

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 Government Rate

By
Alex Kipp

Question: *I've worked for the City for a couple of years now. Every year my spouse and I go on vacation by road-tripping to a part of the US we've never been before. A lot of the hotels where we could stay offer a special "Government Employees" discount. Can I ask for that discount when I'm on vacation, or can I only use it when traveling on City business? Depending on the hotel and the stay, the discount could run over \$100.*

Answer: In general most public integrity laws address a concern about public servants misusing their government positions to get special benefits for themselves or others. Chapter 68 of the City Charter, New York City's public integrity law, is no exception. Flashing a City ID to try to jump a line to a nightclub; giving a photocopy of a badge to your brother so that he can show it to the cops when he gets pulled over for speeding; or using official City letterhead to endorse a political campaign or a favorite personal charity would all be violations of Chapter 68. Damage is incurred to the public trust when we use our City positions and/or resources to obtain special benefits and privileges for ourselves or our associates: using a badge off duty to avoid standing in line at your favorite Friday night hot spot makes you look like a bully who thinks the badge makes you more entitled than anyone else, and using the taxpayers' dollars and/or resources to support a political cause is just outright theft of resources.

The question here is, does participating in one of these "Government Discount" programs offered by hotels, car rental companies, cell phone companies and the like feel like trying to bully your way into a discount with your City position, or something less problematic?

Certainly, barging your way into a hotel, flashing your City ID and demanding a discounted room "or else" would be considered a misuse of position (and in many cases, it may yield results other than the ones you're looking for—like a punch in the mouth or the suggestion that you go take a hike). So, let us assume that the discount program is freely offered, and not just offered to you, but, indeed to any gov-

ernment worker. In other words, it's not being offered to you because of your specific government job and your potential ability to affect the hotel's possible business dealings with the City, but rather because you satisfy the not-so-unique (no offense) prerequisite of being a government worker.

An Advisory Opinion of the Conflicts of Interest Board addresses just such cases. In these established "Government Rate" situations, where the target population is so broad, the Board has said that accepting such a discount on your vacation is fine, as long as you don't mislead the hotel manager into thinking you're on official business. So, you're free to ask the desk clerk if such a program exists and use it if it does, as long as you make it clear that you're there for pleasure, not business. (If you were on City business, you could accept the discount without question: the City likes it when you save the taxpayer money.)

The biggest thing that makes this discount program a go is its broad scope. The more narrowly conceived the program is, the more problematic it becomes. If, for example, you were a DOT employee and a certain DOT construction vendor offered a special discount for only the government employees involved in the construction trades, or only DOT employees, the answer might be different. At some point it starts to look like a company is trying to curry favor with certain people or agencies. However, the program you mentioned doesn't sound like that; it sounds more like a company trying to attract a whole swath of customers, the same way they do with seniors, members of American Automobile Association, and the like. As long as this is the case, you can accept the government rate, even when on vacation. And remember, this isn't just for hotels, either. Cell phone carriers, car rental companies, certain retail stores, and computer companies may all have similar programs available to government employees, and you can participate in them as well.

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Recent Enforcement Cases

► **Misuse of City Position.** The Chief Clerk of the Staten Island Office of the New York City Board of Elections (“BOE”) paid a \$3,500 fine for misusing her City position to obtain free car rides from two of her BOE subordinates. Over the course of approximately eight years beginning in September 2007, the Chief Clerk had a subordinate BOE employee regularly drive her to and from work without paying or reimbursing the subordinate for the costs associated with providing this service. The Chief Clerk also had another BOE subordinate drive her to doctor’s appointments during the workday, using his annual leave to do so.

► **Misuse of City Position & Resources.** In a joint disposition with the Board and the New York City Department of Correction (“DOC”), an Assistant Commissioner paid a \$1,500 fine for misusing his City position and City resources by having an on-duty Correction Officer Investigator transport the Assistant Commissioner and his family in an agency vehicle from DOC headquarters to JFK airport for a family vacation, as well as assist with unloading the family’s luggage from the vehicle.

► **Misuse of City Position; Superior-Subordinate Financial Relationships.** The Administrative Chief of the Bronx District Attorney’s Office paid a \$5,000 fine for: (1) asking one of her subordinates to consult on her brother’s wedding and paying him \$1,250 for doing so; (2) paying another subordinate \$500 for catering her father’s birthday party; and (3) selling \$4,451 worth of soaps and other products for her private business to five of her subordinates. The City’s conflicts of interest law prohibits public servants from using their City position for their personal benefit or the benefit of anyone with whom they are associated, a category

that includes siblings. The conflicts of interest law also prohibits public servants from entering into financial relationships with their superiors or subordinates.

► **Misuse of City Position.** The Board issued a public warning letter to the Deputy Chief Clerk of the Brooklyn Office of the New York City Board of Elections (“BOE”) for, in 2014, obtaining rides to and from work from a subordinate BOE employee. The BOE employee who drove the Deputy Chief Clerk had offered to do so and lived in close proximity to her home. Chapter 68 prohibits City employees from carpooling with a subordinate, regardless of whether the subordinate is reimbursed or compensated for the driving. Public servants who wish to carpool to work with their superior or subordinate must first obtain approval from their agency and a waiver from the Board. This requirement helps to ensure that the commitment by a subordinate to carpool with a superior is truly a voluntary one and not, in fact, an abuse of position by the supervisor.

► **Misuse of City Resources.** In a joint disposition with the Board and New York City Department of Sanitation (“DSNY”), a DSNY Police Officer was suspended for misusing his DSNY Police Officer badge by wearing it around his neck while he was off-duty at an event at Jones Beach Theater and, when detained, telling New York State Parks Police that he was working as a security guard although, in fact, he was not. To resolve both the Chapter 68 violation and unrelated disciplinary charges for which the DSNY Police Officer had already served a 30-day pre-trial suspension, the DSNY Police Officer accepted a thirty workday suspension and received credit for the suspension workdays already served.

Congratulations! to the winner of the Conflict of Interest Board’s April Public Service Puzzler contest:

Renee Richards, a Capital Budget Analyst for Financial Services at DoITT.

Look for Ms. Richards’s bio in the May Public Service Puzzler coming out later this month.



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*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,
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