

Conflicts of Interest Regarding Vendor Gifts and Gratuities

Representatives of the Offices of the Auditor General and the Attorney General have expressed concern that school district employees may be routinely accepting gifts and gratuities from vendors in violation of state law. To ensure that FUSD and its employees are not the subject of an ethics investigation or prosecution, all employees should carefully review this guidance.

State Law and FUSD Policy

Arizona Revised Statute §38-504.C prohibits public employees from accepting any gift or gratuity that would improperly influence the performance of his or her duties or judgment:

A public officer or employee shall not use or attempt to use the officer's or employee's official position to secure any valuable thing or valuable benefit for the officer or employee that would not ordinarily accrue to the officer or employee in the performance of the officer's or employee's official duties if the thing or benefit is of such character as to manifest a substantial and improper influence on the officer or employee with respect to the officer's or employee's duties.

FUSD governing board policy GBCA – Staff Conflict of Interest implements state law but is more broadly prohibitive:

No employee will accept or solicit, directly or indirectly, anything of economic value as a gift, gratuity, favor, entertainment or loan that is, or may appear to be, designed to influence the employee's official conduct. This provision will not prohibit acceptance by an employee of food or refreshments that are incidental to a business meeting, or unsolicited advertising or promotional material of nominal value.

No gift or gratuity that “may appear to be designed” to influence an employee's official conduct may be accepted. Employees should bear in mind that the question of a gift's influence is not whether the employee believes that the gift would influence his or her judgment, but whether a reasonable person observing the relationship between the vendor and employee would feel that the gift may influence the employee's judgment. The few exceptions to this rule are (i) food/beverages of nominal value received at a business meeting, (ii) advertising or promotional items of nominal value, and (iii) participation in vendor-sponsored prize drawings or free meals if offered to all attendees at a professional association conference.

Specific Guidance

The following chart describes common vendor practices that are permitted or prohibited by state law or FUSD policy. For the purpose of this guidance, “vendor” means any person or company that conducts business with the greater school community, regardless of whether the vendor currently has a contractual relationship with FUSD; and “nominal value” means the cost or market value of an item is \$20 or less.

VENDOR PRACTICES PERMITTED OR PROHIBITED BY LAW OR POLICY

PERMITTED	PROHIBITED
1. Accepting free food or beverage of nominal value that is incidental to an occasional business meeting.	1. Accepting free food or beverage that is incidental to a vendor solicitation.
2. Accepting an invitation for free food and beverage of nominal value sponsored by a vendor at a professional association conference, if the invitation is extended to all conference participants.	2. Accepting an exclusive invitation for free food and beverage sponsored by a vendor at a professional association conference.
3. Accepting an unsolicited gift of an advertising or promotional item of nominal value, such as a pen, coffee mug, or tote bag.	3. (i) Accepting unsolicited gifts of more than nominal value. (ii) Accepting cash, gift cards, or entertainment tickets regardless of value. (ii) Soliciting a vendor for a gift under any circumstance.
4. Participating in a vendor-sponsored entertainment or recreational outing if the employee pays the entire cost or value of his or her participation in the outing.	4. (i) Participating in a vendor-sponsored entertainment or recreational outing without reimbursing the vendor for the entire cost or value of his or her participation in the outing. (ii) Accepting a prize from a free drawing at a vendor-sponsored entertainment or recreational outing.
5. Accepting an award from a professional association or a vendor-sponsored prize from a free drawing conducted at a professional association conference or a public event if the drawing is conducted in good faith and all conference participants or the general public are invited to participate in the event. The prohibited acts in section 3 above do not apply to such awards or prizes.	5. Accepting an award from a vendor or a vendor-sponsored prize from a free drawing under any other circumstances.
6. Participating in a vendor-sponsored training program for a product purchased by FUSD if (i) the program expenses were included in the purchase price for the product or (ii) all travel expenses are approved and paid by FUSD.	6. Participating in an exclusive training program where the program and/or travel expenses exceed nominal value and are paid for by a vendor, unless the participation has been approved by the superintendent and the employee understands that he or she must not participate on a bid review committee involving the vendor.
7. Accepting a vendor-sponsored trip to tour a vendor's facility or installation if the need for the trip is approved by the Superintendent and all travel expenses are paid by FUSD.	7. Accepting a vendor-sponsored trip to tour a vendor's facility or installation under any other circumstances, unless the trip has been approved by the superintendent and the employee understands that he or she must not participate on a bid review committee involving the vendor.

Other Restrictions:

- FUSD and its employees shall not request past, present, or prospective vendors to make donations of money or prizes or sponsor district events. This restriction does not apply to student clubs, parent-teacher organizations, and other school-related booster clubs.
- FUSD employees shall not wear vendor advertising apparel, such as shirts or hats with vendor logos, while on duty. Apparel with the manufacturer's logo, such as the Nike swoosh, is acceptable.

In sum, the best practice for FUSD employees is to avoid accepting anything of value from a vendor. FUSD expects its employees to maintain the highest ethical standards when dealing with vendors.

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