

To: All CUNY Faculty
From: Frederick P. Schaffer *FPS*
Re: Ethics Bulletin: Gifts to Faculty
Date: September 19, 2006

As the academic year gets underway, many of you are invited to attend a seminar or conference paid for by a CUNY vendor, to review textbooks, write new ones, or are offered certain "tokens of appreciation" from your students. 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?

Section 73 (5) of the Public Officers Law specifically prohibits CUNY faculty employees from soliciting or accepting any gift (including hotel and travel expenses) worth \$75 or more, when a reasonable person could infer that the gift was intended to influence, or could reasonably be expected to influence, the faculty employee in the performance of his/her official duties, or was intended as a reward for any official action.

CUNY faculty employees cannot accept **any** gift, no matter what the value, from a "disqualified source", because the gift is presumed to be intended to influence the faculty employee. It does not matter whether the gift is given as a reward, an incentive, as a gratuity, or to curry favor or to influence.

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 union, a lobbyist, a student seeking a better grade, or some other preferential treatment, a favorable decision or determination or something else of value.

A CUNY faculty employee who accepts a gift, in violation of these rules, could be subject to a civil penalty of up to \$10,000, or be criminally charged with a Class A misdemeanor.

What is a Gift?

- A gift may take many forms, including money, loan, travel, meals, golfing events, additional copies of a new book or textbook, gift certificates, refreshment or entertainment.
- The value of a gift is the retail cost to purchase it; the value of a ticket, or a gift certificate, entitling you to food, refreshments, entertainment, etc. is the face value of the ticket; if no value is indicated, the value is the actual cost to the giver. Multiple gifts from a single source given over a twelve-month period that add up to \$75 or more will be deemed to be one gift of the total value of all the gifts.
- The offer of reciprocity, or even actual reciprocity, does not reduce the value of a gift given to you.
- 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 gifts of \$75 or more 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;
- 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 of 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 from CUNY colleagues;
- 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**;
- 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;
- unsolicited advertising or promotional material of little intrinsic value;
- 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. A list of College ethics officers and phone numbers is attached. To reach the OGC call 212/794-5382; say you have a "gift" question.

You may also go to the New York State Ethics website for more information on gifts. Go to < www.dos.state.ny.us/ethc/ethics.html >

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