



MISUSING ONE'S CITY JOB FOR PRIVATE ADVANTAGE

Chapter 68 forbids using one's City position for private or personal gain or advantage for oneself, one's close relatives, or one's business associates.

Example: Using your position as a Department of Health employee to obtain a favorable or speedy inspection for your brother's restaurant is a violation of the Conflicts of Interest Law.

Example: If you have a personal tax problem, you cannot write a letter about it to the Department of Finance on your City letterhead.

Writing a letter on City agency letterhead for any personal reason is strictly forbidden, especially if you are sending the letter to another City agency.

As a general rule the City Charter prohibits the use of City letterhead, personnel, equipment, resources, or supplies for any non-City purpose.

THE ACCEPTABLE USE POLICY

Having said that, many agencies have adopted an "Acceptable Use Policy," that lays out some guidelines for acceptable "incidental personal use" of some City resources. Under this policy, local personal calls may be acceptable, as long as they are of an incidental nature and don't interfere with your job performance. The same goes with many other elements of office technology.

Example: An **occasional, short** call to one's mom in Brooklyn would be seen by the Board as an "incidental personal use" of City time and telephony, and therefore acceptable.

That same call to one's mom in Australia, using City long distance, would not, however, be acceptable, no matter how occasional or short. (Except, of course, if

your agency has a program which allows reimbursement of personal calls using City long distance, and you participate in that program.)

Not all agencies have adopted this “Acceptable Use Policy,” so it’s advisable to check with your agency counsel what your specific policy on incidental use of office technology and resources is.

UNACCEPTABLE PERSONAL USE

There are many types of personal use of even small items of City property, however, that will always be unacceptable and may result in agency disciplinary action or in prosecution by the Conflicts of Interest Board. This is particularly true if the improper use was for a private business purpose, but there are non-business uses of City resources that clearly fall outside of the “Acceptable Use Policy,” too: *sending hate speech or political literature on a City computer are examples.* The unauthorized use or borrowing of valuable items from your agency may even result in criminal prosecution.

Lastly, just to repeat: be aware that many agencies have stricter conflicts-related rules in many areas, including the use of City property for non-City purposes, than the general conditions this booklet has discussed. Public servants are bound to obey the stricter rules, so check with your agency counsel for your official policy.



SUPERIORS AND SUBORDINATES



All public servants are prohibited from having a business or financial relationship with a superior or a subordinate.

Example: If you own an apartment, you may not sublet it to someone you supervise.

Example: If you do outside carpentry work, you may not do a private job for your boss, not even for free.

“Does this mean I can’t loan my boss or my subordinate \$5 for lunch?”

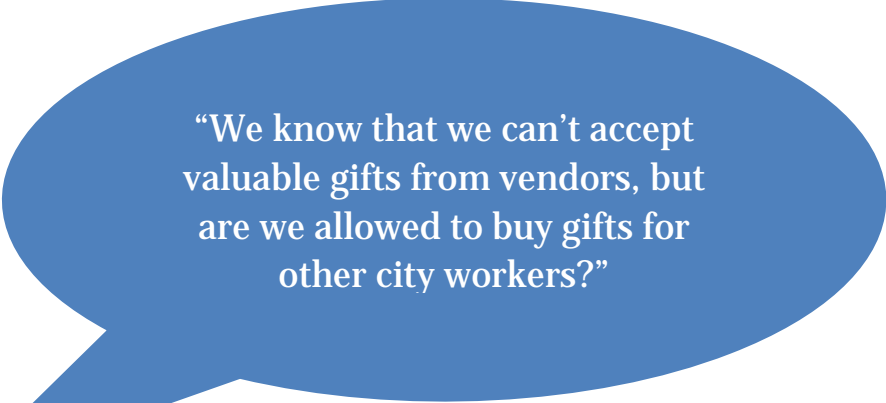
No, although you could imagine even this becoming a problem. If, for example, your boss borrows \$5 from you every day and never pays you back, that might not be a prohibited financial relationship under the law, but it certainly is a case of the boss misusing City position to get a personal benefit.

Example: You also may not share an apartment with a superior or subordinate, since splitting the rent would involve a financial relationship.

Example: You cannot borrow \$1000 from any subordinate, nor can you loan any subordinate money, nor can any superior of yours lend money to or borrow money from you.

