

## **FAQ Gift Compliance – Amendment 41**

### **What is Amendment 41?**

It is a gift ban for public employees. Public employees may not accept gifts with a fair market value, or aggregate actual cost greater than \$65 (This was raised from \$59 on 2/11/2019 and will remain \$65 for the next 4 years. The limit is reevaluated every 4 years). It was created with the intent of preventing bribery and corruption of public employees for the State of Colorado. It also applies to spouses.

Acceptance or receipt of any amount of money, forbearance, or forgiveness of indebtedness is a violation.

### **What is a gift?**

Anything of value – ie loans, rewards, promises or negotiations of future employment, favors or services, honoraria, travel, entertainment, or special discounts.

### **Who enforces Amendment 41?**

The Independent Ethics Commission (IEC) handles complaints, conducts investigations and holds hearings to determine if the employee has committed an ethical violation. The IEC provides formal advice about ethics issues. See the IEC website for more information [colorado.gov/iec](http://colorado.gov/iec)

### **What is the penalty?**

If there is a violation, the *individual* is liable to the state or local jurisdiction for double the amount of the financial equivalent of any benefits obtained by such actions. The manner of recovery and additional penalties may be provided by law.

### **What are the exceptions to Amendment 41?**

- Admission and cost of food at an event where you are scheduled to speak or answer questions as part of a scheduled program.
- Travel and expenses where you are part of the program paid by a non-profit — i.e., less than 5% of funding from for-profit
- Gifts from personal friends or relatives on a special occasion
- Employment Compensation
- Unsolicited items of trivial value (pen, desk set, notepad, calendar, etc.)
- Unsolicited tokens of appreciation (plaque, trophy, etc.)
- In some instances travel and other expenses where University would otherwise pay. See the following questions to determine if that may be appropriate.

Ultimately, it is the individual employee's responsibility to do their due diligence before deciding whether it is appropriate to accept a gift.

**Conference Expenses: The IEC provides a list of questions to determine whether reimbursement or discounts for conferences expenses (such as travel costs or entrance fees) are prohibited gifts:**

**Is the offer to a specific individual or to a designee of an agency or governmental entity?**

If the offer is specific to an individual, then the IEC takes issue because it looks a little more like the offer to pay the expenses might be an effort to curry favor with a public employee, which Amendment 41 prohibits.

**Is the offer ex officio?**

This factor is like the first one -- is the offer to an individual in particular or an office in general? The IEC approves of the latter but not the former.

**Is the event related to the public duties of the covered individual?**

To satisfy this factor, the conference should provide beneficial information to the person attending the conference such that attendance will help the person do their public duties or increase their expertise.

**Is there existing or potential conflict of interest or appearance of impropriety?**

The big concern of the IEC and Amendment 41 is bribery/corruption of public officials. If this conference is an effort to curry favor with public entities in order to get their business then there is likely a problem under Amendment 41.

**What is the purpose of the trip or conference?**

Is the purpose of the conference educational or for the purpose of conducting governmental business, or is it primarily a networking or social opportunity? The IEC does not approve of payment for conference expenses where the conference is primarily a networking or social opportunity. Also consider that; the IEC observes that golf trips, sightseeing, cruises, and other recreational activities are never considered part of a conference, and, while these opportunities may be benefits of the conference, the covered individual should either not attend those events or should pay his or her own way.

*Deciding whether to accept a discount, full admission, travel and other expenses can be difficult to navigate. You should always consult your supervisory upline before doing so. This is an FAQ document and not legal advice. If you are still unsure, please contact the Campus Controller's Office and the Office of University Counsel.*