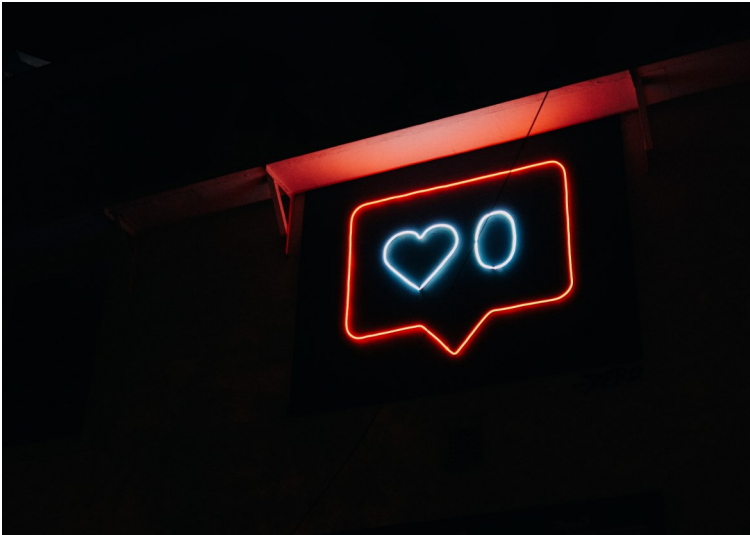


the Ethical Times

How To Win At Social Media ...And Not Violate the Conflicts of Interest Law

By Alex Kipp

When killing time on your smartphone or other electronic devices, do you wonder: "What is the correct way to partake in social media that can lead to happier and more fulfilling life?" Well, as a person who, in the aughts, surrendered a good deal of his time and personal privacy to Facebook, I have some answers.



Let me start with the best one: don't partake in it. And don't waste years of your "don't-have-arthritis-yet" life glued to a screen, like I did, in order to figure this out. I'm like that computer at the end of that 80's Matthew Broderick movie "War Games" that plays simulated global thermonuclear war over and over and over again, eventually realizing, in its words, "the only way to win is not to play."

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Some of you will not be swayed, I am sure. There is a Russian proverb: "It is a wise man who learns from the mistakes of others; it is a fool who only learns from his own." But, hey, I've been that fool, too, so no judgment on my part.

So, if you're going to foolishly embark on a life of posting your hot takes on other people's knee-jerk reactions to things they barely understand and have no power to affect, what should you keep in mind? If you're a New York City public servant, you need to make sure your rich private life stays separate from your public duties. And that includes your online life. Let's look at the issues.

First and foremost, whatever opinions you have, or pretend to have, in order to get likes are yours, not those of your City agency. Can you mention in your social bio what you do for the City? Sure. But make it clear that all opinions are your own.

What about subject matter? Does the conflicts of interest law curtail any topics on which I may opine and/or meme? Generally, no. But being a public servant will prevent you from talking about or disclosing any City information that your agency or the law deems to be confidential. Also, keep in mind that while Chapter 68 doesn't prohibit you

from saying vile and hateful things on your own private social accounts, your agency might have a different standard. For example, if I was a Staff Analyst in charge of finding runaway pets and I posted lots of nasty things about runaway pets and their owners not deserving them back, people might wonder if their tax dollars are going to the right guy for that job.

What about political opinions? Since your personal feed is your PERSONAL feed, you may express opinions about elections, elected officials, and those running for office. But you should be a little careful in one very specific practice of opining, and that is the sending of direct messages. Make sure to refrain from sending political solicitations to people you have power over in your City job, namely members of the public you deal with as well as your City subordinates. If your subordinates follow you on social media, make sure you don't direct-message them with political requests.

The same idea goes for those you who plan to leverage your incredible social media posting talents to promote your private business endeavors. While that may be OK, you cannot send direct solicitations to anyone you have power over in your City job.

Now, let's say you're like me: a bit mature, with a finger that doesn't shake, but definitely has lost its ability to feel the cultural zeitgeist of the dystopian century we occupy. And let's say you discover that your posting talents aren't as great as you originally thought. That's a perfect excuse to delete your account, I think! But let's say you will not go gently into that good night and instead notice a subordinate or intern at your City job who seems a bit more plugged in than you. Can you have them work on your personal account as a part of their City job? No. Can you have them volunteer to write you fire tweets after hours? Nope. (And not very classy, btw – they make less money than you do.) The conflicts of interest law



USE OF
CITY TIME & RESOURCES!



Public Servants May:
Use a limited amount of City Time and City Resources so long as the use is:

- Minimal
- Incidental
- Personal

Public Servants May Not Use any amount City Time and Resources for an Outside

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prohibits superiors from requesting or accepting free services (like accounting, carpentry, and, yes, elite posting) from subordinates. How 'bout paying them to do it? Classier, but still nope. The conflicts of interest law prohibits superiors and subordinates from entering into a financial relationship, too.

