

the Ethical Times

Oh, The Places You'll Go! ...Paid for By Someone Else

By Gavin Kendall

Summer is in full swing, which means sunning yourself on the beach, rooftop parties with friends, and of course travel! Hopefully those travel plans are a much-needed vacation, but as New York City municipal government never takes a break, sometimes public servants travel to carry out City business.

This article provides some essential tips on having a Chapter 68-compliant “good government summer” wherever your public service may take you.



Let's say I design and renovate municipal buildings for the City, and my agency receives an invitation to a prestigious “Design Conference and Expo.” The organizers want an expert from my agency to serve on a panel about civic design. My boss can't go, so he tells me to. If the organization throwing the event pays my travel costs, is that a prohibited gift?

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Normally, as a New York City public servant, accepting free travel from a private entity that does business with the City would be considered a prohibited gift. But if I was on official City travel and the City was going to pay for it anyway, could a third party pay for those expenses instead? Yes, they could! While gifts to public servants are regulated by the \$50 Valuable Gift Rule, there is an exception for travel that has a City purpose and could be properly paid for by the City. In those circumstances, accepting free travel doesn't run afoul of the Conflicts of Interest Law because it is considered a “gift to the City” (and not to the public servant individually). Let's break down how this “City travel” exception to the Valuable Gift Rule works.

The trip is for a City purpose and could therefore be paid for with City funds.

Whether it's being paid by the City or not, any travel I do on behalf of my agency will need approval in some form. Unfortunately, I alone cannot decide which trips have a City purpose and which don't. (Trust me, I have identified numerous “conferences” and “expos” in Hawaii, Lake Tahoe, and the Maldives that I think would be great for my career development, but my boss never replies to my emails despite my many attempts to follow up.) When public servants travel for legitimate City reasons, those travel plans

must be approved by the agency head based on a detailed itinerary, including any incidental personal travel. So, if your boss's boss (that is, the agency head) thinks it serves the City's interest for you to attend and speak at the conference, then this requirement is met.

The travel arrangements are appropriate for the City purpose.

Since someone else is paying my travel expenses, does this mean I can upgrade to a first-class flight, rent the convertible, and stay in the presidential suite? Let me answer that question with another question: would my agency send me out in such extravagance? I think we all know the answer to that question. (When pigs fly, right?) Travel arrangements need to be comparable to the travel that would be paid for by the City. Which means I'm flying coach, driving the economy car, and staying in a hotel room that's comfy, but not too comfy.

The trip is no longer than it must be to accomplish the City purpose.

This one really all depends on when I need to be at the conference. Does the panel I've been asked to speak on start at 8 am? That might require that I fly in the evening before. Or maybe my panel won't start until 3 pm that day, which means that I could possibly fly in earlier that day (flight delays notwithstanding). Or maybe my agency determines that it would benefit me, the agency, and ultimately the City for me to attend the full conference, however long it may last. I serve where I'm needed, you know. Detailed itineraries submitted for agency head approval will help determine all this. Now, this does bring up an interesting question: can I extend this trip and turn it into a mini vacation? (Trust me, I need one.) Well, if the extended time off is approved by my

superior, and I pay for all the extra costs involved.

Agencies may ask the third party to pay for City travel expenses.

Now, what if my agency has approved my attendance and participation at this conference but doesn't have the budget for the travel? Could the agency ask the host to pay for my City-approved travel? Yes it could, but the public servant making the request cannot be involved with the third party's City business. Someone not involved in that City business would need to ask and should make it clear that this gift to the City will not affect any business they have with the City one way or the other or provide any special access. Hopefully they say yes.



Annual Disclosures filers must report travel expenses of \$1,000 or more from any non-governmental source.

One last thing: if I, as a public servant, am required to file an annual financial disclosure report, I must report any City travel valued at \$1,000 or more paid by a non-governmental source. This applies to the 9,000 or so public servants who file. And if you, dear reader, are wondering if this applies to you, you already know because you

already filed by this year’s April deadline.

Remember, before those bags are packed, it’s always best to call our Attorney-of-the-Day Help-line at 212-442-1400 for detailed advice about this and any other Chapter 68 provisions. Wheels up!



Gavin Kendall is an Education & Engagement Specialist at the New York City Conflicts of Interest Board.

Recent Enforcement Cases

Acting in Conflict with Official Duties; Misuse of City Resources. During his 2019 presidential campaign, then Mayor Bill de Blasio had the City pay the travel expenses for a New York City Police Department security detail to accompany him or his spouse on 31 out-of-state trips in connection with the campaign, despite having been previously advised by the Board in advance and in writing that the City could not pay for such expenses. The security detail incurred \$319,794.20 in travel costs, excluding salary and overtime, during these trips. After a full hearing at the New York City Office of Administrative Trials and Hearings (“OATH”), the Board issued an Order ordering the former Mayor to repay the City \$319,794.20 and imposing a fine of \$155,000.

A [searchable index](#) of all COIB Enforcement Dispositions is available courtesy of New York Law School.

Valuable Gifts Rule Explainer



Click on the picture above and watch in thrilling suspense as Director of Education & Engagement Alex Kipp attempts to test the limits of the City’s Valuable Gifts Rule. Afterward, watch our other tiktok videos at [@ethicsnyc](#) for more educational buffoonery.

THE PUBLIC SERVICE PUZZLER

Thinking of catching up on some reading this summer? Well, this month’s [Puzzler](#) exposes the egregious disregard for the Conflicts of Interest Law in some of the greatest works of literature in history! We’re asking you to send in the title of a work of art – book, film, painting, etc.— that, while it may be an important and beautiful work, is at odds with the letter and spirit of Chapter 68.

[Send your titles here!](#)

Meet last month’s winner **Kimfa Carrington**, who works with the Investigating and Legal Teams at the City’s Department of Transportation and also loves cooking Trinidadian food and disco roller skating.



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