

the Ethical Times

Un-Wrapping the Rules for Gifts

During the gift-giving season, the Conflicts of Interest Board's stockings are stuffed with questions from City public servants about what's permissible when giving and receiving gifts. Here's a quick primer with answers to some of the most common questions.

Gifts from Non-City Sources

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

Rule 1 – TIPS

We may not take a tip or gratuity *of any value* for doing our City jobs. This means that a City public servant is 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 Taylor Swift themed iPhone case? Sorry. What about a home-baked pumpkin pie? That's very sweet, but also nope. (You're gonna eat that?)

Rule 2 – GIFTS FROM PROHIBITED SOURCES

We may not accept a gift worth \$50 or more from any person, firm, or not-for-profit doing business with any City agency. Accordingly, we may not accept a painting valued at \$60 from a City vendor "just because I heard you like art." So \$49.99 is OK? Maybe – it's more complicated than that. This \$50 amount is cumulative, which means that City public servants may not accept, over any 12-month period, a *series* of gifts from the same

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source worth \$50 in total. So, five \$10 paintings? You can accept the first four, but you must decline the fifth. You'll have to keep track of the value over time. And note that some City agencies have even stricter rules: a \$0 gift rule is not uncommon. Best bet is just not to take stuff from firms doing business with the City.

What should you do if a vendor delivers a very fancy box of chocolates to your office? If you can refuse it or return it, you must do so. But let's say that's not an option – the bonbons were delivered anonymously. First, notify your agency's Inspector General. Then, reach out to your agency head (or their designee for these matters; typically, an attorney in the General Counsel's office), who will provide further guidance. The first



choice would be to donate the chocolates but, if your agency's Inspector General and your agency head agree, they could also be placed in a public area for all to enjoy. (You're gonna eat that?) in some circumstances, it will be necessary to destroy a gift to preserve the public's faith that no civil servant has been unduly, deliciously influenced. Bye-bye bonbons.

Rule 3 – INVITATIONS TO EVENTS AND HOLIDAY PARTIES

Invitations to events can also be problematic. Let's say that a firm that works with your City agency invites you to its holiday gala. It's a wild shindig, with an open bar, magicians, and a performance by *You Too*, the world's greatest *U2* cover band (they're even better than the real thing). Can you attend? Probably not. Accepting free attendance at vendor events is only permitted if doing so serves a valid City function. Who decides that? Your agency head, who must do so in advance and in writing.

Gifts from Co-Workers

That covers gifts from those doing business with the City and members of the public to City public servants, 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 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, non-cash-or-cash-equivalent gift from a subordinate: a "World's Okay-est Boss" coffee mug wouldn't raise any eyebrows, but a crystal wine decanter certainly would, as would an envelope stuffed with gift cards.

(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, annual occasions such as the holidays – and birthdays, for that matter – don't qualify as "significant life events.")

Could ten subordinates chip in \$10 each to purchase a \$100 holiday gift for their superior? That is one big gift, not ten token gifts, so the supervisor accepting it would violate the conflicts law.

We'll close with one piece of good news: Secret Santa, Yankee Gift Swap, and other mandated "fun" office holiday activities are typically allowed under Chapter 68, provided that the gifts have only a token value (less than \$10). So spread that good holiday cheer around your office this season... at \$10 or less per person.

If you have any other questions about gifts, or wish to get advice on any topic related to the City's conflicts of interest law, call COIB's Attorney of the Day at 212-442-1400 or AOD@coib.nyc.gov, or visit our website at nyc.gov/ethics. All advice is confidential, and you may contact us anonymously.



nyc.gov/ethics

Phone: (212) 442-1400

Fax: (212) 437-0705

Recent Enforcement Cases

Prohibited Appearances, Misuse of City Resources & Moonlighting. A Computer Software Specialist III at the New York City Human Resources Administration (“HRA”) owned and operated an information technology consulting and professional services firm. He attempted to get City contracts from multiple City agencies for his firm; as part of those efforts, his firm falsely certified that the Software Specialist was not a City employee in submissions to the Mayor’s Office of Contract Services. The Software Specialist obtained a consulting services contract with the New York City Commission on Human Rights through which his firm received more than \$13,000. The Software Specialist also misused City resources by using an HRA scanner and his HRA email account to perform work for his business. To resolve these violations, the now-former Software Specialist paid a \$16,000 fine to the Board.

Prohibited Appearances, Prohibited Post-Employment Appearances. A Member of a New York City Department of Education (“DOE”) Community Education Council (“CEC”) earned outside income representing three families seeking special education services from DOE, despite having previously been advised by the Board that he was prohibited from communicating with DOE employees for private compensation. The CEC Member resigned from the CEC and then violated the one-year post-employment communication ban by being paid to represent another family seeking special education services from DOE. The former CEC Member paid a \$3,000 fine to the Board.

Misuse of City Position. In January 2020, a New York City Department of Housing Preservation and Development (“HPD”) employee was renting out an illegal apartment in

the basement of a residential building she owned in Brooklyn. After the tenant in the basement apartment filed a police report alleging that she had illegally evicted him, the HPD employee filed a 311 complaint reporting her own illegal basement apartment, triggering an inspection by the New York City Department of Buildings (“DOB”). During the inspection of her home, the HPD employee identified herself as an HPD employee to the DOB Inspector. The DOB Inspector issued a partial vacate order, ordering the tenant in the basement unit to vacate the apartment. The HPD employee paid a \$400 fine to the Board. In determining the appropriate penalty, the Board considered that the now-former HPD employee had resigned from HPD to resolve a related agency disciplinary action and that she did not explicitly ask for any special treatment from the DOB Inspector.

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

THE PUBLIC SERVICE PUZZLER

In this month’s [contest](#), apply those codebreaking spy skills for the public good! Decipher encrypted messages and transmit your discoveries by **Thursday, December 15th**!



Also meet last month’s winner **Kellen Stanner**, a Project Development Coordinator for NYC Parks GreenThumb who trains in Brazilian jiu-jitsu when he’s not working for the City.