

*Ethics lights the
way to good
government*

The Ethical Times

A Publication of the New York City Conflicts of Interest Board

Quinn Haisley, Editor



The Government Rate

by Alex Kipp

Question: *I've worked for the City for a couple of years now. Every year my wife and I go on vacation by road-tripping to a part of the US we've never been before. A lot of the hotels where we could stay offer a special "Government Employees" discount. Can I ask for that discount when I'm on vacation, or can I only use it when traveling on City business? Depending on the hotel and the stay, the discount could run over \$100.*

Answer: In general most public integrity laws address a concern about public servants misusing their government positions to get special benefits for themselves or others. Chapter 68 of the City Charter, New York City's public integrity law, is no exception. Flashing a City Inspector's ID to try to jump a line to a nightclub, giving a photocopy of a badge to your brother so that he can flash it to the cops when he gets pulled over for speeding, or using official City letterhead to endorse a political campaign or a favorite charity would all be violations of Chapter 68. Damage is incurred to the public trust when we use our City positions and/or resources to obtain special benefits and privileges, or "perks." (Using a badge off duty to avoid standing in line at your favorite Friday night spot makes one look like a bully who thinks his badge makes him more entitled than anyone else, and using the taxpayers' dollars and/or resources to support a political cause is just outright theft.)

The question here is, does participating in one of these "Government Discount" programs offered by hotels, car rental companies, cell phone companies, and the like, feel like trying to bully your way into a discount with your City position, or does it feel like something less problematic?

Certainly, barging your way into a hotel, flashing your City ID, and demanding a discounted room "or else" would be considered a misuse of position (and in many cases, it may yield results other than the ones you're looking for—like a punch in the mouth or the suggestion that you go take a hike). So, let us assume that the discount program is freely offered, and not just offered to you but, indeed, to any government worker. In other words, it's not being offered to you because of your specific government job and your potential ability to affect the hotel's possible business dealings with the City, but rather because you satisfy the generic (no offense) requirement of being a government worker.

An advisory opinion of the Conflicts of Interest Board addresses just such cases. In these established "Government Rate" situations, where the target population is so broad, the Board has said that accepting such a discount on your vacation is fine, as long as you don't mislead the hotel manager into thinking you're on official business. So, you're free to ask the desk clerk if such a program exists and use it if it does, as long as you make it clear that you're there for pleasure, not business. (If you were on City business, you could accept the discount without question: the City likes it when you save the taxpayer money.)

The biggest thing that makes this discount program a go is its broad scope. The more narrowly conceived the program is, the more problematic it becomes. If, for example, you were a DOT employee and a certain DOT construction vendor offered a special discount for government employees, but only those involved in the construction trades, or only DOT employees, the answer might be different. At some point it starts to look like a company trying to curry favor with certain people or agencies. However, the program you mentioned doesn't sound like that; it sounds more like a company trying to attract a whole swath of customers, the same way they do with seniors, members of the American Automobile Association, and the like. As long as this is the case, you can accept the government rate, even when on vacation. And remember, this isn't just for hotels either. Cell phone carriers, car rental companies, certain retail stores, and computer companies may all have similar programs available to government employees, and you can participate in them, as well.

If you have any doubt at all about whether your action would create 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 e-mail us through our website (<http://www.nyc.gov/ethics>) by clicking on "Contact COIB." All calls and e-mails are confidential, and you may contact us anonymously.

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Recent Enforcement Cases

► The Board concluded a settlement with an Office of School Food Supervisor for the DOE who supervised her daughter, with whom she lived, from March to September 2013. In a settlement with the Board, the Office of School Food Supervisor, who supervises the employment of all Office of School Food employees in her district, admitted that she supervised the employment of her daughter, who also lived with her, as a Substitute School Lunch Helper. For these violations, the Board fined the Office of School Food Supervisor \$500.

► The Board and HHC concluded joint settlements with a Supervising Electrician and his subordinate, an Electrician's Helper, who co-owned an electrical business for approximately three years. The Supervising Electrician further violated the conflicts of interest law by supervising his business partner. Finally, both the Supervising Electrician and the Electrician's Helper admitted that they had stored documents related to their electrical business on their HHC computers. In public dispositions, the Supervising Electrician and Electrician Helper's admitted each of these violations and agreed to pay fines of \$6,000 and \$4,000, respectively, to the Board.

► The Board and DOHMH concluded a settlement with an Associate Staff Analyst who was also a writer of fiction and non-fiction books on a variety of topics, books that he offers for sale on his personal website. In 2012 and 2013, the Associate Staff Analyst used City time and City resources to work on these books, including working on drafts of the books and saving them to his DOHMH computer, using his DOHMH computer and e-mail account to send and receive e-mails

containing drafts of the books, reading and storing research documents for the books on his DOHMH computer, and having the DOHMH librarian provide him with research materials for his books. For these violations, the Associate Staff Analyst agreed to pay a \$3,000 fine, split evenly between DOHMH and the Board.

► The Board and DEP jointly concluded a settlement with an Air Pollution Inspector who misused a City "Gas Card" to fuel his daughter's car. The Air Pollution Inspector admitted to using the Gas Card on approximately ten occasions over the course of a year to purchase a total of approximately \$200 of gas for his daughter's car. As a penalty, the Air Pollution Inspector agreed to a 30 work-day suspension, valued at \$5,228, plus a two-year probationary period.

► The Board announced that it has recently concluded a settlement with a now-former employee of the Queens Borough President's Office who used his position as Advisor for Hispanic Affairs to get a free trip to Colombia. In a public disposition of the Board's charges, the former QBPO employee admitted that, while working for the former Queens Borough President, he was tasked with selecting a dance group to represent Queens in the "30th International Week of Bolivarian Culture" in Duitama, Colombia, from July 21 through 27, 2010, and that he selected himself to be a member of the delegation that would travel, for free, to Colombia. He then travelled with the dance group on the seven-day trip at the expense of the Colombian government and without the knowledge or authorization of the Queens Borough President. As a penalty, the Board fined him \$2,000.

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

Thomas Doepfner, an Assistant Deputy Commissioner of Legal Matters with the NYPD.

You can read Mr. Doepfner's bio and get the details for the November 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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