

# The Ethical Times

Roy Koshy, Editor

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## Un-Wrapping the Rules for Gifts



**By Maryann White**

This time of year, the Conflicts of Interest Board gets a lot of questions from public servants about giving and receiving holiday gifts. The one gift you can absolutely take is this free advice on how to stay off COIB's naughty list.

### **Gifts from Non-City Sources**

There are three important rules to keep in mind about gifts from those outside of City government:

#### **Rule 1 – TIPS**

Public servants may not take a tip or gratuity of any value for doing their City jobs. This means that a public servant is prohibited from accepting a "thank you" gift from a member of the public or a City vendor in any amount. What if a City vendor notices that your favorite holiday beverage, the iced gingerbread oatmeal chai, is back on the menu at you-know-where and gives you a \$5 coffee store gift card in appreciation for your help managing their contract throughout the

year? Even though the gift card is worth less than \$50 - and definitely won't cover the cost of that festive holiday beverage - you cannot accept it. What if a grateful member of the public offers you a plate of homemade chocolate rum balls? The law prohibits any tip or gratuity, no matter what the value is, so you can't take those either. It's a nice gesture, but we already get paid to do our City jobs.



## Rule 2 – GIFTS FROM PROHIBITED SOURCES

Public servants may not accept a gift worth \$50 or more from any person, firm, or not-for-profit doing business or seeking to do business with any City agency. This means that when a not-for-profit with a City contract tries to give you an Italian pantry gift box, which costs \$99.95, you cannot accept it. What if the vendor opens the box and gives you the balsamic vinegar that sells for only \$29.95? Technically, you could accept this, but it can be a bit more complicated than that. The \$50 limit is cumulative, which means that public servants may not accept, over any 12-month period, a series of gifts from the same source worth \$50 or more in total. Later, when that same vendor gives you olive oil, pecorino cheese, and pesto, you would be violating the Valuable Gift Rule. And note that many City agencies have even stricter rules: a \$0 gift rule is not uncommon. The easiest, surest way to comply is: don't take stuff from any person or firm doing business or seeking to do business with the City.



What should you do if a vendor offers you a prohibited gift? If you can refuse it or return it, you are required to do so. But let's say that's not an option. An anonymous box of chocolates arrives at your office. Since you don't know that it's not from a City vendor or a member of the public that deals with your agency, you have to assume that it is. 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 General Counsel's office),

who will provide further guidance. Often, even if the package does not identify the giver, it can be returned to the company that shipped it. Alternatively, the chocolates may be donated to a not-for-profit. In some circumstances, it will be necessary to toss the gift to preserve the public's faith that no public servant has been unduly, deliciously influenced.

## Rule 3 – INVITATIONS TO EVENTS AND HOLIDAY PARTIES

This is also the season for holiday and end-of-the-year parties. A public servant who works for the New York City Office of Technology and Innovation could be invited to a New Year's Celebration by a company that sells software to the City. The only way for a public servant to attend an event paid for by a firm that does business with the City is if there is an actual City purpose for them to be there. Another example: a public servant who works for the New York City Administration for Children's Services might be invited to the annual fundraiser of a not-for-profit children's advocacy organization that is not a City vendor but the public servant is involved with the organization at their City job. This public servant is only being invited to that event because of their City position, so there must be a City purpose for them to accept free attendance at that event. Because both of these events are primarily social affairs, it is not likely that there is an official City purpose. The determination of whether there is a City purpose to accept free attendance must be made by your agency head, and you must receive written approval from them before attending the event.





## **Gifts from Other City Employees**

Now we covered gifts from those doing business with the City and members of the public to public servants, but what about gifts between co-workers?

City co-workers who don't supervise one another — by assigning work, approving time-sheets, evaluating, promoting, etc. — can give gifts to one another in any amount. Similarly, a supervisor can give a gift to any or all of their subordinates. However, the reverse is not the case: superiors cannot accept anything more than a token gift from a subordinate. A token gift is a something valued at \$10 or less, and it cannot be cash or a cash substitute, like a gift card. This means that you can give your boss some homemade snickerdoodles or a holiday card, but that's about it.

Could ten subordinates chip in \$10 each to purchase a \$100 holiday gift for their superior? That would be one big gift, not ten token gifts, so the supervisor who accepts that group gift would violate the conflicts law.

Although we have to enforce the gift rules, we at COIB are not total grinch-es. Secret Santa, Yankee Gift Swap, and other office holiday activities are allowed under Chapter 68, provided that the gifts have only a token value. You, and the Whos in Whoville, can celebrate the holidays at \$10 or less per person.



If you have any 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, email us at [AOD@coib.nyc.gov](mailto:AOD@coib.nyc.gov), or visit our website at [nyc.gov/ethics](http://nyc.gov/ethics). All advice is confidential, and you may get advice from us anonymously.

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## Recent Enforcement Cases

**Misuse of City Resources.** A Project Manager for the New York City Department of Housing Preservation and Development (“HPD”) had a private business selling event tickets and related services. From 2013 to 2019, the Project Manager stored 1,030 files related to this business on his HPD computer and used his HPD email account to send and receive 27 emails related to the business. After a full hearing at the New York City Office of Administrative Trials and Hearings, the Board imposed a fine of \$6,500 on the now-former Project Manager.

**Misuse of City Position; Superior-Subordinate Financial Relationship.**

The Director of Customer Service Unit at the New York City Department of Finance (“DOF”) requested, received, and did not fully repay loans of \$1,500 and \$2,500 from two of her DOF subordinates. The now-former Director agreed to pay a \$6,000 fine to the Board. In setting the penalty, the Board considered that the now-former Director had previously paid a \$1,000 fine to the Board for requesting and receiving a loan from a subordinate.

**Misuse of City Position; Superior-Subordinate Financial Relationship.**

An Administrative Community Relations Specialist at the New York City Housing Authority (“NYCHA”) requested and received a \$500 loan from a NYCHA subordinate, which the Administrative Community Relations Specialist later repaid in full. In a joint agreement with NYCHA and the Board, the Administrative Community Relations Specialist agreed to serve a NYCHA

-imposed four-work day suspension, valued at approximately \$1,664. The Board determined that the penalty imposed by NYCHA was sufficient and imposed no additional penalty.

**Moonlighting; Misuse of City Position; Prohibited Appearances.**

For eight years, the Chief of Pediatrics at New York City Health + Hospitals/Kings County had a paid position with Grenada-based St. George’s University School of Medicine (“SGUSOM”), which contracts with Health + Hospitals to provide clerkships to SGUSOM students; the Chief’s subordinate, the Director of Pediatric Intensive Care at Kings County, had a paid position with SGUSOM for two years. While they had these paid positions, the Chief and Director supervised the clerkships of SGUSOM students at Kings County, and the Chief ensured that Kings County employees completed their evaluations of SGUSOM students. The Chief also communicated with Health + Hospitals employees on behalf of SGUSOM when he assigned Health + Hospitals employees, at Kings County and elsewhere, to supervise the clerkships of SGUSOM students. The Chief agreed to pay a \$13,000 fine, and the Director agreed to pay a \$4,000 fine.

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