

CLERK FILE No. 307914

CW

Clerk File No. 307914
Seattle Ethics and Elections Commission, Interpretive
Rule No. 2, relating to Gifts, adopted March 1, 2006.

REPORT OF THE COMM

Honorable President:

The _____

to which was referred this file, respectfully reports that the same was considered, a

Date Filed with Clerk

March 8, 2006

Received by

Julia Wharton

City Clerk Staff

ACTION OF THE COUNCIL

Referred	To
Referred	To
Referred	To
Reported	Disposition
Re-referred	To
Reported	Disposition

REPORT OF THE COMMITTEE

SPONSORED BY:

Honorable President:

The

Committee,

to which was referred this file, respectfully reports that the same was considered, and the recommendation is:

Clerk Staff

Chair

Sc

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SEATTLE ETHICS AND ELECTIONS COMMISSION

Ethics Code Interpretive Rules

Rule 2. Gifts.

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FILED
CITY OF SEATTLE

2006 MAR -8 AM 9:26

CITY CLERK

I. PURPOSE AND SCOPE:

This rule provides guidance to City officers and employees regarding when receiving a gift would or would not violate the Ethics Code.

The Code prohibits soliciting or receiving a gift that:

- 1) was in fact given, solicited or received with the intention to give or obtain special consideration or influence; or,
- 2) would appear to a reasonable person to have been given, solicited or received with the intention to give or obtain special consideration or influence.

The Code also prohibits the misuse of official position to obtain a gift.

This rule describes some circumstances under which the Commission would find that a gift would not appear to a reasonable person to have been given with the intent to obtain special consideration or influence, and therefore accepting the gift would not violate the appearance portion of the Code.

If the Commission determined from the available evidence that such a gift was, in fact, given, solicited, or received with the intent to give or obtain special consideration or influence, however, the giving, solicitation, or receipt of the gift would be a violation of the Ethics Code.

Gifts that are not addressed in this rule will be analyzed under SMC 4.16.070.2.a and SMC 4.16.070.3, quoted below. City officers and employees are encouraged to call the Commission for advice before accepting anything of value not explicitly allowed under this rule.

II. REFERENCES:

- a. The City Ethics Code (SMC Chapter 4.16) applies generally to "City officers or employees." "City officer or employee" means every individual elected or appointed to an office or position of employment in any City agency, whether such individual is paid or unpaid. SMC 4.16.030.E.
- b. SMC 4.16.070.3.a provides that no City officer or employee may "[s]olicit or receive any retainer, gift, loan, entertainment, favor, or other thing of monetary value from any person or entity where the retainer, gift, loan,

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entertainment, favor, or other thing of monetary value has been solicited, or received or given or, to a reasonable person, would appear to have been solicited, received or given with intent to give or obtain special consideration or influence as to any action by such officer or employee in his or her official capacity; provided, that nothing shall prohibit contributions which are solicited or received and reported in accordance with applicable law."

- c. SMC 4.16.070.2.a provides that no City officer or employee may "[u]se his or her official position for a purpose that is, or would to a reasonable person appear to be primarily for the private benefit of the officer or employee, rather than primarily for the benefit of the City; or to achieve a private gain or an exemption from duty or responsibility for the officer or employee or any other person."
- d. SMC 3.70.100.C empowers the Commission to promulgate rules and regulations in order to carry out the Commission-administered ordinances, including the Ethics Code.

III. RULE

1. Definitions

- a. "City officer or employee" means every individual elected or appointed to an office or position of employment in any City agency, whether such individual is paid or unpaid. For purposes of Sections 4.16.090.G and 4.16.100.B only, "City employee" also includes every individual who was a City employee at the time of the act or omission that is alleged to have violated this chapter, even though he or she is not a City employee at the time of the hearing or appeal provided under those subsections.
- b. "Hosted reception" means a social function that: 1) is attended by a diverse group of no fewer than 20 people, 2) has attendees that are not limited to City officers, city employees, and the hosts, and 3) that does not involve a sit-down meal.
- c. "Events" means fundraisers, galas, annual meetings and similar events, but does not include sporting events or artistic or cultural performances, unless those performances are incidental to the event.
- d. "Civic, charitable, governmental, or community organization" means a not-for-profit organization serving a civic, charitable, governmental, or community purpose.
- e. "Participate" means to participate in a City action or a proceeding personally and substantially as a City officer or employee, through

approval, disapproval, decision, recommendation, the rendering of advice, investigation, or otherwise.

