



# ETHICS AT CUNY

*Gifts and Conflicts*  
*Council of Presidents*  
*June 6, 2007*

*CUNY Office of the General Counsel*  
*Jane Sovern, Deputy General Counsel*  
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# ISSUES COVERED

1. Gifts
2. Honoraria
3. Conflict of Interest
4. Political/Fund-Raising Activities
5. Financial Disclosure

# THEMES

1. If in doubt, do without.
2. Report problems early.
3. Consult with Office of General Counsel or your campus Ethics Officer.

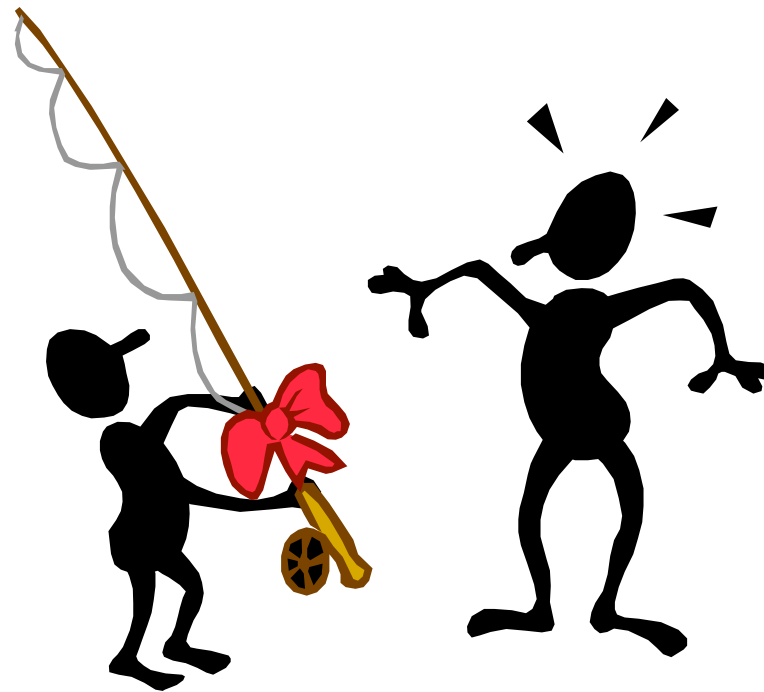
# BASIC FACTS

1. New York State Public Employees Ethics Reform Act/Public Officers Law applies to all CUNY employees. For purposes of this Law all CUNY employees are “State” employees, including community college employees.
  
2. State Ethics Commission:
  - a. Power to investigate and impose fines now up to \$40,000 per offense
  - b. May refer to prosecutors for criminal proceedings
  - c. Issues advisory opinions
  - d. Financial disclosure statements are filed with

# BASIC FACTS

3. Commission on Public Integrity: New entity created by Public Employees Ethics Reform Act. Takes the place of the former Lobbying Commission. This Commission has been empowered to receive complaints alleging violations of the Civil Service Law Section 107, also known as the “Little Hatch Act.” This section prohibits promises of influence, bans recommendations based on political affiliations and prohibits political assessments. Violations of Little Hatch include fines and imprisonment.
  
4. NYC Conflicts of Interest Board is not applicable to CUNY, even for community colleges.

# Acceptance of Gifts



# GIFTS

## Prohibitions on accepting gifts:

1. Basic Rule:

- a. Receipt of gifts is strictly prohibited
- b. Penalties are up to \$40,000 plus the value of the gift

2. Definition:

The term gift shall mean anything of more than a nominal value (cup of coffee, pencil). Includes money, service, loan, tickets, travel, golf outings, entertainment, hospitality, contribution to charity, things, promises, or forbearance having a monetary value.

# GIFTS

3. Reciprocity

Offer to reciprocate does not eliminate or mitigate violation of taking improper gift.

4. Designating someone else

You cannot designate a friend, family member or a charitable or other organization (charity) to receive a gift on your behalf.

