

FREQUENTLY ASKED QUESTIONS AND ANSWERS:

Executive Order 2023-04 – Executive Branch Employee Gift Ban

During his first week in office, Governor Josh Shapiro announced a comprehensive, three-part ethics package to ensure that the highest standards of integrity guide every action taken by Commonwealth employees, appointees, and officials. This ethics package includes [Executive Order 2023-04 – Executive Branch Employee Gift Ban](#) (“Gift Ban”), which aims to prevent improper influence within the Executive Branch from lobbyists and special interest groups. The Gift Ban is an amendment to [Executive Order 1980-18 – Code of Conduct](#).

The following frequently asked questions and answers (“FAQs”) are designed to provide general guidance regarding the implementation of the Gift Ban. The examples provided in this document are intended to be illustrative and should not be construed as an exhaustive list. These FAQs will be updated as new issues and questions arise.

For assistance with interpreting and applying the Gift Ban to specific situations, employees, appointees, and officials should contact their office of chief counsel or human resource staff supporting their agency.

1. Who is Covered by the Gift Ban?

The Gift Ban applies to all employees, appointees, and officials under the Governor’s jurisdiction.

2. What is Prohibited Under the Gift Ban?

Employees, appointees, and officials under the Governor’s jurisdiction are prohibited from accepting or soliciting:

- (a) cash or cash equivalent;
- (b) a gift or other item of more than nominal or de minimis value;
- (c) admission to a recreational event;
- (d) a personal loan; or
- (e) a personal or professional service

in connection with their Commonwealth employment, from persons or entities covered under the Gift Ban, *i.e.*, a person or entity whom the employee, appointee, or official knows:

- (a) is seeking to obtain business or an outcome from or has financial relations with the Commonwealth;
- (b) conducts operations or activities that are regulated by the Commonwealth;

- (c) is engaged, either as principal or attorney, in proceedings before the Commonwealth or in court proceedings in which the Commonwealth is an adverse party; or
- (d) has interests that may be substantially affected by the performance or nonperformance of the official duty of the employee, appointee, or official.

Additionally, employees, appointees, and officials under the Governor's jurisdiction are **strictly prohibited** from accepting any gifts, cash, cash equivalent, discounts, loans, services, or any other items or other benefits of any kind or of any value from a lobbyist, lobbying firm, or principal as those terms are defined by Act 134 of 2006, P.L. 1213, § 3, as amended, 65 Pa.C.S. § 13A03 (hereinafter "[the Lobbying Disclosure Law](#)"), in connection with their Commonwealth employment. For guidance in identifying whether a person or entity is a lobbyist, lobbying firm, or principal, please visit the [Department of State's Lobbying Directory](#).

Note: Some entities may have a division, section, subsidiary, or affiliate that meets the definition of a lobbyist, lobbying firm, or principal as those terms are defined by [the Lobbying Disclosure Law](#). It is therefore important to determine, as part of the gift ban analysis, which specific division, section, subsidiary, or affiliate of an entity is providing the gift or other item or benefit, as well as the specific factual circumstances under which the gift/item/benefit is offered to the employee, appointee, or official. This may require an analysis of the reason the employee, appointee, or official received the gift/item/benefit, how it was paid for, who paid for it, and why it was paid for in that manner.

3. Who/What are Considered a Person or Entity Covered Under the Gift Ban?

The terms "person or entity" include, but are not limited to, any individual, organization, corporation, partnership, sole proprietorship, company, non-profit, local governmental entity, or political subdivision. Examples include contractors/vendors; grant applicants/recipients; licensees; regulated entities; lobbyists, lobbying firms, or their principals; special interest groups; labor unions; and county/municipal governments.

