

ASK THE CITY ETHICIST

#15: Negotiating Friendships

by

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Question: I have a friendship with a co-worker who was recently promoted and is now my supervisor. She is looking for someone to repair the roof of her house and I used to do roofing. Can I do the repairs for her as long as I don't receive any payment?

Answer: Friendships and conflicts of interest can intersect in number of ways, and certainly would in the above-mentioned situation. As a City employee, Chapter 68 of the City Charter (the “Ethics Laws”) prohibits you from engaging in financial relationships with a superior or subordinate. This means that your personal friendship with your supervisor is no defense to violating this restriction. Even if you volunteer your services, the time and labor that you donate constitutes a financial relationship. (Consider the cost that you saved your friend from having to hire a professional.)

No one should be made to feel that they are required to do favors for their supervisors. On the other hand, Chapter 68 does not prohibit financial relationships among co-workers. Therefore, it would not have violated Chapter 68 if you had fixed your friend's roof in the past, when you were co-workers.

When it comes to doing favors for friends (whether they work for the City or not), you should also know that you may not:

- Use City resources for any non-City purpose.
- Use your position to obtain any private or personal advantage for yourself or your spouse, domestic partner, child, parent or sibling; anyone with whom you have a business or other financial relationship; or any firm in which you have a present or potential interest.
- Disclose any confidential City information- information that is not publicly available- or use this information for private or personal gain.

Cases involving the misuse of City resources to help friends come before the Board from time to time. Recently, for example, a City investigator gave a photocopy of his shield and identification to a friend for the friend's use in the event that he was arrested. The Board found that public servants are prohibited from abusing the powers that are vested in them as part of their official duties, and may not use the symbols of those powers, such as a shield and identification issued by the City, for any non-City purpose, and fined the investigator for this violation of Chapter 68.

Now, what about friends in the private sector who want to give you gifts? Generally you're not allowed to accept gifts from people who are doing business with the City. There is a small "social exception" carve-out for accepting customary gifts on social occasions from old friends. But, be aware, public servants who accept *valuable* gifts – a gift of \$50 or more- because they believe the donors qualify as close personal friends do so at their peril. It is always the better practice to seek the advice of the Board in such circumstances.

Under Chapter 68, you may not accept gifts whose total value is equal to \$50 or more in any 12-month period from any single firm that has business with the City. If you are considering accepting a gift from a friend who is engaged in business dealings with the city, then you should know that the Board will look at several factors to determine whether you: (i) used your office for private gain; (ii) gave preferential treatment to any person or entity; (iii) lost your independence or impartiality; or (iv) accepted the gift or favor for performing official duties.

Faced with this restriction on accepting gifts, you might well ask, "How do I know if my buddy is engaged in business dealings with the City?" Well, under the law, public servants have a duty to conduct a *reasonable inquiry*. This means that you must do what you can. At the very least, you must ask your buddy whether he or she has business dealings with the City. However, you may also use City resources, including those within your own agency and the Conflicts of Interest Board, to find the answer. If you are a high-level public servant, then you are *required* to do more than simply ask the donor or risk violating Chapter 68.

Public servants who face disciplinary proceedings at their agencies for violating the City's conflicts of interest law are encouraged to contact the Board's enforcement staff to resolve the conflicts of interest issues. Leaving City service does not mean that public servants can walk away from the consequences of their conduct. For more information, please contact the Board at 212-442-1400.

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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>.