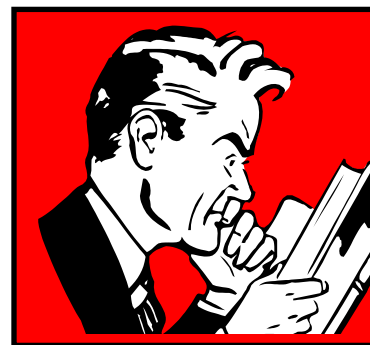


ASK THE CITY ETHICIST

Misuse of Position

by
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Question: *I am a supervisor at the New York City Housing Authority. I am currently doing some home improvement work on my home. Several subordinates in my unit who I am also friends with have volunteered to help me. Is it okay for us to meet on the weekend at my house to do some painting?*



Answer: No. You may not use your subordinates to help you do home improvement work on your home or to do any other type of personal work for you, even if you are friends with your subordinates outside of work. Your subordinates cannot help you with your home improvements even during their non-City time, such as after work hours or on the weekend.

The City's Conflicts of Interest Law prohibits a public servant from using or attempting to use his or her City position to obtain a private benefit for the public servant. By allowing your subordinates to do home improvement work on your home, you would be using your position to obtain a personal benefit by having your subordinates do free work for you that you would have to pay someone else to do. This would still be true even if you and your subordinates were friends. While we have our friends do favors for us all the time, that aspect of the relationship changes after you and your friend are in a superior/subordinate relationship. By allowing your subordinate who is also your friend to do personal work for you, you create the appearance that your subordinate's personal work for you will influence your evaluations of your subordinate. Also, even if you are friends, the law seeks to protect a subordinate from being unduly pressured into doing personal work for his or her superior. A subordinate may feel that if he or she does not do the personal work for his or her superior that the superior may retaliate by changing the subordinate's work assignments or giving a poor performance evaluation.

Question: *Would it be better if I paid my subordinates to do the home improvement work on my home?*

Answer: No. The City's Conflict of Interest Law prohibits a public servant from entering into a financial relationship with another public servant who is a superior or subordinate of such public servant. By paying your subordinate to do the home improvement work on your home, you would be entering into a financial relationship

with your subordinate. Having a financial relationship with your subordinate creates the appearance that the financial relationship between you and your subordinate will influence the work assignments or evaluations you give to your subordinate.

Here are the rules regarding misuse of one's City position. 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.

Rule 1. You may not use your City position to obtain a private benefit for yourself or someone with whom you are associated.

The City's Conflicts of Interest Law prohibits a public servant from using his or her position to obtain a benefit for the public servant or someone with whom the public servant is "associated." People associated with a public servant include a parent, spouse, sibling, child, and anyone with whom the public servant has a business or financial relationship. This means that you cannot take part in any matters involving people with whom you are associated, including hiring, recommending, or supervising someone with whom you are associated. This rule applies even if you are recommending the "associate" for a job that isn't with the City of New York. For example, the Board fined a Construction Project Manager for the New York City Department of Design and Construction ("DDC") \$1250 for recommending his sister for a job with a DDC vendor.

Rule 2. You may not use your City position for private gain, including using City resources for a private purpose.

This means, among other things, that you may not use any City resources, including computers, telephones, and City time, to further a private interest, such as your private business. The Board fined the former Chair of the New York City Civil Service Commission ("CCSC") \$15,000 for misusing City resources and personnel to perform tasks related to his private law practice.

Rule 3. You may never disclose confidential City information.

Never use confidential information for your own—or someone with whom you are associated's—benefit. What is confidential information? Any information that a member of the general public cannot obtain (such as through Freedom of Information Law). The Board and the New York City Human Resources Administration ("HRA") concluded a three-way settlement in which a Job Opportunity Specialist was fined \$500 by the Board and suspended for 15 work days by HRA, for accessing and disclosing confidential information about his ex-wife to use at child support proceedings in an attempt to reduce the amount of child support he had been ordered to pay.

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