A person or entity is covered under the Gift Ban if:

- (a) they are seeking to obtain business or an outcome from or has financial relations with the Commonwealth;
- (b) they conduct operations or activities that are regulated by the Commonwealth;
- (c) they are engaged, either as principal or attorney, in proceedings before the Commonwealth or in court proceedings in which the Commonwealth is an adverse party; or
- (d) they have interests that may be substantially affected by the performance or nonperformance of the official duty of the employee, appointee, or official.

Agencies of the United States government or the government of another State are not covered persons or entities under the Gift Ban. Similarly, other Commonwealth agencies are not covered persons or entities under the Gift Ban.

4. Are Lobbyists, Lobbying Firms, and Their Principals “Persons or Entities” Covered Under the Gift Ban?

Yes. Additionally, employees, appointees, and officials under the Governor’s jurisdiction are **strictly prohibited** from accepting any gifts, cash, cash equivalent, discounts, loans, services, or any other items or other benefits of any kind or of any value from a lobbyist, lobbying firm or principal as those terms are defined by [the Lobbying Disclosure Law](#), in connection with their Commonwealth employment. For guidance in identifying whether a person or entity is a lobbyist, lobbying firm, or principal, please visit the [Department of State’s Lobbying Directory](#).

Note: Some entities may have a division, section, subsidiary, or affiliate that meets the definition of a lobbyist, lobbying firm, or principal as those terms are defined by [the Lobbying Disclosure Law](#). It is therefore important to determine, as part of the gift ban analysis, which specific division, section, subsidiary, or affiliate of an entity is providing the gift or other item or benefit, as well as the specific factual circumstances under which the gift/item/benefit is offered to the employee, appointee, or official. This may require an analysis of the reason the employee, appointee, or official received the gift/item/benefit, how it was paid for, who paid for it, and why it was paid for in that manner.

5. What is a Gift?

A gift is any gratuity, entertainment, loan, or other thing of monetary value. Examples include a round of golf, clothing, or a private dinner.

Acceptance of a gift, from a person or entity covered under the Gift Ban, by an employee, appointee, or official under the Governor’s jurisdiction, in connection with their Commonwealth employment, is prohibited unless the gift is of “nominal or de minimis value.” For information on when a gift is considered to be of nominal or de minimis value, please see FAQ # 6.

Note: The nominal or de minimis value exception to accepting a gift in connection with Commonwealth employment does **not** apply to gifts from a lobbyist, lobbying firm or principal as those terms are defined by [the Lobbying Disclosure Law](#) (see FAQ # 4). For guidance in identifying whether a person or entity is a lobbyist, lobbying firm, or principal, please visit the [Department of State’s Lobbying Directory](#).

6. When is a Gift or Item Considered Nominal or De Minimis?

A gift or item is nominal or de minimis when it is of insignificant or minimal value. Examples may include a vendor bringing a box of donuts for the employees in a

Commonwealth office, or a vendor offering to pay for an employee's \$5.00 sandwich at lunch. These gifts are of minimal value and do not carry the appearance of an attempt to influence action by Commonwealth employees, appointees, or officials.

Note: The nominal or de minimis value exception to accepting a gift in connection with Commonwealth employment does **not** apply to gifts from a lobbyist, lobbying firm, or principal as those terms are defined by [the Lobbying Disclosure Law](#) (see FAQ # 4). For guidance in identifying whether a person or entity is a lobbyist, lobbying firm, or principal, please visit the [Department of State's Lobbying Directory](#).

7. What is a Cash Equivalent?

A cash equivalent is an asset that can be easily converted into cash. Examples include a credit/debit card, crypto currency, a prepaid gift card, a foreign currency, a certified check, a cashier's check, or a money order.

Acceptance of a cash equivalent, from a person or entity covered under the Gift Ban, by an employee, appointee, or official under the Governor's jurisdiction, in connection with their Commonwealth employment, is prohibited.

8. What is a Recreational Event?

A recreational event is any professional or semi-professional sporting event, theater event, musical concert, or similar event, including transportation to and from the event.

