

ASK THE ETHICIST

Promotion Problem

By
Quinn Haisley

Question: *I was recently promoted at my City agency to a supervisory position, and because of the position I used to have, I am good friends with many of the employees that I am now supervising. What do I need to watch out for as far as the conflicts of interest law is concerned in this situation?*



Answer: First of all, congratulations on the promotion! Second, you were right to think that your supervisory position could potentially lead to conflicts of interest with your subordinates, especially those with whom you are on friendly terms. There are a few provisions of the conflicts of interest law that you are going to want to keep in mind as you move forward in your new job, some of which may seem a bit less intuitive because of the friendly nature of your relationships with your subordinates.

All City employees are prohibited from using their City positions for any sort of personal gain or advantage. As far as your new position goes, this provision prohibits superiors from using that role to obtain a private gain at the expense of a subordinate. For example, a supervisor could not ask one of her subordinates to pick up her child from school or to paint her house on the weekend, regardless of whether or not the subordinate is getting paid for these services. Due to the power dynamic between a superior and a subordinate, it is possible that such requests could come across as coercive. That means that, even though you may be friends with a subordinate and may have been able to ask him or her for favors like these in the past, you no longer can do so because of your supervisory position.

Similarly, a supervisor is not allowed to request or even suggest that any of his or her subordinates volunteer for or contribute to any political campaign. Again, this can be less intuitive if a supervisor is friends with one or more of his or her subordinates, as they may think that a simple suggestion to join a political campaign is no big deal, when in reality it can come across as threatening or coercive to a subordinate.

In addition to these first two provisions, a supervisor is also prohibited from entering into any sort of business or financial relationship with a subordinate. This provision covers a lot of different scenarios, such as loaning each other money, owning a business together, selling each other different items, or hiring each other for any sort of outside job, to name a few. All of these situations are, again, potentially coercive, and could also throw the supervisors impartiality into question. As far as fundraising items go, such as Girl Scout cookies and booster bars, the Board issued an Advisory Opinion stating that, while a subordinate could sell a 'de minimis' amount of such charity items to a supervisor, with 'de minimis' being interpreted as \$25 or less, a supervisor may never sell such items to a subordinate or request that any subordinate make a charitable donation. So, if you would like to sell fundraising items or collect donations for a charity, you would not be able to do so with any of your new subordinates, even if they bought

Thin Mints from you in the past.

The Board also recently published an Advisory Opinion regarding gifts between coworkers, which included specifics on what gifts are permitted between superiors and subordinates. The AO stated that, except in rare circumstances, it would not be prohibited for a supervisor to give a gift to a subordinate or for a subordinate to accept such a gift. It would, however, be a violation of the conflicts of interest law for a subordinate to give a gift to a supervisor or for a supervisor to accept a gift from a subordinate. The only exception to this last prohibition would be if a subordinate wanted to give a customary gift to a supervisor for a special occasion, such as a wedding or the birth of a child. Holidays and birthdays are not considered to be special occasions.

If you have any doubt as to whether an action would result in a conflict of interest, please call the Conflicts of Interest Board at 212-442-1400 and ask for the “attorney of the day.” All calls are confidential, and you can also call anonymously.

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