

the Ethical Times

Safety Dance

How COIB is, and is not,
like a Prom Chaperone

By Gavin Kendall

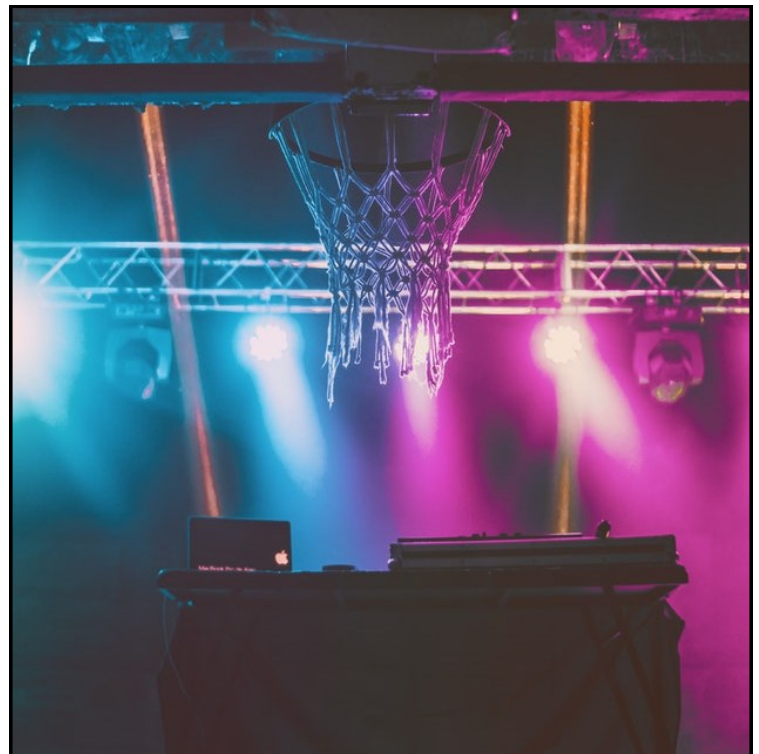
Around the beginning of the year I was at a party (that I was invited to) and a friend (who I have) asked me what the Conflicts of Interest Board (where I work) was like. In a subtle, Socratic way I answered with the question, “what do *you* think the Conflicts of Interest Board is like?” His answer: “COIB feels like the prom chaperone whose job it is to keep the punch bowl from being spiked by corruption.” My first thought was that the comparison worked. But the more I thought about it, the more the metaphor broke down.

One of the first problems with the “prom” analogy is arguably, at high schools, there is a high concentration of people who are young enough to need lots of guidance and old enough to mess up in ways that could break criminal laws and/or end a life (by driving drunk, for example). Chaperones are there to encourage students to make the right choice and to stop them from making the wrong choice. But the price we pay for that security is, quite simply, being

IN THIS ISSUE

- 1 **Featured Article: Safety Dance**
- 3 **Recent Enforcement Cases**
- 4 **Public Service Puzzler Winner**

“treated like children.” We, as City employees, are not children. Generally, City workers don’t need someone looking over their shoulder, watching their every move. COIB staffers don’t stand around in agencies, patrolling the cubicles, reminding public servants to keep their hands where we can see them. And the harm, should a violation occur, is rarely as physically risky as teens going wild after a spiked punch prom. So instead of





gently swaying to a song by Marvin Berry and The Starlighters while making sure the punch stays school-appropriate, it's more like COIB doesn't go to the dance at all. However, if on the following day another student finds a stash of empty booze bottles and suspects that the punch was spiked, he can reach out to us. In that sense, maybe we're closer to being an Assistant Principal in charge of discipline than a chaperone.

But dealing with violations is just a small part of what we do. COIB's ideal outcome is to prevent violations from occurring in the first place. Thousands of times per year, COIB staff answers confidential questions from public servants about proposed future activities. In that way, we're more like the guidance counselor. Students ask questions like, "hey Mr. Kendall, can I spike the punch at the dance this Saturday?" and we gently shake our head and say "no, now get back to study hall." And, like anyone who receives advice, the student has an ethical choice to make. She can follow our advice to keep the punch intoxicant-free, or disregard our advice and upend a bottle of Burnett's while the chaperone is looking the other way.

But that isn't quite right, either. The questions people tend to ask us are rarely so simple as, "should I spike the punch?" More often, the questions are about an overlap between public duties and some other, totally legitimate pri-

vate interest, like: "Hey, Mr. K, I want to run for student council president and the 7th grader I tutor has offered to make me some campaign signs. How do I accept their generous offer without compromising my tutoring responsibilities?" An answer to this kind of question is less about prohibiting an activity than it is about helping people do interesting things while avoiding ethical pitfalls.