Acceptance of admission or transportation to a recreational event, from a person or entity covered under the Gift Ban, by an employee, appointee, or official under the Governor's jurisdiction, in connection with their Commonwealth employment, is prohibited.

9. What is a Personal Loan?

A personal loan is any temporary financial assistance requiring repayment, with or without interest.

Acceptance of a person loan, from a person or entity covered under the Gift Ban, by an employee, appointee, or official under the Governor's jurisdiction, in connection with their Commonwealth employment, is prohibited.

The acceptance of a personal loan offered by a friend or a financial institution as part of an arm's length transaction, unrelated to the employee's, appointee's, or official's Commonwealth employment, is **not** prohibited under the Gift Ban. A personal loan is part of an arm's length transaction when it conforms with customary terms of finance under the circumstances, such as a home mortgage loan.

10. What is a Personal or Professional Service?

A personal or professional service is any intangible service of economic value or benefit performed by a person or business, such as IT services for your home, home construction, cleaning services, or lawncare services.

Acceptance of a free or discounted personal or professional service, from a person or entity covered under the Gift Ban, by an employee, appointee, or official under the Governor's jurisdiction, in connection with their Commonwealth employment, is prohibited.

11. Are there Exceptions to the Gift Ban?

Yes. Below are the limited exceptions to the Gift Ban.

- (a) Ordinary social hospitality may be accepted only when incidental to officially sanctioned Commonwealth trainings, such as approved continuing education and working lunches, or in connection with an official government function or other event in which the employee, appointee, or official is representing the Commonwealth in an official capacity.
- (b) Gifts from a friend, parent, spouse, child, or other close relative may be accepted when the circumstances make it clear that the motivation for the action is a family or personal relationship.
- (c) Receipt of a plaque, certificate, or other similar item of de minimis value may be accepted for recognition of the employee's, appointee's, or official's professional work or personal community service.
- (d) Tangible items, benefits, or discounts which are unsolicited may be accepted when the same or similar benefit or discount is available to members of the general public.
- (e) Food or refreshment of nominal value on infrequent occasions in the ordinary course of a luncheon or dinner meeting or other meetings may be accepted, and recreation, entertainment, food, or refreshments of nominal value in the furtherance of a charitable event may be accepted.
- (f) Unsolicited advertising or promotional material, such as pens, pencils, note pads, mugs, t-shirts, calendars, and other such items of nominal intrinsic value may be accepted.
- (g) Bona fide reimbursement for actual expenses for travel and such other necessary subsistence may be received if it is compatible with other restrictions set forth in the Gift Ban and if no Commonwealth payment or reimbursement is made. However, an employee, appointee, or official may not be reimbursed and payment may not be made on his/her behalf for excessive personal living expenses, gifts, entertainment, or other personal benefits nor may an employee, appointee, or official be reimbursed by a person for travel on official business under Commonwealth orders.

- (h) Participation in the affairs of or acceptance of an award for a meritorious public contribution or achievement from a charitable, religious, professional, social, fraternal, or nonprofit educational, recreational, public service, or civic organization is permitted.
- (i) A voluntary gift of nominal value or donation in a nominal amount made on a special occasion such as marriage, illness, or retirement may be accepted.

Note: These limited exceptions **do not apply** to any gifts, cash, cash equivalent, discounts, loans, services, or any other items or other benefits of any kind or of any value, which an employee, appointee, or official under the Governor’s jurisdiction receives from a lobbyist, lobbying firm, or principal as those terms are defined by [the Lobbying Disclosure Law](#), in connection with their Commonwealth employment. Under the Gift Ban, employees, appointees, and officials under the Governor’s jurisdiction are **strictly prohibited** from accepting any gifts, cash, cash equivalent, discounts, loans, services, or any other items or other benefits of any kind or of any value from a lobbyist, lobbying firm or principal as those terms are defined by [the Lobbying Disclosure Law](#), in connection with their Commonwealth employment (see FAQ # 4). For guidance in identifying whether a person or entity is a lobbyist, lobbying firm, or principal, please visit the [Department of State’s Lobbying Directory](#).

