



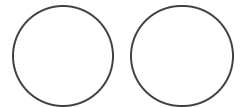
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Is That Gift Just an Ethics Law Violation Wrapped in Pretty Paper?



Nevada Commission on Ethics

1,205 followers



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“The greatest gift is a portion of thyself”

– Ralph Waldo Emerson

When we asked our LinkedIn followers which topics they’d most like to hear about, gifts was the top choice. Gift giving is an integral part of our culture, but most public servants understand that an improper gift can slide down the slippery slope to an ethics violation or a criminal bribery charge. It is not the expectation of the Ethics Law that public officers and employees withdraw from the general niceties of society. You don't have to cancel that birthday party just yet. So, what is a public employee or officer supposed to do about gifts? The following discussion and examples should help guide you when it comes to ethical gift receiving.

Is there a value limit on the gift I can receive?

No. Many people think there is some magical value limit to a gift that triggers ethics law implications. While the Secretary of State's financial disclosure process has specified amounts for gift reporting, the Nevada Ethics Law has no set gift value restrictions. [Chapter 281A of the Nevada Revised Statutes](#) (NRS) does not include a specific value of allowable or disallowable gifts. However, as you might guess, the Commission will take a look at the monetary value of the gift in its analysis or whether or not there has been a violation.

So what is the rule for ethics?

NRS 281A.400(1) states in part:

*A public officer or employee **shall not seek or accept any gift, service, favor, employment, engagement, emolument or economic opportunity, for the public officer or employee or any person to whom the public officer or employee has a commitment in a private capacity, which would tend improperly to influence a reasonable person in the public officer's or employee's position to depart from the faithful and impartial discharge of the public officer's or employee's public duties.*** (emphasis added)

The limit on gifts, like much of Nevada's Ethics Law, is heavily fact-specific and must be scrutinized on a case-by-case basis. The size of the gift, the timing of the giving, and the relationship of the giver and receiver may all play a role in the analysis. For example, an occasional lunch at the local diner is far less likely to implicate the Ethics Law than say, a private jet flight for two to a Parisian dinner at Le Deux Magots. A gift from three years ago might be looked at differently than a gift the night before a public vote on a matter related to the giver.

It is important to remember that the Ethics Commission is not the only entity that looks at gifts. The Secretary of State requires certain public officials to report gifts through the financial disclosure process and of course gifts given with the intent to influence a public officer or employee in their official capacity can land the giver or receiver in a criminal prosecution pursuant to [Chapter 197 of the Nevada Revised Statutes](#).

Is Travel to a Conference a Gift?

The Commission has handled opinions related to questions about whether paid travel to and from a certain event or conference may be an inappropriate gift. In these cases, the Commission has made it clear that payment of travel to and from a meeting or conference is generally not a

gift that would implicate the Ethics Law. In 2016, the Commission walked through a typical educational conference trip analysis in [*In re Schwartz, Comm'n Opinion No. 16-13A \(2016\)*](#). Each circumstance will depend on the specific facts including but not limited to whether or not the conference benefits the public agency, the public officer or employee's role at the conference, and if it is a "working conference."

Duty to Disclose and Abstain

What if you have previously received a gift and now have a decision to make in your public capacity about the giver? NRS 281A.420 is clear that the proper course of action is to disclose the gift and abstain from the matter. Again, the qualifying gift is one that a would tend to improperly influence a reasonable person in the public officer's position to deviate from the faithful execution of their public duties. The Commission made this clear in an Advisory Opinion in 2012 when a Public Officer asked about a previous substantial monetary gift (a five figure gift). In looking at the gift and previous relationship between the giver and the public official, the Commission advised the public official to disclose the gift and abstain from the matter before the governing body. [*In re Public Officer, Comm'n Opinion No. 11-65A \(2012\)*](#).

Quick Tips for Compliance

When faced with a question about gifting, here are a few quick tips for compliance:

- 1) When thinking about receiving a gift, view the gift from the public's perspective. Would a reasonable member of the public believe that the gift would tend to make you deviate from your duties as a public officer or employee in favor of the gift giver?
- 2) If you are uncertain about whether a gift might fall into the category of violating the ethics law, consult your agency attorney.
- 3) If you are a public officer or employee, you can always [request an advisory opinion](#) from the Commission on Ethics.

This article is for educational purposes and is neither legal advice nor an official Commission opinion.