

Ethics lights the way to good government

The Ethical Times

A Publication of the New York City Conflicts of Interest Board

Quinn Haisley, Editor



City Resources

By
Rob Casimir

Q: I was standing next to the fax machine and saw a coworker faxing an entry to her bowling league. I thought that City employees had to keep their private activities separate from their City work. Was my coworker violating the conflicts of interest law?

A: You are absolutely correct that there should be a separation between one's private interests and the work one does for the City. Public servants have a duty to the citizens they serve, and must ensure that actions they take in their official capacity do not violate the public's trust. To this purpose, the Board has instituted a rule that states that it is a violation of the conflicts of interest law for any public servant to use City letterhead, personnel, equipment, resources, or supplies for any non-City purpose. This means that City resources are to be used only for City purposes – not for the personal gain of any individual employee. But is a single personal fax really a betrayal of the public trust? Perhaps not. The City's Acceptable Use Policy, which has been adopted by many, but not all, City agencies, permits City employees to use City technology for personal use in certain limited circumstances. This means that, unless it is prohibited by your agency, the AUP allows you to use City technology to make a quick personal call, fax, or email. But only in those cases where the use is personal (non-business), minimal, and incidental.

Q: What qualifies as “minimal?”

A: Faxing a single form to a doctor's office would be a good example of minimal personal use of City resources; however, faxing a doctor *all* of your medical records would be considered excessive. Similarly, a five-minute phone call to a child's school would probably be okay, whereas a half-hour phone conversation about a disappointing local sports team would be considered a misuse of City time and technology. In general, the AUP's allowance for some personal use of City resources should be seen as the exception – not the norm.

Q: What about political use of resources? Can I make some fliers for a political campaign with which I am personally involved?

A: This is an easy one: public servants are never allowed to use any amount of City resources for any political purpose. This restriction is *zero* tolerance, which means you will have violated the conflicts of interest law by making even *one* flier for that campaign.

Q: What if the fliers are for my artisanal cheese business?

A: Then this would be a “business” use of the City copy machine, which would be flatly prohibited by the conflicts of interest law, and is also *zero* tolerance. You may never use City technology, resources, or time to further any private financial interest, second job, or business. The public should feel confident that the resources deployed by the City are being used by public servants in

furtherance of City goals – not the goals of an employee's private business.

Q: Okay, well, as an experienced manager, I have certain skills when it comes to evaluating people, and I want to recommend a friend of mine to a co-op board – may I use City letterhead as an indicator of my professional credentials?

A: Letterhead is a City resource like any other and cannot be used for any non-City purpose. This means that, unless you are acting within the scope of your official City duties, you may not use City letterhead. You may write a professional recommendation on City letterhead for a subordinate member of staff at your City agency whose work you have personally overseen, but you must write that recommendation for your friend on personal letterhead. As always, it is important to distinguish your private interests from your role as a City employee.

Q: I know to never ask City staff to engage in any side business or political work for me. But what if I occasionally asked my staff for help with some personal errands – like picking up a birthday present for my kid – would this minimal, personal, and incidental use of staff be covered under the AUP?

A: The hundreds of thousands of City employees are perhaps the most valuable resource the City has at its disposal. So while the AUP may occasionally allow for some minimal, personal use of technology, it never allows you to ask your staff to perform free work on your behalf, especially work for which you might have otherwise been required to pay a third party (e.g., chauffeur services, tutoring, babysitting, home repairs). This type of request turns your staff into a job perk that saves *you* time and money, but it does little for the City of New York.

Q: Could I pay my subordinates to run my personal errands?

A: No. While it might seem less problematic than accepting free services, another section of the conflicts of interest law prohibits you from entering into any financial relationship with a superior or a subordinate, which would include paying a subordinate even once.

Q: It sounds like there's almost never a good reason use City resources for a non-City purpose!

A: Pretty much! If you are still unsure about something, though, the Board's staff is available to answer any and all questions about the City's ethics law during business hours Monday through Friday. The staff can be reached by telephone at 212-442-1400 or by email through the Board's website at www.nyc.gov/ethics. All calls are confidential, and Board attorneys are happy to respond with written advice when requested in writing.

Rob Casimir is a Trainer at the New York City Conflicts of Interest Board

Recent Enforcement Cases

► The Board and DCAS jointly concluded a settlement with a Clerical Associate who used a DCAS computer and e-mail account during her City work hours to do work as an Adjunct Lecturer at Metropolitan College of New York. As a penalty, the Clerical Associate agreed to serve a two-week suspension, which is valued at approximately \$2,001.

► The Board and ACS concluded a settlement with a Congregate Care Specialist in the Division of Youth and Family Justice who, from July 2011 until March 2014, had a second job with Good Shepherd Services, a firm having substantial business dealings with ACS. For this violation, the Congregate Care Specialist agreed to pay a \$1,000 fine, split evenly between the Board and ACS.

► The Board reached a settlement with a former Maintenance Worker at NYCHA who admitted that, in November 2012, he was assigned as part of his official duties to repair a water leak in a tenant's apartment. While in the apartment, he informed the tenant that he would need \$30 to fix the leak, which the tenant gave him. For these violations, the Maintenance Worker paid a \$1,300 fine to the Board. He also acknowledged that he had retired from NYCHA while agency disciplinary charges were pending against him for this conduct.

► The Board and the Law Department reached a joint settlement with a Clerical Associate who, in October 2013, used her Law Department email account to send an email with an attached letter to a Deputy Commissioner at HRA in which she identified herself as an employee of the Law Department and asked that the HRA Deputy Commissioner resolve

her personal dispute with HRA regarding child support payments. The Clerical Associate agreed to be suspended from work for four calendar days without pay, valued at approximately \$755.

► The Board and DOE concluded a settlement with a DOE teacher who solicited babysitting work for her daughter from the parents of the children assigned to her class. For this violation and other conduct that does not implicate the City's conflicts of interest law, the teacher agreed to pay DOE a \$6,000 fine, attend a three-hour course addressing classroom management, and be reassigned to another DOE school.

► The Board concluded settlements with a Supervisor for DSNY and his superior, a DSNY Deputy Chief for Staten Island, for entering into a financial or business relationship with each other when the Supervisor acted as the Deputy Chief's real estate salesperson and agent in showing the Deputy Chief a house, for which services the Supervisor received a commission when the Deputy Chief purchased the house. Each agreed to pay a \$1,500 fine.

► The Board and DOHMH concluded a settlement with a Supervising Special Officer who, on May 3, 2013, and July 20, 2013, during hours she was required to be working for DOHMH, drove a City vehicle to Housing Court to appear on a personal legal matter in that court. For this violation, the Supervising Special Officer agreed to be demoted to Special Officer, with an attendant reduction in annual salary of \$4,781.

Congratulations! to the winner of the Conflict of Interest Board's July Public Service Puzzler contest:

Lisa Loren, a Project Manager at the Department of Finance.

You can read Ms. Loren's bio and get the details for the August Public Service Puzzler by clicking [here](#).



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