

## **Ask the City Ethicist**

### ***How to Avoid Conflicts with Your Superiors and Subordinates***

by

**Karrie Ann Sheridan**

**Question:** *Someone at my City agency is selling a used car and has posted a flyer on the bulletin board. It looks like a great deal, and I am in desperate need of a new vehicle. The flyer lists a cell phone number but not the owner's name. May I buy the car from another City employee?*



**Answer:** You may buy a used car from another City employee but not if that employee is your superior or subordinate. The conflicts of interest law prohibits superior and subordinate public servants from engaging in business or financial relationships with one another. A business relationship means owning or operating a business together as well as engaging in conduct, such as legal work, in which one individual is providing a service to the other individual. A few examples of a financial relationship are sharing a bank account, jointly owning a home or apartment, and loaning or borrowing money. You should call the cell phone number listed on the flyer and investigate who is selling the car. If it turns out to be one of your agency co-workers, rather than a superior or subordinate, then you may purchase the car.

**Question:** *Five years ago a group of my co-workers and I, all firefighters at the time, jointly bought a ski house in Vermont. We used to go up to the ski house every winter weekend. Now that we are all busy with families we rarely use the ski house but have not sold it yet. Occasionally we rent out the ski house to other firefighters. May we rent out the ski house to our Captain for a week this winter? I recently sat for the Lieutenant's Exam and will be promoted soon. Will this create any conflicts of interest issues?*

**Answer:** Purchasing a ski house together created a financial relationship among you and your co-workers. This does not violate the conflicts of interest law because you were all firefighters of the same rank. However, you may not purchase a ski house, or other property, with one of your superiors or with one of your subordinates. You also cannot rent out the ski house to your Captain or to any other superior or subordinate.

Congratulations on your promotion. The good news is that you have been promoted and the bad news is that you now have to sell the ski house or sell your share in the house.

**Question:** *I serve as the Assistant Principal of a City High School. The apartment of one of the teachers working at my school was flooded when a*

*water line in the street burst. The landlord gave this teacher only 24-hours notice to vacate the apartment, and she has nowhere to go. I own a two family home and rent the basement apartment. May I temporarily rent this apartment to the teacher?*

**Answer:** If this teacher reports to you, she is your subordinate and you may not rent her an apartment. The conflicts of interest law prohibits superior and subordinate public servants from engaging in business or financial relationships with one another. If the teacher reported to another Assistant Principal or worked in another school, then you could rent her the apartment.

**Question:** *A group of my friends from college are planning on walking in a breast cancer awareness walkathon. I currently supervise two analysts and share an assistant with another attorney. May I solicit sponsors for the walkathon at our monthly division staff meeting?*

**Answer:** You may not solicit funds or support from any of your City subordinates or from persons or entities that have any matters before your Agency. You may solicit walkathon sponsors from your colleagues who are at the same level as you but not from your subordinates. I recommend checking with your superior whether the staff meeting is the appropriate time to discuss the walkathon.

**Question:** *I am the Commissioner of a City Agency. One of my Assistant Commissioners, who is very wealthy and will not engage in fundraising, just announced his candidacy for State Senate. May I send out an Agency-wide e-mail to all my employees expressing my support and encouraging others to also support his candidacy?*

**Answer:** No. The conflicts of interest law prohibits a public servant from coercing or compelling any public servant to engage in political activities or make any political contribution. A superior may not even ask a public servant who is his or her subordinate to participate in a political campaign or make a political contribution. Therefore, as Commissioner you may not even ask your subordinates to support any political candidates.

**Question:** *I am a new Assistant District Attorney in Queens County. Last weekend my assistant's husband was tragically killed in an auto accident. He died without ever having drafted a will. May I help my distraught assistant with the legal paperwork and processing the estate? Of course, I would not charge my assistant for the legal work.*

**Answer:** No, handling the estate of your assistant's late husband, regardless of whether you are paid, would create an impermissible business relationship between you and your assistant. As mentioned above, the conflicts of interest law prohibits superior and subordinate public servants from engaging in business or financial relationships with one another. Unfortunately, even in this terrible situation you must refer your assistant to another attorney.

**Question:** *My boss and I bowl on the same bowling team. All bowlers pay league fees to cover lane fees and uniform charges and to fund a league party. Does this create a problematic relationship between us?*

**Answer:** Participating in a social activity or athletic league on your own time, such as a bowling league, and individually contributing fees to the bowling league does not create a business or financial relationship between you and your boss. Your actions do not create a conflict of interest.

**Question:** *I am the Deputy Director of Administration at a City agency. My office just celebrated the tenth anniversary of my working for my supervisor and working for the City. In honor of the occasion my supervisor presented me with a \$75 briefcase. May I accept this gift?*

**Answer:** Yes, you may accept this gift from your supervisor. The acceptance of a gift does not create a business or financial relationship between the gift giver and the recipient. A supervisor may present reasonable gifts (not a Caribbean vacation or a new car) to subordinates to acknowledge special occasions and holidays. However, a supervisor should not accept gifts, except a token gift of nominal value, from subordinates because such conduct may appear to be a use of one's City position to personally benefit oneself.

**Question:** *Over lunch my supervisor mentioned that she bought a dining room set on eBay last month and the description she gave of the furniture sounds exactly like the old dining room set that my wife sold last month on eBay. Have I violated the conflicts of interest law?*

**Answer:** That depends. If none of you had any way of knowing that she was purchasing furniture from you or from your spouse, then you have not committed a violation. However, if you handed a flyer to your boss that included your name and your wife's eBay screen name soliciting a buyer of the dining room set, you and your supervisor have committed a violation by entering into a financial relationship.

**Question:** *What if I have any more questions about interactions between employees in a superior-subordinate relationship?*

**Answer:** If you have any doubt at all about whether your action creates a conflict of interest, call the Conflicts of Interest Board at 212-442-1400 and ask for the attorney of the day. You can also e-mail us through our website (<http://www.nyc.gov/ethics>) by clicking on “Contact COIB.” All calls and e-mails are confidential, and you may contact us anonymously.

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