

the Ethical Times

Un-Wrapping the Rules for Gifts

By Evan Berkow

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 to answer some of our most commonly received questions.

Gifts From Non-City Sources

There are two important rules you should keep in mind when thinking about gifts:

Rule 1. You may not take a tip or gratuity of *any value* for doing your City job. This means that City employees are flatly prohibited from accepting a "thank you" gift from a member of the public in *any* amount. A \$5 bill? Not allowed. A rubber duck? Sorry. What about a half-eaten cheese platter? Gross...and also nope.

Rule 2. You may not accept a gift worth \$50 or more from any person or company doing business with any City agency. Accordingly, you may not accept a \$60 box of candies from a City vendor. 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 boxes of candy? You can accept the first four boxes, but must reject the fifth.

But what should you do if a vendor delivers chocolates or flowers to your office? Upon receiving such a gift, you should first contact your agen-

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cy'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.

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

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





FAST FACTS

- **Tips or 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.**
- **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.**

Bon Jovi cover band. Can you attend? That depends on how much your attendance at the party is worth, which is calculated through such factors as the cost of the venue, the value of food and drinks served, the cost of provided entertainment (Beyond Jovi doesn't come cheap), etcetera. If the party is worth \$50 or more per person (as most nice events will be), you'll be in violation of the law if you attend, unless your

agency head certifies in writing that it's in the City's interest for you to be there. So, your Commissioner must decide who from your agency, if anyone, should attend.

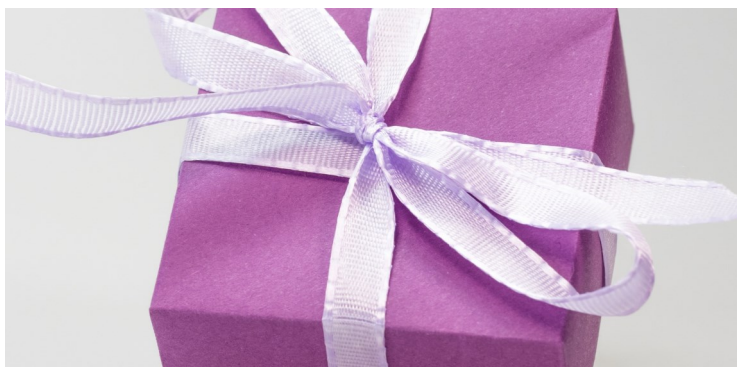
The gift rule also applies to travel expenses. If you need to travel to inspect the equipment that a vendor is trying to sell to your City agency, can the vendor pay for your trip? With the approval of your agency head prior to your travel, the vendor may pay for reasonable travel expenses that the City would otherwise be allowed to cover. This means flying coach, standard business accommodations and meals, but no steak-and-scotch dinners or tickets to a ballgame. It also means that the vendor can't pay for you to spend a couple of extra days lying by the pool. Simply put: if the City wouldn't pay for it, a vendor can't pay for it.

Gifts From Coworkers

That covers gifts from vendors to City employees, but what about gifts between co-workers?

Token gifts are fine, like the \$5-\$10 holiday grab-bag or "Secret Santa." But watch out for larger gifts. Under the conflicts of interest law, supervisors are only permitted to accept token holiday gifts from their subordinates, so they should exercise caution before accepting any gift from a subordinate.

But what if ten subordinates chip in \$10 each to purchase a \$100 gift for their superior? Would the superior be accepting one valuable gift or ten token gifts? That's considered to be one valuable gift, so 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.



There's only one exception to the rule barring superiors from accepting non-token gifts from their subordinates. On special occasions, such as a wedding or the birth of a child, a supervisor may accept a gift from a subordinate that is of the type and value customary to the occasion. This means that accepting a blender that was on your wedding registry is fine. But an all-expenses-paid honeymoon in Hawaii, paid for by your subordinates, is not. Keep in mind that this exception only applies to your fellow City workers; wedding gifts from City vendors or friends who work for City vendors are generally not permissible.

