

GIFTS, BRIBES & UNAUTHORIZED COMPENSATION!



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ANALYSIS OF ANTI-BRIBERY RESTRICTIONS

Sections 112.313(2) & (4), Florida Statutes



ANTI-BRIBERY ETHICS REQUIREMENTS

Prohibited Solicitation or Acceptance of Things of Value s. 112.313(2)

- Prohibits all public officers, public employees, local government attorneys, and candidates from asking for or accepting *anything of value* based upon an understanding that their vote, official action, or judgment would be influenced.

Unauthorized Compensation s. 112.313(4), F.S.

- Prohibits all public officers, public employees, and local government attorneys, **or their spouse or minor child**, from accepting *anything of value* when the official knows, or under the circumstances should know, that it was given to influence a vote or other official action.

Ghost Candidate Example



In re Alexis Pedro Rodríguez

Complaint No. 20-225, Final Order No. 21-031

- In a 2020 tight Senate race involving then-incumbent candidate Sen. José Javier Rodríguez, the Respondent agreed to accept \$44,000 in exchange for changing his party affiliation, falsifying information on his financial disclosure filing as a candidate and running as a no-party affiliation candidate.
- Fined \$20,000 and public censure/reprimand.
- In **Oct 2024** the bribe giver, former Sen. Frank Artiles, convicted of three federal charges related to a "ghost candidate" scheme!

ADVISORY OPINIONS APPLYING 112.313(2) & (4), F.S.

- CEO 21-1:** Finding that a police officer's acceptance of an offer from a landlord of reduced rent in exchange for off duty work at complex would not violate s. 112.313(2) or (4), F.S.
- CEO 14-26:** Finding that a City Council member's acceptance of a chamber of commerce designation of the councilmember's business as an "endorsed vendor" did not violate s. 112.313(2) and (4), F.S.
- CEO 80-27:** Finding that s. 112.313(4) would be violated where a university employee received a "meal card" which could be used for unlimited free meals from a food service company contracting with the university.



THE GIFTS LAW REQUIREMENTS

Section 112.3148, Florida Statutes

ADDITIONAL GIFTS REQUIREMENTS APPLICABLE TO REPORTING INDIVIDUALS

- The traditional Gifts Law — s. 112.3148, F.S.

- Gifts from political committees — s. 112.31485, F.S.

- Honoraria Law — s. 112.3149, F.S.

- See also* Locality-Specific Restrictions Imposed by City or County

THE GIFTS LAW

s. 112.3148, F.S.



- X Cannot solicit gifts from lobbyists, employers of lobbyists, and vendors of your agency.
- X Cannot accept gifts worth more than \$100 from lobbyists, principal/employers of lobbyists, vendors, certain others.
- ✓ Must report gifts worth more than \$100 received from non-restricted sources on Form 9
- ✓ May accept gifts of any value from relatives!
- ✓ Restricted donor giving gift valued at \$25 to \$100 must report the gift on Form 30 quarterly

DEFINITION OF “GIFT”

Definition of “gift” Includes:

- Tangible or intangible personal property
- Food or beverages
- Transportation
- Real property and use of real property
- Flowers and floral arrangements
- Entrance fees and tickets
- Preferential rates
- Membership dues
- Any other similar service or thing having an attributable value**

Definition of “gift” does NOT Include:

- Salary/benefits/expenses associated with **private** "employment, business, or service as an officer or director of a corporation or organization"
- Campaign contributions
- Honorarium and honorarium event related expenses
- Awards in recognition of donee's "public, civic, charitable, or professional service"
- The use of public facility/property for public purpose
- And more!

RESTRICTED DONORS: WHO ARE “LOBBYISTS” AND “VENDORS”?

PAID TO PERSUADE

- “Lobbyist”: Anyone who, for compensation, is seeking or has sought in the last 12 months to influence the governmental decisions of a RIPE or his or her agency. s. 112.3148(2)(b), F.S.
- “Vendor”: A business entity doing business directly with an agency, such as renting, leasing, or selling any realty, goods, or services. s. 112.3148(2)(f), F.S.

ANALYSIS OF GIFTS FROM RESTRICTED GIVERS: LOBBYISTS, BUSINESSES THAT EMPLOY LOBBYISTS, VENDORS, AND MORE!

Section 112.3148, Florida Statutes



ANTI-SOLICITATION FROM RESTRICTED DONORS

s. 112.3148(3), F.S.

