

ASK THE CITY ETHICIST

#12: Misuse of City Position

by

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Question: My brother is considering employment at my City agency, can I recommend him for a position?

While your brother may work for your City agency, you may not do anything to help him get the job, nor may you supervise him if he does get the job.



The City's Conflicts of Interest laws prohibit a public servant from using his or her City position to obtain a benefit for anyone with whom the public servant is "associated." People "associated" with a public servant include parents, spouses, siblings, children, and anyone with whom the public servant has a business or other financial relationship. Your brother may apply for the position, but you must completely "recuse" or insulate yourself from anything to do with the hiring process. This means you may not recommend your brother or take part any part in the hiring process. Remember, even if your brother has outstanding qualifications, you can have nothing to do with his application. In fact, the Conflicts of Interest Board (the "Board") recently fined a Department of Education ("DOE") superintendent \$1000 for sending via DOE e-mail his brother's resume to DOE principals. Moreover, should your brother get the job, you may not supervise him because to do so would place you in the position of being able to give your brother special treatment, in violation of the City's Conflicts of Interest Law.

Here are the rules regarding misuse of one's City position and City resources. These rules were created to ensure that a public servant's first duty of loyalty is to the City and not to any private or personal interest of the public servant. The intent of the rules is to prevent public servants from exploiting their City positions to advance their own interests or those with whom they are associated.

Rule 1. You must not use confidential information learned from your City job to obtain a benefit for you or anyone with whom you are associated.

Never disclose confidential information. Never use confidential information for your own advantage – or for that of your relatives or business associates. What is confidential information? Any information that a member of the general public cannot obtain.

Rule 2. You may not invoke your City title or in any way use your position with the City to obtain any benefit for yourself or anyone with whom you are associated.

This means you must completely insulate yourself from any matters concerning people or firms with whom you are associated. As mentioned before, this includes parents, spouses, siblings, children, and anyone with whom you have a business or financial relationship. This means you may not take part in any matters involving these people, not attend meetings where matters pertaining to these people are discussed, and not receive copies of documents relating to these people. The Board fined a former School Construction Authority official \$5,000 for using her position to obtain a job at her agency for her husband and for attempting to obtain a promotion for him after he was hired. In another case, the Board fined a deputy commissioner at the Office of Emergency Management (“OEM”) \$3,500 for hiring his girlfriend, with whom he had a financial relationship, to take photographs for OEM.

Rule 3. You may not use your office for private gain, including using City resources for a private purpose.

This means, among other things, that you may not use any resources your City office has, including computers, telephones, or fax machines, to further a private interest, like a side job you may have. The Board fined a Department of Buildings employee \$1,000 for using a City telephone for his private home inspection business. The employee also had business cards printed that showed his City telephone number.

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If you are unsure whether your conduct creates a conflict of interest, call the Conflicts of Interest Board at 212-442-1400 and ask for the attorney of the day. You can also email us through our website (<http://www.nyc.gov/ethics>) by clicking on “Contact COIB.” All calls and emails are confidential, and you may contact us anonymously.

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“Ask the City Ethicist” is written monthly by the staff of the New York City Conflicts of Interest Board and appears originally in The Chief Leader. “Ask the City Ethicist” is provided as general information, and should not replace the text of Charter Chapter 68. For legal advice on City ethics matters, please call the Board at 212-442-1400. All calls are confidential. You may call anonymously if you wish. <http://nyc.gov/ethics>.

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