


To: All CUNY Faculty
From: Frederick P. Schaffer 
Re: Ethics Bulletin: Gifts to Faculty
Date: September 14, 2009

As the academic year gets underway, many of you are invited to attend a seminar or conference paid for by a CUNY vendor; to participate in a golf outing sponsored by a publisher; to review or write textbooks; or to accept certain "tokens of appreciation" from your students or their parents. In connection with such activities, there are a number of rules to keep in mind. Under the New York State Public Officers Law, which governs all CUNY employees, including faculty at the senior and community colleges, attendance at a seminar or a conference given and paid for by a CUNY vendor, or acceptance of an incentive from a publisher or a "token" from a student, may constitute an acceptance of an unauthorized gift and a violation of the Public Officers Law.

What are the Rules?

Please be reminded that the New York State Commission on Public Integrity (NYSCPI) through the Public Officers Law has established a zero tolerance policy regarding gifts of any value, from prohibited sources. The law has changed; the \$75.00 limit on gifts no longer applies. Accordingly, as a CUNY employee you cannot solicit or accept gifts, of any value, either directly or indirectly, from any prohibited source, regardless of whether the gift was intended to influence or reward you. For CUNY purposes, prohibited sources, such as vendors, students, parents, and publishers, include not only those persons and business entities with which CUNY or its constituent Colleges are doing business, but also those persons and business entities interested in doing business with CUNY, or its constituent Colleges, or who have a history of doing business with CUNY or any of its constituent Colleges in the recent past.

Definitions:

What is a Disqualified Source?

Under the Public Officers Law, a **disqualified or prohibited source** is defined as “a person or entity that is regulated by, does business with, appears before or negotiates with your agency; lobbies or has litigation adverse to your agency; applies for or receives funds from your agency; or contracts with your agency or another agency when your agency receives the benefit of the contract.” This would include a vendor, a company seeking to do business with CUNY, a publisher seeking a favorable review of a proposed textbook, a bookstore, a student or a parent who might be seeking a better grade, or some other preferential treatment, a favorable recommendation or determination or something else of value.

What Penalties are Involved?

A CUNY faculty employee who accepts a gift, in violation of these rules, could be subject to a civil penalty of up to \$40,000, and be criminally charged with a Class A misdemeanor. For current enforcement actions which are published on NYSCPI's web go to: <http://www.nyintegrity.org/enforcement/>

What is a Gift?

- The term “gift” shall mean anything of more than nominal value given to a public official in any form including, but not limited to, money, service, loan, travel, lodging, meals, refreshments, entertainment, discount, forbearance or promise, having a monetary value [Legislative Law §1-c(j)].
- You may not designate a friend, family member or entity (for example, a charity) to receive a gift that you cannot receive.

What You May Not Do:

- You may not accept any gifts of more than nominal value from any source, where it can be reasonably inferred that the gift was intended, or actually does result in favorable treatment to the gift-giver; according to the law, “nominal value is considered such a small or trifling amount that acceptance of an item of nominal value could not be reasonably interpreted or construed as attempting to influence a State employee or public official. Therefore, items of insignificant value, as, for example, a regular cup of coffee or a soft drink [not Starbucks] are considered nominal. Nominal value would **not** include a meal nor would it include an alcoholic beverage”¹.
- You may not solicit or accept a gift of **any** value if it would constitute a substantial conflict with the proper discharge of your CUNY duties. If you knowingly or intentionally do so, you are subject to fines, suspension and/or removal from your job by your appointing authority.
- You may **never** accept, or solicit **travel or lodging**, even in connection with a business event or to benefit CUNY, such as for a publisher's conference, or a training session, from a disqualified source.

¹ Advisory Opinion No.08-01

- You cannot accept gifts of any amount of money from any student or parent of a student, even if it is appropriate or culturally acceptable to do so in the student's native country.
- You may not solicit or accept a gift, such as a laptop computer, in exchange for reviewing textbooks for a publisher.
- You may not, after reviewing a textbook for a publisher, in exchange for a modest reviewer's fee, which is acceptable, ask that publisher for multiple copies of the textbook and then resell the textbooks to the college bookstore. Additionally, you may not ask that publisher for copies of any unrelated books for your own personal interests, to then distribute as gifts, in exchange for a favorable review of the textbook you are reviewing in connection with your work at CUNY.
- You may not enter into an agreement with bookstores to only stock and sell new, not used, copies of textbooks that you have authored so that you may benefit from full royalty fees.

What You May Do:

You may accept:

- reasonable and customary presents given on special occasions, except from disqualified sources or from CUNY colleagues whom you supervise;
- gifts given by someone based on a family or personal relationship with you;
- invitations to attend personal or private events from colleagues or friends from the office;
- 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**;
- complimentary attendance, including food and beverage, at a bona fide charitable or political event that is widely attended or was in good faith intended to be widely attended, where food and beverage of nominal value is offered but it is other than as part of a meal (for example: coffee and cookies);
- modest items of food and refreshment offered: tea, coffee, donuts, chips, fruit, soda, bottled water, etc., other than as part of a meal;
- in exchange for reviewing a textbook, a modest reviewer's fee, as well as a copy of the book you reviewed;
- complimentary attendance, food and beverage offered by the sponsor of an event that is widely attended or was in good faith intended to be widely attended;
- unsolicited advertising or promotional material of little intrinsic value such as a pen or mouse pad;
- most awards and plaques presented in recognition of your service;
- rewards or prizes given to competitors in contests or events, including random drawings, widely attended and open to the public;
- under some very narrow circumstances, meals and hospitality, **but never travel or lodging**, from a disqualified source when your participation at an event is for a CUNY purpose and related to your official Faculty duties--that is, when your participation will further CUNY programs and the event is widely attended, by other than just CUNY faculty.

A gift does not include:

- anything for which you pay market value;
- anything for which the State has paid or secured by State contract;
- rewards or prizes given to competitors in contests or events, including random drawings open to the public; and
- exceptions to the definition of gift set forth in Legislative Law §1-c (j) as interpreted by the Commission, (Section F, Advisory Opinion No. 08-01).

What if I Am Still Not Sure?

If you are offered or receive a gift, you should consult with your College ethics officer or the Office of the General Counsel (“OGC”) to determine whether you can accept it, and for guidance on what you should do. More information is on the CUNY OGC website at: <http://www.cuny.edu/administration/legal-affairs/ethics.html>. A list of College ethics officers and phone numbers is available at <http://web.cuny.edu/administration/legal-affairs/ethics/ethics-officers.html>. To reach the OGC call (212) 794-5382; say you have a “gift” question.

You may also go to the New York State Commission on Public Integrity website for more information on gifts at <http://www.nyintegrity.org/education/lib.html> to see educational materials on gifts.

TO: DISTRIBUTION LIST:

Cabinet
Chief Academic Officers
Administrative Council
All Legal/Labor Designees/Ethics Officers
All HR Directors
University Director of Internal Audit
Campus Audit Liaisons
All Purchasing Directors, for distribution to their staff
UCO