

*Ethics lights the
way to good
government*

THE ETHICAL TIMES

A publication of the New York City Conflicts of Interest Board

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Political Activities

It's campaign season again in New York City, with primaries and elections just around the corner. New York City public servants may want to get involved with campaigns on various levels: volunteering, fundraising, and the like.

Public servants have the same rights as other citizens, but they also have additional *responsibilities* to fulfill. One of these responsibilities is to help preserve public trust in government, which can be seriously undermined when public servants participate in political activities that conflict, or appear to conflict, with the proper discharge of their duties, or when they use City resources to further private political interests.

Chapter 68's restrictions on public servants' political activities protect the public trust in a number of ways. First, they are designed to prevent any real or perceived political coercion in City agencies. Clients served by the City—a family with a case before ACS, for example—and vendors pursuing business with the City should not be made to feel that their matters will be handled any more or less expeditiously because of party allegiance or because of political contributions they've made or have refused to make. And between workplace supervisors and subordinates, no one should be made to feel that his or her evaluations, overtime assignments, or terms of employment depend upon political affiliation, or amount of time or money contributed to a campaign. Political cronyism is a liability that weakens both public trust and workplace morale.

Chapter 68's political restrictions also serve to separate the operations & mission of City government from the agendas of partisan politics. For example, a City Council member may organize a non-partisan voter registration drive using City time, resources, and personnel, because promoting voter registration may be viewed as a City matter within the duties of a Council Member. However, using those same resources for a "Vote for me!" drive would be viewed as a personal political matter and a misuse of City resources for a partisan campaign.

The following is a short summary of the dos and don'ts of political activities for New York City public servants, according to the Conflicts of Interest Law. Keep in mind that individual agencies may have additional restrictions on political activities, particularly if those agencies deal with political campaigns. Contact your agency counsel for more information on agency-specific restrictions.

Volunteering and/or Working for Another's Campaign

Public servants may generally volunteer for whatever campaign they choose. In many cases they can even be paid for such work. However, one must still follow one's own agency's rules on outside employment. Also, the nature and extent of some agencies' contact with campaigns could make a position with a campaign prohibitive. Employees of the Campaign Finance Board or the Board of Elections, for example, should contact the COIB before taking *any* position in a local political campaign, paid or unpaid.

Here are some general guidelines:

- Any non-City activities, political or otherwise, paid or unpaid, should be done on one's own time and without the use of City resources. City phones, copiers, letterhead, personnel, time, computers, etc., should not be used for political activities, and campaign literature may not be sent to City offices and/or email addresses.
- Public servants may not coerce anyone, and may not even *ask* subordinates, to make a political contribution or participate in a campaign. Public servants *may* volunteer/be paid to work on the same campaign as their supervisors. They may even volunteer/be paid to work for the campaign *of* a supervisor. But, the supervisor may not ever *ask* any subordinate to do so.
- Public servants *may not* represent entities before the City for compensation. So, while a public servant may take a paid position with a local campaign, this position cannot involve representing the campaign before the City. If a public servant becomes involved with a campaign and then her City position puts her into direct contact with that campaign, she should contact the Conflicts of Interest Board immediately.

Fundraising

- High-level public servants (those with *substantial policy discretion*) may not request *any* person to make a contribution to a campaign for City elective office. Such a public servant, therefore, would not only be prohibited from inviting subordinates to a fundraiser at his or her house, but he or she wouldn't be permitted to invite anyone else, either.

Running for Office

- Since high-level public servants may not fundraise

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for any campaign, they are in effect barred from running for City office while keeping their City positions.

- Certain public servants who work in exempt, provisional, and non-competitive positions, as defined in Mayoral Directive 91-7, must use annual leave or take a leave of absence in order to run for office. Contact your agency counsel for more information.

- Public servants in federally funded lines must also comply with the federal Hatch Act, which bars such public servants from running for office and keeping their positions. Contact the Federal Office of Special Counsel for more information (www.osc.gov).

Buying Office/Employment

- The integrity of any election or appointment would be thrown into question if officials paid or promised to pay any part of their City salaries, or anything else, in exchange for their election/appointment. Chapter 68 forbids such conduct.

Holding Positions in Political Parties

- High-level public servants may not hold the position of assembly district leader, or be a member of a national or state committee of political parties, or serve on the executive board of a county committee, or any position higher than these. Counsel to such high-level appointees may also be prohibited from holding such party offices.

- Management employees in mayoral agencies that serve in unclassified, exempt, or non-competitive titles, or provisionally in competitive titles, must comply with Personnel Order 88/5, which prohibits them from serving as officers of any political party or any political committee, including party district leader.

Penalties

A violation of Chapter 68 can

carry a civil penalty of up to \$10,000. It is also a misdemeanor that can be prosecuted in criminal court.

Please contact the Board's Legal Advice Unit if you have any questions regarding conflicts between your City duties and your political activities. □

—Alex Kipp—kipp@coib.nyc.gov

Political Activities Recap:

- Not on City time or with City resources.
- Don't represent your campaign before the City.
- Don't even *ask* a subordinate to contribute time or money.
- High-level appointed officials cannot fundraise for campaigns, including their own.
- Buying office/employment is prohibited.
- Your position and or agency may carry additional restrictions. Check with your agency counsel for details.
- High-level public servants are restricted from holding certain party positions.

2005 Enforcement Cases

- The Board concluded a settlement with Eduardo Genao, formerly a DOE Local Instructional Superintendent in Region 2 who, using a DOE Computer, e-mailed his brother's resume to all principals in Region 2, including ones he supervised. The Board fined Genao \$1,000, taking into account the fact that he tried to recall his e-mail when advised that someone had complained and that he self-reported his conduct.

- The Board fined Rivington Powery, a former school custodian at the DOE, \$1,000 for using DOE personnel and equipment for his private business.

- The Board and the Human Resources Administration concluded a settlement involving Benson Asemota, an HRA management auditor, who solicited a job with an HRA vendor that he audited. Mr. Asemota paid a fine of \$500 to the Board and forfeited six days annual leave for a total fine of \$1,500.

- The Board fined Conrad Vazquez, Director of the Emergency Service Department at the New York City Housing Authority, \$1,750 for selling his car to one of his subordinates for \$3,500. In a

3-way settlement involving NYCHA, Vazquez also forfeited 4 days of annual leave, equivalent to \$1,600.

- The Board fined Department of Sanitation electrical engineer Roy Thomas \$2,000 for using City time and his DOS computer to store and maintain inspection reports and client files related to his private building inspection and consulting services business. The Board's fine of \$2,000 was in addition to his forfeiture of \$3,915 worth of leave time to DOS in an agency disciplinary proceeding.

- The Board fined former Human Resources Administration Agency Chief Contracting Officer Richard Bonamarte \$3,000 for violating the New York City Charter's post employment provisions. While Mr. Bonamarte served as ACCO at HRA, he was involved in every stage of awarding to Wildcat Services Corporation ("Wildcat") an Employment Services Placement contract with HRA. He left HRA to serve as a Vice President at Wildcat; and, as a Wildcat employee, he worked on issues concerning the same contract that he had worked on as ACCO at HRA. In addition, Bonamarte contacted HRA on behalf of Wildcat within one year of leaving City service.

- The Board fined two former DOE officials, Bruce Hoffman and Vincent Romano who, during their employment at DOE, accepted valuable gifts from DOE vendors. Hoffman and Romano each admitted accepting a laptop computer that cost over \$2,400, as well as tickets, dinners, and gifts of meat from DOE vendors. Hoffman and Romano each paid a fine of \$4,000. □

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