

City of Bethlehem Administrative Gift Policy

I) LEGAL BACKGROUND

A. The Public Official and Employee Ethics Act

The Pennsylvania Ethics Act prohibits “conflict[s] of interest” which are defined as:

Use by a public official or public employee of the authority of his office or employment or any confidential information received through his holding public office or employment for the private pecuniary benefit of himself, a member of his immediate family or a business with which he or a member of his immediate family is associated.

Excluded from this definition is conduct that has a “de minimis economic impact” which is an economic consequence of an insignificant effect.

The term also does not include an action that:

affects to the same degree a class consisting of the general public or a subclass consisting of an industry, occupation or other group which includes the public official or public employee, a member of his immediate family or a business with which he or a member of his immediate family is associated.

The Ethics Act applies to elected and appointed officials, as well employees who [are] responsible for taking or recommending official action of a nonministerial nature with regard to:

- (1) contracting or procurement;
- (2) administering or monitoring grants or subsidies;
- (3) planning or zoning;
- (4) inspecting, licensing, regulating or auditing any person; or
- (5) any other activity where the official action has an economic impact of greater than a de minimis nature or the interests of any person.”

B. City of Bethlehem Code of Conduct

City Council adopted Resolution No. 11,471 on June 18, 1991 which established a Code of Ethics for all City of Bethlehem Employees. Among other things, the Code requires all employees and officials of the City to:

Maintain a course of conduct at all times which will bring credit to [the employee or official] and the City of Bethlehem.

Avoid conflict of interest.

Avoid actions which create the appearance of impropriety.

Not ever use [the employee's or official's] position with the City of Bethlehem for personal gain.

Insist that all business transactions of the City of Bethlehem be on an ethical, open and above-board basis.

II) GENERAL BACKGROUND

Every City official and employee is a public servant. Public servants must treat members of the public fairly and equitably. Receipt of money, favors, gifts, gratuities invitations, food, drink, loans, promises or other benefits (collectively and subsequently referred to in this section as “gifts”) offered to a public servant because of that person’s position, may create the appearance of a conflict interest, if not an actual conflict of interest. Similarly, solicitation of gifts by a public servant in that person’s capacity as a public servant, for that person’s own benefit, likely establishes a conflict of interest.

Public servants, in performing their duties, must work for the benefit of the community as a whole, giving equal consideration to each member of the public, and doing so without giving special regard because of finances, political affiliations, gender, orientation, creed, or other categorization.

Conflicts of interest betray the trust of the public with its government and violate traditional notions of fair play and substantial justice.

Premised on the above, I hereby issue the following:

III) EXECUTIVE ORDER

Restriction on Acceptance of Gifts

City officials and employees are prohibited from soliciting or accepting money, favors, gifts, gratuities, invitations, food, drink, loans, promises or other benefits (collectively and subsequently referred to as “gifts”) from businesses, individuals, any agency or organization *under circumstances indicating the donor has an actual or implied hope or expectation* of receiving more favorable treatment than accorded the public generally or in legal, legislative, policy or transactional matters affecting the business or individual. Noncompliance is subject to discipline.

City officials and employees are prohibited from receiving gifts, *under circumstances where it can reasonably appear to be* an attempted or intended effort to influence the employee in the discharge of that employee's duties. Noncompliance is subject to discipline.

Acceptance of Gifts and Favors

When practical, gifts shall be returned to the giver. When it is not practical to return a gift, the gift shall be given to the Controller who shall record the gift and the giver and donate the gift in the name of the City to a charity located in the City.

Gifts may be accepted in the following circumstances:

When a gift has a clear market value and is one that is also available for the public to purchase (e.g. concert ticket; meal), the public official or employee may accept the gift provided the public official or employee pays its face value, publicly listed price or the fair market value if there is no fixed value for the gift.

Gifts of food (cookies, candy, etc) may be available for consumption on the premises to the public and employees when such offer may not be reasonably seen as seeking to influence the public servants or to induce more favorable treatment toward the giver.

From family members, business acquaintances and friends who are not seeking official action or business, and whose offer of the gifts may not reasonably be seen as trying to influence the public servant so as to receive favorable treatment in the discharge of the public servant's official duties.

Promotional offers or discounts on goods or services when offered to all employees may be accepted when such offer may not reasonably be seen as trying to induce the public servants to provide better treatment to the offeror than is accorded the general public or as trying to influence the public servants' discharge of official duties.

Nominal, de minimis tokens of appreciation at public appearances may be accepted.

Food or drink of nominal value supplied at business or informational meetings or at social events where it is available to all attendees (meaning nominal offerings commonly provided in the spirit of convenience or hospitality) may be accepted when such offer may not reasonably be seen as an attempt to induce the public servant to give favorable treatment to the host, sponsor or supplier in the public servant's discharge of official duties.

Offering of Gifts

The Mayor reserves discretion to debar a contractor, vendor, professional or other party deemed in the Mayor's judgment to have either attempted to influence or in fact influenced an employee in the discharge of that employee's duties by providing gifts.

Meetings with Individuals or Businesses

Department Heads or individuals representing department heads, at meetings with individuals, groups, or businesses reasonably likely or possibly having legal, legislative, transactional, or policy related business with the City, or in the City, shall have an additional department employee attend the meeting except where reasonably impracticable. At least one of the City participants shall take, prepare and retain notes that identify the participants and summarize the content of the meeting.

Review Committee

A Committee will be created to address questions regarding the application of these rules in particular situations. The Committee will consist of the Chief of Staff, the Director of Human Resources and a representative of the Law Bureau.