

# State Department of Education Policy for Solicitation and Acceptance of Gifts or Donations of Things of Value

## I. Introduction

Members of the State Board of Education (SBE), officers and employees of the Oklahoma State Department of Education (OSDE) must comply with the State Ethics Commission laws. These laws can be found in Title 74, Chapter 62 of the Oklahoma Statutes at Appendix Title 257.

Rule 257:20-1-4 of the State Ethics Commission prohibits state officers and state employees from:

- Using their official positions to solicit or secure special privileges, exempts, or compensation from themselves or others, except in the performance of their duties or as may be allowed by law and
- Soliciting or receiving any compensation that would impair their independence of judgment for their services as officers or employees of a state agency, from any source other than the state, unless otherwise provided by law.

## II. Solicitation or Acceptance of Gifts or Donations of “Things of Value” by Individual Employees

In order to minimize risk to OSDE officers and employees from potential conflicts with State ethics laws as a result of their OSDE employment, no officers or employees of the OSDE shall engage in any solicitation or acceptance of donations of “things of value” on behalf of the State Board of Education or the OSDE without prior approval of the State Board of Education. Officers or employees of the OSDE who solicit or accept gifts or donations either verbally or in writing from any source without express authorization in accordance with this policy may be subject to disciplinary action, including dismissal. The scope of solicitation or acceptance of donations of “things of value” on behalf of the SBE permitted pursuant to this section shall be limited to the authority granted to the State Board of Education pursuant to 70 O.S. § 3-104. The scope of solicitation or acceptance of donations of “things of value” on behalf of the OSDE permitted pursuant to this section shall be limited to the authority granted to all state agencies pursuant to 60 O.S. § 381, *et seq.*, and subject to the provisions of 60 O.S. § 383.

## III. Definition of a “Thing of Value” or “Things of Value”

A. In considering whether a particular item proposed for gift or donation to the OSDE or its officers or employees constitutes a “thing of value,” the OSDE applies the definition of “thing of value” set forth in Rule 257:1-1-2 of the Oklahoma Ethics Commission.

1. Examples of items considered “things of value” **include**, but are not limited to:
  - a. Loans or debt forgiveness which is not on terms generally available to the public; [257:1-1-2(1)(H)]
  - b. Honoraria; or compensation for services, unless the services are paid for by the state government or secured by the state government under state government contract; [257:1-1-2(1)(L)]
  - c. Promises or offers of employment; [257:1-1-2(1)(N)]
  - d. Transportation (unless specifically excluded below), lodging, or entertainment [257:1-1-2(1)(O)]
2. Examples of items **excluded** from the definition of a “thing of value” include:
  - a. A plaque or trophy with a value that does not exceed two hundred dollars (\$200.00); [257:1-1-2(2)(E)]
  - b. Transportation which is:

(i) Furnished to a state officer or state employee for the purpose of assisting the officer or employee in the performance of the officer's or employee's official duties and from which the officer or employee receives only incidental personal benefits ancillary to said purpose; [257:1-1-2(2)(P)]

(ii) Provided by a governmental agency or governmental enterprise of a foreign nation as a gesture of hospitality. [257:1-1-2(2)(Q)]

c. Food and beverages which are:

(i) Modest items (e.g., soft drinks, coffee and donuts) when not offered as part of a meal; [257:1-1-2(2)(F)]

(ii) Served at a meeting at which the state officer or state employee is an invited guest; [257:1-1-2(2)(S)]

(iii) Consumed during participation in a charitable, civic, or community event when the officer or employee is attending in an official capacity; [257:1-1-2(2)(G)]

(iv) Provided by a governmental agency or governmental enterprise of a foreign nation as a gesture of hospitality; [257:1-1-2(2)(Q)]

d. Gifts or donations:

(i) Not used, and no later than thirty (30) days after receipt has been returned to the donor or delivered to a charitable organization and not claimed as a charitable contribution for tax purposes; [257:1-1-2(2)(C)]

e. Anything which is paid for by the state government or secured by the state government under state government contract; [257:1-1-2(2)(M)]

f. Any gratuity provided at a meeting, conference, or seminar by sponsors, exhibitors, etc., the cost of which is not borne by a registrant to such meeting, conference, or seminar, and which is available to all registrants; [257:1-1-2(2)(T)]

g. Any single item with a fair market value not exceeding Ten Dollars (\$10.00) provided to a state officer or state employee during a calendar year; provided, if a donor provides more than one such item to a state officer or state employee during a calendar year, any such additional items shall not be subject to this exception; [257:1-1-2(2)(U)]

h. Any gift or donation accepted on behalf of the State of Oklahoma or a governmental entity by the Governor pursuant to 60 O.S. § 381. [257:1-1-2(2)(N)]

