

Misuse of City Resources

-City Letterhead-

Q. I am a manager at a City agency and have been asked to write at various times: (1) a reference for a friend who is not a City employee; (2) a letter of complaint involving a non-City employee in a non-City matter; (3) a letter to a vendor who contracted with the coop where I live; (4) an endorsement of a political candidate; and (5) a letter to a judge about a private lawsuit. Can I use my agency's letterhead to write any of these letters?

A. No. City employees may do none of the above. The Conflicts of Interest Law is very strict about the private use of agency letterhead for other than official purposes, particularly when the writer has received a financial benefit. The Board has issued several orders prohibiting the private use of letterhead and has fined City employees as much as \$8,000 per letter for the unauthorized use of City stationery to obtain a financial benefit. The Board is particularly vigilant in prohibiting the use of public letterhead for private purposes because it not only constitutes a misuse of City resources for private gain, but it also falsely implies the City's endorsement of the private matter for which the employee is using the stationery.

-Misuse of Personnel-

Q. I am a manager who also has a private business that sometimes requires the filing of documents with other City agencies and courts. May I ask one of my subordinates to file my private business's documents with an agency or a court if he is appearing there anyway in connection with his official City duties?

A. No. The Board's prohibition against using City resources extends to using City personnel for private purposes. The Board has fined a City employee

\$10,000 for using his subordinate to file papers in court in a private lawsuit. The Board also fined the same City employee \$7,500 for using his City secretary to type and to send private correspondence and \$3,000 for even asking a City subordinate to repair his son's laptop computer at City expense.

-Non-City Activities-

Q. I am a City employee, and I also have an outside business. I am careful not to do any work on City time. Sometimes, though, I get telephone calls or faxes at my office about the business. Can I use my office phone and fax to give a brief response?

A. No. The Conflicts of Interest Law prohibits City employees from using their City positions for any financial gain or personal advantage. This covers the use of City supplies, resources, personnel, and equipment for private purposes. These items would ordinarily have to be bought. Thus, a City employee cannot take advantage of his or her City job to obtain, for free, items that he or she ordinarily would have to pay for. These City resources can only be used for City business. The Conflicts of Interest Board has fined, and agencies have terminated the employment of, City employees who used their City telephones and/or fax machines to respond to messages about their private businesses. Use of a City phone number for commercial purposes is, itself, a violation of the ethics laws. Commercial activities should be performed only on non-City time and only using non-City resources.

Q. But what if I have an emergency during the workday? Can't I use my City phone or fax simply to contact my babysitter, doctor, or spouse, for example, if someone is sick? What about if I simply want to confirm a lunch date with a friend?

A. Of course, the rules on the use of City supplies and equipment must be viewed in light of reason and common sense. Calls for medical or other emergencies or even a *brief* call to a friend are the type of conduct that would not be prohibited. The Board, in conjunction with DOI, DoITT, and the Mayor's Office has established the Acceptable Use Policy ("AUP") that agencies are free to adopt. You can go to a copy of the AUP with this link [here](#). Be sure to check with your agency counsel to find out if your agency had adopted the

AUP.

—Not-for-Profit Volunteer Activities—

Q. I am a City employee who also volunteers for a non-profit community group that is organizing a voluntary clean-up of a local park. Would I be able to use City supplies, like paper and a copier, to make fliers publicizing this event? After all, this would provide a benefit for the City.

A. Under a new Conflicts Board rule, you may be able to use City resources, equipment, personnel, and supplies (but not letterhead) for certain private activities, but only if you obtain the prior approval of both your agency head and the Conflicts of Interest Board. The new rule is intended for situations similar to the one described above, where the private activity is a volunteer or charitable one that is determined by an agency head and the Conflicts of Interest Board to “further the purposes and interests of the City.”

FOR ADDITIONAL INFORMATION, CONTACT

**NEW YORK CITY CONFLICTS OF INTEREST BOARD
2 LAFAYETTE STREET, SUITE 1010
NEW YORK, NY 10007
212-442-1400 (TDD 212-442-1443)**

OR VISIT THE BOARD’S WEB SITE AT
<http://nyc.gov/ethics>