Gifts

In 1994, the State Ethics Commission issued Advisory Opinion No. 94-16, describing (1) those gifts that may not be offered to or accepted by State officers and employees, and (2) those gifts that are acceptable. Under the Public Employee Ethics Reform Act of 2007, those gifts of up to $75 value which were previously permitted in certain circumstances are now only permitted if they are of no more than “nominal value.” Additionally, the fines associated with knowingly and intentionally violating this provision have increased from $10,000 to $40,000 plus restitution of any associated gain. The following are the most important points regarding gifts.

What You Cannot Do

- You are prohibited from soliciting, accepting or receiving any gift of more than nominal value:
  - when it could be reasonably inferred that the gift was intended to influence you or could reasonably be expected to influence you in the performance of your official duties or was intended as a reward for any official action.
  - from a “disqualified source,” meaning an individual or organization which:
    - is regulated by, does business with, appears before or negotiates with OMH or any of its facilities;
    - lobbies or has litigation adverse to OMH or any of its facilities;
    - applies for or receives funds from OMH or any of its facilities; or
    - contracts with OMH, any of its facilities or another agency when OMH receives the benefit of the contract.
- You are prohibited from soliciting, accepting or receiving any gift from a lobbyist or a lobbyist’s client unless under the circumstances it is not reasonable to infer that the gift was intended to influence you.
- You may not permit the solicitation, acceptance or receipt of any gift from a lobbyist or a lobbyist’s client to a third party, including a charitable organization, which you have designated or recommended or which is made on your behalf, under circumstances where it is reasonable to infer that the gift was intended to influence you.
- You are prohibited from soliciting or accepting a gift of any value if it would constitute a substantial conflict with the proper discharge of your State duties.

If you knowingly and intentionally violate these provisions, you may be subject to a civil penalty of up to $40,000 plus restitution of any associated gain or a criminal charge (Class A misdemeanor).

What You Can Do

The following can be accepted without violating the law:

The Ethics Commission has determined that pharmaceutical companies are disqualified sources for all OMH employees.
• gifts given by someone based on a family or personal relationship with you;
• an invitation to attend personal or private events with no connection to the State;
• meals received when you serve as a participant or speaker in a job-related professional or educational program and meals are available to all participants;
• modest items of food and refreshment offered other than as part of a meal;
• unsolicited advertising or promotional material of little intrinsic value;
• most awards and plaques presented in recognition of your service;
• rewards or prizes given to competitors in contests or events, including random drawings open to the public;
• under some circumstances, meals, entertainment or hospitality from a disqualified source when your participation at an event is for a “State agency purpose and related to your official duties”--that is, when your participation will further agency programs--and the event is widely attended. However, travel and lodging cannot be accepted under this exception.

If you receive the offer of a gift, you should consult with your facility or agency ethics officer or other designated agency official to determine whether it is permissible to accept it.

Applicable Rules

• A gift may be in many forms, including money, loan, travel, meals, refreshment or entertainment.
• The value of a gift is the retail cost to purchase it; the value of a ticket entitling you to food, refreshments, entertainment, etc. is the face value of the ticket; if no value is indicated, the value is the actual cost to the giver.
• The offer of reciprocity, or even actual reciprocity, does not reduce the value of a gift given to you (e.g., “I'll buy dinner this time and you can buy dinner next time”).
• You may not designate a friend, family member or entity (for example, a charity) to receive a gift that you cannot receive.

For questions and additional information, please contact:

• For facility employees, the facility’s designated Ethics Officer.
• For Central Office employees, Crystal Scalesci, Agency Labor Relations Representative, Bureau of Central Office Personnel Services, at (518) 474-2413 or cohrcls@omh.state.ny.us.
• For general questions, Tom Cioffi in Counsel’s Office, (518) 474-1331, tcioffi@omh.state.ny.us.
• For questions related to research, academic issues or relationships with pharmaceutical companies, Robin Goldman in Counsel’s Office, (518) 474-1331, rgoldman@omh.state.ny.us.

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