12. Do the Exceptions to the Gift Ban Apply to Gifts Received from a Lobbyists, Lobbying Firm, or Their Principals?

No. The limited exceptions to the Gift Ban **do not apply** to any gifts, cash, cash equivalent, discounts, loans, services, or any other items or other benefits of any kind or of any value, which an employee, appointee, or official under the Governor’s jurisdiction receives from a lobbyist, lobbying firm, or principal as those terms are defined by [the Lobbying Disclosure Law](#), in connection with their Commonwealth employment. Under the Gift Ban, employees, appointees, and officials under the Governor’s jurisdiction are **strictly prohibited** from accepting any gifts, cash, cash equivalent, discounts, loans, services, or any other items or other benefits of any kind or of any value from a lobbyist, lobbying firm or principal as those terms are defined by [the Lobbying Disclosure Law](#), in connection with their Commonwealth employment. For guidance in identifying whether a person or entity is a lobbyist, lobbying firm, or principal, please visit the [Department of State’s Lobbying Directory](#).

13. What Constitutes Ordinary Social Hospitality Incidental to an Officially Sanctioned Commonwealth Training?

Snacks, hors d’oeuvres, refreshments, or meals constitute ordinary social hospitality incidental to an officially sanctioned Commonwealth training when:

- (a) the employee, appointee, or official is attending the training event as part of their Commonwealth duties;

- (b) the snacks, hors d'oeuvres, refreshments, and/or meals are provided as part of the training event;
- (c) the snacks, hors d'oeuvres, refreshments, and/or meals are available to all attendees at the training event; and
- (d) the value of the snacks, hors d'oeuvres, refreshments, and/or meals do not exceed the [General Services Administration \(GSA\) rate](#) for the applicable time period and location.

Note: If the host of the training event **is** a lobbyist, lobbying firm, or principal as those terms are defined by [the Lobbying Disclosure Law \(Department of State's Lobbying Directory\)](#), the snacks, hors d'oeuvres, refreshments, and/or meals may **not** be accepted by the employee, appointee, or official (see FAQ # 4).

Where the value of the snacks, hors d'oeuvres, refreshments, and/or meals exceeds the GSA rate, or the host of the training is a lobbyist, lobbying firm, or principal, the employee, appointee, or official must either:

- (a) decline the snacks, hors d'oeuvres, refreshments, and/or meals; or
- (b) pay to the host of the training event the difference between the applicable GSA rate and the actual value of the snacks, hors d'oeuvres, refreshments, and/or meals consumed and, if appropriate, seek reimbursement from the Commonwealth.

For additional guidance, employees, appointees, and officials should contact the human resource staff supporting their agency.

14. May an Employee, Appointee, or Official Accept Food or Refreshments, that are Paid for by a Person or Entity Covered by the Gift Ban, During an Official Government Function or Event in which the Employee, Appointee, or Official is Representing the Commonwealth in an Official Capacity?

Employees, appointees, and officials may accept food or refreshments, which are paid for by a person or entity covered by the gift ban, during an official government function or event in which the employee, appointee, or official is representing the Commonwealth in an official capacity, if:

- (a) the lunch is provided as part of the government function or event;
- (b) the lunch is available to all participants at the government function or event; and
- (c) the value of the lunch does not exceed the [General Services Administration \(GSA\) rate](#) for the applicable time period and location.

Note: If the food or refreshments are paid for by a lobbyist, lobbying firm, or principal as those terms are defined by [the Lobbying Disclosure Law \(Department of State's Lobbying Directory\)](#), food or refreshments may **not** be accepted by the employee, appointee, or official (see FAQ # 4).

