



THE STATE UNIVERSITY *of* NEW YORK

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MEMORANDUM FOR PRESIDENTS, STATE OPERATED CAMPUSES

FROM: NICHOLAS ROSTOW *NR*

SUBJECT: Commission on Public Integrity Guidelines on Gifts

The New York State Commission on Public Integrity has promulgated the attached guidelines entitled "Guidelines Concerning the Propriety of a State Agency Accepting Gifts," dated February 3, 2009 ("Guidelines"). The Guidelines reaffirm and, to a limited extent, supplement advisory opinions issued by the Commission's predecessor, the State Ethics Commission. The Guidelines and advisory opinions apply to gifts to the University and constituent campuses, as differentiated from gifts to University employees.

In determining whether to accept a gift from a person or entity who or which is a "disqualified source," defined hereafter, the University must determine, under the circumstances, if it is reasonable to infer that the gift is offered with the intent to influence decision-making by the University. Conflicts of interest and the appearance of conflicts must be avoided.

Under the Guidelines and advisory opinions reaffirmed by the Commission, the University should review the timing, source and amount of a gift offered by a "disqualified source" to determine whether it is reasonable to infer that the gift is offered with intent to influence University decision-making. Generally, a "disqualified source" is a person or entity that is regulated by, regularly negotiates with, appears before, does business with, seeks to contract with or has contracts with the University; lobbies the University; or has received or applied for funds from the University, including by submitting a bid, during the year prior to offering or making the gift. The University should not accept gifts from such disqualified persons or entities involved in litigation or administrative proceedings against the University or that are under investigation by the University.

The Guidelines indicate that, as a general matter, holiday gifts are to be returned to the donor with a letter that advises the donor against making future gifts. With respect to sample items, including books and software (but not including sample textbooks), offered to the University by a vendor, without charge, the Guidelines allow the University to accept the sample, subject to timing, source and amount analysis. If the University determines not to use the sample, the Guidelines provide that the University should return the sample to the donor. If, after examination or trial use, the University determines to purchase the same or a similar product, the University must adhere to procurement laws and guidelines.

Note that, pursuant to guidance received from the Public Integrity Commission, faculty members may accept sample course textbooks, and need not return such textbooks to the publisher, regardless of whether such a textbook is adopted for a course or not. The Guidelines admonish, however, that a SUNY faculty member who receives a sample textbook from a vendor may not utilize the textbook for personal use or gain, including by selling the book, or donating the book and taking a tax deduction.

Finally, the Guidelines indicate that generally the University may accept gifts from other governmental entities and officials. However, where the governmental entity contracts or seeks to contract with the University (e.g., a foreign public university) or is subject to licensure or regulation by the University (e.g., a charter school or community college), the University should analyze the gift offer on the basis of "timing, source and amount."

Inquiries with respect to gifts to the University may be addressed to Marti Anne Ellermann, Michael Morgan, or Joseph Storch at the Office of Counsel (518-443-5400)

cc: John J. O'Connor, Officer-in-Charge
Senior Staff
Kaitlin Gambrill
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