

---

**CONFLICTS OF INTEREST BOARD**

---

*Adoption of Rules*

The Conflicts of Interest Board adopted the following rule at its meeting on June 14, 1990:

**Section 9. Definition of a Valuable Gift.**

1. For the purposes of Charter Section 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.

2. For the purposes of Charter Section 2604(b)(5), a public servant may accept gifts that are customary on family or social occasions from a family member or close personal friend whom the public servant knows is or intends to become engaged in business dealings with the City, when:

- (i) it can be shown under all the relevant circumstances that it is the family or personal relationship rather than the business dealings that is the controlling factor; and

- (ii) the public servant's receipt of the gift would not result in or create the appearance of: (a) using his or her office for private gain; (b) giving preferential treatment to any person or entity; (c) losing independence or impartiality; or (d) accepting gifts or favors for performing official duties.

3. For the purposes of Charter Section 2604(b)(5), a public servant may accept awards and plaques valued at less than \$150.00 which are publicly presented in recognition of public service.

4. For the purposes of Charter Section 2604(b)(5), a public servant may accept free meals or refreshments in the course of and for the purpose of conducting City business under the following circumstances:

- (i) when offered during a meeting which the public servant is attending for official reasons;
- (ii) when offered at a company cafeteria, club or other setting where there is no public price structure and individual payment is impractical;
- (iii) when a meeting the public servant is attending for official reasons begins in a business setting but continues through normal meal hours in a restaurant, and a refusal to participate and/or individual payment would be impractical;
- (iv) when the free meals or refreshments are provided by the host entity at a meeting held at an out-of-the-way location, alternative facilities are not available and individual payment would be impractical;
- (v) when it is customary business practice to hold a meeting over meals or refreshments and customary business practice for one party to make payment for the other and payment by the public servant would be inappropriate, provided: (a) that the selection of the restaurant and the selection of the meal also conform to customary business practice; and (b) the public servant, except in the case of an elected official, reports acceptance of such meals or refreshments to his or her agency head on a monthly basis or to a deputy mayor if the public servant is an agency head; and
- (vi) when the public servant would not have otherwise purchased food and refreshments had he or she not been placed in such a situation while representing the interests of the City.

5. For the purposes of Charter Section 2604(b)(5), a public servant may:

- (i) accept meals or refreshments when participating as a panelist or speaker in a professional or educational program and the meals or refreshments are provided to all panelists;
- (ii) be present at a professional or educational program as a guest of the sponsoring organization;
- (iii) be a guest at ceremonies or functions sponsored or encouraged by the City as a matter of City policy, such as, for example, those involving housing, education, legislation or government administration;
- (iv) attend an annual public affair of an organization composed of representatives of business, labor, professions, news media or organizations of a civic, charitable or community nature, when invited by the sponsoring organization, provided that this exception does not apply when the invitation is from a civic, charitable or community organization which has a contract or contracts with the public servant's agency;
- (v) be a guest at any function or occasion where the attendance of the public servant has been approved in writing as in the interests of the City, in advance where practicable or within a reasonable time thereafter, by the employee's agency head or by a deputy mayor if the public servant is an agency head.

6. For the purposes of Charter Section 2604(b)(5), a public servant who is an elected official or a member of the elected official's staff authorized by the elected official may attend a function given by an organization composed of representatives of business, labor, professions, news media or organizations of a civic, charitable or community nature, when invited by the sponsoring organization.

7. (a) For the purposes of Charter Section 2604(b)(5), a public servant's acceptance of travel-related expenses from a private entity can be considered a gift to the City rather than to the public servant, when:

- (i) the trip is for a City purpose and therefore could properly be paid for with City funds;
- (ii) the travel arrangements are appropriate to that purpose; and
- (iii) the trip is no longer than reasonably necessary to accomplish the business which is its purpose.

(b) To avoid an appearance of impropriety, it is recommended that for public servants who are not elected officials, each such trip and the acceptance of payment therefor be approved in advance and in writing by the head of the appropriate agency, or if the public servant is an agency head, by a deputy mayor.

8. A public servant should not accept a "valuable gift" as defined herein from a person or entity engaged in business dealings with the City. If the public servant receives a valuable gift he or she should return the gift to the donor. If that is not practical, the public servant should report the receipt of a valuable gift to the inspector general of the public servant's agency who shall determine the disposition of the gift.

9. City agencies are encouraged to establish rules concerning gifts for their own employees which may not be less restrictive than as set forth in Charter Section 2604(b)(5) as interpreted by these rules.

Statement of Basis and Purpose of Regulation:

Pursuant to the authority vested in the Conflicts of Interest Board by Section 2604(b)(5) of the New York City Charter and in accordance with the requirements of Section 1043 of the New York City Charter, the Conflicts of Interest Board is authorized to promulgate a rule concerning the definition of a valuable gift, for the purpose of ensuring compliance by the City and all public servants with the applicable provisions of the conflicts of interest law. New York City Charter Section 2604(b)(5) provides that no public servant shall accept any valuable gift from any person or firm which such public servant knows is or intends to become engaged in business dealings with the City.

Dated: June 29, 1990 Merrell E. Clark, Jr., Chair

The Conflicts of Interest Board adopted the following rule at its meeting on June 14, 1990:

Section 10. Definition of a Public Servant Charged with Substantial Policy Discretion.

For purposes of Charter Sections 2604(b)(12) and 2604(b)(15), a public servant is deemed to have substantial policy discretion if he or she has major responsibilities and exercises independent judgment in connection with determining important agency matters. Public servants with substantial policy discretion include, but are not limited to: agency heads, deputy agency heads, assistant agency heads and public servants in charge of any major office, division, bureau or unit of an agency. Agency heads are requested to: (1) designate by title or position the public servants in their agencies who have substantial policy discretion as defined by this rule; (2) file a list of such titles or positions with the Conflicts of Interest Board no later than September 30, 1990; and (3) notify these public servants in writing of the restrictions set forth in Charter Sections 2604(b)(12) and 2604(b)(15) to which they are subject. Agency heads shall update the filing within 30 days of the creation or elimination of any title or position which involves the exercise of substantial policy discretion.

Statement of Basis and Purpose of Regulation:

Pursuant to the authority vested in the Conflicts of Interest Board by Sections 2604(b)(12) and 2604(b)(15) of the New York City Charter and in accordance with the requirements of Section 1043 of the New York City Charter, the Conflicts of Interest Board is authorized to promulgate a rule concerning the definition of a public servant charged with substantial policy discretion, for the purpose of

ensuring compliance by the City and all public servants with the applicable provisions of the conflicts of interest law. New York City Charter Section 2604(b)(12) provides that a public servant who is charged with substantial policy discretion shall not directly or indirectly request any person to make or pay any political assessment, subscription or contribution for any candidate for an elective office of the City or for any elected official who is a candidate for any elective office. New York City Charter Section 2604(b)(15) provides that a public servant charged with substantial policy discretion may not be a member of the national or state committee of a political party, serve as an assembly district leader of a political party or serve as the chair or as an officer of the county committee or county executive committee of a political party.

Dated: June 29, 1990

Merrell E. Clark, Jr., Chair

July 13