

ASK THE CITY ETHICIST

The Government Rate

by
Alex Kipp

Question: *I've worked for the City for a couple of years now. Every year my wife and I go on vacation by road-tripping to a part of the US we've never been before. A lot of the hotels where we could stay offer a special "Government Employees" discount. Can I ask for that discount when I'm on vacation, or can I only use it when travelling on City business? Depending on the hotel and the stay, the discount could run over \$100.*



Answer: In general most public integrity laws address a concern about public servants misusing their government positions to get special benefits for themselves or others. Chapter 68 of the City Charter, New York City's public integrity law, is no exception. Flashing a City Inspector's ID to try to jump a line to a nightclub, giving a photocopy of a badge to your brother so that he can flash it to the cops when he gets pulled over for speeding, or using official City letterhead to endorse a political campaign or a favorite charity would all be violations of Chapter 68. Damage is incurred to the public trust when we use our City positions and/or resources to obtain special benefits and privileges, or "perks." (Using a badge off duty to avoid standing in line at your favorite Friday night spot makes one look like a bully who thinks his badge makes him more entitled than anyone else, and using the taxpayers' dollars and/or resources to support a political cause is just outright theft.)

The question here is, does participating in one of these "Government Discount" programs offered by hotels, car rental companies, cell phone companies and the like, feel like trying to bully your way into a discount with your City position, or does it feel like something less problematic?

Certainly, barging your way into a hotel, flashing your City ID and demanding a discounted room "or else," would be considered a misuse of position (and in many cases, it may yield results other than the ones you're looking for—like a punch in the mouth or the suggestion that you go take a hike.) So, let us assume that the discount program is freely offered, and not just offered to you, but, indeed to any government worker. In other words, it's not being offered to you because of your specific government job and your potential ability to affect the hotel's possible business dealings with the City, but rather because you satisfy the generic (no offense) requirement of being a government worker.

A recent advisory opinion of the Conflicts of Interest Board addresses just such cases. In these established "Government Rate" situations, where the target population is so broad, the Board has said that accepting such a discount on your vacation is fine, as long as you don't mislead the hotel manager into thinking you're on official business. So, you're free to ask the desk clerk if such a program exists and use it if it does, as long

as you make it clear that you're there for pleasure, not business. (If you were on City business, you could accept the discount without question: the City likes it when you save the taxpayer money.)

The biggest thing that makes this discount program a go is its broad scope. The more narrowly conceived the program is, the more problematic it becomes. If, for example, you were a DOT employee and a certain DOT construction vendor offered a special discount for government employees, but only those involved in the construction trades, or only DOT employees, the answer might be different. At some point it starts to look like a company trying to curry favor with certain people or agencies. However, the program you mentioned doesn't sound like that; it sounds more like a company trying to attract a whole swath of customers, the same way they do with seniors, members of American Automobile Association, and the like. As long as this is the case, you can accept the government rate, even when on vacation. And remember, this isn't just for hotels, either. Cell phone carriers, car rental companies, certain retail stores, and computer companies may all have similar programs available to government employees, and you can participate in them, as well.

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