

Ethics lights the way
to good government

The Ethical Times

A Publication of the New York City Conflicts of Interest Board
Clare Wiseman, Editor



The Activist Inside You

By
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Welcome to the social activism edition of the Ethical Times! We're going to have a quick chat with a super issue-engaged public servant, the kind of public servant who you can't believe ever goes to sleep because they're either marching in a protest, writing a manifesto, highlighting George Orwell's 1984, or making somewhat funny political memes. No matter your level of activism or your feelings on the issues, the Conflicts of Interest Board is here to keep you chanting out on the streets, not chanting your defense in an Office of Administrative Trials and Hearings courtroom to a COIB enforcement attorney.

The Ethicist runs down to her City building's quintessential New York City deli/café/mystery food eatery to buy a scratch-off ticket and spots a public servant (she can spot 'em from a mile away) who is sitting at a table pondering over a large, blank poster board.

Ethicist: Hey, how are you? Need some help?

Public servant: Hey, Ethicist! I'm on my way to a protest in a few minutes. What rhymes with "justice"?

Ethicist: Hmm, how about "thrust us"? So you're going this afternoon? Is that on your lunch break?

Public servant: Wow, that's good, "Give us justice, don't thrust us (into calamity)." That works. Of course I'm on my lunch break! I know not to use City time for that.

Ethicist: That's right. The City's Conflicts of Interest Law prohibits the use of any City time or resources for non-City activities. But many City agencies have adopted an [Acceptable Use Policy](#) (the "AUP") that permits some limited personal use of City technology resources. Use of City time and resources for private compensated or political activities is never okay, but it's typically okay to conduct personal activities like paying your cable bill using your City computer, making a call to your doctor on your City

telephone, or photocopying your apartment lease with your office copier. Use common sense and be mindful about how not only the volume of your personal activities, but also the type of activities, might cross the line into violation territory.

Public servant: I understand that it could be easy to get carried away by everything that's going on, but can you give me some examples of what might cross the line with activism-type stuff?

Ethicist: So, while it would be fine for you to use your City computer to get directions to the protest, it would not be okay for you to hold a sign-making workshop for the protest in your office's conference room, even if it's on your lunch break. Remember that public servants are tasked with serving the public, not a certain political agenda, and your colleagues are entitled to their own personal opinions and ideologies just as much as you are.

Public servant: I get it. That reminds me – I'm one of the lead volunteer organizers of this protest at noon. Is there an issue there?

Ethicist: You're free to be you out there expressing yourself and making a difference. Just make sure you don't use your City position or title to get some kind of advantage for yourself. The most pertinent example here would be not to tell a police officer that you work for the City in order to get out of an arrest.

Public servant: But if I get arrested then I won't be able to come back to work today – isn't it in the City's interest for me to be back at work and not in some holding cell?

Ethicist: Nice try. Couldn't you say the same thing if you were arrested today for stealing the Declaration of Independence? I'm sorry, you're not Nicholas Cage (but I wish you were).

Public servant: Well, I'm glad I'm not. So, I already spoke with some City agencies on behalf of our protest group about so-called "Free Speech Zones." Am I in trouble?

Ethicist: Don't you know to ask for our advice *before* you undertake the action?! Sheesh. In the future, if you need to communicate with a City agency on behalf of an organization you should call us first. Our advice to you may vary based on your City position, your role in the organization, and the content or purpose of your proposed communication on behalf of the organization.

Public servant: You know what? All this talk about advocacy has got me thinking about pursuing my lifelong dream of running for office. What can you tell me about that?

Ethicist: Ooooooh, look at the time! It's almost noon and you need to get to that protest. We'll talk about running for office and all the good stuff that goes along with that another time. In the meantime, you can prepare by reading about political activities on our website or you can always call us at 212-442-1400 (all calls are confidential) or email us with your questions. That's what we're here for.

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Recent Advice Opinions

► Gifts: Legal Defense Funds

Advisory Opinion No. 2017-2 advises public servants that contributions to legal defense funds to defray legal expenses must be viewed as gifts to public servants within the meaning of Chapter 68. Exempting legal defense fund contributions from otherwise appli-

cable gift restrictions would require a Charter amendment or local legislation that so provides.

As a result, under current law, a public servant may accept, whether through a legal defense fund or otherwise, gifts to offset legal expenses only on the following terms:

1) A public servant may not accept contributions from his or her City subordinates.

2) A public servant may not accept a valuable gift, that is, a contribution of \$50.00 or more, or a series of contributions (or other gifts) over any twelve-month period worth \$50.00 or more, from any person or firm having, or intending to have, business dealings with the City. If two or more donors are relatives or domestic partners of one another, the \$50.00 per twelve-month period restriction applies to the aggregate of their donations. So, too, if two or more donors are directors, trustees, or employees of the same firm or affiliated firms, the public servant may not accept contributions totaling \$50.00 or more in the aggregate from such groups of people in any twelve-month period. A public servant is required to make a reasonable inquiry to determine if a donor has business dealings with the City.

3) A public servant may accept contributions in any amount from a family member or close personal friend who is not engaged in business dealings with the City, who does not appear before the City, and who otherwise has no non-ministerial dealings with the City.

4) For contributions from virtually all others—from non-subordinate City employees, constituents, and others who, although not engaged in business dealings with the City, know of a public servant by virtue

of his or her City position—the Board will presume that the public servant is being offered contributions only because of his or her City position. As a result, the public servant's acceptance from these persons of a valuable gift, that is, a contribution of \$50.00 or more, would presumably violate Charter Section 2604(b)(3) as a misuse of the public servant's City position.

Congratulations! to the winner of the Conflict of Interest Board's March Public Service Puzzler contest:

Carmen Gong, a Staff Analyst at the Office of Payroll Administration.

You can read Ms. Gong's bio in the April issue of the Public Service Puzzler.



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Get in touch with COIB's Training
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your staff.*

Contact Gavin Kendall at
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