




The Give and Take of Gifts

Ethics Law eLearning
Randy Mora, Esq.
Trask Daigneault LLP
With
Dr. Scott Paine
Director, Leadership Development and Education
Florida League of Cities
and
Holly McPhail
Communications Coordinator
Florida League of Cities

A small version of the Florida League of Cities, Inc. University logo is located in the bottom right corner of the slide.

Before We Begin . . .

We are talking about the law, not your personal ethical compass.

Local rules may be more strict than what is covered here

Always confer with your City/Town/Village Attorney when evaluating ethics issues



Three Key Questions

Who is giving me this gift?

What is the purpose of the gift?

What is the nature of my involvement?



The Foundation of Gift Laws: Protecting the Public Trust from Abuse

Florida Constitution - Article II, Section 8:

People shall have the right to secure and sustain . . . [the public] trust against abuse.

Florida Statutes – Chapter 122:

it is essential to the proper conduct and operation of government that public officials be independent and impartial and that public office not be used for private gain (emphasis added)



1/11/2018

6

What is a gift? (F.S. 112.312(12)(a))

that which is accepted by a donee or by another on the donee's behalf, or that which is paid or given to another for or on behalf of a donee, directly, indirectly, or in trust for the donee's benefit or by any other means, for which equal or greater consideration is not given within 90 days.

Statute lists 14 different examples, concluding “any other similar service or thing having an attributable value not already provided for”



1/11/2018

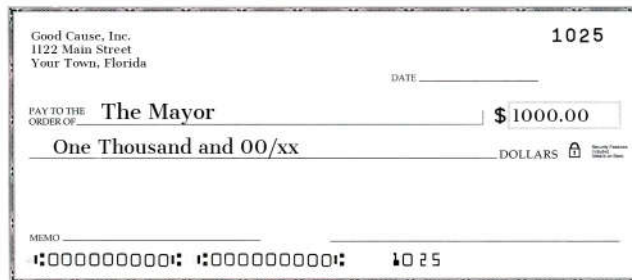
6

“They gave me a plaque”

Things such as an award, plaque, or certificate in recognition of service are *not* considered gifts . . . generally



“They’re paying me to speak”



There are requirements and restrictions regarding compensation (honoraria) for appearances and speaking



Prohibited Gifts: (F.S. 112.313(2))

Those intended to influence official action

SOLICITATION OR ACCEPTANCE OF GIFTS.- *No public officer, . . . shall solicit or accept **anything of value** to the recipient, including a gift, loan, reward, promise of future employment, favor, or service, **based upon any understanding that the vote, official action, or judgment of the public officer, employee, local government attorney, or candidate would be influenced thereby.*** (Emphasis added)

The key is the **motive** of either the official or the gift giver (or both)



1/11/2018

9

Prohibited Gifts: (F.S. 112.313(4))

Those intended to influence official action

UNAUTHORIZED COMPENSATION.- *No **public officer, employee of an agency, or local government attorney or his or her spouse or minor child** shall, at any time, accept any compensation, payment, or **thing of value** when such public officer, employee, or local government attorney knows, or, with the exercise of reasonable care, should know, that it **was given to influence a vote or other action** in which the officer, employee, or local government attorney was expected to participate in his or her official capacity.* (Emphasis added)



1/11/2018

10

Prohibited Gifts: (F.S. 112.31485) Gifts From Political Action Committees

PACs may support political campaigns and other activities

PACs **may not** contribute anything else for any purpose to a public official or candidate for public office

Prohibition applies to the public official and to the official's spouse, parent, child and sibling



Limited Gifts: (F.S. 112.3148) Gifts from Vendors, Lobbyists and Their Principles

May not give a gift with a value in excess of \$100



The vendor, lobbyist or principle must report any gift between \$25 and \$100



Legally *Permissible* Gifts

Gifts from relatives

Gifts that were not solicited or given to influence the official's action *and* are not from a vendor, lobbyist or principle of a lobbyist

- Reporting requirement: If the gift has a value in excess of \$100, it must be reported



Oops!!

Curing a Potential Violation (F.S. 112.3148(7))



Return the gift or pay its value to the donor within 90 days of the gift being given



Reporting Gifts Quarterly

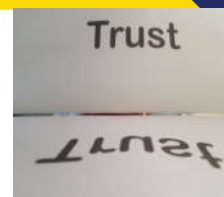
- Description of gift
- Monetary value of gift
- Name and address of person giving gift
- Name and address of recipient of the gift
- Date gift was given

These reports are public records (of course)

If no reportable gifts were received in a particular quarter, no report need be filed



Permissible ≠ Prudent



The goal is to protect the public trust, ensuring public officials act on behalf of the public, not their personal gain

Gifts may create an appearance of impropriety

Consider carefully not only the law, but the potential effect on public perceptions and public trust



And whenever you have a question about ethics law . . .

Ask your city/town/village attorney!



Questions???



Upcoming FLCU Online Learning Opportunities

- January 25: The State of Florida's Cities**
- February 8: Municipal Social Media: What's Hot, What's Not**
- February 20: Marketing Your City – Municipal Web Design**
- March 8: Hot Topics in Public Opinion**
- March 14: Septic to Sewer: Getting There From Here**



Upcoming FLCU and FLC Events

- January 19-21: Institute for Elected Municipal Officials (IEMO) - Altamonte Springs**
- January 29-31: FLC Legislative Action Days - Tallahassee**
- February 22: Municipal Social Media Training – Cutler Bay**
- March 2-3: IEMO III: The Leadership Challenge**



Legislative Session: Stay Engaged!

Weekly Monday Morning Call-In

9:00-9:30 a.m.

1-888-419-5570, code: 880-753-19



1/11/2018

24

Join the Conversation #InspiringLeaders

Blog – DrScottPaine.com

Twitter - [@DrScottPaine](https://twitter.com/DrScottPaine)

Facebook – Dr. Scott Paine



Thank you

Randy Mora, Esq.
Trask Daigneault LLP

Holly McPhail, Florida League of Cities
and

You!



1/11/2018

29

The Give and Take of Gifts

Ethics Law eLearning
Randy Mora, Esq.
Trask Daigneault LLP

With
Dr. Scott Paine
Director, Leadership Development and Education
Florida League of Cities
and
Holly McPhail
Communications Coordinator
Florida League of Cities

