

the Ethical Times

Un-Wrapping the Rules for Gifts

By Isaiah Tanenbaum

During a typical 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, taking into account this unique and unprecedented year.

Gifts from Non-City Sources

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

Rule 1 – TIPS

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 – GIFTS FROM PROHIBITED SOURCES

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*

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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 are even stricter: a \$0 gift rule is not uncommon.

What should you do if a vendor delivers chocolates or flowers to your office – or perhaps, these days, to your home office? If you can, refuse them. But if that's not an option, immediately contact your agency's Inspector General at the Department of Investigation (DOI). They will give you instructions on what to do next.



Rule 3 – TICKETS TO EVENTS AND HOLIDAY PARTIES

Back in the day – 9 loong months ago – we would often talk about the exception to the valuable gifts rule that allows you to attend events for free, even if the tickets came from a prohibited source, as long as it was determined by your agency head that you were attending the event in your City capacity. Maybe someday we'll be able to go to these kinds of events again. These days, if you're being invited to ANY large indoor gathering, you should probably be looking for ways to get *out* of going.

Gifts from Coworkers

That covers gifts from City vendors and members of the public to City employees; 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 their 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 winter holidays come every year and therefore are not "once in a lifetime.")

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 of interest law. Indeed, in 2017 the Board issued

public warning letters to four Department of Education employees who accepted several hundred dollars' worth of gift cards and a designer 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.

What about Secret Santa or Yankee Gift Swap, or other supposedly "fun" office-related gift activities? While normally OK, given the dangers of sharing a tight party space with a large group of co-workers (and all the telework happening), it would be difficult to get this kind of thing going and keep it secret, safe, and fun. Let's table this 'til next year (hopefully).

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

torney 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.



Isaiah Tanenbaum is an Education & Engagement Specialist at the New York City Conflicts of Interest Board.

COIB and COVID-19

COIB is operational and here for you. The Attorney of the Day is available to answer your ethics questions at (212) 442-1400 or via the [legal advice request form](#).

We encourage New Yorkers to follow DOHMH at [@nycHealthy](#) and/or text COVID to 692-692 to receive updates.



nyc.gov/ethics

Phone: (212) 442-1400

Fax: (212) 437-0705

Recent Enforcement Cases

Misuse of City Position. As part of her official City duties, a Budget Administrator in the Division of Early Childhood Education at the NYC Department of Education (DOE) managed universal pre-kindergarten (UPK) programs and worked directly with DOE vendors that provided UPK programs and services. The Budget Administrator asked three of those vendors for personal loans ranging from \$1,700 to \$17,000. The Budget Administrator received a \$2,000 loan from one of the vendors, which she repaid in four to six weeks. The Budget Administrator paid a \$3,500 fine to the Board.

Post-Employment Appearances. A former Inspector at the NYC Department of Buildings (DOB) began working for a construction management company. Within one year of leaving City service, the former Inspector attended two DOB inspections of his

new employer's construction sites and spoke with DOB inspectors at those inspections, including criticizing an inspector's DOB supervisor after the inspector said he needed to report an issue to the supervisor. The former Inspector paid a \$1,500 fine to the Board.

Prohibited Position. An Administrative Engineer in the Bureau of Engineering Design and Construction at the NYC Department of Environmental Protection (DEP) served as an unpaid advisor for the Bronx River Arts Center (BRAC). The Administrative Engineer advised on the technical and engineering aspects of the renovation of BRAC headquarters, which was being managed by the NYC Department of Design and Construction (DDC); the Administrative Engineer sent 25 emails and text messages to DDC personnel involved in the renovation, 15 of which he sent during his DEP work hours. In a joint settlement with the Board and DEP, the Administrative Engineer agreed to forfeit four days of annual leave, valued at \$2,288.

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



THE PUBLIC SERVICE PUZZLER

Congratulations to the winner of our recent Public Service Puzzler, **Toby Singer** of DEP, who not only likes protecting the environment, but enjoys zipping through it on ropes.



In this month's [contest](#), we're looking for some poems about gifts! Submit yours by **Friday, December 19th (deadline extended)**.