

## NYC CONFLICTS OF INTEREST BOARD



### ASK THE CITY ETHICIST: HALLOWEEN EDITION

Ghastly Greetings and the Spookiest of Salutations, my fellow public servants!

Not *really*, of course – and, in fact, now that I see it written out, I’m pretty sure I shouldn’t be wishing *anybody* a ghastly greeting, especially not the hard-working employees of the City of New York. I mean: imagine you’re at your desk or on a job site, and all of a sudden some person shows up and greets you in a manner which is “causing great horror or fear; frightful or macabre?”

I can tell you right now: I wouldn’t want that for me, and I definitely wouldn’t want that for you, Dear Reader.

So that’s my bad, and I apologize; I went too far into the alliteration alley and lost focus of what really matters in life: explaining to New York City public servants the ways in which we can have the most awesome, most ethical Halloween night ever. Because that’s what we’ll be doing in this month’s edition of *Ask the Ethicist*: unsealing, for the very first time, some of your top questions about the intersection of Halloween and Chapter 68 of the New York City Charter.

Of course, and this is understandable, most public servants prefer to get their municipal ethics advice directly from the Conflicts of Interest Board’s At-

## NYC CONFLICTS OF INTEREST BOARD

**torney of the Day Hotline** (212-442-1400) – after all, it is confidential, expert advice straight from the source – but there are those among us who prefer to get their questions answered publicly via newsletter. This one’s for them.

*Dear City Ethicist,*

*I love our little neighborhood in Brooklyn: it’s safe, cozy, and the community really turns up for holidays. We were thinking it may even be time to allow our amazing son, Janus-Nimbus, to experience Trick-or-Treating. Our concern, of course, is with the “government ethics” of it all: our neighborhood is inexplicably home to a bunch of City vendors who I worry might try to influence me with expensive gifts or provide my son with non-vegan candy. There are only three things that scare me: the Sunday New York Times Crossword, the long-term environmental impact of commercial avocado cultivation, and the idea of accidentally violating a municipal statute. Please, City Ethicist: tell me the City’s policy on Trick-or-Treating!*

Great question! Chapter 68 states that public servants may not accept anything valued at \$50 or more from any person or firm that does or seeks to do business with the City. It is highly unlikely that you or your child are going to receive over \$50 in candy – or any Halloween goodies – from a vendor with business with the City but sure: if a vendor living in your neighborhood was distributing extremely fancy chocolate to Trick-or-Treaters and you, a City employee, walked up and allowed the vendor to put \$100 worth of candy into your plastic pumpkin then, yes, you did just accept a prohibited gift.

You may be thinking – that’s ridiculous, it’s Halloween! The time in the liturgical year dedicated to remembering the dead, including saints, martyrs, and all the faithful departed! How can that be a violation of the Conflicts of Interest Law? Well, for the same reason you aren’t allowed to take bribes on your birthday or misuse City time for your Christmas business – there’s no holiday jubilee on ethics laws: your obligations to Chapter 68 are 24/7/365.

*Hi City Ethicist!*

*I work in politics, and you don’t need to know anything more than that. Anyway, Section 3-225 of the New York City Administrative Code says “No person required to be listed on a statement of registration pursuant to section 3- 213(c)(1) of subchapter 2 of this chapter shall offer or give a gift to any public servant.”*

*I know that’s about lobbyists or whatever, but here’s the deal: a very good friend of mine who happens to be a lobbyist let me know he will be giving out*

## NYC CONFLICTS OF INTEREST BOARD

*Playstation 5 video game consoles to EVERY SINGLE TRICK OR TREATER who rings his doorbell between 10:13pm and 10:14pm on Halloween night. Obviously, it would be improper for me to accept any gift from a lobbyist.*

*My daughter, who is a very independent thinker, insists that she has every right to use this information to acquire for HERSELF (a non-City employee)(she's five years old) a Playstation 5. Is it a conflict of interest if she – and this has NOTHING to do with me – visits that lobbyist's house on Halloween and receives a Playstation 5, maybe with the God of War bundle and the premium controller included?*

Under the Conflicts of Interest Law, a spouse, domestic partner, or unemancipated child's interest is imputed to the public servant, as their interests are aligned per the proximity of their relationship and the impact of the gifts given to one person on the quality of life of the other. If a mattress salesman gifts a brand new, premium mattress to the commissioner's wife, it's clearly the case that the commissioner has received a benefit, right? Same idea. One cannot avoid the valuable gifts restrictions by passing them off to your spouse, domestic partner, or unemancipated children. A lobbyist's gift of a Playstation 5 to your five year old daughter is effectively a gift to you.

