

ETHICS ALERT

Gifts from Legislators to Legislative Staff May 2024

Toward the end of a legislative session, many legislators provide legislative staff with tokens of their appreciation for the staffs' work during session. These tokens of appreciation can range from a thank-you card or meal to gift cards to a restaurant or spa. The value of these tokens of appreciation can range from a few dollars to \$100 or more.

The Board was asked at a recent Board meeting whether these tokens of appreciation constituted gifts¹ under the Ethics Act. The general rule on accepting gifts is that a legislator or employee may not accept a gift of more than \$50 in a calendar year from a single source or from multiple sources in the aggregate. RCW 42.52.150. Further, no state officer or state employee may receive, accept, take, seek, or solicit, directly or indirectly, anything of economic value as a gift, gratuity, or favor from a person if it could be reasonably expected that the gift, gratuity, or favor would influence the vote, action, or judgment of the officer or employee, or be considered as part of a reward for action or inaction. RCW 42.52.140.

RCW 42.52.010(9) contains a list of items that are not considered gifts. That list as is follows:

- (a) Items from family members or friends where it is clear beyond a reasonable doubt that the gift was not made as part of any design to gain or maintain influence in the agency of which the recipient is an officer or employee;*
- (b) Items related to the outside business of the recipient that are customary and not related to the recipient's performance of official duties;*
- (c) Items exchanged among officials and employees or a social event hosted or sponsored by a state officer or state employee for coworkers;*
- (d) Payments by a governmental or nongovernmental entity of reasonable expenses incurred in connection with a speech, presentation, appearance, or trade mission made in an official capacity. As used in this subsection, "reasonable expenses" are limited to travel, lodging, and subsistence expenses incurred the day before through the day after the event;*
- (e) Items a state officer or state employee is authorized by law to accept;*
- (f) Payment of enrollment and course fees and reasonable travel expenses attributable to attending seminars and educational programs sponsored by a bona fide governmental or nonprofit professional, educational, trade, or charitable association or institution. As used in this subsection, "reasonable expenses" are limited to travel, lodging, and subsistence expenses incurred the day before through the day after the event;*
- (g) Items returned by the recipient to the donor within thirty days of receipt or donated to a charitable organization within thirty days of receipt;*
- (h) Campaign contributions reported under chapter 42.17A RCW;*

¹ "Gift" means anything of economic value for which no consideration is given. RCW 42.52.010(9).

- (i) Discounts available to an individual as a member of an employee group, occupation, or similar broad-based group; and*
- (j) Awards, prizes, scholarships, or other items provided in recognition of academic or scientific achievement.*

RCW 42.52.150 includes a list of items that are presumed not to influence and may be accepted without regard to the \$50 limit. That list includes in pertinent part the following items:

- (a) Unsolicited flowers, plants, and floral arrangements;*
- (b) Unsolicited advertising or promotional items of nominal value, such as pens and note pads;*
- (c) Unsolicited tokens or awards of appreciation in the form of a plaque, trophy, desk item, wall memento, or similar item;*
- (d) Unsolicited items received by a state officer or state employee for the purpose of evaluation or review, if the officer or employee has no personal beneficial interest in the eventual use or acquisition of the item by the officer's or employee's agency;*
- (e) Informational material, publications, or subscriptions related to the recipient's performance of official duties;*
- (f) Food and beverages consumed at hosted receptions where attendance is related to the state officer's or state employee's official duties . . .*

It is the Board's opinion that unless the tokens of appreciation given by legislators to legislative staff fall under one of the items listed in RCW 42.52.010(9) or .150, they would be considered gifts.

As gifts, the \$50 limit applies. Further, unless the legislature amends the Ethics Act to specifically provide that tokens of appreciation from legislators to staff are either not considered gifts under RCW 42.52.010(9) or are presumed not to influence under RCW 42.52.150, the Board believes those tokens of appreciation are subject to all the gift restrictions in the Act.

The opinion of the Board is applied prospectively only.