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.



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Congratulations!

to the winner of the October Public Service Puzzler:

Torrey Fishman, Mayor's Office of Intergovernmental Affairs

Solve a rebus in [this month's Puzzler!](#)



Recent Enforcement Cases

Misuse of City Resources An Assistant Commissioner and Chief Engineer at the NYC Department of Citywide Administrative Services (DCAS) was assigned a "take-home vehicle" to perform his official duties and commute. Over the course of 11 months, he used it to make 37 personal trips, mostly to run errands within a short distance of his residence. In a joint settlement with the Board and DCAS, the Assistant Commissioner agreed to pay a \$1,500 fine to the Board; forfeit 20 days of annual leave to DCAS, valued at approximately \$13,793; and reimburse \$126.79 to DCAS for the mileage incurred on the vehicle.

Prohibited Appearances & Misuse of City Time A NYC Department of Health and Mental Hygiene (DOHMH)-Office of Chief Medical Examiner (OCME) Borough Supervisor of the Staten Island Morgue also worked on the side as a funeral home director. On forty-five occasions he picked up bodies from the Staten Island morgue in his private capacity as a funeral director, which required him to engage in an in-depth check-out process with an OCME Mortuary Technician. On two of those occasions, he performed this work while on the clock at his OCME job. In a three-way settlement with the Board and DOHMH, the Supervisor agreed to serve a ten-workday suspension, valued at approximately \$2,037, and pay a \$4,000 fine - \$3,000 to DOHMH-OCME and \$1,000 to the Board.

Misuse of City Position Over the course of three months, a NYC Department of Education (DOE) Assistant Principal assigned herself 81 hours of per session work (worth \$3,855.82), circumventing the normal procedure by which such work is assigned and approved. When she sought payment for the work, her supervising Principal refused to authorize it. In a joint settlement with the Board and DOE, the Assistant Principal agreed to pay a \$1,500 fine to the Board for attempting to misuse her City position for personal financial gain.

Recent Enforcement Cases

Misuse of City Resources A DOE Principal of Cornerstone Academy for Social Action Middle School (CASA) allowed a candidate for mayor to film a campaign advertisement in his school. In a joint settlement with the Board and DOE, the Principal agreed to pay a \$1,000 fine to the Board for using DOE facilities for campaign-related activities.

Misuse of City Position The Acting Executive Director of the Mayor's Office of Workforce Development received a public warning letter for invoking his City position in multiple communications with the DOE on behalf of the private nursery school where his child was enrolled. He was attempting to help the nursery school clarify a request to modify its Pre-K program. His communications with the DOE Universal Pre-K office included emails in which he signed off with his official email signature and Mayor's Office title, including three emails in which he mentioned in the body of the email that he was a "fellow City employee" and one email in which he mentioned that he worked in the Mayor's Office. In determining not to impose a fine in this case, the Board took into account that the Acting Executive Director self-reported his conduct to the Board once he learned that his invoking his position while communicating with DOE could be a conflict of interest.

Prohibited Interest For five years, a Recreation Supervisor at the NYC Department of Parks and Recreation (DPR) served as the volunteer president of a not-for-profit organization that received funding from the City. By working on the not-for-profit's business with the City, she was in violation of the conflicts of interest law. The Recreation Supervisor ended her violation by obtaining written permission from her agency head and a waiver from the Board to hold the position of volunteer president of the organization and to participate in the organization's City business dealings; a public warning letter was issued by the Board for the prior misconduct.

Superior-Subordinate Financial Relationship A NYC Police Department (NYPD) Sergeant sold a firearm to his subordinate, an NYPD Detective, for approximately \$300. Both the Sergeant and Detective received public warning letters for the prohibited financial relationship that arose from this one-time transaction.

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

Get in touch with the COIB's Education & Engagement Unit to arrange a class in Chapter 68 for you and your staff. Contact Gavin Kendall at Kendall@coib.nyc.gov.

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