

*Ethics lights the way
to good government*

The Ethical Times

A publication of the New York City Conflicts of Interest Board

Alex Kipp, Editor



If You're Volunteering on the Board of a Not-for-Profit

By
Bre Injeski

Question: *I work full-time for a City agency, and I'm also the president of a not-for-profit organization that doesn't get a dime from the City. This doesn't create a conflict of interest with my City job, does it?*

Answer: All outside activities, even volunteer work, have the potential to violate the City's conflicts of interest law, which is contained in Chapter 68 of the City Charter. To make sure volunteer work doesn't create a conflict of interest in violation of Chapter 68, there are few things all City employees should keep in mind:

1. Make sure the not-for-profit organization isn't in any way involved with your City agency. You said the City doesn't give a dime to your not-for-profit, but does your City agency do business with, regulate, or supervise the not-for-profit? If so, you'll need to get prior approval from your agency head because, as the president, you have policy-making and administrative responsibilities at the not-for-profit. You won't need to get a waiver from the Conflicts of Interest Board, unless you get paid by the not-for-profit or unless you want to take any part in the not-for-profit's business dealings with the City. Without a waiver from the Board and prior approval from your agency head, the conflicts of interest law prohibits you from discussing the not-for-profit's business at either your City agency *or* the not-for-profit.

2. City business dealings or not, never mix your work for the not-for-profit with your work for the City. All of your work for the not-for-profit must be done on your own time and without the use of City equipment, letterhead, personnel, e-mail, or other City resources. Using your City computer and e-mail account to send a personal e-mail, which is generally permitted, must be distinguished from excessive use of City resources, even for a not-for-profit organization, which is prohibited. In fact, the Board recently fined a former employee of the Department of Health and Mental Hygiene \$7,500 for, among other things, using a significant amount of City resources – time, computer, e-mail account, and telephone – to perform work for a not-for-profit organization that she served as an unpaid Member and Vice-Chair of the Board of Directors.

3. Do not use confidential City information or your City position to benefit the not-for-profit. For example, you would violate the City's conflicts of interest law prohibition on the misuse of your City position by soliciting contributions to the not-for-profit from your either your superiors or subordinates or people you deal with in your City job.

If you don't know whether your volunteer work 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 email us through our website (<http://www.nyc.gov/ethics>) by clicking on "Contact COIB." All calls and emails are confidential, and you may contact us anonymously. □

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Recent Enforcement Cases

► The Board and the DOE concluded a three-way settlement in which a Principal was fined \$1,000 by DOE for using her position to invite subordinates to become members of the church where she and her husband are co-pastors. (In setting the amount of the fine, the Board and DOE also took into consideration additional allegations of misconduct relating to DOE Code of Conduct violations implicating the Principal.)

► The Board and the DOE concluded a three-way settlement in which a former DOE Special Education Teacher was fined \$3,000 by the Board and required by DOE to irrevocably resign by August 29, 2008, for co-owning a firm engaged in business dealings with DOE and for appearing before DOE on behalf of that firm.

► The Board and the Department of Sanitation concluded a three-way settlement in which a DSNY Sanitation Worker was suspended by DSNY for 44 days, valued at \$11,020, for attempting to bribe a New York City DEP Security Guard, which he did while driving a DSNY vehicle and wearing his DSNY uniform.

► The Board and the Department of Sanitation concluded a three-way settlement in which a DSNY Medical Records Librarian was fined \$250 by the Board and suspended for 3 days by DSNY, valued at \$561, for using her position to obtain loans from two DSNY subordinates.

► The Board and DOHMH concluded a three-way settlement in which a DOHMH Associate Staff Analyst was suspended for six days without pay, valued at \$1,563, for using her City computer and City e-mail during her City work hours to promote her private business.

► The Board fined a former New York City HRA Principal Administrative Assistant \$1,500 for accessing HRA's computer database to view his child support case and for misappropriating funds from his child support case.

► The Board fined a former DOE teacher \$1,500 for working for his outside employer as a baseball coach during his City work hours.

► The Board and DOHMH concluded a three-way settlement with a DOHMH Clerical Associate III who, while on City time, used City resources to do work on her private writing, which writing she intended to be commercially published. The Clerical Associate agreed

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to an eight-day suspension, which has an approximate value of \$1,003.76, to be imposed by DOHMH.

► The Board and DHS concluded a three-way settlement with a Special Officer in the Security Division of DHS's 30th Street Men's Shelter for borrowing \$600 from a homeless DHS client, which he did not repay in full until at least four months later. The Special Officer agreed to a ten-day suspension, which has an approximate value of \$1,499.50, and to forfeit ten vacation days, which has an approximate value of \$770, both to be imposed by DHS.

► The Board fined a Librarian for the DOE \$500 for using his position to promote a recently-published book illustrated by his daughter.

