

Ethics lights the way  
to good government

# The Ethical Times

A Publication of the New York City Conflicts of Interest Board  
Roy Koshy, Editor



## The Government Rate

By  
Alex Kipp

**Question:** *I've worked for the City for a couple of years now. Every year my spouse 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:** Most public integrity laws address 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 ID to try to jump a line to a nightclub; giving a photocopy of a badge to your brother so that he can show it to the cops when he gets pulled over for speeding; or using official City letterhead to endorse a political campaign or a favorite personal charity would all be violations of Chapter 68. The public trust is damaged when we use our City positions and/or resources to obtain special benefits and privileges for ourselves or our associates: using a badge off duty to avoid standing in line at your favorite Friday night hot spot makes you look like a bully who thinks the badge makes you more entitled than anyone else, and using the taxpayers' dollars and/or resources to support a political cause is just outright theft of resources.

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 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 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 not-so

-unique (no offense) prerequisite of being a government worker.

An 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 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 only the government employees involved in the construction trades, or only DOT employees, the answer would be "no". At some point it starts to look like a company is 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.

*Alex Kipp is the Director of  
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of Interest Board*

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## Recent Advice Opinions

### ► Political Activities: Social Media

Advisory Opinion No. 2017-1 has been revised to answer a question that has arisen since the issuance of Advisory Opinion No. 2017-1. Specifically, the Board clarifies that Chapter 68 of the New York City Charter, the City's conflicts of interest law, does not, by itself, prohibit an elected official from speaking as an elected official on his or her personal social media account.

## Recent Enforcement Cases

► **Misuse of City Resources.** Two DSNY Sanitation Workers drove their sanitation truck to a vacant lot adjacent to one of their homes to meet contractors who were making a delivery there. They remained at the lot for over one-half hour. In three-way settlements with the Board and DSNY that resolved both their conflicts of interest law violations and unrelated disciplinary charges, the Sanitation Worker to whose home they traveled accepted a ten-workday suspension, valued at approximately \$2,971, and his partner accepted a seven-workday suspension, valued at approximately \$2,079. The partner's lower penalty takes into account that he received no personal benefit from his unauthorized use of the sanitation truck. The City's conflicts of interest law prohibits using City vehicles for any non-City purpose.

► **Misuse of City Resources.** A Community Coordinator, who served as a NYCHA Fleet Coordinator, took a NYCHA car that was not assigned to him to transport his mother to buy a chair at a Pier 1 Imports store in Freeport, New York, and to transport the chair and his mother back to her home. In a three-way settlement with the Board and NYCHA, the Commu-

nity Coordinator accepted a ten-workday suspension valued at approximately \$2,222. The Board determined that the agency-imposed penalty was sufficient and imposed no additional penalty.

► **Misuse of City Time & Resources.** Over a four-month period and during her City work hours, a DYCD Contract Specialist used her DYCD computer to visit numerous websites and used her DYCD email account eight times to send or receive emails related to her online retail business. In a joint settlement with the Board and DYCD, the Contract Specialist agreed to pay a \$1,000 fine to the Board and accepted a four-workday suspension, valued at approximately \$1,112, for her violations.

► **Misuse of City Position.** The Queens County Public Administrator hired her son's girlfriend in September 2014 to work at the QCPA Office. In Spring 2015, after they became engaged, the couple moved in together; the Queens County Public Administrator continued to supervise her son's live-in fiancé for approximately one year, providing an indirect benefit to her son in violation of the City's conflicts of interest law. The Board fined the Queens County Public Administrator \$3,000, which took into account the Public Administrator's high-level position as head of the QCPAO, as well as the lack of evidence that she treated her son's live-in fiancé differently than other QCPAO employees in terms of assignments and pay.

► **Misuse of City Position.** An Assistant Principal at the Wilton School ("PS 30") in the Bronx used a school volunteer on at least fourteen occasions to pick up her grandchild from a preschool in Harlem and transport her back to PS 30. She also regularly used the school volunteer to babysit her grandchild during the school day at

PS 30. In a joint settlement with the Board and the New York City Department of Education, the Assistant Principal agreed to pay a \$2,000 fine for misusing her City position by having a school volunteer perform personal babysitting services for her.

► **Misuse of City Position; Confidential Information.** An ACS Child Protective Specialist testified in her personal capacity at an associated family member's family court case. During her testimony, she invoked her position as an ACS Child Protective Specialist three times to inform the judge of specific actions that she deemed appropriate for ACS to take. She also accessed the New York State Central Register's confidential child abuse and maltreatment database, CONNECTIONS, on one occasion to obtain information about the status of her family member's case for her own personal use and to benefit the associated family member. In a joint settlement with the Board and ACS, the Child Protective Specialist agreed to serve a six-workday suspension, valued at approximately \$1,339. The Board accepted the ACS penalty as sufficient for the Child Protective Specialist's conflicts of interest law violations and imposed no additional penalty.

► **Job Seeking.** A former Senior Director for Strategy and Program Development for NYCHA admitted that she violated the conflicts of interest law by negotiating for a position with a consulting firm she dealt with as a part of her NYCHA duties. After initiating discussions in February 2014 with the firm regarding possible employment (already a violation, since she was dealing with the firm for NYCHA at the same time), she continued discussions regarding potential employment with the firm over the course of the next 10 months, while simultaneously continuing to authorize the firm's NYCHA-related work and NYCHA

payments to the firm. Taking into account that the Director's improper job negotiations were ultimately successful, as well as the demonstrably direct conflict between her NYCHA duties with respect to this firm and her simultaneous private pursuit of a position at the firm, the Board levied a fine of \$9,500.

► **Misuse of City Position.** On two occasions, a now-former DOE Assistant Principal asked for and received money from a teacher he supervised. The requests were as follows:

- A \$5,000 donation to a charitable cause he claimed to support and, one month later,
- \$10,000 for personal expenses he claimed to have incurred.

Both of these claims, however, were false. The Assistant Principal neither passed the \$5,000 along to charity, nor did he use the \$10,000 to pay for the expenses he had described to the teacher. Instead, he kept the money for himself. When the teacher learned that she had been lied to, she asked the Assistant Principal to return the money. He complied. His DOE employment ended shortly thereafter. The Board set the fine at \$7,000, taking into account that the Assistant Principal had fully repaid the teacher.

**Congratulations!** to the winner of the Conflict of Interest Board's May Public Service Puzzler contest:

**Jeff Smith**, a Special Assistant Corporation Counsel at the Law Department

You can read Mr. Smith's bio in the June issue of the Public Service Puzzler.



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*Interested in more information? Get in touch with COIB's Education & Engagement Unit to arrange a class in Chapter 68 for you and your staff.*

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