To: All CUNY Faculty

From: Frederick P. Schaffer

Re: Ethics Bulletin: Gifts to Faculty

Date: December 13, 2012

As the academic year is well underway and the holidays are upon us, 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 Joint Commission on Public Ethics (JCOPE) through the Public Officers Law has established a zero tolerance policy regarding gifts greater than nominal value, from prohibited or disqualified sources ("disqualified sources"). Accordingly, as a CUNY employee you cannot solicit or accept gifts, of any value, either directly or indirectly, from any disqualified source, regardless of whether the gift was intended to influence or reward you. For CUNY purposes, disqualified 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.

Due to recent changes in the New York State Public Officers Law redefining exclusions to the definition of gifts, CUNY employees may accept food or beverage valued at $15 or less without restriction on the source, the place or purposes of receipt (Public Integrity Reform Act ("PIRA"), Chapter 399 of the Laws of 2011).
Definitions:

What is a Disqualified Source?

Under the Public Officers Law, a disqualified 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 seeking a better grade, or some other preferential treatment, a favorable decision or determination or something else of value.

What Penalties are Involved?

A CUNY 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 JCOPE’s web go to: http://www.jcope.ny.gov/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 is Not a Gift?

- Food or beverage valued at $15 or less¹;
- 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) (PIRA, Chapter 399 of the Laws of 2011).

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

¹ Advisory Opinion No. 08.01 as amended by PIRA. See JCOPE’s Interim Guidance on Gifts: http://www.jcope.ny.gov/training/Interim%20Guidance%20on%20Gifts%20w%20Addendum%2011_29_12.pdf
public official. Therefore, items of insignificant value, as, for example, a promotional pen or mouse-pad, or soft drink are considered nominal.

- 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.

- You cannot accept gifts of any amount of money from any 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 (not acceptable if given by 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.

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 JCOPE website for more information on gifts at: http://www.jcope.ny.gov/training/Interim%20Guidance%20on%20Gifts%20Adendum%2011_29_12.pdf to see the Interim Guidance on Gifts.

TO: DISTRIBUTION LIST:
  Cabinet
  Chief Academic Officers
  Administrative Council
  All Legal/Labor Designees/Ethics Officers
  All HR Directors
  Internal Audit
  All Purchasing Directors and their Staff
  UCO

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2 For our purposes: "A widely attended event" is an event offered by a sponsor at which at least 25 individuals who are not from CUNY attend or were, in good faith, invited to attend and is related to the CUNY employee’s duties and responsibilities.