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The Ethical Times

A Publication of the New York City Conflicts of Interest Board

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When ‘Do You Know Who I Am’ Can’t Be Asked

By
Phil Weitzman

A fundamental principle of New York City’s Conflicts of Interest Law is that public servants may not use or appear to use their City positions to obtain benefits for themselves, family members, or financial associates. In general, the rule is simple: no nepotism, self-dealing, or other related inappropriate behavior. However, this simple rule impacts less obvious areas, including the topic of today’s column: situations where public servants need or want to mention their official job titles for personal purposes. Our job titles part of our personal biographies, a part of our professional lives that we shouldn’t have to avoid mentioning. But sometimes the simple choice to mention our official City title may appear to be an attempt to misuse our City positions for personal gain. The following questions and answers will provide some basic guidelines on different situations where you might need or want to mention your City title, and maybe a few times where you’d probably want to refrain from doing so.

Question: *If I’m chatting with a new acquaintance who mentions that he is interested in my profession, could I bring up my City job title?*

Answer: Yes, of course! Telling a friend where you work and what you do is certainly OK.

Question: *What if, on my own time, I am conducting personal business at a government agency, bank, or other entity that requires me to state my employment?*

Answer: In general, mentioning your job title when requested to do so in the routine course of personal business is OK, such as when applying for a loan or government assistance, or completing a rental application, for example. However, you should avoid creating the impression that you expect special treatment as a result of your City position. For this reason, when seeking a special benefit (such as knocking a little off the rent or expediting an application), you should be very careful about volunteering information about your City job, as the next question and answer illustrate.

Question: *I am having trouble retrieving my security deposit from my former landlord. Can I mention that I work at the Department of Housing Preservation and Development to help convince him to return my deposit?*

Answer: No. When you volunteer your title in this situation, it will appear as if you are threatening to involve your agency in your personal dispute with the landlord. In fact, an HPD employee was recently fined in a similar case. In another case, a City worker received a warning letter after mentioning his title while attempting to intervene at a state agency on behalf of a relative.

Question: *I am an expert in contract law and City procurement rules, and I handle contracts as an attorney for a City agency. I also have a waiver from COIB to teach a class for New York University Law School as an adjunct professor. Can my biography on the NYU Law School website mention my ‘day job’?*

Answer: Yes. COIB has ruled that City officials can mention their City job titles in their official biographies for outside work. Simply explaining where you work does not create an appearance that you are using your City job for your personal benefit. However, be careful to avoid giving the impression that your agency endorses your private employer in any way. And overt attempts to capitalize on your City employment to promote your outside job will create a problem. For this reason, the school cannot use your City job title in marketing the course. For instance, an ad stating “Get the Inside Perspective on City Contracting Law from a Prestigious City Official!” would not be OK.

Of course, regular readers of this column will know that the Conflicts of Interest Law impacts more than the use of our City titles. And this column does not cover every question you may have about the use of your City title. For personal advice on any Conflicts topic, feel free to call the Conflicts of Interest Board directly at 212-442-1400 and ask for the Attorney of the Day. You can also email us through our website (<http://www.nyc.gov/ethics>) by clicking on “Contact COIB.” All calls and emails are confidential, and you may contact us anonymously.

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This article originally appeared in The Chief Leader.

Recent Enforcement Cases

► In a joint settlement with the Board and HRA, a Caseworker agreed to irrevocably resign her position for improperly disclosing confidential public assistance records. In a public disposition, the now former Caseworker admitted that she was engaged in a personal dispute with an HRA client and, as a result, mailed a copy of the HRA client's confidential public assistance records to the client's wife. The Board imposed no additional penalties in this case.

► In a joint settlement with the Board and DEP, an Electrical Engineer used his DEP email account and DEP office equipment to do work for his private employers. As a penalty, the Electrical Engineer agreed to serve a fifteen-day suspension, worth approximately \$3,790.

► In a joint settlement with the Board and HRA, an Associate Job Opportunity Specialist (JOS) was penalized for obtaining confidential information from the public assistance records of an HRA client to whom she wanted to rent a living space. In a public disposition, the JOS admitted she got the information she needed through unauthorized access to the Welfare Management System, an electronic database of confidential information about all persons who have applied for or have been determined to be eligible for certain public assistance programs. The JOS accepted a penalty worth approximately \$3,861—a seven-day suspension and payment of a fine equivalent to one day's pay.