- f. "Interested Person" means any individual, or public or private organization of any character, significantly affected by, or interested in a quasi-judicial proceeding, including any party thereto.
 - g. "Regulatory decisions" means decisions that execute or apply laws; for example, decisions involving whether or not to grant a City permit, and decisions whether or not a person or entity is complying with a City code, e.g., the building, land use, fire, tax, zoning or some similar code.
 - h. "Single source" means any person, whether acting directly or through any agent or other intermediary.
2. The following are not permissible under the Ethics Code:
- a. Gifts solicited by, received by, or given to City officers or employees when the circumstances surrounding the giving and acceptance of the item establish that the item was solicited, received, or given with the intent to give or obtain special consideration or influence as to any official action of the officer or employee.
 - b. Gifts solicited by, received by, or given to City officers or employees participating in quasi-judicial proceedings in which the giver is an Interested Person or a person acting on behalf of an Interested Person.
 - c. Gifts solicited by, received by, or given to a City officer or employee who participates in contractual or regulatory decisions involving the giver of the gift or the person solicited to make a gift, other than:
 - i. Unsolicited advertising or promotional items valued at twenty-five dollars or less, with an aggregate value of less than fifty dollars from a single source in a calendar year; or
 - ii. Unsolicited items valued at twenty-five dollars or less that are placed in a common area where they are shared with coworkers. The aggregate value of such unsolicited items must not exceed fifty dollars from a single source in a calendar year.
3. Unless prohibited in section two above, receipt of any of the following will not violate the Ethics Code:
- a. Unsolicited gifts with an aggregate value of less than fifty dollars from a single source in a calendar year or a single gift from multiple sources with a value of less than fifty dollars. "Single gift" includes any event, item, or

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group of items used in conjunction with each other or any trip including transportation, lodging, and attendant costs. The value of gifts given to an officer's or employee's family member or guest shall be attributed to the official or employee for the purpose of determining whether the limit has been exceeded, unless an independent business, family, or social relationship exists between the donor and the family member or guest;

- b. Unsolicited tokens or awards of appreciation in the form of a plaque, trophy, desk item, wall memento, or similar item;
 - c. Unsolicited informational material, publications, or subscriptions related to the recipient's performance of official duties;
 - d. Unsolicited food and beverages consumed at hosted receptions;
 - e. Unsolicited admission to, and the cost of food and beverages consumed at, events sponsored by or in conjunction with a civic, charitable, governmental, or community organization. ("Events" is defined at 1(c) above).
4. Notwithstanding section two above, receipt of the following will not violate the Ethics Code:
- a. Gifts from individuals with whom the City officer or employee has historically accepted gifts of a value commensurate with (i) the value of gifts provided by the City officer or employee to the individual and (ii) the value of the gift at issue, except when the circumstances surrounding the giving and acceptance of the item establish that the item was solicited, received, or given with the intent to give or obtain special consideration or influence as to any official action of the officer or employee.
 - b. Gifts that are accepted on behalf of the City, and retained as City property;
 - c. Reimbursements to the City for expenses incurred for official City business, including travel expenses, when:
 - i. the receipt of the gift complies with City and departmental policies for accepting gifts;
 - ii. the expenses incurred are reimbursable under the City of Seattle Travel Policies and Procedures;
 - iii. the donor does not have discretion to determine which specific officials or employees will use the gift; and
 - iv. the City's receipt of the gift is memorialized in a public record.

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This rule was adopted by the Seattle Ethics and Elections Commission at its March 1, 2006 meeting. The Commission members voting to take this action were:

Bruce Heller, Chair
Mel Kang, Vice Chair
Bob Mahon
Nancy Miller
Michele Radosevich

STATE OF WASHINGTON, CITY OF SEATTLE

I, Wayne Barnett, Executive Director of the Seattle Ethics and Elections Commission, State of Washington, do hereby certify that this is a true and correct copy of Ethics Code Interpretive Rule No. 2, adopted on March 1, 2006.

IN WITNESS WHEREOF, I have hereunto set my hand this March 8, 2006.


WAYNE BARNETT, Executive Director

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