

## The Show Must Go On (Your Own Time)



**By Rob Casimir**

It's summertime in the City, and this month's Ask the Ethicist is getting back to its roots, with one of New York's coolest municipal ethicists answering your questions on the hottest topics in government ethics. Is it a conflict of interest to call yourself one of the coolest municipal ethicists in New York? You'll have to read on to find out!

### **Dear City Ethicist,**

I'm a City employee, and I've recently started a side gig as a stand-up comedian. Can I use my office as a practice space for my routines after work hours?

*Sincerely,  
Laughing with Lanyards*

### **Dear Lanyards,**

While the City would never suggest one of its citizens engage in an act of stand-up comedy, nothing in the conflicts of interest law prohibits public servants from being any kind of comedian they want: stand-up, sketch – even improv comedy is currently legal in New York City. As with all second jobs, however, public servants must be careful to avoid using any City resource – and that's not just the technology, vehicles, or office supplies, but even the space inside a City building – for anything other than serving the City. While some agencies have adopted an Acceptable Use Policy that allows for limited personal use of City re-

sources, it is never acceptable to use any amount of the City's resources for outside business ventures. Sorry Lanyard, but if you want to start a comedy career, you're going to have to head down to the open mic and practice like all the up-and-comers who don't have access to government office space!

### **Dear City Ethicist,**

I'm a City employee who has recently started booking close-up magic shows. While my technique is good and I'm getting positive responses, I've been finding it difficult to build the requisite audience in this media environment. Could I use a City copy machine to print a few flyers for my next magic show?

*Abracadabra,  
Magic Mike from Midtown*

### **Dear Mike,**

It sounds like you might have a bit of an SEO problem, but you've definitely got a Chapter 68 problem. Remember: using City resources for any business or money-making activity is a conflict of interest and a betrayal of your fellow New Yorker who doesn't pay their taxes every year just so you can use government time and supplies to get an unfair edge against them in the magic market. Put another way, Mike: would you feel good paying your taxes if it was just going to a rival magician/mentalist sitting in their government office practicing tricks and printing out advertisements instead of handling their official responsibilities? Probably not. So remember: it really is zero

tolerance for using any City resource for any business or for-profit reason.



### **Dear City Ethicist,**

I'm a public school teacher, and over the last year, in those small moments when the students are quiet and working on their assignments, I've put together a frankly dynamite curriculum that I've been using to great success to teach my students the different parts of speech: it involves a ventriloquist dummy ("Sammy"), a glass of water, and an 8.5" x 11" notepad. I can promise you these kids will never forget the difference between an adjective and an adverb. May I sell this revolutionary curriculum online at one of those teacher-to-teacher marketplaces?

*Thanks in advance,  
DUMBO Denise and Sammy*

### **Dear Denise,**

I refuse to address the dummy. That said, you've asked an interesting question: generally, you are allowed to do all sorts of freelance work in those hours where you're not clocked in and required

to be serving the City; that is your time, after all. In those cases where your outside work isn't for a firm/entity doing business with the City, you don't even need to get a waiver! So, there's certainly nothing wrong with – as a side business – developing and selling your own curriculum to whichever teachers want to pay for it with their money, as long as those teachers aren't your DOE superiors or subordinates. And as long as you don't use City time or City resources to run the business. But that's not the problem here. It sounds like you explicitly used City time and City resources to develop and deploy, for a City purpose, what is essentially a government asset: the curriculum you developed for the City. In the same way that I could not turn around and sell this (sterling) edition of Ask the Ethicist to a magazine after writing it for all my fellow public servants, a teacher who uses City time and City resources to develop an in-class curriculum has essentially written that curriculum for the City, and thus doesn't possess the requisite ownership to sell the product as one's own! The fix? Develop your content on your own time, and it'll be yours to sell!



## Dear City Ethicist,

I have for fifteen years worked at a social services agency here in the City; additionally, full disclosure, I am able to foretell the future. As you can probably imagine, I moonlight nights and weekends as a professional psychic. My question is: I spend all day working with confidential databases and protected client records. If I, in the process of channeling an elder spirit, accidentally divulge confidential City information about a client's housing or health record, is that a problem? There's certainly no ill intent on my part, but I understand protecting our fellow New Yorkers' private information is important for building trust and convincing people to come forward and interface with their government.

*I know I'll hear from you soon,  
Catherine the Community Coordinator/  
All-Seer*

## Dear Catherine,

I suspect you already know what I'm about to say: public servants may not disclose confidential City information or use it for their private advantage, even after they leave City service. Upholding the public's trust is one of the most essential duties of any public servant. It is for that reason that we are prohibited from disclosing confidential City information to any entity (living or un-dead) who is not entitled to see it. But you knew that.

**Dear City Ethicist,**

I work for the City, but on my own time I work as a promoter for one of the most dynamic, up-and-coming vaudeville-style revues on the East Coast. We've got incredible talent, talent so good you can't believe it, in all the hot genres: we've got magic, we've got comedy, we've got ventriloquism, we even got ourselves a stage psychic. What we don't have is good advertising or distribution to a mailing list of hundreds of thousands of City employees. So my question is: is it ethical to cynically plant a couple of questions in my favorite government ethics newsletter, with the hope that it will draw traffic to my entertainment group? (Oh, and because the revue has a City grant, I've already applied for and received a waiver for this job – I'm not a monster.)