# GIFTS - EXCEPTIONS



## FROM THE NEW ACT:

The following are **excluded** from the definition of a gift:

1. Complimentary attendance, including food and beverage, at bona fide charitable or political events, and food and beverage of a nominal value offered other than as part of a meal;
2. 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, when attendance at the event is related to the attendee's duties or responsibilities as a public official or allows the public official to perform a ceremonial function appropriate to his or her position;

# GIFTS - EXCEPTIONS



## FROM THE NEW ACT (Continued):

The following are **excluded** from the definition of a gift:

3. Awards, plaques, and other ceremonial items which are publicly presented, or intended to be publicly presented, in recognition of public service, provided that the item or items are of the type customarily bestowed at such or similar ceremonies and are otherwise reasonable under the circumstances, and further provided that the functionality of such items shall not determine whether such items are permitted under this paragraph;
4. An honorary degree bestowed upon a public official by a public or private college or university;

# GIFTS - EXCEPTIONS



## FROM THE NEW ACT (Continued):

The following are **excluded** from the definition of a gift:

5. Promotional items having no substantial resale value such as pens, mugs, calendars, hats, and t-shirts which bear an organization's name, logo, or message in a manner which promotes the organization's cause;
6. Goods and services, or discounts for goods and services, offered to the general public or a segment of the general public defined on a basis other than status as a public official and offered on the same terms and conditions as the goods or services are offered to the general public or segment thereof;

# GIFTS - EXCEPTIONS



## FROM THE NEW ACT (Continued):

The following are **excluded** from the definition of a gift:

7. Gifts from a family member, member of the same household, or person with a personal relationship with the public official, including invitations to attend personal or family social events, when the circumstances establish that it is the family, household, or personal relationship that is the primary motivating factor;

# GIFTS - EXCEPTIONS



## FROM THE NEW ACT (Continued):

The following are **excluded** from the definition of a gift:

8. Travel reimbursement or payment for transportation, meals and accommodations for an attendee, panelist or speaker at an informational event when such reimbursement or payment is made by a governmental entity or by an in-state accredited public or private institution of higher education that hosts the event on its campus, provided, however, that the public official may only accept lodging from an institution of higher education: (A) at a location on or within close proximity to the host campus; and (B) for the night preceding and the nights of the days on which the attendee, panelist or speaker actually attends the event;

# GIFTS - EXCEPTIONS



## FROM THE NEW ACT (Continued):

The following are **excluded** from the definition of a gift:

9. Provision of local transportation to inspect or tour facilities, operations or property owned or operated by the entity providing such transportation, provided, however, that payment or reimbursement of lodging, meals or travel expenses to and from the locality where such facilities, operations or property are located shall be considered to be gifts unless otherwise permitted under this subdivision; and
10. Meals or refreshments when participating in a professional or educational program and the meals or refreshments are provided to all participants.

# HONORARIA



# HONORARIA



## Honoraria

1. Basic Rule:
  - a. Always prohibited from entity or person doing business with campus, including vendors, potential vendors, unions, and individuals. If travel beneficial to job, campus should pay.
  - b. Honoraria are not gifts; receipt of compensation, travel and lodging expenses or reimbursement for such expenses may be accepted.
  - c. There are procedures to seek approval of and to report honoraria annually.

# HONORARIA

## 2. Definition:

Honoraria is a payment, fee, or compensation given to a CUNY employee by a private entity for services rendered (giving speech, authoring an article, serving on a panel at a meeting or a conference) not relating to the covered individual's official duties. Payment may be in the form of a gratuity, fee, travel or lodging expenses (or reimbursements of such expenses).



# HONORARIA

## 3. Procedure for Presidents:

President requests approval from Chancellor with a copy of request to OGC. OGC reviews and advises requestor of decision/approval with copy to Chancellor and New York State Ethics Commission (NYSEC). Each year Honoraria Reporting is sent to NYSEC by June 1, by each College Ethics Officer. If Honoraria is greater than \$1,000 it is also reported on question 13 of the Financial Disclosure Statement.