Where the value of the food or refreshments exceeds the GSA rate, or is provided by a lobbyist, lobbying firm, or principal, the employee, appointee, or official must:

- (a) decline food or refreshments; or
- (b) pay to the person or entity hosting the training event the difference between the applicable GSA rate and the actual value of the food or refreshments consumed and, if appropriate, seek reimbursement from the Commonwealth.

For additional guidance, employees, appointees, and officials should contact the human resource staff supporting their agency.

15. May an Employee, Appointee, or Official Accept a Benefit or Discount from a Business that is Offered Exclusively to Employees, Appointees, or Officials of the Commonwealth?

No. Employees, appointees, and officials may not accept benefits or discounts that are offered to them solely because of their Commonwealth employment.

This prohibition does not apply to benefits or discounts procured by the Commonwealth for its employees, appointees, or officials, such as those offered through [PA Employee Savings](#). Similarly, this prohibition does not apply to benefits or discounts offered to the general public.

16. May an Employee, Appointee, or Official Accept an Award or Similar Token in Recognition of their Public Service?

Yes. Employees, appointees, and officials may accept an award for a meritorious public contribution or achievement from a charitable, religious, professional, social, fraternal, or nonprofit educational, recreational, public service, or civic organization. Similarly, receipt of a plaque, certificate, or other similar item of de minimis value may be accepted for recognition of the employee's, appointee's, or official's professional work or personal community service.

It should be noted, however, that employees, appointees, and officials may **not** accept an "honorarium." An "honorarium" is defined under the Public Official and Employee Ethics Act ("State Ethics Act") as a "[p]ayment made in recognition of published works, appearances, speeches, and presentations and which is not intended as consideration for the value of such services which are nonpublic occupational or professional in nature." Items that are of de minimis value are not considered "honorarium" under the State Ethics Act.

17. **May an Employee, Appointee, or Official Accept Branded Trinkets from a Person or Entity Covered by the Gift Ban?**

An employee, appointee, or official may accept unsolicited advertising or promotional material, such as pens, pencils, notepads, mugs, t-shirts, calendars, or other such items of nominal intrinsic value.

Note: This exception does **not** apply to trinkets received from a lobbyist, lobbying firm or principal as those terms are defined by [the Lobbying Disclosure Law](#), in connection with the recipient's Commonwealth employment (see FAQ # 4). For guidance in identifying whether a person or entity is a lobbyist, lobbying firm, or principal, please visit the [Department of State's Lobbying Directory](#).

18. **Is Reimbursement by a Professional Organization for Travel Expenses Related to an Employee's, Appointee's, or Official's Attendance at an Event Hosted by the Professional Organization Permitted Under the Gift Ban?**

A professional organization may provide reimbursement for travel expenses incurred in connection with an employee's, appointee's, or official's attendance at an event hosted by the professional organization if:

- (a) the Commonwealth is a dues-paying member of the professional organization, or the Commonwealth pays the employee's dues for membership in the professional organization, or the professional organization is charging the Commonwealth a registration fee to attend the event;
- (b) reimbursement for attendees' travel-related expenses is a benefit offered by the professional organization as part of the membership dues or registration fee paid by the Commonwealth;
- (c) the employee, appointee, or official is attending the event on behalf of the Commonwealth;
- (d) where possible, the reimbursement is made directly to the Commonwealth by the professional organization, in accordance with [Manual 230.01 Amended, Commonwealth Travel Procedures Manual](#); and
- (e) the professional organization is **not** a lobbyist, lobbying firm, or principal as those terms are defined by [the Lobbying Disclosure Law \(Department of State's Lobbying Directory\)](#) (see FAQ # 4).

Work-related travel expenses include transportation costs, lodging costs, and necessary food/refreshments costs. Work-related travel expenses do not include excessive personal living expenses, gifts, entertainment, alcohol, or other personal benefits.

Note: A professional organization that is comprised exclusively of state or federal governmental entities is **not** considered an entity covered by the Gift Ban (see FAQ # 3).