

ASK THE CITY ETHICIST

#21: Gifts and Lobbyists

by

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Question: *I am a public servant, and I received a \$100 gift card from a lobbyist with matters before the City. May I accept it?*

--Anonymous Public Servant

Answer:

Before I give you an answer, let's go over the two applicable rules about gifts. First, there is the Board's "Valuable Gift Rule." This rule restricts what public servants may accept from a person or a firm having business with the City. Second, there is the Board's "Lobbyist Gift Rule," which restricts what lobbyists may give or offer public servants.

The Board's "Valuable Gift Rule," which applies to you, prohibits public servants from accepting any sort of gifts, within any 12-month period, whose total value is \$50 or more, from any person or company doing business with any City agency. This basically means that you can't accept any series of gifts from the same source worth \$50 or more, over *any* 12-month period. But there are a few exceptions to this rule. For example, you might be able to accept a gift where it's clear that a family or personal relationship, and not a business relationship, motivated the gift. This sounds easy enough, but could get a little sticky if your old friend has business matters for consideration lying on your City desk. In any case where it feels like the acceptance of the gift from an old friend might be misinterpreted, you should probably give us a call for some free legal advice, just to be on the safe side.

Now, let's look at the lobbyist side. The Board's new "Lobbyist Gift Rule" applies to the lobbyist who's offered you the gift. This rule prohibits a lobbyist, the spouse or domestic partner of a lobbyist, and the unemancipated children of a lobbyist, from offering or giving *any* gift to any public servant. (Notice, there is no \$50 cut-off here; the restriction on lobbyists giving to public servants is *zero tolerance*.) But, similar to exceptions to the valuable gift rule, gifts that are customary on family and social occasions from a family member or close friend, where it can be shown that family or personal relationships, and not the lobbying activity, motivated the gift, may be allowable. Again, check with us if you're interested in this social exception. Also certain gifts from lobbyists are permissible because they are considered "gifts to the City" and not to you personally. For example, complimentary admission to certain public functions may be permissible when the public servant would be attending for a City purpose. (Of course, it's not you or the lobbyist who decides if your attendance serves a City purpose, but rather your agency.)

Going back to your question, this gift card looks like a personal gift from a lobbyist to you, a public servant. Unless there is a personal relationship between you and the lobbyist that predates your City service and some special occasion for this gift, accepting the \$100 gift card for personal use would violate the “Valuable Gift Rule” that covers public servants. Moreover, because the gift is not for City use, the lobbyist who offered you the gift would be in violation of the “Lobbyist Gift Rule.” Violations of the City’s ethics laws will expose you and the lobbyist to the possibility of civil fines, and could also expose you to disciplinary action by your agency.

If any of this seems at all unclear, or if you have a situation where you’re not sure if one of the above exceptions applies, give us a call. Monday through Friday, you have access to free, confidential advice at 212-442-1400. You can also email us through our website (<http://www.nyc.gov/ethics>) by clicking on “Contact COIB.” All calls and emails are confidential, and you may contact us anonymously.

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