*To the Right Honourable Conflicts of Interest Board on this Most Hallowed of Weens:*

*All my friends will tell you, if I love one thing: it's conflict of interest laws. If I love two things, it's conflict of interest laws and house parties with seasonal holiday themes. Yes: as a matter of fact, I was homeschooled. But that's not what matters now. I just found out that Dr. Mortimer Goth, who I see at nearly every community board meeting, is hosting the biggest Halloween party in town and has invited nearly everyone in the neighborhood!*

*Unfortunately, and I think we all know how these things happen: my invitation was misplaced, probably by the mail carrier or street brigands or someone who is not me. I can't find the invitation, and so I can't find the address or time or RSVP link. Would it be possible – in a totally not-for-profit or personal gain way – to log into a City database at work and search for Mortimer's current home address? I think that's the easiest, least stressful, most ethical solution to this situation, don't you?*

No. First of all, Chapter 68 is very clear that public servants may not disclose confidential City information or use it for a private advantage, even after they leave City service. It has been argued (in previous editions of *Ask the Ethicist!*) that the en-



## NYC CONFLICTS OF INTEREST BOARD

tire purpose of having ethics laws is not to catch employees out and create headaches, but to communicate to the public our elevated, universal standards of conduct as representatives of City government – to allow New Yorkers to understand and trust that the resources afforded to us as City employees are being deployed in *their* benefit.

You, as a private citizen, do not have access to this gentleman’s information; therefore, you will not know where the party is unless someone informs you as a private citizen. To access that database for your private advantage would violate the trust in the government which allowed that data to be available in the first place. Also, and this is a small thing: “Right Honourable” refers to British ministers, not American ethics board members. I know it seems small now but this distinction used to be a *huge deal* to New Yorkers.

### **DARKEST GREETINGS OF THE EVERLASTING NIGHT UPON YOU, ETHICS-MORTAL**

*My name is Lorde Alaric – sorry, ooops, not being very anonymous here, I know – and the other day, as I sat drawing unnecessary breath and adjusting my intricate lace cravat, I could not help but notice the drifting of my thoughts: in this age of impeccable decorum and exacting standards, might I inquire if it is, by any chance, permissible within the constructs of our Chapter 68 framework to divulge matters of the utmost confidentiality to an apparition from the beyond, using the enigmatic vessel of a Ouija board? Sometimes it feels like, even in my eternal night, I find myself ensnared by the constraints of mortal propriety. But otherwise, I’ve had a great time working at the Department of Buildings.*

I’ll be honest: I genuinely don’t know. I suppose if ghosts are real entities with semi-sentience, that changes a lot in government ethics law but also kind of the entire world. And you know what? This is exactly the sort of question you can and should take to the Attorney of the Day Hotline I mentioned before, where every time you’ll receive personalized advice on *your* specific set of facts – no matter how unique or nuanced they might be. That hotline is available every week from Monday through Friday, 9AM – 5PM, so I hope you’ll check it out! But most of all, I hope you, dear reader, will have the most ethical and enjoyable Halloween experience possible.

See you next month!

# THE PUBLIC SERVICE PUZZLER

OCTOBER 2023

Editor: Rob Casimir

## THE MARLENE DOSSIER

The thing to know about Marlene is that she's my nemesis. She thinks she's *so cool* with her fancy City job and meritorious record of public service but — guess what — she's *not*. She's not cool at all. In fact, I'm 99% sure she's doing one of the *least cool* things a City employee can do: violating Chapter 68 of the New York City Charter.

Of course, I have no evidence of this. Which is why I've hired a private detective to follow Marlene around all day, which — though I admit seems strange — appears to be a perfectly legal thing you can *do* in New York State. Go figure.

