

the Ethical Times

Free Time

...And How to Use it for Free

By Gavin Kendall

Whether you believe that time is an illusion, relative, finite, or infinite, I think we can all agree that our time is precious. There's the time it takes to fix a meal. The time it takes to walk to the subway. The time it takes to stand in the lunch queue. The time it takes to read this article (which is probably the same amount of time I spent writing it).

Sometimes we have no time and other times we have all the time in the world. I live in that paradox. When I have too much time on my hands, how do I get rid of it? Maybe I should volunteer? That will pass the time and do some good for my community. As a City employee, is there anything I need to know when it comes to volunteering? Good question.

Volunteer work is unpaid work, so Chapter 68's volunteering rules are not as restrictive as its outside employment provisions, because volunteer work presents less likelihood for a conflict of interest to occur than an outside financial interest. In many (but not all) cases, absolutely no paperwork or permis-

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sion is needed to be a volunteer. Good on you if any of you caught that "many (but not all)." Let's clarify.

Volunteer activities fall into two categories: formal and informal. Informal volunteering means I'm providing services to fulfill the NFP's mission such as reading to kids, delivering meals to the elderly, or picking up trash at my local park. I'm not making official decisions for the organization; I'm just helping on the ground level. For this type of volunteer activity, Chapter 68 does not require City employees to disclose or get approval, even if the NFP has business with their employing agency. For instance, if I'm a DOE employee who volunteers with an organization that runs an after-school reading program, and that NFP has business with DOE, I do not need to get permission to do this activity so long as I'm not being paid. Additionally, while the law doesn't allow the use of City time or City resources for any outside paid positions, most agencies permit a minimal use of City time and City resources (but not City email or letterhead) for this informal volunteer work. For example, I wouldn't be able to print out my second job work schedule, but I could print out my volunteer work schedule at the soup kitchen. Just be sure to keep these instances minimal.

Formal volunteering for a not-for-profit means that I hold a leadership position, such



as serving on the board of directors or even being the founder of the organization. While this work is still uncompensated, I'm in a position to guide the mission of the NFP. For this type of role, a little more circumspection is required because, if the not-for-profit has any business with any City agency, I as a public servant would have to recuse myself from these matters. If the not-for-profit does business with my own City agency, I will need to get written permission from my agency head to stay in this formal role (and continue to recuse myself from all City matters). Using City time and City resources on behalf of the NFP is still prohibited, but in certain instances I may be able to do both if I get written agency and COIB permission. If I feel like it is necessary for me to work on the NFP's City matters, I will need a waiver from COIB. If you're curious about this, call our Attorney-of-Day hotline and we can walk you through the steps.

Now if you decide to flex those volunteer muscles, it is also your responsibility to figure out whether a not-for-profit has any business with your City agency. That can easily be done by checking out the [Doing Business Database](#) or [Check-book NYC](#). Or you can also call the Attorney-of-the-Day hotline at 212-442-1400 where we volunteer answers 9am to 5pm, Monday through Friday.



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Recent Enforcement Cases

Misuse of City Position & Misuse of City Personnel. A New York City Department of Education (“DOE”) Principal directed a subordinate School Secretary to perform several purely personal tasks for him, including ordering a birthday cake for his daughter and booking a cleaning service for his home. The School Secretary completed most of these tasks at times she was required to be working for DOE. In a joint disposition with the Board and DOE, the Principal paid a \$3,500 fine to the Board to resolve his violations.

Misuse of City Position & Misuse of City Personnel. In order to make a more informed decision about whether to invest in a restaurant supply business, a member of Manhattan Community Board 5 (“CB 5”) had a subordinate Community Associate perform research during his City work hours related to the issuance of liquor licenses in New York State. The CB 5 Member paid a \$1,000 fine to the Board to resolve his violations.

Misuse of City Position & Misuse of City Resources. A New York City Police Department (“NYPD”) Officer invoked her NYPD status in multiple ways while seeking assistance from the New York City Department of Buildings (“DOB”) regarding gas and elevator outages at her personal residence. She used her NYPD email account to email a DOB Community Engagement Liaison requesting assistance with the outages and referenced her NYPD position and a prior interaction she had in her official capacity with the Liaison in the email. In a subsequent phone call, she told the Liaison to let her know if he ever needed help from her department, and in a subsequent email exchange with another DOB employee regarding her request, she again referenced her NYPD position. To resolve the misuse of

her City position and City email account, the Officer paid a \$500 fine to the Board. In setting the penalty, the Board considered that the Officer sought assistance from employees who are responsible for providing such assistance and got only the assistance they could provide

Misuse of City Time. A DOE teacher taught a course for the City University of New York (“CUNY”) during 19 hours in which he was required to be working for DOE. As a result, the teacher was paid \$1,086.99 by DOE that he did not earn. In a joint disposition with the Board and DOE, the teacher agreed to return the unearned compensation and pay a \$3,000 fine to DOE.

Misuse of City Position. A DOE teacher sent a text message to the parent of a student in her class offering to provide paid private tutoring to that student. The parent did not respond to the teacher’s solicitation and never paid the teacher to tutor the student. The Board resolved this matter with a public warning letter instead of seeking a fine because the teacher made only one solicitation and gained no benefit from it.

THE PUBLIC SERVICE PUZZLER

The current [contest](#) is a classic crossword puzzle, with a municipal ethics theme. Can you find the right words? Send in your answers by **Wednesday, October 19th!**

Also meet last month’s winner **Lok Leong** of DDC, who coordinates construction safety trainings and once had an awkward moment with NBC’s Andrew Siff.