► The Board fined a former Plans Examiner for DOB \$750 for, within one year after leaving DOB, sending an e-mail on behalf of his new employer to the Executive Director of Operations Redesign at DOB, seeking his guidance with a problem his new employer was having with the DOB website.

► The Board fined a former NYPD Captain of the \$5,000 for using six subordinates to perform remodeling and landscaping work on his private residence.

► The Board and DOHMH concluded a 3-way settlement with a DOHMH Pest Control Inspector who received a complaint from her uncle about quality-of-life violations near her uncle's church and then inspected the location, issued violations, and conducted follow-up inspections. The Pest Control Inspector received an eight-day suspension without pay, which has an approximate value of \$1,496, to be imposed by DOHMH.

► The Board and DOHMH concluded a three-way settlement with a Public Records Aide who used City time and City resources to engage in activities related to his private business. The Public Records Aide agreed to a five work-day fine, which has an approximate value of \$550, to be imposed by DOHMH.

► The Board and DOHMH concluded a three-way settlement with a Competitive Stock Worker who used City time and City resources to pursue private activities related to the operation of a not-for-profit organization with which the Competitive Stock Worker held a position. The Competitive Stock Worker agreed to a five work-day fine, which has an approximate value of \$623, to be imposed by DOHMH.

► The Board fined a Vice President for the EDC \$2,000 for accepting the gift of four meals at New York City restaurants, two valued individually and two valued collectively in excess of \$50.00, from Kiska Construction, a firm doing business with EDC and the Department of Parks and Recreation.

► The Board fined a former Assistant Principal for the DOE \$2,500 for using her DOE position to obtain paid positions for her daughter and her husband.

► The Board fined the former Vice President

of Capital Programs for the EDC \$11,500 for accepting gifts of (1) a portion of his son's honeymoon trip to Istanbul, Turkey – which included accommodations, transportation to and from the airport and around the city of Istanbul, group tours, and room service – valued at \$4,000; and (2) two meals at New York City restaurants, valued collectively in excess of \$50.00, from Kiska Construction, a firm doing business with EDC and the Department of Parks and Recreation.

► The Board fined the former Director of Cross Systems Child Planning at the New York City Administration for Children's Services ("ACS") \$1,500 for using her ACS position to access information in ACS's confidential CONNECTIONS database. The former Director had been previously advised in writing by the Board, when she obtained permission from the Board to become a foster parent, that the City Charter prohibits public servants from using their official positions to gain any private advantage.

► The Board fined two DOE teachers \$1,250 each for co-owning a school supplies retail store that did business with DOE and the New York City Department of Parks and Recreation.

► The Board and the DOE, in a three-way settlement, fined a former Regional Superintendent \$1,500 for appearing before DOE within one year of his resignation from DOE, despite having received written advice from the Board advising him that he may not communicate with DOE during his first post-employment year. The fine would have been higher but for the fact that the former Regional Superintendent self-reported his own conduct to the Board.

► The Board fined a former Assistant Plans Examiner for DOB \$1,250 for using his DOB position to obtain personalized, and possibly expedited, consideration of his complaint against a home improvement contractor from the New York City Department of Consumer Affairs. □

Recent Advisory Opinions

2008-01: A public servant who serves multiple City agencies may appear before none of those City agencies for one year after the service to *each* such agency ends. A prohibited appearance is any compensated communication, other than on ministerial matters, with any officer or employee of the City agency in question, where that officer or employee is acting in his or her capacity as a representative of that agency.

2008-2: In this Opinion, the Board considered several new situations in which a Community Board member may be required to disclose interests or positions in not-for-profits and recuse from voting on issues that may affect the not-for-profit, particularly when the Community Board member is em-

ployed by, or serves on the board of, the not-for-profit, and the issue for vote could result in a direct financial gain for the not-for-profit or those at the not-for-profit who can affect the terms & conditions of employment of the Community Board member in question. Please see the full opinion for more information.

2008-3: Members of the City Council and the Public Advocate will not violate Chapter 68 by participating in the legislative process in relation to the modification, suspension, or abolition of term limits.

2008-4: In its post-employment waiver determinations since 2000, the Board has not treated all applications for employees leaving City service to work for certain not-for-profits as falling under the more permissive "public-private partnership" standard of AO 2000-2. Instead, when an organization's relationship would be more accurately described as one of a compensated provider of goods or services, the application is judged under the historic "exigent circumstances" standard. On the other hand, when the employer is a City-affiliated not-for profit, the entity will more likely be deemed a "partner," and the application for a post-employment waiver will accordingly be evaluated under the less stringent standard of AO 2000-2. □

*Interested in more information?
Get in touch with COIB's Training &
Education Unit to arrange a class in
Chapter 68 for you and your staff.
Contact Alex Kipp, Director of Training, at
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