**B.** In addition to the items specifically excluded from the definition of a "thing of value," State ethics laws specifically exempt the following items from the prohibitions on solicitation or acceptance even though they may fall within the definition of "things of value":

a. Employee compensation, bonuses, dividends, interest payments, employee benefits, expense reimbursements; [257:20-1-9(f)(1)]

b. Anything of value which has been accepted by the Governor on behalf of the State or on behalf of a governmental entity pursuant to 60 O.S. § 381 et seq.; [257:20-1-9(f)(2)]

c. Anything of value solicited/accepted for or from a charitable organization, when the solicitation or acceptance is directly related to the purposes or mission of the organization; [257:20-1-9(f)(3)]

d. Anything of value for or from a tax-exempt professional organization established by state statute or rules passed by the Oklahoma Supreme Court when a state officer or state employee is a member, officer or director of the organization and the receipt of anything of value results from the state officer or state employee attending a function, meeting or seminar on behalf of, or as a representative of, the organization; [257:20-1-9(f)(4)]or

e. Anything of value solicited/accepted by or on behalf of a state officer or state employee, or an immediate family of a state officer or state employee, as a humanitarian effort to assist a victim of a catastrophic accident or life threatening disease, illness or disability, or a victim of a natural disaster or similar event; [257:20-1-9(f)(5)]

f. Need-based or merit-based financial aid awards, tuition waivers, scholarships or educational grants awarded to a state officer, state employee, or family member of a state officer or state employee as long as the item is not given to or accepted by the employee for one or more of the following purposes:

- (i) To influence the officer or employee in the performance of an official act;
  - (ii) To influence the officer or employee to commit, aid in committing, collude in, or allow fraud, or make an opportunity for the commission of fraud on a governmental entity; or
  - (iii) To induce the officer or employee to perform or fail to perform an act in violation of the state officer's or state employee's official duty.
- [257:20-1-9(f)(6)]

#### **IV. Procedure for Approval and Acceptance of Gifts or Donations of “Things of Value”**

All proposed gifts or donations of “things of value” to individuals in their official capacities as OSDE officers or employees must be submitted for review to the OSDE Office of Legal Services prior to acceptance. The Office of Legal Services will review the proposed gift or donation to determine (1) whether the item is considered a “thing of value”; and (2) whether acceptance of the gift or donation requires approval of either the State Board of Education or the Governor.

All proposed gifts or donations of “things of value” must be formally accepted by either the Oklahoma State Board or the Governor of Oklahoma prior to use by OSDE. To be properly processed, all gifts and donations of any kind offered to the OSDE shall be made and recorded as follows:

- a. Each donor shall fill out a Sponsorship/Donation Approval Form, which can be found on our OSDE website. Donors are required to disclose and describe the gift, the dollar figure of the gift, and the intended purpose of the gift.
- b. Value is the fair market value of the item or gift and not the wholesale or discounted value of the item.
- c. Calls or inquiries about how to donate to OSDE should be directed to the Director of Financial Services or the Purchasing Manager.
- d. The donation forms should be submitted to the Director of Financial Services, who in collaboration with the Purchasing Manager, will determine if the nature of the gift is for the use and benefit of the public schools or is for the use or benefit of the OSDE.
  - (1) If the gift or donation is determined to be for the benefit of OSDE, the Director of Financial Services will notify General Counsel and the Superintendent of the gift information so that it may be transmitted to the Governor’s office for approval and acceptance.
  - (2) If the gift or donation is determined to be for the use and benefit of the public schools, the Director of Financial Services will place the gift on the Gift Donation Report, which will be a regular agenda item for approval by the Oklahoma Board of Education. The Gift Donation Report shall include a list of all gifts received during the last month by OSDE and include the name of the donor, the amount of the gift, the intended use of the gift, the fair market value of the gift and

shall disclose any conflicts of interest (i.e. donor has a state contract with OSDE, is regulated by the agency, is a lobbyist or lobbyist principle, is seeking to do business with OSDE). The Director of Financial Services and Purchasing Manager will determine if the gift will or will not benefit public schools and make a recommendation to the Board in the written Gift Donation Report.

e. No donation or gift can be used by OSDE without prior approval from the State Board of Education. Therefore, all gifts must be approved by the Board before they are used.

(1) The Donation/Sponsorship Form must be turned in to the Director of Financial Services at least thirty (30) days prior to the event, training, conference or seminar that for which the gift is intended to ensure its inclusion in the Gift Donation Report.

