



New York State Joint Commission on Public Ethics

540 Broadway, Albany, NY 12207

518-408-3976 - main

518-486-7842 – Public Information Office

walter.mcclure@jcope.ny.gov

press@jcope.ny.gov

JCOPE Issues Advisory Opinion on Third Party Gifts

Provides Guidance to Identify Whether a Gift is Permissible

(ALBANY, NY) October 1, 2020 – The Joint Commission on Public Ethics (“Commission”) today announced that at its September meeting, the Commissioners issued Advisory Opinion 20-02, which clarifies the application of the gift restrictions in the Public Officers Law and the Lobbying Act to gifts made to a third party at the direction of or on behalf a public official.

This Opinion comes following a number of requests for guidance about the permissibility of contributions or gifts given to a third party, such as a charitable organization, at the solicitation of a public official. The Opinion explains that the statutes and Commission regulations that presumptively prohibit a gift to a public official from someone who has or may have business before the official also presumptively prohibit a gift to a third party that is solicited by a public official or an intermediary acting on the official’s behalf, or when the official demonstrates by their conduct that they are aware of the gift. The Opinion provides guidance to public officials, lobbyists, and their clients about how to identify an impermissible third-party gift, and it discusses the presumption of impermissibility, which can only be overcome by examining the specific circumstances under which the gift was made.

Those circumstances include the nature or purpose of the gift (e.g. if it serves a general philanthropic goal, or furthers a policy or political goal), the nature of the donor’s pending business before the official, and the prior history of gifts to the cause or third-party organization. It is the Commission’s expectation that this Advisory Opinion will not only provide guidance to regulated parties about how to act within the bounds of the law, but will also educate the general public on the issue, providing additional accountability for those involved in the operation of government. The Commission has settled several matters on this subject in recent years, specifically related to the former Campaign for One New York, a not-for-profit corporation formed in 2013 to help support policy initiatives of New York City Mayor Bill de Blasio.

To read more about Advisory Opinion 20-02, go to jcope.ny.gov, click on the ‘Laws’ tab, and then go to ‘Advisory Opinions.’