- A RIPE **cannot solicit (ask for) a gift**, regardless of value, **from a “lobbyist”** who lobbies their agency (or the principal/partner/firm or employer of such a lobbyist), a **“vendor,”** or political committee, *if* the gift is for the personal benefit of the RIPE, another RIPE, or immediate family of either.
- Limited exception for charitable solicitations not benefiting the RIPE or their family — CEO 91-52 and CEO 95-25.

VENDOR/LOBBYIST DISCLOSURE OF GIFTS OF LESS THAN \$100

- RISEs can accept gifts from restricted sources (lobbyists, employers of lobbyists, vendors, etc.) having a value **less than \$100** and RISEs do not have to report them.
- Vendors/lobbyists can give gifts to RISEs having a value of less than \$100.
- IF a restricted donor gives a gift to a RISE having a value **between \$25 and \$100** THE GIFT GIVER (vendor/lobbyist) is required to report it on a Form 30, “Donor's Quarterly Gift Disclosure.”

PROHIBITION OF ACCEPTANCE OF GIFTS OF MORE THAN \$100 FROM RESTRICTED SOURCES

s. 112.3148(4), F.S.

A RIPE **cannot accept**, directly or indirectly, a **gift** from a **lobbyist** who lobbies their agency (or the principal/partner/firm or employer of such a lobbyist), a **vendor**, or political committee IF valued at **over \$100**.

- Reporting an impermissible gift will not cure its unacceptability.

GIFTS CASE STUDY

You are a pension board trustee. During a meeting of the board a friend who is a partner in a law firm providing services to the board via contract, offers to take you to dinner at Fancy Club. During dinner, he offers to take you deep sea fishing on his yacht next weekend and asks if you could help with the renewal of his firm's contract since you are such great fishing buddies. **What ethics issues does this raise, if any?**

GIFTS CASE STUDY ANALYSIS

Steps for Analyzing ANY Gift

1. Is this a bribe?
2. Who is giving me the gift?
3. Is the gift giver a lobbyist or vendor of my agency?
4. How much is this thing worth?
5. Less than \$100 or more than \$100?
6. If the value is more than \$100 *and* the gift giver is a lobbyist or vendor—either do not accept it or pay the value down!

Analysis of These Gifts

- Is there indication that gifts being offered to influence official decision/vote?
- Here gift giver is a **vendor** (and possibly a lobbyist) of the board. CEO 16-1
- Sect. 112.3148(4) **\$100 threshold** of acceptance re gifts from **lobbyists** and/or **vendors** of one's agency.
- Meal (food/beverages) is a gift, the value of which likely does not exceed \$100 and, if so, can be accepted
- Yacht ride > \$100 = Either **do not accept** or pay!

GIFTS FROM NON-RESTRICTED SOURCES: RELATIVES, FRIENDS & ACQUAINTANCES

Section 112.3148(8), Florida Statutes



GIFTS FROM NON-RESTRICTED SOURCES

- Applies only to Form 1 and Form 6 filers (RIPEs)
- Gifts from “relatives” of any amount can be accepted. s. 112.3148(1), F.S.
 - No reporting requirement
- Gifts from friends in community of any amount can be accepted BUT
 - Have to report if over \$100 on a Form 9
 - CEO 16-01 – Do not accept gift of over \$100 if friend is a lobbyist/vendor!

Form 9		QUARTERLY GIFT DISCLOSURE	
(GIFTS OVER \$100)			
LAST NAME -- FIRST NAME -- MIDDLE NAME:		NAME OF AGENCY:	
MAILING ADDRESS:		OFFICE OR POSITION HELD:	
CITY:	ZIP:	COUNTY:	FOR QUARTER ENDING (CHECK ONE): ☐ MARCH ☐ JUNE ☐ SEPTEMBER ☐ DECEMBER YEAR 20__

PART A — STATEMENT OF GIFTS				
Please list below each gift, the value of which you believe to exceed \$100, accepted by you during the calendar quarter for which this statement is being filed. You are required to describe the gift and state the monetary value of the gift, the name and address of the person making the gift, and the date(s) the gift was received. If any of these facts, other than the gift description, are unknown or not applicable, you should so state on the form. As explained more fully in the instructions on the reverse side of the form, you are not required to disclose gifts from relatives or certain other gifts. You are not required to file this statement for any calendar quarter during which you did not receive a reportable gift.				
DATE RECEIVED	DESCRIPTION OF GIFT	MONETARY VALUE	NAME OF PERSON MAKING THE GIFT	ADDRESS OF PERSON MAKING THE GIFT
☐ CHECK HERE IF CONTINUED ON SEPARATE SHEET				

