

3.11 Gift Ban

Amendment 41 (also known as Article XXIX of the Colorado Constitution) was passed by Colorado voters in 2006 and bans legislators, government employees and their immediate family from accepting gifts worth more than \$50. Colorado's Independent Ethics Commission (IEC) issued a position statement to clarify gift ban provisions of Amendment 41.

In its position statement, the IEC found the following items permissible, notwithstanding the gift ban, on the basis that there is "lawful consideration of equal or greater value" exchanged:

- **Scholarships** granted to public employees' and officials' spouses or dependent children
- **Insurance proceeds**
- **Honoraria** provided to public employees and officials for speaking before "business or civic groups" and writing publications, provided that:
 - Delivering the speech or writing the publication is not part of the public official/employee's official duties;
 - Public resources are not used in the preparation of the speech or publication (including computers, telephones, staff, etc.);
 - Government time is not used for the preparation or delivery of the speech or publication;
 - The amount of the honorarium is reasonably related to the services the employee/official is being asked to perform; and
 - Neither the sponsor of the speech nor the source of the honorarium is a person or entity with whom the public employee/official has had, or reasonably expects to have, dealings in their official capacity.

The IEC also found the following permissible on the basis that accepting such items "is not a breach of public trust" because they are offers or benefits given to the general public or a class of people under circumstances where others receive the same opportunity, and public employees/officials should not be penalized because they hold government positions:

- **Prizes** (including scholarly recognitions such as the Nobel Prize)
- Items won in **raffles, lotteries and silent auctions**

Finally, the IEC found the following permissible on the basis that gifts made in the context of family or personal relationships are "not a violation of the public trust" because it is the close personal relationship between the parties that is the controlling factor in such situations, not the potential to influence official action:

- **Inheritances**
- **Gifts or other things of value given by relatives or personal friends, provided that**:
 - It can be shown that it is a family or personal relationship rather than the governmental position that is the controlling factor; and
 - The public employee/official's receipt of the gift would not result in or create the appearance of: using his or her office for personal benefit; giving preferential treatment to any person or entity; losing independence or impartiality; or accepting gifts or favors for performing official duties.

If you have specific concerns or questions regarding the gift ban, please bring them to the attention of Office of General Counsel so that they may assist in resolving those.

Last Revision:

July 18, 2022