For College Subordinates: Request made to immediate supervisor with copy to College President and College Ethics Officer. Ethics Officer approves with copy to President. Ethics Officer compiles all honoraria from the College and reports to NYSEC as above.

# CONFLICTS OF INTEREST



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May not do anything against CUNY's best interest. Your first loyalty and duty must be to CUNY.

## Basic Rules:

1. May not disclose confidential information acquired on the job to further personal interests.
2. Can't sell goods/services over \$25 to State or Public Authority (e.g, DASNY) except through competitively bid contract.
3. May not use or try to use official position to secure unwarranted privileges or exemptions for self or others.

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## Basic Rules:

4. May not give reasonable basis for impression that someone can improperly influence you or that you are affected by kinship, rank, position, influence of person.
  
5. Public Employees Ethics Reform Act added a new section (nepotism and political affiliation section) prohibiting all covered employees from participating in any decision to hire, promote, discipline, or discharge a relative for any compensated position at, for or within any state agency, public authority or the legislature. Included in this sections are prohibitions against:

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## Basic Rules:

- a) any state contracting decision involving payment of more than one thousand dollars (\$1,000) to that individual, any relative of that individual, or any entity in which that individual or any relative has a financial interest; or participate in any decision to invest public funds in any security of any entity in which that individual or any relative of that individual has a financial interest, is an underwriter, or receives any brokerage, origination or servicing fees.

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## Basic Rules:

- b) in the awarding of state grants or contracts, you may not ask a current or prospective grantee or contractor, or any officer, director or employee, to disclose: (i) the party affiliation of such grantee or contractor, or any officer, director or employee (ii) whether such grantee or contractor, or any officer, director or employee, has made campaign contributions to any party, elected official, or candidate for elective office; or (iii) whether such grantee or contractor, or any officer, director or employee, cast a vote for or against any elected official, candidate or political party.

# CONFLICTS OF INTEREST

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## Basic Rules:

6. No covered employee may decline to hire or promote, discharge, discipline, or in any manner change the official rank or compensation of any state official or employee, or applicant for employment, or promise or threaten to do so, based upon a refusal to answer any inquiry involving political affiliations or contributions made to that political affiliation, or for giving or withholding or neglecting to make any contribution of money or service or any other valuable thing for any political purpose.

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## Basic Rules:

7. No state officer or employee shall, directly or indirectly, use his or her official authority to compel or induce any other state officer or employee to make or promise to make any political contribution, whether by gift of money, service or other thing of value.
8. Employment outside regular duties:
  - a. You cannot work for or accept employment with an outside entity which would require you to disclose confidential information you have acquired during the course of your employment with New York State.

# CONFLICTS OF INTEREST

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## Basic Rules:

9. Doing business with others
  - a. Appearing before other State agencies
  - b. If you work for New York State, it may be a conflict of interest to be paid for representing someone else's interest before a New York State agency. Prohibited appearances include but are not limited to:
    - 1) Purchase, sale, rental or lease of real property, goods or services.
    - 2) Obtaining grants of money or loans.
    - 3) Licensing.

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## Basic Rules:

- c. Ministerial matters ok (e.g., assisting with filing for Medicare)

# CONFLICTS OF INTEREST: SOLICITING VENDORS

## 1. Fundraising

- Staff or Offices or Departments that are involved in selecting or working with vendors should not contact vendors for fundraising purposes – this conflicts with their regular duties. (For example, Purchasing, Business Office, Budget, Financial Aid and other student support professionals, Facilities, Buildings and Grounds, or others who select or work with vendors.) Only designated employees may do so (development staff, College foundation staff that is not involved in College procurement, and other “neutrals”).

## 2. Attending College Gala Events

- If vendor buys table and has seats left over, may offer seats to President or designated neutral official at college for distribution.
- Must be written protocol, and only those college employees with a “State agency purpose” may attend. Should not be staff that are involved in selecting or working with vendors.

