

Ethics News

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What are the rules on 'gifts'?

Public officials and public employees may not solicit a gift unless the solicitation is for a charitable purpose, and the charitable purpose must be one from which they and their immediate family members derive no direct personal benefit.

Public officials and employees may not directly solicit a subordinate for any gift even if the gift is for a charitable purpose. The Ethics Act's prohibition against solicitation of gifts does not apply to solicitation of political contributions.

The Ethics Act prohibits public officials and public employees from accepting gifts from lobbyists or any person whom the official or employee knows or has reason to know is doing or seeking to do business of any kind with his or her agency; is engaged in activities which are regulated or controlled by his or her agency; or has financial interests which may be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or nonperformance of his or her official duties.

Notwithstanding the general prohibitions against accepting gifts, the following types of gifts **may** be accepted by public employees or public officials from lobbyists or others:

A. Meals and beverages of any dollar value may be accepted if the person purchasing the meal is present. Otherwise, public officials and employees may accept meals and beverages totaling \$25 per calendar year;

B. Ceremonial gifts or awards which have insignificant monetary value;

C. Unsolicited gifts of nominal value or trivial items of informational value are permissible if the value of any one item, or a combination of items from the same source, given to a public official or employee does not total more than \$25 per calendar year;

D. Reasonable expenses for food, travel and lodging of the official or employee for a meeting at which the official or employee participates in a panel or has a speaking engagement. A public official or employee **may not** accept free use of amenities at the event such as free golf or spa treatments unless they are part of the room package for all guests. Reasonable expenses for food, travel and lodging for one guest to attend may be accepted;

E. Gifts of tickets or free admission extended to a public official or public employee to attend charitable, cultural or political events if the purpose of such gift or admission is a courtesy or ceremony customarily extended to the office and the tickets are given by the sponsor of the event. Free tickets to sporting events may only be accepted if the ticket is \$25 or less and the ticket is given by a sponsor of the event. If the price of entrance is greater than \$25, an official may accept the ticket only if it is incidental to the conduct of official or ceremonial duties;

F. Gifts that are purely private and personal in nature, or

G. Gifts from relatives by blood or marriage or a member of the same household.

Open Meetings Q & A

Q: Are work sessions subject to the Open Meetings Act?

A: Yes. The term "work session" is sometimes used by governing bodies to describe a meeting in which the members of the governing body or committee discuss a project or review a budget but do not plan to take official action during the session. If a quorum of the body meets, the "work session" is a meeting governed by the Open Meeting Act.

Q: May items be added to the agenda during a meeting?

A: No. If a citizen or a member of the governing body raises a matter during a meeting which is not on the agenda, the item may not be discussed or voted upon at the meeting. The item instead must be added to the agenda for a meeting to be held in the future. The only exception is if the item is an emergency. In that case, the governing body must follow procedures for emergency meetings and agenda items.

Who must file disclosure?

The following county and city officials must file a Financial Disclosure Statement with the Ethics Commission by February 1 of each year: (1) All state and county elected officials; Board of Education members; school superintendents and elected officials in Charleston, Fairmont and Morgantown and (2) All members of state boards, commissions and agencies appointed by the Governor.

For more information, click [here](#).

Officials' use of name or likeness

The Ethics Act includes a section which sets forth limitations on the use of a public official's name or likeness on "trinkets," advertising, vehicles, websites and social media that are paid for with public funds.

To view the Ethics Commission Guideline concerning this section, click [here](#).

Officials' names may be on these items

A public official's name or likeness may be on any official record or report, letterhead, document or instructional material issued in the course of his/her duties as a public official.

Other official documents, including, but not limited to, facsimile cover sheets, press release headers, office signage and envelopes may include the public official's name, but not his/her likeness.

The statute's prohibitions do not apply to educational materials or items or materials required by law to contain the public official's name or likeness.

A public officials name and likeness may be used in a public announcement or mass media communication when necessary, reasonable and appropriate to relay specific public safety, health or emergency information.

Officials' names may not be on these items

"Trinkets" are defined as items of tangible personal property that are not vital or necessary to the duties of the public official's or public employee's office, including, but not limited to magnets, mugs, cups, keychains, pill holders, Band-Aid dispensers, fans, nail files, matches and bags.

Public officials, their agents, or anyone on the public payroll may not use public funds to distribute, disseminate, publish or display the public official's name or likeness for the purpose of advertising to the public. "Advertising" may include, but is not limited to billboard, radio, television, mail, electronic mail, publications, banners, table skirts, magazines, social media, websites and other forms of publication, dissemination, display or communication.

Recent Advisory Opinions

Advisory Opinion 2019-08: A mayor may vote on matters affecting a proposed hotel development project near properties he owns because he is a member of a class of five or more similarly situated persons who own property near the hotel project.

Advisory Opinion 2019-07: W. Va. Code § 61-10-15 prohibits a County Commission from appointing one of its own members to a County Emergency Services Authority when that member would receive more than nominal compensation for serving on the Authority. The Opinion does not apply to situations where the law expressly requires a County Commissioner to serve on a board.

Advisory Opinion 2019-14: A City Police Officer may not include pictures of himself in uniform in his campaign material because the police uniform conveys the endorsement of his police agency, which is the type of private gain the Ethics Act is intended to prohibit.

Advisory Opinion 2019-13: A state agency officer may use his personal rewards cards when purchasing gasoline with a state-issued credit card and keep the bonus points for his personal use.

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