

the Ethical Times

Yes, You Can Not Everything is a Violation

By Rob Casimir

Conflicts of Interest training is a lot of what *not* to do: don't misuse City time or resources, don't take prohibited gifts or tips, avoid financial entanglements with your boss – by now, you're familiar with the list. Most people are! And that's good news. It means that, in the average COIB training session, you're going to hear a lot of correct answers:

Ask how the Board has defined a "valuable gift" – you'll hear "\$50!"

Ask if a subordinate can move in with their supervisor, and you'll get a resounding "no!" followed by "*also, a terrible idea.*"



IN THIS ISSUE

- 1 **Featured Article: Yes, You Can**
- 3 **Recent Enforcement Cases**
- 5 **Public Service Puzzler Winner**

And this is all great! City employees have a whole host of official responsibilities on top of their obligations under the ethics law, and being able to quickly identify and address ethics issues as they arise is absolutely essential to a healthy, functioning government.

But there's issue-spotting and then there's seeing issues *everywhere*.

In fairness, this isn't the worst thing in the world: no one ever received an ethics fine for being too cautious. So the incentives are definitely in place for your intrepid ethics trainer to ask questions of a class and receive back – let's say – "overcorrections."

Are you allowed to exchange holiday gifts with a coworker at your office? "*Oh man, I wouldn't do it!*"

Can you attend your supervisor's wedding? "*Not if you want to keep your job!*"

What about owning a business on the side? "*Siberian labor camp!*" (More or less.)

None of these three situations present a conflict of interest violation, by the way. And the overcorrections can be fine, too! If you want to guarantee that you'll never have an outside business that violates Chapter 68, just



never start that business. And while you're at it, cancel your social calendar and never give or receive a gift from anyone. But this is the part of COIB's mission which is most frequently misunderstood: the law doesn't exist to ensnare public servants who are not sufficiently careful, but to provide guidance on how to balance your public and private interests in a way which is ethical, consistent, and fair. COIB is a service agency, and we're here to serve *you* as well as the public.

We want you to call for advice because we don't want you to wing it and end up with an ethics violation, sure, but just as important: we want you to *know what's possible*. Because missing out on a great opportunity because you thought it wasn't allowed is its own particular brand of tragedy.

So, in that spirit, here's a Brief and Extremely Non-Exhaustive List of Things Which Are Mostly Okay:

Having all sorts of second jobs, even ones at firms that do business with the City. If the firm where you're working doesn't do business with the City, you're fine; if it does, you're almost certainly still fine, you just need to [apply for a Moonlighting Waiver](#) and demonstrate that the position causes no real conflict with your City job.

Giving gifts to your coworkers. The Valuable Gifts Rule says City employees cannot accept a gift worth \$50 or more from any person or firm that does, or intends to do, business with the City. That doesn't describe your peers at work. So exchange gifts freely! Just don't give to your supervisors – there's a different rule about taking things of value from those you have official power over.

Some "Minimal, Personal, Incidental" use of certain City resources. Surprising, right? While the law states that public servants may not – with *zero tolerance* – use City supplies, letterhead, telephone, e-mail, computers, equipment, resources, or personnel for any business or political purpose, for *personal* purposes, the Board has established the "Acceptable Use Policy" ("AUP"). This policy explains where and when use of a City resource is "minimal, personal, and incidental" and thus would not present a problem. Check with your agency ethics liaison to find out if your agency has adopted the AUP or any other policies regarding personal use of City resources.

Using your City ID to obtain a discount, as long as that discount has been arranged for the benefit of all City employees. City workers can find a number of special deals on our employee portal: discounts on laptops, phone bills, theater tickets, hotel stays – all sorts of things. Unlike using one's position to solicit a personal or financial gain, these are acceptable because they are open to all government workers.