But that still doesn't fully describe our work. In order to get people to call us with their questions, we first have to get people interested in and aware that they can come to the guidance counselor's office, so that they can identify problems that require advice. We try to get the word out in live in-person classes (over 700 last year), with lots of short videos (like [this one](#)), and on social media ([@nyccoib](#)). In this aspect of our work, we're like the high school Drama, Glee, and A/V Clubs rolled into one.

So it turns out that COIB is nothing like a prom chaperone, but more like a guidance counselor/AP of discipline/Drama-Glee-A/V-Club, being ready to respond to (but not hovering over) people who are not children and don't need constant surveillance, building awareness of ethics issues, and helping public servants resolve complicated questions. That doesn't flow as trippingly off the tongue, but sometimes seemingly simple things can have a lot of layers underneath.



It was in the middle of explaining this when I realized that my friend had moved on to a different conversation at the party and I was left expounding the finer points of the law to the sleepy cat that had taken a seat next to me on the couch. I interpreted the cat's purring as an acknowledgement that my analysis was correct. But when the cat asked me if she could work on a particular matter involving her former City agency, I decided it was time to leave and told the cat to call our advice line. We also provide free confidential advice to humans on all Chapter 68 issues. Just call (212) 442-1400 during business hours, and



ask for the Attorney of the Day, or visit COIB's website at nyc.gov/ethics.

Gavin Kendall is an 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

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nyc.gov/ethics

Recent Enforcement Cases

Misuse of City Position A NYC Campaign Finance Board (CFB) Senior Programmer/Developer forwarded his brother-in-law's resume to a CFB hiring team, stating that his brother-in-law was a "friend." He supervised the brother-in-law for fifteen months. In a joint resolution with the Board and CFB, the Senior Programmer/Developer agreed to pay a \$2,500 fine.

Misuse of City Position & Superior/Subordinate Financial Relationship An Operations Supervisor at the NYC Department of Information Technology and Telecommunications (DoITT) mentioned to his subordinate that he was short on funds. The subordinate loaned his Supervisor \$1,000, which was repaid within a few months. The Operations Supervisor again misused his City position when he accepted a gift of \$300 from the same subordinate. Recognizing that the Operations Supervisor and his subordinate were friends before their City employment and that their pre-existing friendship appeared to motivate both the loan and gift, the Board set a fine of \$1,250 for the Operations Supervisor and a \$250 fine for his subordinate.

Misuse of City Position & Superior-Subordinate Financial Relationship A NYC Department of Education (DOE) Assistant Principal misused his DOE position when he sold a fur coat to a subordinate DOE teacher for \$500. In a joint settlement with the Board and DOE, the Assistant Principal paid a \$500 fine to the Board for misusing his City position and for entering into a financial relationship with his subordinate; the teacher paid a \$100 fine for entering into a financial relationship with her superior.

Recent Enforcement Cases



Misuse of City Position & Disclosure of Confidential Information

A now-former Executive Director of Franchise Administration at DoITT paid a \$7,000 fine to the Board for violating the conflicts of interest law by working on a cable franchise agreement on which his son and brother were working on behalf of the franchisee. The Executive Director was responsible for managing Time Warner Cable/Spectrum franchise agreements with the City. The Executive Director's son and brother were employed by TWC/Spectrum, assigned to its Staten Island franchise agreement. On multiple occasions between 2012 and 2017, the Executive Director interacted with his son and brother regarding TWC/Spectrum's services in Staten Island, assisted them with work relating to the franchise agreement, and on one occasion provided his son with confidential information concerning an apparent strike of Spectrum

employees. In determining the appropriate penalty, the Board took into consideration the now-former Executive Director's high-level position and responsibility for sensitive and lucrative City contracts but also the absence of indication that his misconduct provided any significant advantage to his son and brother.

Superior-Subordinate Financial Relationship

A NYC Police Department (NYPD) Lieutenant served as the Integrity Control Officer for the 44th Precinct in the Bronx, supervising performance and discipline of all police officers in that precinct. The Lieutenant also maintained a private tax preparation business. For fees ranging from approximately \$150 to \$200, he prepared tax returns for fourteen of his subordinate police officers assigned to the 44th Precinct. For these violations, the Lieutenant agreed to pay a \$5,000 fine to the Board, which penalty took into account the 45 vacation days (valued at approximately \$24,198) he had already forfeited to NYPD for this and other misconduct.

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, **Michele Simensky** of the Law Department.

This month, [spot the violation in this rhyming riddle!](#) Submissions are due Friday, February 22nd.

