers of Bloomberg L.P. and that he seeks the

Board's guidance if, in the future, any one customer comprises 10% or more of Bloomberg L.P.'s sales. 3) Mr. Bloomberg was further advised to be sensitive to the need to ascertain the extent of any City business dealings involving entities engaged in, or negotiating to become engaged in, Bloomberg L.P. matters that may significantly affect the value of his ownership interest (e.g., major purchases, sales, or borrowings) and to consult the Board for further guidance before becoming involved in such Bloomberg L.P. matters. 4) If Mr. Bloomberg disposes of all his current holdings in publicly traded stock and in a hedge fund, as he has agreed, and, for the remainder of his service as Mayor, invests only in large, professionally-managed mutual funds and exchange traded funds, he will not violate Chapter 68. 5) Finally, if Mr. Bloomberg maintains his holdings of government bonds – that is, if he buys but does not sell New York City and New York State bonds – during his service as Mayor, and if he also does not participate in decisions to call any particular issue of City bonds, he will not violate Chapter 68.