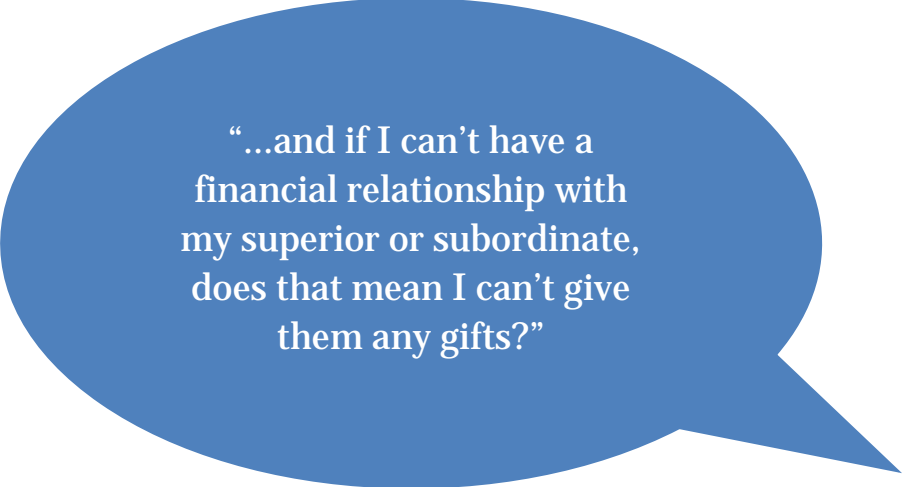
All of these situations are potentially coercive and, even if they are not, will throw a supervisor's ability to give fair & impartial evaluations and job assignments into question.

GIFTS BETWEEN CITY WORKERS



“We know that we can't accept valuable gifts from vendors, but are we allowed to buy gifts for other city workers?”

The 'Valuable Gifts Rule' only applies to gifts given by someone who does (or seeks to do) business with the City to a public servant. It does not apply to gifts between two public servants.



“...and if I can't have a financial relationship with my superior or subordinate, does that mean I can't give them any gifts?”

There are restrictions on gift-giving between superiors and subordinates. Let's look at them one at a time:

1) **Subordinate to Superior:**

Here, the subordinate gives a nice (let's say worth \$75) gift to his boss for her birthday. Aside from looking like a suck-up to everyone else in the office (not a crime in and of itself), this does not pose a problem for the subordinate. However, the superior should NOT accept such a gift. A public servant is not supposed to use his/her position (or appear to use it) to gain a private financial benefit for himself or an associate. When she accepts the \$75 gift from her subordinate (whose terms & conditions of employment he can affect), this is exactly what happens. What can the boss accept in such a case? Something of no substantial value: a coffee mug, a card, etc.

2) **Superior to subordinate:**

Here, the superior gives the \$75 gift to the subordinate. Do we still have the same problem with misuse or appearance of misuse of position? No. The subordinate cannot affect the terms & conditions of employment of her superior. There may be any number of managerial questions about "best practices" that come into play here, however, even if there is no clear violation of Chapter 68. At a certain point, if the gifts from the superior to a subordinate start to get fairly regular and extravagant, people may begin to wonder what kind of silence the superior is attempting to buy...

3) **Between two public servants who do not have a supervisory relationship between one another:**

Because neither person is in a position to affect the terms and conditions of employment of the other, gifts of any kind would be permissible under the Conflicts of Interest Law.

HOLIDAY PARTIES, BIRTHDAYS,
AND THE LIKE

There is no outright prohibition on office parties where the participants are all public servants, even if the party is to honor the boss' birthday. Having said that, there are probably better and worse ways to handle the organization of such events. These aren't really hard rules, but they are good things to keep in mind.

- 1) Participation really should be optional, and that should be communicated in the invitations.
- 2) To that end, it's best to have someone other than the boss organize the party.
- 3) Participation in the party should not be unreasonably expensive. Sometimes the cost for participation is metered on a sliding scale, to reflect differences in salary.
- 4) If there is a card for a particular honoree, everyone should be allowed to sign it, regardless of whether they contributed to any

SOU-SOUS

Sou-sous, or savings clubs, absolutely connote a financial relationship between the parties involved. This means that it is impermissible for any superior to participate in a sou-sou with any subordinate. Under the Conflicts of Interest Law, public servants who are not in a superior/subordinate relationship may participate in a sou-sou together, but be sure to check with your agency counsel before you do so, as some agencies prohibit any financial activity between co-workers in the workplace.

GIRL SCOUT COOKIES, FUNDRAISERS, BOOSTER BARS, AVON

This is one tiny potential exception to the restriction on financial relationships between superiors and subordinates, but it only works when the subordinate sells and the superior buys, not the other way around. Also, the amount the superior can buy is limited to \$25. The reasoning here is that the superior is less vulnerable to coercion than a subordinate and is therefore free to either buy or not buy, as s/he prefers.

HOWEVER: if you are interested in selling Avon, or Girl Scout cookies, or other similar things at work, please check with your supervisor or your Agency Counsel, as some agencies have prohibited ANY financial activities in the workplace regardless of their nature. And also remember the Acceptable Use Policy: if it is OK with your agency to sell these kinds of things, it should only be done at times when you are not required to do your City job.