

Ethics lights the
way to good gov-
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The Ethical Times

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Quinn Haisley, Editor



Referring a Friend

by
Alex Kipp

Question: *I work as a Principal Administrative Associate in the HR Unit of a City agency. I recently posted a job vacancy notice on our website for a Substance Abuse Counselor. I have a friend that I used to work with who'd be perfect for the job. I was thinking of referring her. My co-worker, however, told me I could not make the referral. When I asked why, he said I would be committing an act of nepotism, and nepotism is illegal. Is this true?*

Answer: It is true that certain kinds of favoritism are illegal under Chapter 68 of the City Charter, the City's Conflicts of Interest Law. However, I'm not sure that the referral you mention would be. Let's first take a look at what nepotism is, and how it is addressed by the law.

According to the American Heritage Dictionary of New Cultural Literacy, 3rd Edition, nepotism is "favoritism granted to relatives or close friends, without regard to their merit. Nepotism usually takes the form of employing relatives or appointing them to high office." Nepotism often invokes the idea of someone using their government office to obtain a position for a relative or friend in a way that bypasses a transparent, fair, merit-based hiring system. Nepotism runs counter to fairness, and threatens to turn the workings of government into a family-run business, where raises, promotions, and assignments are determined more by birthright than by quality of labor.

Interestingly enough, the word "nepotism" does not appear anywhere in Chapter 68. This is because Chapter 68 deals with the concept in a slightly different manner that both widens and limits the scope of the above definition. Under Chapter 68, no public servant is allowed to use their City position for their own personal benefit, nor are they allowed to do so for anyone with whom they are *associated*. Once we know who is an associate, then we'll be able to determine whether or not you can make the referral.

"Associate" is defined in Chapter 68 as a spouse, domestic partner, child, parent, or sibling of a public servant; a person with whom a public servant has a business or other financial relationship; and each firm in which a public servant has a present or potential interest. That's a pretty specific list. Notice

there is no mention of "friends" in it. Notice also how it includes firms and people with whom you have a financial relationship. Why? Normally, when we think of nepotism, we probably think of hooking up our kids or siblings, or our high-school locker partners. We might not think of our landlords or tenants, employees of our outside businesses, or investing partners. But, just imagine the scandal if you helped recommend and hire a guy you owed a \$10,000 debt, or a roommate who's behind on the rent.

And I think there's probably a good reason why "friend" isn't listed as an associate. First of all, how do you define friend? Is there a minimum amount of time you have to spend together? Are there certain activities that prove friendship and others that do not? It's easier to define relatives and people with whom you have a financial relationship.

So, now to your friend. If this friend of yours is in no way *associated* with you—you don't owe the friend money, she or he is not your business partner, or your current roommate, or does not in any other way have a financial relationship with you—then referring your friend is fine. Some might even say you're doing the agency a favor by helping to find qualified people to work there.

Now, does that give you the go-ahead to misuse your City position to get your friend some sort of unfair advantage? Of course not. Your friend has to go through the hiring and interviewing process like anyone else. And in order to ensure a sense of fairness and transparency, you'd probably want to let your boss know that your friend was applying for the job, so your boss could decide whether to take you out of the hiring process. But if that friend was an *associate*, as defined above, you couldn't refer that friend or take ANY action involving the entire hiring process. And, of course, you can never use or disclose confidential information.

If you want more information on how the City's Conflicts of Interest Law works and how to stay in compliance, please call the COIB during normal business hours at (212) 442-1400 and ask to speak to the Attorney of the Day. All calls are confidential and you may even do so anonymously.

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Recent Enforcement Cases

▶ The Board and DOE concluded a settlement with an Assistant Principal who, without the knowledge of or authorization from anyone at DOE, changed eleven of his son's course and exam grades from failing to un-earned passing scores. For this violation, the Assistant Principal agreed to pay a \$7,000 fine to the Board.

▶ The Board and HPD concluded settlements with the now retired Chief of the HPD Code Enforcement in the Bronx and with an Associate Inspector, who was also a supervisor in that Office. The Chief admitted that he had paid \$200 to an Inspector who was his subordinate to change the air valves in the radiators in his home and paid that same Inspector \$500 to assist with the removal of the plumbing in the bathroom in the basement of his home. The Associate Inspector admitted that he had paid \$20 to \$40 to an Inspector who was his subordinate to assist him with the renovation of the bathroom in the basement of his home and that he had borrowed the personal vehicle of a second Inspector for one to two weeks, for which he did not pay that Inspector. For their violations, the Chief agreed to pay a \$2,500 fine and the Associate Inspector agreed to pay a \$2,000 fine, each split evenly between HPD and the Board.

▶ The Board and the Comptroller's Office concluded a settlement with an Administrative Accountant in the Comptroller Office's Bureau of Asset Management who, from 1998 to 2014, used her City computer to create, modify, and/or store over 200 documents related to her private business as a CPA and, from 2006 to 2012, used her City computer and e-mail account to send and receive e-mails related to her private business

as a CPA, all done during hours she was required to be performing work for the Comptroller's Office. As a penalty, the Administrative Accountant agreed to pay a fine equal to forty-five days' pay, valued at \$13,891.

▶ The Board and DOE concluded a joint settlement with a teacher who made unauthorized duplicates of two official New York City Department of Transportation parking placards and used them to park her personal vehicle without receiving parking tickets. The teacher agreed to pay a \$1,600 fine to the Board.

▶ The Board and DOE concluded a joint settlement with the Principal of Brooklyn Bridge Academy who used three DOE subordinates to perform personal errands during the subordinates' City work hours. The Principal admitted that he used his subordinates to go to the bank to make personal deposits for him, go to the cleaners, pick up his breakfast and lunch, and do personal shopping for him at a wholesale club, a supermarket, and a liquor store. For these violations, the Principal agreed to pay a \$2,400 fine to the Board.

▶ The Board and the Comptroller's Office concluded a settlement with a Staff Analyst Trainee in the Comptroller's Office Bureau of Audits who also had a private business on eBay. On a handful of occasions in 2013 and 2014, during hours he was required to be performing work for the Comptroller's Office, the Staff Analyst Trainee used his City computer to update his eBay sales ledger and used his City e-mail account to e-mail an updated ledger to his private e-mail account. As a penalty, the Administrative Accountant agreed to pay a fine equal to two days' pay, valued at \$388.

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

Lauren Hamid-Shapiro, a City Planner at the Department of City Planning

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



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*Interested in more information?
Get in touch with COIB's Training & Education Unit to arrange a class in Chapter 68 for you and your staff.
Contact Alex Kipp, Director of Training, at kipp@coib.nyc.gov*

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