

WEST VIRGINIA ETHICS ACT - GIFT GUIDELINES

SOLICITATION OF GIFTS

GENERAL RULE: A public official or employee may not solicit a gift unless the solicitation is for a charitable purpose.

The Ethics Act states that public servants may not solicit a gift, unless it is for a charitable purpose from which they and their immediate family members derive no direct personal benefit. They may not directly solicit a subordinate for any gift - not even a gift for a charitable purpose. The Act's prohibition against solicitation of gifts does not apply to solicitation of political contributions. However, WV Code 3-8-12(h) dealing with the regulation and control of elections provides "No person shall solicit any [political] contribution from any nonelective salaried employee of the state government or of any of its subdivisions."

ACCEPTANCE OF GIFTS

GENERAL RULE: There are significant restrictions on the gifts which a public official or employee may accept.

The Ethics Act places restrictions upon the acceptance of gifts from lobbyists or interested persons. Interested persons are those who:

- Seek or do business with the public servant's agency;
- Are engaged in activities regulated or controlled by their agency; or,
- Have financial interests which may be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or nonperformance of their official duties.

Certain gifts may be accepted, even if the gift is from a lobbyist or interested person. An overview of acceptable gifts is provided on page two.

REPORTING OF GIFTS

The Ethics Act requires that the following individuals must file a financial disclosure form: (1) all elected statewide and county officials, and in some instances municipal elected officials if the municipality has elected by ordinance to be covered by the disclosure provisions; (2) all members of state boards, commissions and agencies appointed by the governor, and, (3) executive branch secretaries of departments, commissioners, deputy commissioners, assistant commissioners, directors, deputy directors, assistant directors, department heads, deputy department heads and assistant department heads. If you file a financial disclosure form, on the form there is a section entitled gifts. You must disclose all gifts, including meals, which are more than \$ 100.00, received from a person having a direct and immediate interest in a governmental activity, and are not required to be reported by a lobbyist. For example, if a constituent, who is not a lobbyist, takes you to dinner, and the value of your dinner is in excess of \$ 100.00, then you must report the name of the individual who took you to dinner.

GIFTS WHICH MAY BE ACCEPTED

Meals and Beverages
There is no monetary limitation on the value of a meal or beverage. For example you can either accept a hot dog at the ball park or dinner at the Greenbrier. The only limitation is that the interested party must be present. Gift certificates for meals are not acceptable.
Ceremonial Gifts or Awards of Insignificant Value.
There is no monetary limit placed on a ceremonial gift or award as long as it is reasonable and the gift has an overriding intrinsic, as opposed to fair market value. The gift must be given for a ceremonial purpose. For example the Commission has ruled that commemorative plaques as gifts had an insignificant value even though they cost \$ 35.00 to \$ 40.00 each. Likewise most plaques or gifts which are personalized with an engraving have an insignificant value as they have no real fair market value due to the personalization.
Gifts of Nominal Value
These gifts are permissible provided that the total value of any one item or items given to a public official or employee do not total more than \$ 25.00 for any one year. For example, you could accept a t-shirt and a coffee mug provided that the items, when totaled together, do not cost more than \$ 25.00. Once again the \$ 25.00 limitation does not apply to meals when the person purchasing the meal is present.
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 speaking engagement at the meeting.
If you are speaking at an event or are a member of a panel, then you may accept reasonable expenses for food, travel and lodging. You cannot accept expenses for amenities at the event such as free golf or spa treatments, unless these amenities are part of the room package for all guests staying at the hotel. The Commission has also held that you may accept reasonable expenses for your spouse or significant other to attend.
Free tickets to charitable, cultural or political events. These tickets are acceptable when the purpose of such gift or admission is a courtesy or ceremony <u>customarily</u> extended to the office.
There is no limitation on the value of a ticket to a charitable, cultural or political event. The test is whether public officials are customarily invited. An example would be a concert (a cultural event) given annually by a local community band. If the local community band or a <u>person or company</u> <u>sponsoring</u> the event customarily provides tickets to elected or appointed officials, then you may accept. This rule does not apply to sporting events.
Sporting events
You may accept a free ticket to a sporting event <u>if</u> the ticket is less than \$ 25.00. If the price of entrance is greater than \$ 25.00 you may only accept a ticket if the ticket is incidental to the conduct of your <u>official</u> or <u>ceremonial</u> duties. For instance, if you are asked to crown the homecoming queen or throw out the opening ball, then you can accept a ticket as you are performing a ceremonial duty.
Purely private and personal gifts and gifts from relatives.
These gifts are acceptable.

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