*Asking for Forgiveness and Not Advice,  
Meta-narrative Matt from Manhattan*

**Dear Matt,**

First of all, when it comes to your career as a public servant, it is always better to ask for advice – especially when the Conflicts of Interest Board runs the long-standing, award-winning Attorney of the Day Hotline, serving thousands of City employees annually by getting them the ethics answers they need on-the-spot and when they need them at (212) 442-1400, or at [aod@coib.nyc.gov](mailto:aod@coib.nyc.gov). You don't even have to give your name! Calls are confidential! There is never, ever a reason to wing it or hear it through the grapevine when it comes to understanding the rules when there's the Attorney of the Day Hotline making it easier than ever to get that no-

stress, no-risk answer to your question. That said, to the substance of your original question: there are some things you can do (like introducing yourself as "one of New York's coolest municipal ethicists") that are deeply troubling but not technically illegal. Chapter 68 is only 24 pages, after all; you always have the ability – and are encouraged – to hold yourself to a higher standard as a public servant. I would put your attempt to obtain free advertising into that "deeply troubling" category, if only because I can't tell the name, location, time, or cost of your show, so if this was supposed to be advertising, it won't be very effective. Let's all try to do better next time: in the next edition of Ask the Ethicist!



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## Recent Enforcement Cases

### **Misuse of City Time & City Resources.**

In August 2024, the Commissioner of the New York City Department of Transportation ("DOT"), while delivering official remarks from the stage at Summer Streets, a DOT event, urged the assembled crowd to support Kamala Harris for President. The Commissioner agreed to pay a \$1,750 fine to the Board.

**Prohibited Fundraising.** In February 2024, the New York City Police Department ("NYPD") designated an Assistant Commissioner in the Liaison Unit as a public servant charged with substantial policy discretion ("policymaker"). In March 2024, the Assistant Commissioner received a written notice from Board Staff advising him that, as a policymaker, he was prohibited from soliciting donations for candidates for City elective office. In June 2024, the Assistant Commissioner solicited and collected 15 donations totaling \$4,100 for Mayor Eric Adams's re-election campaign. The now-former Assistant Commissioner agreed to pay a \$5,000 fine to the Board

**Misuse of City Resources.** During his 2019 presidential campaign, then Mayor Bill de Blasio had the City pay the travel expenses for a New York City Police Department security detail to accompany him or his spouse on 31 out-of-state trips in connection with the campaign, despite having been previously advised by the Board in advance and in writing that the City could not pay for such expenses. The security detail incurred \$319,794.20 in travel costs, excluding salary and overtime, during these trips. After a full hear-

ing at the New York City Office of Administrative Trials and Hearing ("OATH"), the Board issued an Order ordering the former Mayor to repay the City \$319,794.20 and imposing a fine of \$155,000. De Blasio brought an Article 78 Petition challenging the Order; the Article 78 Petition was dismissed, which dismissal de Blasio also appealed. In settlement of that litigation, de Blasio admitted that he violated the City's conflicts of interest law, that he deeply regrets his conduct, and that he no longer challenges the Board's factual findings and legal conclusions. De Blasio agreed to pay the City \$319,794.20 in restitution and an additional \$10,000 fine – with the payment of \$100,000 up front and the remaining sum in quarterly installments over the next four years. The case represented the highest fine ever imposed by the Board, the greatest amount of money a respondent ever agreed to pay to the Board in a settlement, and the first ever enforcement disposition by the Board against a Mayor of the City of New York.

**Misuse of City Time & City Resources; Failure to Report.** An Administrator in the Emergency Management and Services Department at the New York City Housing Authority ("NYCHA") had a second job with Airbnb. Over a year and a half, the Administrator worked 1,334.5 overlapping hours at NYCHA and Airbnb, thus performing extensive work for Airbnb at times she was required to be performing work for NY-

## Recent Enforcement Cases

CHA. The Administrator also used her NYCHA email account to send and receive 19 emails related to her work at Airbnb, including three in which she forwarded internal, but not confidential, NYCHA documents to her Airbnb supervisor. Finally, the Administrator, who was required to file an annual disclosure report with the Board, failed to disclose her position with Airbnb in her 2022 report. The now-former Administrator agreed to pay a \$13,500 fine.

**Misuse of City Position & Misuse of City Personnel.** The personal vehicle of the Chief of Collection, Recycling, and Organics at the New York City Department of Sanitation ("DSNY") was damaged by a construction company while the vehicle was parked in a DSNY parking space and while the Chief was working for DSNY. The Chief paid \$1,721.68 to a body shop to repair the damage to his personal vehicle. In an effort to recover money for this personal claim, the Chief had a DSNY subordinate file a claim on his behalf with the New York City Comptroller's Office and had the subordinate repeatedly follow up with the Comptroller's Office; the subordinate did this at times he was required to be performing work for DSNY. The Chief agreed to pay a \$3,500 fine.

**Prohibited Gifts.** A New York City Police Department ("NYPD") Lieutenant supervised the operation of NYPD's one airplane. As part of this work, the Lieutenant regularly communicated with CNC Technologies, an NYPD vendor that serviced the airplane. In July 2021, the Lieutenant

went to the Airborne Public Safety Conference in New Orleans, despite not being selected by NYPD to attend the conference. The Lieutenant accepted from CNC hotel accommodations and conference admission valued collectively at \$641.69. The now-former Lieutenant agreed to pay a \$1,500 fine.

**Misuse of City Resources.** The Queens Regional Manager for Students in Temporary Housing ("STH") for the New York City Department of Education ("DOE") took her daughter, who was not STH, on three free excursions intended to enrich the educations of STH: to a performance of the Broadway show "Stomp;" to the Rocking Horse Ranch Resort; and to Niagara Falls. After a full hearing, OATH Administrative Law Judge Kevin Casey issued a Report and Recommendation that the Board adopted in full. The Board imposed the recommended fine of \$7,500 on the now-former Regional Manager.

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