

ASK THE CITY ETHICIST

A monthly column from the NYC Conflicts of Interest Board.

#7: Political Activities Part II

by Alex Kipp

Q: *I am a career public servant, with over 20 years with the City. Is it OK for me to volunteer for local political races?*

--Politically Active City Veteran



A: New York City's public servants they are free to get involved with local campaigns on various levels. However, public servants have the responsibility to ensure that their actions preserve public trust in government by complying with Chapter 68 of the City Charter, "The Conflicts of Interest Law".

Public trust can be undermined when a public servant's judgment is called into question because he or she has engaged in activities that conflict, or appear to conflict, with his or her official duties. Imagine, for example, if an inspector, during a restaurant inspection, solicits the restaurant owner for a contribution to the campaign of a candidate for City Council. Other examples can be less obvious.

The law's political restrictions are designed to prevent any real or perceived political coercion in City agencies. People with matters before the City should not be made to feel that those matters will be handled any more or less expeditiously because of party allegiance or because of political contributions they've made or have refused to make. And public servants themselves should not be made to feel that their evaluations, overtime assignments etc., depend upon political affiliation, or amount of time or money contributed to a campaign. Political cronyism is a liability that weakens both public trust and workplace morale. Chapter 68's political restrictions also serve to separate the operations & mission of City government from the agendas of partisan politics.

As we talk about some of Chapter 68's basic restrictions on the political activities of public servant, please keep in mind that your agency may have additional restrictions on political activities, particularly if it deals with political campaigns. Contact your agency counsel for more information on agency-specific restrictions.

Volunteering and/or Working for Another's Campaign

Public servants may generally volunteer for whatever campaign they choose. In many cases they can even be paid for such work. However, you must still follow your own agency's rules on outside employment. Also, some agencies' contact with campaigns could make a position with a campaign prohibitive. Employees of the Campaign Finance Board or the Board of Elections should contact the COIB before taking *any* position in a local political campaign.

Some general guidelines:

- Non-City activities, political or otherwise, paid or unpaid, should be done on your own time and without the use of City resources. City phones, copiers, letterhead, personnel, time,

computers, etc., should not be used for political activities, and campaign literature may not be sent to City offices and/or email addresses.

- Public servants may not coerce anyone, and may not even *ask* subordinates, to make a political contribution or participate in a campaign. Public servants *may* volunteer/be paid to work on the same campaign as their supervisors. They may even volunteer/be paid to work for the campaign *of* a supervisor. But, the supervisor may not *ask* any subordinate to do so.
- Public servants *may not* represent entities, including campaigns, before the City for compensation.

Fundraising

- High-level appointed public servants may not request *any* person to make a contribution to a campaign for City elective office. Such a public servant would not only be prohibited from inviting subordinates to a fundraiser at his or her house: he or she wouldn't be permitted to invite *anyone*.

Running for Office

- Since high-level appointed public servants may not fundraise for any campaign, they may be effectively barred from running for City office while keeping their City positions.
- Certain public servants who work in exempt, provisional, and non-competitive positions, as defined in Mayoral Directive 91-7, must use annual leave or take a leave of absence in order to run for office. Contact your agency counsel for more information.
- Public servants in federally funded lines must also comply with the Hatch Act, which bars such public servants from running for partisan elective office and keeping their positions. Contact the Federal Office of Special Counsel for more information (www.osc.gov).

Buying Office/Employment

- The integrity of any election or appointment would be thrown into question if officials paid or promised to pay any part of their City salaries, or anything else, in exchange for their election/appointment. Chapter 68 forbids such conduct.

Holding Positions in Political Parties

- High-level public servants may not hold the position of assembly district leader, or be a member of a national or state committee of a political party, or serve on the executive board of a county committee, or have any position higher than these.

Penalties

A violation of Chapter 68 can carry a civil penalty of up to \$10,000. It is also a misdemeanor that can be prosecuted in criminal court.

Please contact the Board's Legal Advice Unit at 212-442-1400 if you have any questions regarding conflicts between your City duties and your political activities. □

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COI/B