

Advisory Opinion No. 76-2

QUESTION:

Is it a violation of Sec. 19(1) or any other provision of the Law, for a public officer who does not vote on gaming licenses or penalties and is not a member of the State Gaming Control Board or State Gaming Commission and is not a member of a police or investigatory gaming agency, to accept a gift from a person holding a gaming license?

RESPONSE:

In addition to the agencies and responsibilities related to Gaming set out in your question, there are some other provisions of the Nevada Revised Statutes which assign some discretion and/or influence over the Gaming Industry to select public officers in the State. Where the public officer has in the statutes such relationship assigned to his office, he would not be allowed to accept gifts which "would tend to influence improperly". For further elaboration on this concept, see our response to the next portion of your question. As to a public officer who has no statutory discretion or relationship to Gaming whatsoever, he still has pretty much the same guidelines in deciding whether to accept a gift or not; again, the Commission refers to its response to the next portion of your question.

QUESTION 76-2 (b):

Insurance companies, real estate companies, banks, savings and loan, mobile home dealers and public utilities are subject to regulation by state agencies. Would the acceptance by a public officer from these or any other entities, of breakfast, lunch, or dinner, flowers, transportation or articles of clothing be considered a violation of Sec. 19(1) or any other provision of the law?

RESPONSE:

In the opinion of the Commission, this question does not admit of a clear and definite answer. The measure of what kind of gifts or quantity of gifts prohibited by the law seems to be somewhat relative and individual. The law says: (NRS 281.620 1.)

1. No public officer or employee may seek or accept any gift, service, favor, employment, engagement, emolument or economic opportunity that would tend improperly to influence a reasonable person in his position to depart from the faithful and impartial discharge of his public duties. (emphasis added)

The Commission was of the opinion that in the kinds of things referred to in the question, i.e., flowers, dinner, etc., the public officer would have to follow his conscience according to the circumstances. Ultimately, only the officer himself knows what "would tend improperly to influence". Some public officers might be influenced by a breakfast or a dinner. The Commission was of the opinion that factors to be weighed in arriving at a decision would be the frequency of such favors, their quantity and the monetary value of the same. The Commission is not prepared to issue guidelines on such matters as meals, flowers, articles of clothing etc. The Commission has held in all of its Opinions that the appearances of conflict or of improper influence and the potential for adverse effects on the confidence of the people should such gifts come to public knowledge is essential in arriving at a conclusion.