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## **When is a Gift a Donation?**

One of the benefits of public service is being a front-row witness to the generosity of so many people in Ohio's communities. Whether it is a fundraiser to benefit a local school or a donation to the public library, the offerings of local residents and community businesses remind us of why Ohio is such a great place to live.

However, the Ohio Ethics Commission receives many questions about gifts offered or given to public servants or public entities. This fact sheet will address the most common issues that arise regarding gifts versus donations.

### ***Are public officials or employees allowed to accept gifts at all?***

Generally speaking, the Ethics Law prohibits public employees or officials from soliciting or accepting a substantial and improper thing of value as it could influence them in the performance of their public duties. These "things of value" essentially include anything with monetary value. Gifts, golf outings, theater or sporting event tickets, vacations, and jewelry are all items that the Commission has specifically identified as things of substantial value.

Public servants must decline gifts substantial value that are offered by any individual or company doing or seeking to do business with, interested in matters before, or regulated by his or her public agency. For more information regarding gift restrictions, review [The Gift Information Fact Sheet](#) and [Advisory Opinion 2001 – 03](#).

### ***Do those restrictions pertain to gifts to public entities?***

The Ethics Commission has responded to questions regarding gifts or donations offered not to public servants, but rather to public agencies or municipalities. In Advisory Opinion [89-002](#), the Commission reiterated that public officials and employees are prohibited from improperly soliciting or accepting substantial things of value. The Opinion notes, though, that the statute prohibits donations to public officials and employees, not to the public agencies.

For example, an employee of a city parks and recreation department would be prohibited from accepting a free or deeply discounted backyard playset for his or her own home from a company that sells playground equipment. That company would not be prohibited, however, from donating playground equipment to the parks and recreation program. The difference is whether the public is the ultimate beneficiary of the gift as opposed to individual public servants.

### ***So private companies may donate goods or equipment to public entities?***

While private companies are not prohibited from donating goods or equipment to public entities, it must be emphasized that all donations must be voluntary. Private companies are prohibited from promising, offering, or giving equipment to a public agency with the purpose of improperly influencing public officials or employees with respect to their duties.

Also, public officials and employees are prohibited from soliciting or accepting equipment to improperly influence them with respect to the discharge of their official duties, and from basing any official decisions, actions, or instructions on a company's contributions or failure to contribute.

### ***Can public agencies endorse the company that made the donation to thank the company for the donation?***

Public officials and employees who use the donated equipment should not endorse the purchase of that particular brand of equipment, especially in instances where the donor is a manufacturer or vendor of the equipment or would otherwise profit from the sale of equipment.

### ***What about the appearance of impropriety?***

It is important to note that donations to a public entity can sometimes create the appearance of impropriety. For example, a company should not offer - and public agencies should not accept - donations when a specific case involving that company is pending before the public agency.

### ***Need more information?***

This fact sheet provides a general overview of this area of the law. Additional fact sheets and advisory opinions regarding the giving and acceptance of gifts can be found at [www.ethics.ohio.gov](http://www.ethics.ohio.gov).