# CONFLICTS OF INTEREST

## FREE ATTENDANCE AT CONFERENCES

- Free conference for CUNY employees only! Free lunch served! It's a Violation! If attendance serves campus purpose, campus should pay. E.g., "JP Morgan Chase has an Employee Benefits for CUNY Day at the Grand Hyatt Hotel; all expenses paid." Not acceptable.
- However, if conference widely attended by others in field outside CUNY and campus concludes that employee's attendance is so beneficial that it outweighs likelihood of improper influence, employee may attend. E.g., "JP Morgan Chase has 'Government Employee Benefits Day' – all city, state, federal HR directors are invited." Is acceptable.
- Reimbursements of travel and lodging expenses are **NEVER** appropriate. Complementary cost of enrolling and modest meals okay only if offered to all, including non-CUNY. Siemens has a conference on construction on campus for all NYS higher education entities: SUNY; NYU; Pace; CUNY; Columbia, Parson, etc. attend, is acceptable because CUNY is not carved out.
- Consult OGC beforehand.

# POLITICAL/CHARITABLE ACTIVITIES



# POLITICAL/CHARITABLE ACTIVITIES

1. May work on political campaigns or engage in private, personal charitable fundraising, but may not solicit \$\$ from company or person with matters before you, have had before you, or are likely to have before you.

Ex: no soliciting from current or past vendor, or company likely to become vendor. Must recuse yourself if your charity is soliciting or considering soliciting charitable gifts, such as for a bike-a-thon or pledges for your church or other charity. CONSULT WITH OGC – the rules are somewhat technical.

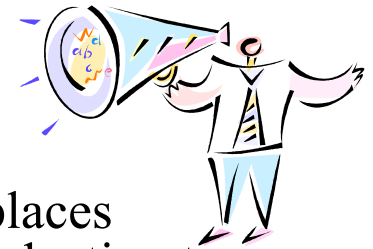
2. May not favor any person or entity because of contribution to your religious organization, favorite charity or favorite candidate. May not give impression favoring anyone because of contribution.

# POLITICAL/CHARITABLE ACTIVITIES

3. May not solicit subordinates or use official title in solicitations, no matter how modest the amount requested.
  
4. No use of CUNY resources for political or charitable purposes – can't make copies of the flyer for your kid's school car wash on the office copier; can't use CUNY phones or computers or employee time or postage meters to do personal, private charitable/political business.



# POLITICAL/CHARITABLE ACTIVITIES



5. The public officers law includes new section 3-c which places restrictions on an employee's acceptance of a nomination or election to compensated federal, state or local office. No commissioner, executive director or other head of any state agency, as defined in paragraph (g) of subdivision one of section seventy-three of the POL, shall seek nomination or election to any compensated federal, state or local public office, or become a candidate for such office, unless the individual first resigns from public employment, or requests and is granted by their appointing authority a leave of absence without pay. Such resignation or leave must commence before the individual engages in any campaign activities, including but not limited to, announcing a candidacy, circulating petitions, soliciting contributions, distributing literature, or taking any other action to actively promote oneself as a candidate for elective office.

# FINANCIAL DISCLOSURE

1. Certain employees must file Financial Disclosure statements annually with State Ethics: designated policy makers and certain employees making over a threshold amount each year. If you must file, you will receive notice.
2. If you have any questions, check with your campus Ethics Officer.
3. CUNY Administrative and Executive staff must file annually by May 15; Faculty file annually by November 15.
4. Public Employees Ethics Reform Act will now upon request make copies of Financial Disclosure Statements available to the public.

# CONCLUSION

## CALL OGC:

- if you wish to accept any travel or hotel expenses or reimbursement
- if you feel uncomfortable
- if something doesn't smell right
- if you would be embarrassed if it showed up on the front page of the NY Post
- if you are getting pressured
- if you are not sure
- if two people in the office disagree about whether something is appropriate
- any time



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