► A former Engineering Auditor for EDC violated the City's conflicts of interest law when, during hours he was required to be performing work for EDC, he used his EDC computer to (a) complete 106 seller transactions on eBay, totaling \$9,724.99; (b) click on a sneaker-related website, link to a sneaker-related website, or refresh a sneaker-related website at least 9,530 times, or approximately 159 times each workday during a three-month period; and (c) visited the bidding websites bid.openx.net 41,453 times and eBay 6,595 times, or, combined, approximately 802 times during each workday during a three-month period. The former Engineering Auditor paid the Board a \$7,500 fine.

► A DOE Teacher paid the Board a \$4,000 fine for selling bars of soap to his students and for incentivizing those sales by offering ten "keys," which were a part of his schools Character Incentive Program and could be redeemed for small prizes, as well as a "no

homework pass" in exchange for each purchase. In November 2011, during class, the Teacher told his students that he was selling soap for \$3.00 or \$4.00 a bar and, with each purchase, he would give the student 10 "keys." In January 2012, during class, the Teacher told his students that, for each bar of soap purchase, the student would also receive one "no homework pass." At least five students bought the soap.

► The Board fined a former DOE HR Director \$4,000 for misusing her position with DOE to recommend her daughter be hired for a position at a school, and later attempted to prevent her daughter from being terminated. She also admitted to giving her son an advantage in being considered for a position at another school by passing his resume along to that school's Principal.

► A former DOE Assistant Principal violated the City's conflicts of interest law when, on thirty-two occasions, she left before the end of her regular workday to work a second job. For this violation, the Board imposed a \$2,500 fine, which it forgave based on her showing of financial hardship.

► The Board fined a former Technical Inspector for SCA \$1,000 for working full-time for an SCA plumbing contractor while he was on a leave of absence from his SCA position. The Board took the occasion of this settlement to remind City employees that they remain subject to the City's conflicts of interest law while on leave from their City positions.

► A former Assistant Deputy Commissioner from HRA violated the City's conflicts of interest law by accepting two luxury suite tickets to an August 2009 Yankees-Red Sox game at Yankee Stadium from an IT services firm that was actively bidding on HRA contracts. As Assistant Deputy Commissioner for Management Information Systems, he was responsible for determining which IT products HRA purchased. Admission to the fully catered luxury suite was valued at approximately \$713 per person. The Board fined the former Assistant Deputy Commissioner \$3,000 for violating the City's conflicts of interest law

► A Senior Occupational Therapist for DOE paid the Board a \$2,500 fine for having an ownership interest in, and a job with, a firm with business dealings with DOE. The Senior Occupational Therapist's husband owns a firm that contracted with DOE to provide physical therapy services to DOE students. Additionally, the Senior Occupational Therapist worked for her husband's firm as a bookkeeper and an editor.

► A Complaint Investigator at OEO for DOE violated the City's conflicts of interest law by using his assigned City vehicle one night, at 12:30 a.m., to drive from his home in Brooklyn to Manhattan to pick up his girlfriend at her job, which he was not authorized by DOE to do. For this violation, the Complaint Investigator paid a \$500 fine to the Board.

► The Board issued a public warning letter to an Attending Physician of Orthopedics and Chief of Implant Service at Kings County Hospital for having a non-City position with New York Methodist Hospital, a firm having business dealings with the City, without a waiver from the Board.

► The former Director of Central Budget in the Division of Finance in DOE has paid the Board a \$15,000 fine for violating the City's conflicts of interest law by taking official action to obtain a DOE job for his wife. Also, in only the second case of its kind since City voters approved, in November 2010, an amendment to the City Charter gave the Board the power to order the disgorgement of any gain or benefit obtained as a result of a violation of the conflicts of interest law, the former Director of Central Budget paid the Board the value of the benefit he received as a result of his violations, namely the total of his wife's net earnings from her employment at DOE, for a total financial penalty of \$49,292.29.

*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
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