Working for a company you previously worked with in your City capacity. You can't talk future employment with those people and firms you are currently dealing with in your official capacity. But let's say you finish some City matter with a firm and, after the project is over, the firm tells you about a job opening they have. You may apply for that job. You may accept that job. You may start at that job tomorrow, even if that firm has frequent business with your former agency. You just can't make any *compensated appearances* at your former agency on behalf of your new employer for



one full year. Working at the firm is fine. Visiting your former coworkers socially – say, for a retirement party – also fine!

Reading this newsletter while on the clock. *Whew!*

There's more – much more than we could possibly cover here – but by now you get the point. The conflicts of interest law limits what we can do in some very important ways, but not in *every possible* way.

And even in those cases where you are presented with a true conflict of interest, it's not the end of the world, but the start to a conversation on how to best resolve that conflict in a way that feels ethical and fair. We hope that the next time you spot a potential issue, you'll reach out to us – (212) 442-1400 or



nyc.gov/ethics – so we can make sure you don't miss either a looming ethics violation or a great opportunity.

Rob Casimir is the Senior Education & Engagement Specialist at the New York City Conflicts of Interest Board.

Schedule a Chapter 68 Class

COIB's Education & Engagement Unit can arrange a class in Chapter 68 for you and your staff

Contact Gavin Kendall at kendall@coib.nyc.gov



nyc.gov/ethics

Phone: (212) 442-1400

Fax: (212) 437-0705

Recent Enforcement Cases

Misuse of City Time, Resources, & Position. As part of his City duties, a now-former Associate Executive Director of Materials Management at Queens Hospital Center served as Chair of Queens Hospital's Product Evaluation Committee, the body that reviews and selects medical products and equipment for Queens Hospital. At the same time, the Associate Executive Director's son was a salesperson for a private medical products manufacturer. Over the course of two years, the Associate Executive Director misused his high-level Health + Hospitals (H+H) position to help his son sell medical products, including:

- Promoting his son's business interests to his H+H colleagues, vendors, and contacts, including trying to facilitate a study of the efficacy of the company's products at Queens Hospital;
- Using his H+H email account to exchange approximately 120 emails, mostly during work hours, as well as using his Health + Hospitals telephone extensively to assist his son's business interests; and
- Using H+H premises to host business meetings for his son's company and giving a sales presentation regarding the company's products by teleconference from his H+H office.

The now-former Associate Executive Director paid a \$14,000 fine to the Board.

Misuse of City Position & Prohibited Interest. In his private capacity, a now-former H+H Associate Nurse Practitioner Level II was a paid speaker for two pharmaceutical companies, both of which do business with H+H and other City agencies. Over the course of eight years the companies paid the

Recent Enforcement Cases

Associate Nurse Practitioner over \$150,000 to speak at pharmaceutical events. Throughout this period, the Associate Nurse Practitioner prescribed their medications to H+H patients. The now-former Associate Nurse Practitioner paid a \$5,000 fine to the Board.

Confidential Information. A now-former Deputy Director of Fleet for the NYC Department of Homeless Services (DHS) was given access to a confidential NY State Department of Motor Vehicles database for performing his official duties. Over the course of four years, on multiple occasions, he accessed the database for non-City purposes, giving confidential information about vehicles and vehicle owners to several DHS coworkers, as well as his girlfriend and his girlfriend's brother. He paid a \$3,500 fine to the Board.

Misuse of City Position. During the summer of 2017, a Seasonal Timekeeping Supervisor for the NYC Department of Parks and Recreation (DPR) served as one of two supervisors for the Seasonal Timekeepers. During that time, the Supervisor's sister was hired as a Seasonal Timekeeper. The sister's day-to-day work was generally supervised by the other DPR supervisor, but the Seasonal Timekeeping Supervisor and the other DPR supervisor both trained the sister and approved her timesheets and overtime requests. Additionally, the Seasonal Timekeeping Supervisor had sole responsibility for supervising her sister on seven days when the other supervisor was out. In a settlement with the Board that took into account her relatively low-level position and the short period of time she supervised her sister, the Seasonal Timekeeping Supervisor paid a \$400 fine.