Anyway, here's THE MARLENE REPORT for October 30th, 2023:

7AM: Marlene attempts to board the New York City subway but encounters a problem swiping her MetroCard. She approaches the station attendant, City lanyard and ID clearly visible, and tells them that her new card isn't scanning and she needs to get to work soon. The attendant checks her card and opens the side door for her. Marlene boards.

8AM: Marlene arrives at *City Hall Coffee and Bagel* (Yelp: 2.7 Stars) and orders a regular coffee. "Are you a City employee?" the barista asks. Marlene says she is. "Well, good news," says the barista, gesturing to a sign indicating a TEN PERCENT DISCOUNT FOR ALL CITY EMPLOYEES AND THANK YOU MUNICIPAL HEROES. She saves thirty cents on her coffee.

8:30AM: Marlene arrives at the office, clocks in, and takes an Advil from a small, shared stack of different headache remedies available to employees. She usually does this about once a week; she never brings her own Advil from home.



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## THE MARLENE DOSSIER

**9AM:** While checking her work email, Marlene spends a very long nine minutes trying and failing to solve the New York Times' Wordle puzzle; while RUSTY and ALIEN are decent first guesses, there's just not enough letter removal to justify that choice over more optimal starting words. She uses her City email to shoot off a personal message to one of her coworkers: "Wordle stinks."



**12:30PM:** Marlene eats her lunch in public, at Thomas Paine Park near City Hall, where she is overheard on the phone talking about a car wash she runs as a side business. Apparently they're having some sort of soap-related issue. As soon as she finishes the call, she tosses out the rest of her lunch and returns to work.

**2:00PM:** Marlene answers the door at her City office to find nobody there; instead, she's met by twelve ornate and expensive-looking cupcakes. There's a note that says "For all the great work this office does! From a Citizen/Admirer." She takes the cupcakes to her supervisor, tells them what happened, and returns to work. Twenty minutes later, everyone in the office receives an email about cupcakes in the office kitchen. Marlene is the first to arrive and takes three of the twelve cupcakes for herself.

**3:15PM:** Marlene approaches the water cooler to find two of her subordinates talking about the big political debate on TV last night. They ask her what she thinks about taxes and she either says they're *too high* or *too low*. Didn't get a good listen.

**4:15PM:** Marlene answers a call from her agency's telephone helpline as per her official duties but discovers the person calling is, in fact, her current roommate! "Oh, that's so funny," Marlene says to the concerned citizen/roommate. "Let me just check with my supervisor real quick, and they'll get your issue handled no problem. I promise."



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## THE MARLENE DOSSIER

**5PM:** Marlene leaves the office and heads to a park where a candidate for the New York State Senate is giving a speech. Ten minutes later, Marlene's direct supervisor joins her in the crowd — both seem enthusiastic about the candidate. When the speech ends, the two of them grab a stack of campaign literature and leave together, as a team, to go canvass.

**9PM:** Marlene joins her friends at a silent disco flash mob. I don't think this one is an ethics violation, *per se*, it's just information you, the reader, should have about Marlene.



I tried calling the COIB's popular *Attorney of the Day Hotline* (212-442-1400) to ask if any of the above behavior constituted a conflict of interest, but was told staff there can provide legal advice *only* on one's *own* potential conflicts — not hypothetical conduct that someone you know *might-slash-probably is* engaging in. That sounds reasonable, but unfortunately I'm a busy New Yorker with little appreciation for nuance and I need an answer now! I know the Conflicts of Interest Law does allow you to take advantage of various opportunities that come your way — you know, provided it's all handled ethically — but surely, *surely* Marlene has slipped up. I just don't know where!

That's why I'm coming to you, Dear Reader: send an email to [Contest@coib.nyc.gov](mailto:Contest@coib.nyc.gov) with the EXACT number of Chapter 68 violations committed above, and you'll be officially named a Public Service Puzzler Winner, standing shoulder to shoulder with such Puzzler greats as last month's winner, Sarah Roberson from NYC Parks GreenThumb! Do it! It feels great!

(Contest NOT open to Marlene.)