(2) In the event a gift or donation is made less than (30) days prior to the event, training, conference or seminar for which it is intended, the Director of Financial Services immediately upon receipt of the Donation/Sponsorship Form will check to ensure the gift can be considered and accepted by the Board in time for it to be accepted and used.

f. Once a gift or donation is approved by either the State Board of Education or by the Governor, the Director of Financial Services will communicate the approval to the appropriate OSDE personnel for use by OSDE.

g. The Director of Financial Services shall keep a list of all approved and non-approved donations and will issue appropriate correspondence to the donors. The Director of Financial Services will also be responsible for reporting the gifts received and used in any required accounting or reporting mandates.

h. The donor of any gift or donation that is not approved or accepted by the State Board of Education or the Governor, regardless of the reason of denial, will receive a written explanation explaining the denial of the gift or donation.

## **V. Gifts or Donations to the OSDE for the Benefit of Public Schools.**

A. 70 O.S. § 3-104(12) authorizes the State Board of Education to “Accept and provide for the administration of any land, money, buildings, gifts, donation or other things of value which may be offered or bequeathed *to the schools under the supervision or control of said Board.*”. No “thing of value” offered or bequeathed to the State Department of Education for distribution to public schools under the supervision of the State Board of Education can be accepted by the OSDE and/or distributed to the public schools by the OSDE without prior approval and acceptance by the State Board of Education.

B. Upon receipt of any offer of a gift or donation intended to benefit public schools or officers and employees of public schools which are under the supervision of the State Board of Education, OSDE employees should immediately notify the OSDE Office of Legal Services and provide a copy of all documentation of the proposed gift/donation to OSDE General Counsel for review.

C. Upon review, OSDE Legal Services will determine whether the acceptance of the potential gift/donation requires further approval of the State Board of Education. If necessary, the Office of Legal Services will request the Secretary of the State Board of Education to place the proposed gift/donation on the agenda as an action item for consideration the next available meeting of the State Board of Education.

D. Until the proposed gift/donation has been approved for acceptance by the State Board of Education, the potential donor should be advised that the OSDE is unable to accept the gift/donation until formal acceptance has been made by the State Board of Education.

## **VI. Gifts or Donations to the OSDE or Employees/Officers of the OSDE**

A. Any donation or gift of a “thing of value” offered or bequeathed to the OSDE that is intended to benefit either the OSDE or officers or employees the OSDE is subject to approval and acceptance by the Governor in accordance with 60 O.S. § 383 unless the item falls within one of the exceptions stated in Part III of this policy.

B. Within ten (10) days of receipt of any offer of a gift or donation intended to benefit the OSDE or officers and employees of the OSDE, the OSDE officer or employee in receipt of the offer shall immediately notify the OSDE Office of Legal Services and provide a copy of all documentation of the proposed gift/donation to OSDE General Counsel for review. The documentation should include a letter from the potential donor which describes the proposed gift/donation and states the value of the gift.

C. Upon review, OSDE Legal Services will determine whether or not acceptance of the potential gift/donation requires approval of the Governor.

D. If OSDE Legal Services determines that the potential gift/donation requires approval of the Governor, the Superintendent will send a letter to the Governor requesting acceptance of the gift.

E. If the Governor does not notify the OSDE Office of Legal Counsel of acceptance of the gift/donation within thirty (30) days of receipt of the Superintendent's letter, the gift is deemed rejected and any portion of the gift within the possession, custody and/or control of the OSDE must be returned to the donor.

## **VII. Donations or Reimbursement of Expenses for OSDE Employee Attendance at Professional Development Conferences**

The OSDE may accept waivers of tuition, waivers of registration fees, and/or reimbursements for the expenses of conference registration, travel, lodging, or other incidental expenses incurred by OSDE officers or employees who attend professional conferences or professional development/training seminars in their official capacities without further approval of the State Board of Education or the Governor if the expenses meet all of the following criteria:

1. The costs of the waiver of tuition or fees or reimbursement of expenses are not borne by an entity which does business, or seeks to do business with the state;
2. The costs of the waiver of tuition or fees or reimbursement of expenses are not borne by an entity which has a pecuniary interest in or would derive a reasonably foreseeable benefit from any official action pending before the OSDE or the State Board of Education;
3. The offer of a waiver of tuition or fees or reimbursement of expenses is not being provided for a purpose set forth in III.B.(f) of this policy;
4. Reimbursement for expenses of travel and/or lodging is limited to the expenses occurred by the OSDE officer or employee in his or her official duty.

## **VIII. Donations for Emergency Humanitarian Relief**

Pursuant to Rule 257:20-1-9 of the State Ethics Commission, in the event of a catastrophic event natural disaster, or other tragedy affecting public schools, public school employees, or public school students or their parents, the State Board of Education hereby authorizes the State Superintendent of Public Instruction to permit officers and employees of the State Department

of Education to solicit and collect donations of relief items or other similar things of value as a humanitarian effort to assist victims of a disaster without prior authorization of the State Board of Education.