

GIFTS & GRATUITIES GUIDELINES

The Ohio Ethics Commission has consistently ruled that the acceptance of gifts and gratuities by public employees is improper.

For more information, visit the [Ohio Ethics Commission's web site](#) and the Office of University Company

Report on Gifts & Gratuities

Prepared for the Cleveland State University Board Committee on Financial Affairs June 20, 2002

At the May 29, 2002 meeting of the Board Committee on Financial Affairs, a concern was raised that the proposed Purchasing Policy is more restrictive concerning gifts and gratuities than Ohio law. The proposed Policy cites a portion of ORC Section 102 forbidding a public servant from soliciting or accepting "...any valuable thing or valuable benefit to corrupt or influence him with respect to the discharge of his duty." The proposed Policy also states that the University "subscribes to the following National Association of Educational Buyers Code of Ethics: To decline personal gifts or gratuities."

The most recent opinion of the Ohio Ethics Commission is Advisory Opinion No. 2001-03, "Golf Outings," a copy of which is attached.

The Commission in this opinion considers both ORC Section 102 cited above, and ORC Section 2921.43(A) which prohibits a public servant from accepting any gift, regardless of its value if either the purpose or the result of the gift is to provide payment to the public servant in return for the performance of his or her official duties. It notes that irrespective of the value of the gift, if there is an illicit intention, ORC Section 2921.43(A) will be violated.

In determining whether Section 102 prohibits a gift, the Commission says that both the substantiality of the gift and the source of the gift will be considered. Thus, if the source is a party interested in doing or seeking to do business with the public servant's agency, the Commission has consistently held that anything of value could have an improper influence. However, the Commission has also found that some items are so nominal or de minimis in value, that they would not have a substantial influence on a public servant. However, the Commission has cautioned that even de minimis or nominal items could have a substantial cumulative value if extended over time, and that a public servant's acceptance of even nominal things of value from certain parties could create the appearance of impropriety.

The Commission has specifically found the acceptance of the following gifts violate Section 102:

- Frequent flyer benefits
- Free parking
- Free gasoline
- Monthly public transit
- Ticket to a sporting event
- Golf green fees
- Golf cart rental
- Food and beverages
- Travel
- Lodging
- Discounts on furniture

The Commission has said that the following items may not be prohibited as gifts by Section 102:

- Promotional tee-shirt or other nominal promotional item.
- Individual meal of a “routine character” in “certain circumstances;” although, the Commission adds, that even these nominal items may be prohibited if cumulative, or if the appearance of impropriety is created.

Given the severity of the Commission’s rulings on what may constitute a “substantial” gift, and its vagueness about what will pass muster under Section 102, the absolute prohibition imposed by the proposed Purchasing Policy seems a safe course which the Administration recommends.