

the Ethical Times

Un-Wrapping the Rules for Gifts

By Isaiah Tanenbaum

During the holiday season, the Conflicts of Interest Board receives a sleigh-load of questions from City employees about what's permissible when giving and receiving gifts. Here's a quick primer with answers to some of the most frequently asked questions, considering these still-unprecedented times.

Gifts from Non-City Sources

There are three important rules to keep in mind when thinking about gifts from the public:

Rule 1 – Tips

We may not take a tip or gratuity *of any value* for doing our City jobs. This means that City employees are prohibited from accepting a "thank you" gift from a member of the public or a vendor in *any* amount. A \$5 bill? Not allowed. A rubber duck? Sorry. What about a hand-knitted sweater? That's very sweet, but also nope.

Rule 2 – Gifts from Prohibited Sources

We may not accept a gift worth \$50 or more from any person, firm, or not-for-profit doing business with any City agency. Accordingly, we may not accept a painting valued at \$60 from a City vendor "just because I heard you like art." Be aware that this \$50 amount is cumulative, which means that City employees may not accept, over any 12-month period, a *series* of gifts from the same source worth \$50 in total. So, five \$10 paintings?

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You can accept the first four, but you must decline the fifth. And note that some City agencies have even stricter rules: a \$0 gift rule is not uncommon.

What should you do if a City vendor delivers a very fancy box of chocolates to your office? If you can, refuse it! But let's say that's not an option – the bonbons were left on your desk while you were in a meeting. First, notify your agency's Inspector General. Then, reach out to your agency head (or their



designee for these matters; typically, an attorney in the agency's General Counsel's office) who will provide further guidance. The first choice would be to donate the chocolates, but they could also be placed in a public area for all to enjoy; in some circumstances, the gift will need to be destroyed to preserve the public's faith that no civil servant has been unduly, deliciously influenced.

Rule 3 – Tickets to Parties and Events

Let's say that a firm that works with your City agency invites you to its holiday gala. It's a wild shindig, with an open bar, trapeze artists, and a performance by New York's finest Bon Jovi cover band. Can you attend? Probably not (sorry, *Beyond Jovi* fans). Attending vendor events is only permitted if doing so serves a valid City function. Who decides that? Your agency head, who must do so in advance, in writing.

Gifts from Co-workers

That covers gifts from City vendors and members of the public to City employees, but what about gifts between co-workers?

City co-workers who don't supervise one another – by assigning work, approving timesheets, evaluating, promoting, etc. – can give gifts to one another, in any amount. Similarly, a supervisor can give a gift to one or more of her subordinates. However, the reverse is not the case: superiors cannot accept anything more than a token gift from a subordinate: a "World's Okay-est Boss" coffee mug wouldn't raise any eyebrows, but a crystal wine decanter certainly would. Also, a "token" gift cannot be cash, or a cash equivalent (such as an Amazon gift card).

(There is a Significant Life Event exception to this rule, which allows superiors to accept socially appropriate gifts from subordinates for once-in-a-lifetime celebrations such as a wedding or baby shower. However, annual

occasions such as the holidays – and birthdays, for that matter – are, by definition, not "once in a lifetime.")

Could ten subordinates chip in \$10 each to purchase a \$100 holiday gift for their superior? That is one significant gift, not ten token gifts, so a supervisor accepting it would violate the conflicts of interest law. Indeed, in 2017 the Board issued public warning letters to four Department of Education employees who accepted gift cards and a handbag that had been purchased for them by a large group of their subordinates, each of whom only contributed as little as \$5 to \$11.

We'll close with one piece of good news: Secret Santa, Yankee Gift Swap, and other mandated "fun" office holiday activities are typically allowed under Chapter 68, provided that the gifts are "anonymized" (that is, the boss doesn't know who gave them their gift) or, as above, their value is so low that nobody would find reasonable cause for concern. So spread that good holiday cheer around your office this season... at \$10 or less per person.

If you have any other questions about gifts, or wish to get advice on any topic related to the City's conflicts of interest law, call COIB's



Attorney of the Day at 212-442-1400, or visit our website at nyc.gov/ethics. All advice is confidential, and you may contact us anonymously.

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Recent Enforcement Cases

Misuse of City Position. In 2019, two Housing Specialists for the NYC Department of Homeless Services (DHS) assigned to the Catherine Street Shelter in Manhattan solicited loans from a DHS client residing in that shelter. One Housing Specialist, who was assigned to the client's case, solicited and received two loans totaling \$630 from the client, which loans the Housing Specialist later paid back. The other Housing Specialist solicited a total of \$1,900 in loans from the client, but the client declined to provide the requested loans. To resolve these violations, the Housing Specialists agreed to resign from DHS. The Board determined that the agency-imposed penalty of resignation was sufficient for the violations and imposed no additional penalty.

Misuse of City Resources. In 2016 and 2017, a Special Officer at NYC Health + Hospitals (H+H) purchased two counterfeit parking placards that contained the H+H Police shield insignia from a retired H+H employee and displayed those placards in his personal vehicle to avoid receiving parking tickets

when he parked illegally on the street near his H+H work location. After a full hearing before an Administrative Law Judge at the NYC Office of Administrative Trials and Hearings (OATH), the Board issued an Order imposing a \$2,500 fine – the amount recommended by the OATH Administrative Law Judge – on the former Special Officer.

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

THE PUBLIC SERVICE PUZZLER

Congratulations to **Christopher Lynch**, who continues the two-month streak of the Law Department's Tort Division dominating the winner's circle!



In this month's [contest](#), we've got a story about illegal fencing that ends in a pun. Figure out what we're talking about by **Wednesday, January 5th**!

Have a Happy &
Ethical New Year!

- your friends at COIB