Now, let's say you're looking to boost the "like" counts of your posts. First, do what I did, and ask your mom to like all your posts. She might agree. (My mom didn't; she prefers reading 19th century novels, the snob.) Are there other people you could grovel to for likes? Possibly, but again not people you have City power over.

But could you use official City accounts to boost your personal accounts? No. You can't take any action as a City public servant to boost your personal social feeds. So retweeting your personal posts with a City account you control, or directing someone else to do so would be a misuse of your City position.

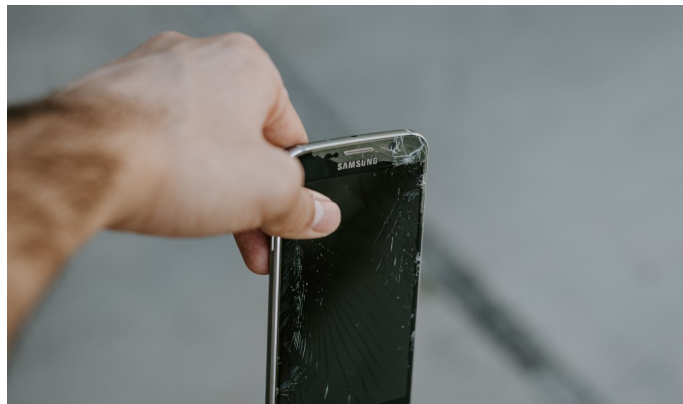
What about the opposite? Can you retweet government content from your personal account? Yes, and the City thanks you for the boost!

And last but not least, let's talk about the ol' standby: acceptable use of City time and City resources for your private social feeds. Generally, we should not be engaging too much on them when we're at work. Posting "I'm at work" is not the same as doing actual work, unless you're a social media influencer. What's a social media influencer? It's a formerly-human being who makes money from social media by shilling products they pretend to like. And if you are a social media influencer, you better not do any posting on that social media account on City time or with City resources.

If you ever need help complying with any part of the conflicts of interest law, you can call us at the Conflicts of Interest Board 9-5, Monday to Friday. We'll give you confidential legal advice. You can even ask anonymously! But another, really easy way to avoid ANY trouble with your personal social media accounts is to simply not have one. Just a suggestion.



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THE PUBLIC SERVICE PUZZLER



I'll take "Good Government" for \$800, Alex! For this month's [Puzzler](#), public servants get to be contestants in the exciting game show of Chapter 68 compliance. See if you can avoid *jeopardizing* your City employment by guessing the correct answers to the clues provided. Full disclosure, there are no monetary prizes offered, but the reward of public trust transcends any price tag.

[Send your answers here!](#)

Recent Enforcement Cases

Prohibited Job Seeking. A Manager of Fire Safety at the New York City Department of Correction (“DOC”) applied for, interviewed for, and accepted a job with a firm while he was coordinating that firm’s work on a contract to repair and maintain the fire suppression systems at DOC facilities. The former Manager of Fire Safety paid a \$1,500 fine to the Board.

Prohibited Job Seeking. An Assistant Civil Engineer at the New York City Department of Transportation (“DOT”) applied for, interviewed for, and accepted a job with an engineering firm while he was working with that firm in his DOT capacity on the rehabilitation of the Park Avenue Tunnel in Manhattan. The former Assistant Civil Engineer paid a \$1,250 fine to the Board.

Misuse of City Position. A Senior Advisor in the Special Education Office at the New York City Department of Education (“DOE”) has a minor child who attends a DOE school. When the minor child was having behavioral issues at school, DOE began the formal evaluation process required to provide that child with behavioral support. While the evaluation process was ongoing, the Senior Advisor used his DOE email account to send an email, in which he identified himself by his DOE title, to his child’s teacher, principal, and assistant principal asking them to coordinate with his Special Education Office colleague to provide his child with immediate behavioral support before DOE completed the evaluation process. In a joint settlement with the Board and DOE, the Senior Advisor agreed to pay a \$2,500 fine to the Board.

Misuse of City Time & City Resources. A Stationary Engineer for the New York City Department of Environmental Protection (“DEP”) ran for New York State Senate. Although DEP warned him, prior to the start of his campaign, not to use City time and City resources for his campaign, the Stationary Engineer participated in a ten-minute-long livestreamed interview for his campaign while he was on the clock for DEP and from his DEP office. The Stationary Engineer agreed to pay a \$1,500 fine to the Board.

Misuse of City Position. An Administrative Engineer for the New York City Department of Design and Construction (“DDC”) had a series of conversations with a DDC summer intern about his portfolio during which the Administrative Engineer learned that the summer intern created threedimensional designs using a software program that DDC does not license. The Administrative Engineer shared with the intern that he was designing a house in Jamaica, and the intern offered to create an architectural rendering of the house using his personal software. The Administrative Engineer accepted this offer and provided the intern with schematics of the house. On his personal time over the July 4 weekend, the intern created a three-dimensional rendering of the house, which he gave to the Administrative Engineer. In a joint settlement with the Board and DDC, the Administrative Engineer agreed to forfeit three days of annual leave, valued at \$1,252, and pay a \$750 fine to the Board.

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



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