PART B — RECEIPT PROVIDED BY PERSON MAKING THE GIFT
If any receipt for a gift listed above was provided to you by the person making the gift, you are required to attach a copy of that receipt to this form. You may attach an explanation of any differences between the information disclosed on this form and the information on the receipt.
☐ CHECK HERE IF A RECEIPT IS ATTACHED TO THIS FORM

PART C — OATH	
I, the person whose name appears at the beginning of this form, do depose on oath or affirmation and say that the information disclosed herein and on any attachments made by me constitutes a true accurate, and total listing of all gifts required to be reported by Section 112.3148, Florida Statutes.	STATE OF FLORIDA COUNTY OF _____ Sworn to (or affirmed) and subscribed before me this _____ day of _____, 20____ by _____ _____ (Signature of Notary Public-State of Florida) _____ (Print, Type, or Stamp Commissioned Name of Notary Public) Personally Known _____ OR Produced Identification _____ Type of Identification Produced _____
SIGNATURE OF REPORTING OFFICIAL _____	

PART D — FILING INSTRUCTIONS
This form, when duly signed and notarized, must be filed with the Commission on Ethics, P.O. Drawer 15709, Tallahassee, Florida 32317-5709; physical address: 325 John Knox Road, Building E, Suite 200, Tallahassee, Florida 32303. The form must be filed no later than the last day of the calendar quarter that follows the calendar quarter for which this form is filed (For example, if a gift is received in March, it should be disclosed by June 30.)

GIFTS CASE STUDY

You are a pension board trustee. Each year you host a holiday BBQ at your house and invite friends, relatives, and acquaintances to attend. This year your relatives gift you a fabulous new grill at the event! A long term vendor of the board gives you a bottle of wine. And your friend and neighbor gives you a new Big Green Egg smoker worth \$800. **What ethics issues does this raise, if any?**



GIFTS CASE STUDY ANALYSIS

Gift From Restricted Source

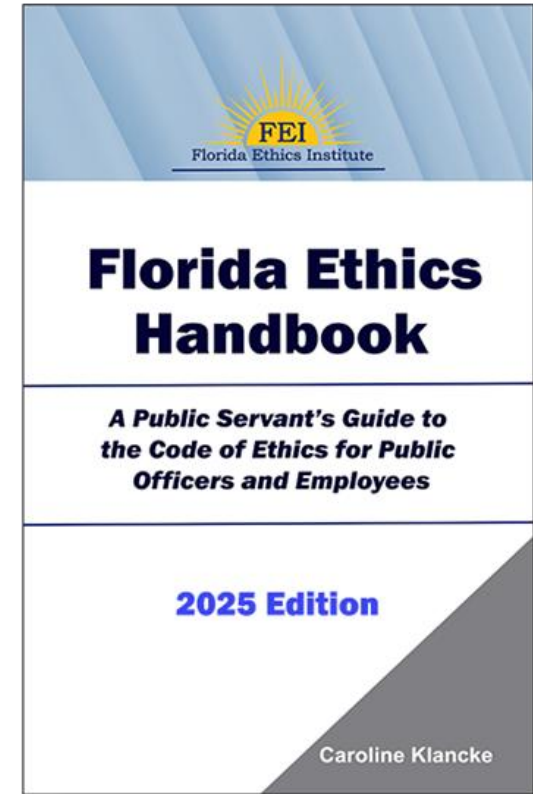
- Here a **vendor** of your board gives you a bottle of wine
- Vendors are identified by law as restricted gift givers for Form 1 filers
- Sect. 112.3148(4) **\$100 threshold** of acceptance re gifts from **lobbyists** and/or **vendors** of one's agency
- Bottle of wine likely can be accepted by Form 1 filer if less than \$100
- If it has a value between \$25 and \$100—Vendor (gift giver) needs to report it on Form 30

Analysis of Gifts from Non-Restricted Sources

- **Grill:** Grill is given by “relatives.” Gifts of any amount from relatives can be accepted and no reporting
 - “Relative” defined broadly in s. 112.312(21), F.S.
- **Big Green Egg Smoker:** Neighbor gifts you an \$800 smoker. Neighbor is not a relative. Not a restricted gift giver (not a lobbyist, vendor, etc.) either
 - No indication that it is a bribe
 - Form 1 filer can accept the gift from the non-restricted source
 - But gift has a value of more than \$100
 - Must be disclosed by gift recipient/Form 1 filer on a Form 9 “Quarterly Gift Disclosure”

GIFTS INFORMATIONAL RESOURCES

- NEW Gifts & Best Practices Guide for FPPTA members!
- *Florida Ethics Handbook*
- Florida Commission on Ethics “Attorney of the Day”
 - Each weekday at (850) 488-7864
- Your board attorney or liaison



THANK YOU!

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