Misuse of City Time & Resources. A now-former Computer Specialist at the NYC Department of Information Technology and Telecommunications (DoITT) had a side venture as a licensed real estate agent. For over three and one-half years, he regularly used his DoITT computer to perform work for his real estate business, including storing and editing thousands of files related to the business; visiting real estate websites; and instant messaging DoITT coworkers regarding real estate deals. Much of this misconduct occurred during his City work hours. The Computer Specialist also used DoITT telephones for hundreds of real estate-related calls; often used a DoITT photocopier to scan, email, and print real estate documents; and, during his DoITT work hours, offered to make a real estate referral for a coworker, for which he received \$1,000, and performed work relating to the sale of a house to a co-worker, for which he earned a \$4,500 commission. The now-former Computer Specialist paid a \$6,000 fine to the Board.

Misuse of City Time & Resources. In her private capacity, a now-former program producer and on-air television personality in the Mayor's Office of Media and Entertainment (MOME) ran an online fashion website and a fitness business. She devoted over 78 hours of City time in pursuit of these private ventures. The program producer also used City resources to support these side businesses, including, on hundreds of occasions, her City computer and, on one occasion, MOME office space to film a video for one of these businesses. The now-former program producer paid a \$4,500 fine to the Board.

Recent Enforcement Cases

Misuse of City Position & Prohibited Superior-Subordinate Relationships. A Head Nurse at the Burn Unit at Jacobi Medical Center borrowed a total of \$4,100 from Registered Nurses and Patient Care Associates who worked shifts under her supervision, some of which she solicited, and some of which she did not repay. The Head Nurse repaid the outstanding loans to her subordinates and paid a \$2,500 fine to the Board.

Misuse of City Time & City Resources; Prohibited Appearances. A Carpenter at the NYC Department of Citywide Administrative Services (DCAS) co-owned a company that bought and renovated a house in Staten Island with the intention of selling it for a profit. The Carpenter used his DCAS computer, email account, smartphone, and printer, often during his workday, to perform work relating to the property, including sending 44 emails and storing 48 photographs of the property on his DCAS phone or computer.

Among the planned improvements to the property, the Carpenter sought to plant new trees, which required approval from DPR. The Carpenter sent 11 emails to DPR regarding his tree-planting application, seeking status updates and guidance, sending photos of the trees, and scheduling a final inspection.

The Carpenter paid a \$2,500 fine to the Board.

Misuse of City Time & Resources. Over two and one-half years, an Assistant Director for Cellular & Specialty Leasing for the Department of Real Estate Services at the NYC Housing Authority (NYCHA) used her NYCHA email account during work hours to exchange 343 emails relating to the sale of

Avon products. In a three-way settlement, she agreed to an eight-workday suspension, valued at approximately \$3,760, and a one-year probationary evaluation period.

Misuse of City Time & Resources. During a six-month period, a Computer Systems Manager for the NYC Department of Finance (DOF) used his DOF email account and DOF computer, mostly during his DOF work hours, to send 13 emails and 19 documents related to his private wealth management business. The Computer Systems Manager also stored logos for this business on his DOF computer. The Computer Systems Manager paid a \$1,250 fine to the Board.

Job Seeking. The now-former Director of the Street Activities Permit Office (SAPO) in the Mayor's Office of Citywide Event Coordination and Management worked on two matters in which the firm Capalino + Company was involved. At the same time as he was working on those matters for SAPO, the Director applied for, negotiated for, and accepted a job with Capalino. The now-former Director paid a \$2,000 fine to the Board.

A [searchable index](#) of all the COIB Enforcement Dispositions and Advisory Opinions is available courtesy of New York Law School.

Congratulations!



To the winner of our recent Public Service Puzzler, **Styliani Karpadakis** of OCME.

This month, the caption contest [returns!](#)

Send us your best caption by Monday, June 17th.