

New Ethics Commission Regulations Related to Public School Educators: To be effective on or before 12/24/2010.

5.07. No Violation: Gifts Worth Less Than \$50; Disclosure May be Required; Definition of Disclosure.

(1) Gifts worth less than \$50 are not prohibited, but a disclosure may still be required. A public employee is not prohibited from accepting an unsolicited gift from a person other than a lobbyist that is not of substantial value as defined in 930 CMR 5.05, unless a reasonable person, having knowledge of the relevant circumstances, would conclude that the public employee could unduly favor the giver or be influenced by the giver when performing official duties. If a gift would create such an appearance of a conflict of interest, pursuant to M.G.L. c. 268A, § 23(b)(3), the employee may accept the gift only if he or she makes a written public disclosure about the gift. The following are examples of situations where a gift is not prohibited because it is not of substantial value, but must be disclosed because it could create an appearance of a conflict of interest:

- Example: A building inspector accepts a \$40 bottle of wine from a developer whose projects he frequently inspects. The inspector must make a disclosure.
- Example: A business association's representatives meet with city councilors to discuss association issues. Several weeks after the city council votes in favor of a significant association bill, the association sends a concert ticket worth \$30 to each to the councilors who voted in favor. Each councilor must make a disclosure.
- Example: A public school teacher accepts a \$25 gift certificate from the parent of a current student. The teacher must make a disclosure.

5.08. Gifts worth \$50 or More and Related to Official Action or Position: Exemptions.

(1) A public employee is not prohibited from accepting a gift worth \$50 or more from a person who is not a lobbyist, where the gift is related to the public employee's official action or position, and does not violate M.G.L. c. 268A, §§ 3, 23(b)(2), and 23(b)(3) by doing so, if the gift falls within one of these exemptions, and if the public employee complies with all requirements imposed by the exemption.

(2) Travel Expenses. 930 CMR 5.08(2) relates to payment of travel and related expenses for a public employee by anyone other than his or her employing agency, where the

purpose of the travel is to engage in an activity that serves a legitimate public purpose. Payment of such expenses by one's employing agency is not a prohibited gift and does not require an exemption.

(a) Definitions. For purposes of 930 CMR 5.00:

1. Travel Expenses. Travel expenses are necessary and reasonable expenses incurred by a public employee in order to engage in an activity that serves a legitimate public purpose, including air, train, bus, and taxi fare, rental car hire, the cost of meals and lodging, and expenses related to attendance at an event including costs of registration, admission, tickets, food, refreshments, instruction, materials, and entertainment.

2. Legitimate Public Purpose. An activity has a "legitimate public purpose" if it is intended to promote the interests of the Commonwealth, a county, or a municipality. Examples of activities with legitimate public purposes include, but are not limited to, the following:

- Example: Activities that promote tourism, economic development, charitable, public health, environmental, or educational goals;
- Example: Attendance at training and educational events and conferences designed to improve the efficiencies and effectiveness of public services, or to enhance the knowledge and skills of public employees relative to their official duties;
- Example: Business travel necessary to make informed purchasing decisions, selections, and inspections;
- Example: A class field trip that will enable students in a government class to observe proposed legislation being debated, or that will enable students in a Spanish class to hear the language spoken by native speakers;
- Example: Any purpose defined by an agency's enabling legislation;
- Example: Any purpose defined as a legitimate public purpose by the agency's governing body or, absent a governing body, chief executive officer, that is in furtherance of the agency's mission.

CMR 5.08 (14) Class Gifts to Teachers. A public school department employee is not prohibited from accepting a gift, or several gifts during the school year, from public school students and/or their parents and guardians, with an aggregated value of up to \$150, if any such gift is identified only as being from the class, and the identity of givers and amounts given are not identified to the recipient. Parents may also give gifts to the classroom or the school in accordance with the rules of the school district. Gifts received pursuant to this exemption are not required to be disclosed because the givers are not identified to the teacher. Public school department employees must disclose gifts received from individual students, parents, and guardians that are not class gifts as explained in 930 CMR 5.07.

- Example: A teacher has a class with 23 students. Parents of 20 of the students collect money and give the teacher a \$150 gift certificate to a book store, indicating that it is a class gift. One of the parents who did not contribute to the class gift gives the teacher a \$25 certificate to a spa. The teacher may accept the \$150 class gift certificate and no disclosure is required; the teacher may not accept any other gift from the parents who contributed to the class gift. The teacher may accept the \$25 spa certificate, but must file a disclosure pursuant to M.G.L. c. 268A, § 23(b)(3).
- Example: A teacher has a class with 23 students. Parents of 13 of the students collect money and give the teacher a \$130 gift certificate to a book store, indicating that it is a class gift. Parents of the other 10 students collect money and give the teacher a \$100 gift certificate to an office supply store, indicating that the gift is a gift to the classroom and that the teacher should use it to buy necessary classroom supplies. The teacher can accept the first gift on his own behalf and the second on behalf of the classroom. He must spend the \$100 office supply gift certificate on classroom supplies and should keep receipts documenting those purchases. Items purchased with money that is a gift to the classroom are the property of the school district. The teacher may not knowingly accept any additional gift from parents who participated in the class gift.