

USING OR DISCLOSING CONFIDENTIAL INFORMATION FOR PRIVATE PURPOSES

Public servants are forbidden to disclose or use for personal gain any confidential information they have learned as a City employee. Confidential information is defined as any information unavailable to the general public.

Example: As a result of your work for the City, you learn that a City agency is developing a plan to rent office space in a certain building and that the plan has not been made public.

It would be a violation of Chapter 68 for you to give this advantageous information to a friend, relative, or anyone else in the real estate business, or in any business, since the information is confidential; it was learned on the job and it is unavailable to the public. And giving an unfair advantage to one party through such a disclosure certainly throws the integrity of the City agency out the window.



MISUSING ONE'S CITY JOB FOR PRIVATE ADVANTAGE

Chapter 68 forbids using one's City position for private or personal gain or advantage for oneself, one's close relatives, or one's business associates.

Example: Using your position as a Department of Health employee to obtain a favorable or speedy inspection for your brother's restaurant is a violation of the Conflicts of Interest Law.

Example: If you have a personal tax problem, you cannot write a letter about it to the Department of Finance on your City letterhead.

Writing a letter on City agency letterhead for any personal reason is strictly forbidden, especially if you are sending the letter to another City agency.

As a general rule the City Charter prohibits the use of City letterhead, personnel, equipment, resources, or supplies for any non-City purpose.

THE ACCEPTABLE USE POLICY

Having said that, many agencies have adopted an “Acceptable Use Policy,” that lays out some guidelines for acceptable “incidental personal use” of some City resources. Under this policy, local personal calls may be acceptable, as long as they are of an incidental nature and don’t interfere with your job performance. The same goes with many other elements of office technology.

Example: An **occasional, short** call to one’s mom in Brooklyn would be seen by the Board as an “incidental personal use” of City time and telephony, and therefore acceptable.

That same call to one’s mom in Australia, using City long distance, would not, however, be acceptable, no matter how occasional or short. (Except, of course, if your agency has a program which allows reimbursement of personal calls using City long distance, and you participate in that program.)

Not all agencies have adopted this “Acceptable Use Policy,” so it’s advisable to check with your agency counsel what your specific policy on incidental use of office technology and resources is.

UNACCEPTABLE PERSONAL USE

There are many types of personal use of even small items of City property, however, that will always be unacceptable and may result in agency disciplinary action or in prosecution by the Conflicts of Interest Board. This is particularly true if the improper use was for a private business purpose, but there are non-business uses of City resources that clearly fall outside of the “Acceptable Use Policy,” too: *sending hate speech or political literature on a City computer are examples.* The unauthorized use or borrowing of valuable items from your agency may even result in criminal prosecution.

Lastly, just to repeat: be aware that many agencies have stricter conflicts-related rules in many areas, including the use of City property for non-City purposes, than the general conditions this booklet has discussed. Public servants are bound to obey the stricter rules, so check with your agency counsel for your official policy.

OUTSIDE BUSINESSES AND INVESTMENTS

There are restrictions on public servants having an *ownership interest* in a company that has business dealings with the City. These restrictions also apply to an ownership interest that your spouse, registered domestic partner, or unemancipated child has in a company that does business with the City. (Your child is unemancipated if he or she is under 18, unmarried, and living in your home.) What defines an *ownership interest*? See the checklist below:

CHECKLIST: You have an ownership interest in a firm if your interest is:

- More than 5% of the firm; or
- Worth more than \$44,000; or
- More than 5% of the firm's debt (such as bonds); or
- More than \$44,000 of the firm's debt.

However, even if your interest is less than these amounts, if you or your spouse or registered domestic partner or unemancipated child *runs* the business (that is, you or they have a “managing interest”), you are still considered to have an ownership interest in the firm.

Example: If you work for the Department of Sanitation 20 or more hours per week and your wife is a partner owning 20% of a stationery supplier that sells stationery to the Department of Citywide Administrative Services, then you have a prohibited ownership interest.

That leaves you with two choices: either your wife's firm must stop selling stationery to the City or you must disclose the ownership interest to the Conflicts of Interest Board and ask for an order from the Board permitting your interest. (It is likely that the Board would permit the above interest, with some restrictions, but permission **must** be sought.)

If you work less than 20 hours per week for the City, then you, your spouse (or registered domestic partner) and your unemancipated children are allowed to have an ownership interest in a firm that does business with any City agency except **your own** City agency.

Example: If you work two days a week for the Department of Sanitation, you may own a business that deals with the Department of Consumer Affairs but not a business that deals with the Department of Sanitation.

By the way, ownership interest does **not** include an interest in a pension plan, deferred compensation plan, or mutual fund if neither you nor your spouse (or registered domestic partner) nor your unemancipated child controls the investments made by the plan or fund. Likewise, interests held in qualified blind trusts are not considered to be prohibited ownership interests.



SUPERIORS AND SUBORDINATES



All public servants are prohibited from having a business or financial relationship with a superior or a subordinate.

Example: If you own an apartment, you may not sublet it to someone you supervise.

Example: If you do outside carpentry work, you may not do a private job for your boss, not even for free.

“Does this mean I can’t loan my boss or my subordinate \$5 for lunch?”

No, although you could imagine even this becoming a problem. If, for example, your boss borrows \$5 from you every day and never pays you back, that might not be a prohibited financial relationship under the law, but it certainly is a case of the boss misusing City position to get a personal benefit.

Example: You also may not share an apartment with a superior or subordinate, since splitting the rent would involve a financial relationship.

Example: You cannot borrow \$1000 from any subordinate, nor can you loan any subordinate money, nor can any superior of yours lend money to or borrow money from you.

All of these situations are potentially coercive and, even if they are not, will throw a supervisor's ability to give fair & impartial evaluations and job assignments into question.