

the Ethical Times

Un-Wrapping the Rules for Gifts

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

Gifts from Non-City Sources

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

Rule 1. You may not take a tip or gratuity of *any value* for doing your City job. 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.

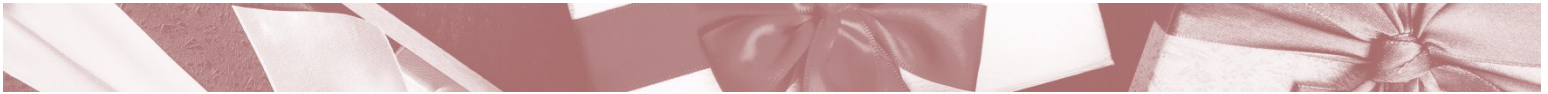
Rule 2. You may not accept a gift worth \$50 or more from any person, firm, or not-for-profit doing business with any City agency. Accordingly, you may not accept a painting valued at \$60 from a City vendor "just because I heard you like art." Be aware that this \$50 amount is cumulative, which means that you may not accept, over any 12-month period, a *series* of gifts from the same source worth \$50 in total. So, five \$10 paintings? You can accept the first four, but must reject the fifth. And note that some City agencies have even stronger restrictions: a \$0 gift rule is not uncommon.

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What should you do if a vendor delivers chocolates or flowers to your office? If you can, refuse them. But if that's not an option — perhaps the flowers were left on your desk while you were in a meeting — you should first contact your agency's Inspector General at the Department of Investigation (DOI). He or she will give you instructions on what to do next. You will probably be asked to return the gift to whoever sent it to you. However, for certain perishable items that cannot be practically returned (meaning that the item would not survive a return trip), the instructions you receive might be different. For example, if you receive a fruit basket from a vendor, you might be allowed to place it in a common area for everyone's enjoyment.





FAST FACTS

- **Tips and gratuities of any amount or value are never allowed.**
- **Gifts from any person or firm with City business must be kept under \$50 in value, cumulative over a 12-month period.**
- **Comped attendance at events, parties, and travel must serve a City purpose and be approved by your agency head.**
- **Holiday gifts from subordinates must be token only: under \$10.**
- **A superior cannot accept a substantial gift from a group of subordinates, even if each only contributed a small amount.**
- **The exception to the superior/subordinate gift rule is ONLY for a “significant life event” such as a wedding or birth of a child: a once-in-a-lifetime celebration. The gift for such an event can be of a value appropriate to the occasion.**

Also, if you get a gift from a vendor at home, even if it is “just” flowers, watch out! This falls under the same rule. You should refuse or return it if possible, and immediately notify your supervisor and DOI.

Rule 3. What about holiday parties? For example, let’s say that a firm that works with your City agency invites everyone in your office 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? Generally speaking, only if doing so serves a valid City function – and in most cases, it won’t (sorry, *Beyond Jovi* fans). Your agency head must decide who from your agency, if anyone, should attend, and make his or her intentions known in advance, in writing.

Gifts from Coworkers

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 always 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.

(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, the holidays come every year and therefore, like birthdays, are not “once in a lifetime.”)



For this reason, an office-wide \$5-\$10 holiday grab-bag or “Secret Santa” gift exchange is fine, but larger contributions could present a problem if a supervisor is involved.

What if ten subordinates chip in \$10 each to purchase a \$100 holiday gift for their superior? That’s considered to be one valuable gift, not ten token gifts, so the supervisor accepting it would violate the conflicts 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.

If you have any other questions about gifts, call the Conflicts of Interest Board at 212-442-1400 and press “2” to get advice from the Attorney of the Day. You can also email us through our website (nyc.gov/ethics) by clicking on “Contact COIB.” All calls and emails are confidential, and you may contact us anonymously.

THE PUBLIC SERVICE PUZZLER

This month’s Puzzler features **a word search with too many words**! Can you figure out which word is the extra one? **Submit your answer** by Friday, December 20th.

And last month’s Puzzler was much too difficult and didn’t actually produce a winner. Our mistake! The good news is that reviewing the correct answers gives us all a chance to explore some of Chapter 68’s trickier sections.

Recent Enforcement Cases

Misuse of City Time & Resources. The Executive Director of the Delivery System Reform Incentive Payment Grant Program at NYC Health + Hospitals (H+H) / Coney Island, also works in his private capacity as an adjunct professor at the Borough of Manhattan Community College, Long Island University, Touro College, and Wagner College. Over the course of four years, the Executive Director used his H+H email account to exchange approximately 720 emails, frequently during his City work hours, in connection with his professorial work. The Executive Director paid a \$5,000 fine to the Board.

Misuse of City Resources. The Director of Information Services in the Enterprise Information Technology Services Department (EITS) at H+H was responsible for managing EITS pool vehicles. He was not authorized to use pool vehicles for his personal commute. Nevertheless, during an eleven-month period, he regularly used pool vehicles to commute between his workplace in Manhattan and his residence in Queens. He also made four unauthorized personal trips in close proximity to his home on days he was not working for the City. The Director paid a \$5,500 fine, which took into account that his official responsibilities included safeguarding the proper use of EITS pool vehicles.

Confidential Information. On 24 occasions, a NYC Human Resources Administration (HRA) Principal Administrative Associate III accessed the Welfare Management System to view the confidential public assistance case records of his tenant and of his son. In a joint settlement with the Board and HRA, the Principal Administrative Associate III paid a \$1,000 fine to the Board and agreed to serve a five calendar-day suspension, valued at \$1,300, and a one-year probationary period.

Recent Enforcement Cases

Prohibited Ownership Interest; Prohibited Appearances. A NYC Department of Education (DOE) Community Assistant also owned a private publishing business through which he wrote and published a book. He sold 235 copies of the book to four DOE schools for a total of \$6,920. One of the sales of 100 copies of the book resulted from the Community Assistant asking a DOE principal to purchase the book. The Community Assistant's publishing business also accepted a purchase order from a DOE school for professional development materials, which purchase the school ultimately canceled. The Community Associate agreed to a penalty of a \$3,000 fine, which was forgiven by the Board based on the Community Assistant's showing of financial hardship.

Misuse of City Position. A Deputy Commissioner at the NYC Department of Housing Preservation and Development (HPD) met the owner of a title insurance company through her work as head of Asset Management at HPD. The title insurance company provides insurance for affordable housing projects sponsored and financed by HPD. The owner sometimes requested and the Deputy Commissioner gave him non-confidential

information about HPD matters. The Deputy Commissioner asked the owner to keep her in mind if he got Yankees tickets. The Deputy Commissioner also accepted seven tickets to Brooklyn Nets games from the owner, at a total value of \$2,100. The Deputy Commissioner paid a \$6,000 fine to the Board.

Gratuity / Outside Compensation. As part of her official duties, a DOE Parent Coordinator attended meetings of the Parent Association (PA) and provided childcare if needed. The Parent Coordinator attended five PA meetings for which she received \$90 per meeting from the PA for providing childcare at the meeting. In addition to payments from the PA, the Parent Coordinator earned overtime from DOE in the form of compensatory time to attend two of these five meetings; though, for one of those two meetings, the Parent Coordinator did not cash the \$90 check she received from the PA. The Parent Coordinator paid a \$500 fine to the Board.

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



Schedule a Chapter 68 Class

COIB's Education & Engagement Unit can arrange a class in Chapter 68 for you and your staff.

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