

AGENCY RULES

CONFLICTS OF INTEREST BOARD

■ NOTICE

CITY OF NEW YORK CONFLICTS OF INTEREST BOARD

Notice of Adoption of Amendment to Rule on Valuable Gifts

NOTICE IS HEREBY GIVEN THAT, pursuant to the authority vested in the Conflicts of Interest Board by Sections 2603(a) and 2604(b)(5) of the New York City Charter, the Conflicts of Interest Board has adopted an amendment to its rule on valuable gifts, Section 1-01 of Title 51 of the Rules of the City of New York, (1) making explicit that, for purposes of the Charter's prohibition on receipt of valuable gifts from persons doing business with the City, individual gifts from a single donor or related donors shall be aggregated; (2) deleting the requirement that recipients of certain gifts disclose them to the recipient's agency head; and (3) recharacterizing the year-long period for determining a "single gift" as "twelve-month period," rather than "calendar year." Pursuant to a notice published on August 22, 1997, in *The City Record*, a public hearing was held on September 25, 1997, at 2 Lafayette Street, Suite 1010, New York, New York. The Board received no comments on the proposed amendment and adopted the proposed amendment as final. The text of the amendment is set out below.

SECTION 1-01 VALUABLE GIFTS.

(a) For the purposes of Charter § 2604(b)(5), a "valuable gift" means any gift to a public servant which has a value of \$50.00 or more, whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise, or in any other form. [When a public servant has received two or more gifts from any one source within a calendar year which individually are worth less than \$50.00 but in the aggregate exceed a value of \$50.00, the public servant shall disclose the gifts in writing to his or her agency head.] Two or more gifts to a public servant shall be deemed to be a single gift for purposes of this subdivision and Charter § 2604(b)(5) if they are given to the public servant within a twelve-month period under one or more of the following circumstances: (1) they are given by the same person; and/or (2) they are given by persons who the public servant knows or should know are (i) relatives or domestic partners of one another; or (ii) are directors, trustees, or employees of the same firm or affiliated firms.

(b) As used in subdivision (a) of this section, (1) "relative" shall mean a spouse, child, grandchild, parent, sibling, and grandparent; a parent, domestic partner, child, or sibling of a spouse or domestic partner; and a spouse or domestic partner of a parent, child, or sibling; (2) firms are "affiliated" if one is a subsidiary of the other or if they have a parent firm in common or if they have a stockholder in common that owns at least 25 percent of the shares of each firm; (3) "firm," "spouse," and "ownership interest" shall have the meaning ascribed to those terms in section 2601 of the Charter; (4) "domestic partner" means a domestic partner registered pursuant to Title 51, Chapter 4, of the Rules of the City of New York.

[Subdivisions (b) through (i) are relettered as (c) through (j) but are otherwise unchanged]

STATUTORY AUTHORITY: Sections 2603(a) and 2604(b)(5) of the New York City Charter.

STATEMENT OF BASIS AND PURPOSE OF THE AMENDMENT: Charter § 2604(b)(5) provides:

No public servant shall accept any valuable gift, as defined by rule of the board, from any person or firm which such public servant knows is or intends to become engaged in business dealings with the city, except that nothing contained

herein shall prohibit a public servant from accepting a gift which is customary on family and social occasions.

The Board's current gift rule defines "valuable gift" to mean any gift to a public servant, in whatever form, that has a value of \$50 or more. Board Rules § 1-01(a). The rule also requires that the public servant must report to his or her agency head gifts from a single source within a calendar year which individually are less than \$50 but which together exceed \$50. Id.

The Board has consistently interpreted this rule to mean that individual gifts from a single donor within a twelve-month period must be aggregated for purposes of determining whether the threshold amount was exceeded. However, the Board believes that this interpretation should be made explicit in the text of the rule itself to prevent any misunderstandings by public servants or by persons or firms doing business with the City. In addition, the Board has determined that the disclosure requirement in the rule should be eliminated because it has proven ineffective. Agencies may, if they wish, impose more stringent requirements. For example, some agencies prohibit their employees from accepting gifts of any size from persons doing business with the City.

Accordingly, the amendment (1) makes explicit that, for purposes of the Charter's prohibition on receipt of valuable gifts from persons doing business with the City, individual gifts from a single donor or related donors within a twelve month period shall be aggregated, and (2) deletes the requirement that recipients of gifts disclose them to their agency head, and (3) recharacterizes the year-long period for determining a "single gift" as "twelve-month period," rather than "calendar year." Related donors include the immediate family of the donor (spouse, children, grandchildren, parents, grandparents, brothers, sisters, and in-laws) and officials or employees of the same firm or of firms that stand in a parent-

subsidiary relationship or that are subsidiaries of the same parent or that have a controlling shareholder in common. However, gifts of related donors are only aggregated if the public servant-recipient knows or should know of the relationship. This requirement will avoid inadvertent violations of the rule. The amendment employs the phrase "twelve month period" rather than "calendar year" to prevent, for example, the acceptance of a \$49 gift on December 31 and another on January 1.

[Signature/Initials]

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[COMB24: gift rule.7]