

Ethics lights the way to good government

THE ETHICAL TIMES

A publication of the New York City Conflicts of Interest Board

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Volunteering

The City not only allows but also strongly encourages public servants to participate in volunteer activities that help others. But it is possible for even volunteer activities to create a conflict of interest with your City job, so you need to follow certain rules when volunteering.

Rule 1. You can't get paid for the work.

Getting reimbursed for actual and reasonable expenses (e.g., subway fare) is not payment. Anything else, such as a small stipend or free goods or services, means you are getting paid. In that case, the rules on moonlighting apply. But we're assuming here that you are not getting paid.

Rule 2. You must do the volunteer work on your own time.

During times when you are supposed to be working for the City, you must do only City work.

Rule 3. You may not use City equipment, City supplies, City resources, City letterhead, or City employees for the volunteer work.

For example, you cannot photocopy fliers for a fundraiser for a food pantry on a City copier or ask a co-worker to make the copies. The Board fined a Dept of Ed employee for using City workers, copiers, and computers on projects for her church and a private children's organization.

Rule 4. You can't be involved in the organization's business dealings with any City agency.

"Doing business" includes not only contracts but also permits, licenses, and funding. For example, if the organization needs a building permit from the DOB, you can't contact the DOB about the permit. Or if the organization is having trouble getting its grant from DYCD, you can't

contact DYCD to see what the problem is. In fact, you can't even advise the organization about getting the permit or the grant. Don't have anything to do with the organization's City business.

Rule 5. The organization can't be doing any business with your City agency and can't be regulated or supervised by your agency.

If the organization does business with your agency or if it is regulated or supervised by your agency, then you must get the permission of your agency head in order to volunteer for the organization. (You don't need the permission of the Conflicts of Interest Board, just that of your agency head.) But this rule only applies if you have a policymaking position or administrative authority with the organization. If, for example, you are only unloading food donations and passing out bags of food to clients of a food pantry, you don't need permission.

Rule 6. Never, ever use your City position to help the organization.

There are many, many non-profit organizations in the City, and often they compete with one another for City funding, goods, and services. So using your City position to benefit your organization may hurt other organizations. For example, the Conflicts of Interest Board fined a Parks Department employee \$1,500 for using his Parks Department position in part to obtain permits for basketball courts for his non-profit organization. The Board also fined a DOT employee \$1,000 for asking DOT contractors to buy ads in a fundraising journal for his sons' hockey club. Just remember never to mix your City job and your volunteer activities.

Rule 7. Most important of all: ask before your act.

If you are unsure 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. □

—Mark Davies,
Executive Director,
COIB

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Volunteer Activities Recap:

- Must be unpaid
- Not on City time.
- No use of City equipment, supplies, resources, letterhead, or City employees for volunteer work.
- Volunteer work cannot include involvement in the organization's business dealings with *any* City agency.
- If you have a policymaking position or administrative authority with the organization, the organization can't be doing any business with your City agency and can't be regulated or supervised by your agency.
- No use of City position to help the organization.
- Call before you act. □

Recent Enforcement Cases

- The Board issued a public warning letter to a member of the Board of Correction, for having an interest in a video production company that had business dealings with the Department of Correction, the agency overseen by the Board of Correction. □

Recent Advisory Opinions

2005-1: Outside compensation for City work

It would violate Chapter 68, absent a waiver from the Board, for City employees to receive compensation from any person or entity other than the City for performing their City work, whether such compensation is denominated overtime pay, a salary supplement, a bonus, or payment for consulting work. The Board will consider applications for such waivers on a case-by-case basis, provided that the applicant has also submitted the written approval of the agency head.

2005-2: Charter Schools

Charter schools are not "firms" within the meaning of Charter Section 2604(a)(1)(b), so that public servants need not apply for Board waivers in order to work at a charter school; and charter schools are not "private interests" for the purposes of Charter Section 2604(b)(6) and

are not "not-for-profit corporations" for the purposes of Section 2604(c)(6), so that those provisions do not prohibit a public servant who works at or volunteers for a charter school from communicating with the City on behalf of the charter school. Charter Section 2604(b)(2) may, however, restrict such communications by DOE employees or officials to their DOE subordinates or by certain public servants, such as employees of the DOE's Office of Charter Schools and their superiors, whose official duties require them to oversee charter schools; such employees should consult with the Board before making such communications. In all other respects, the provisions of Chapter 68 apply to the activities of public servants who work or volunteer for charter schools. □

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