

ASK THE CITY ETHICIST

Misuse of City Resources

**By
Dinorah Nunez**

Question: My daughter goes to school near my office. I have a very busy schedule so it is often difficult for me to pick her up from school on time. If I have a late meeting, is it okay if my assistant picks my daughter up from school and brings her to my office?

Answer: No. You may not use City resources, including City personnel, for any non-City purpose. Asking your assistant to pick your daughter up from school or perform other personal errands for you is a misuse of City personnel. You would also be using your position to obtain a personal benefit by having your subordinate do free work for you that you would otherwise have to pay someone else to do, like a chauffeur, a babysitter, or a tutor. In a joint settlement with the Board and the Department of Education (“DOE”), an Interim Acting Principal paid a \$900 fine for arranging with her subordinate to transport her children from school on City time. The subordinate used her own vehicle, and the fine was twice the amount the Acting Principal saved on the van service she would have hired for the five months she used the subordinate to transport her children.

Question: I understand that I can’t use City resources for any non-City purpose. But does that mean that I can’t use my office telephone to make a doctor’s appointment?

Answer: No. While the Board Rules states that “it shall be a violation of City Charter § 2604(b)(2) for any public servant to use City letterhead, personnel, equipment, resources, or supplies for any non-City purpose,” certain limited personal use is permitted. In fact, the Department of Investigation, the Conflicts of Interest Board, and the Law Department have adopted the Policy on Limited Personal Use of City Office and Technology Resources, also known as the Authorized Use Policy (“AUP”). The AUP permits City employees to use City technology for personal use in certain limited circumstances if the use is not prohibited pursuant to this or another applicable agency policy. Thus, unless prohibited by your agency, the AUP permits you to use your City telephone to call your doctor’s office to make an appointment or use your City computer to check your personal e-mail account. Your personal use of City resources should only take a minimal amount of your time and involve a minimal additional expense to the City. However, you may never use City resources for a private business or for political purposes. Remember that you do not have a right of privacy when you are using the City’s office and technology resources. Many City agencies have adopted the AUP as part of their agency rules and regulations. You may want to ask your agency’s ethics officer or general counsel if your agency has adopted the AUP. You can find the AUP on COIB’s website: <http://www.nyc.gov/ethics>.

Question: *I recently started my own investigation agency. I work on weekends and in the evenings during the week. My agency allows me to work in this type of moonlighting position. Is it okay for me to have my clients call me on my City telephone if they need to reach me during the day? Can I send out a quick fax to a client's local number from a City fax machine so that I don't have to leave my office in the middle of the day? Can my client pick up documents instead from my office?*

Answer: No. You may not use City technology, resources, or time to further a private compensated interest, such as your private investigation agency. The AUP does not allow **any** use of City technology for any paid position. If a City telephone or City fax machine are used for work concerning your private investigation agency, you will be violating the conflicts of interest law, whether you are sending or receiving the call or fax. The Board fined an Associate Staff Analyst at the New York City Department of Citywide Administrative Services ("DCAS") \$1,750 for, during times he was supposed to be performing work for the City, using a DCAS fax machine, his DCAS computer, and his DCAS e-mail account to perform work related to his two private businesses. While you may do work concerning your private business during your lunch hour, you still may not use City resources, including your City office. For example, you may never hold a meeting with a private client concerning your private business or outside employment in your office or agency conference room during your lunch hour or even after work hours. However, you can meet your client during your lunch hour in front of your office building to pick up documents. You may also contact your client during your lunch hour using your personal cellular telephone concerning your private business or outside employment.

Question: *I am running for president of the local chapter of the Tea Party. May I use my City e-mail account to e-mail City employees concerning my candidacy?*

Answer: No. The AUP does not allow **any** use of City technology for any political purpose. If you use your City computer or City telephone for a political purpose, you will be violating the conflicts of interest law. For example, in a joint settlement with the Board and DOE, a DOE Parent Coordinator paid a \$1,500 fine for sending an e-mail from her DOE e-mail address to the parents of the students at her school, which e-mail was seeking volunteers to hand out flyers on behalf of the campaign of a State Senator.

Dinorah Nunez is Deputy Director of Enforcement at the New York City Conflicts of Interest Board

“Ask the City Ethicist” is written monthly by the staff of the New York City Conflicts of Interest Board and appears originally in The Chief Leader. “Ask the City Ethicist” is provided as general information, and should not replace the text of Charter Chapter 68. For legal advice on City ethics matters, please call the Board at 212-442-1400. All calls are confidential. You may call anonymously if you wish. <http://nyc.gov/ethics>.