



Holiday Edition



December 2020

On behalf of the State Ethics Commission and its staff, I want to wish you and your family Happy Holidays! It has been a very challenging year for us all, but I am hopeful that 2021 will be a year in which we begin to overcome the nation's health crisis and continue our important contributions to the State of North Carolina. We are very much looking forward to moving our offices back to the Capehart-Crocker house in early 2021 and continuing to build Team Ethics. Thank you all for your support and patience over the past few years.

Kathleen Edwards, Executive Director



Ethics Act Gift Ban

The holidays are almost here, and you all know what that means...hot cocoa, holiday lights, fireside family gatherings, and gift ban questions! Whether in person, socially distanced, or on Zoom, holiday celebrations and gift-giving this year are still subject to the gift ban of the Ethics Act and Lobbying Law. This newsletter summarizes the gift ban and provides information to help you navigate gift-giving this holiday season. As always, if you have any questions or doubts about what may or may not be allowed, please contact our office and we will be happy to assist you.

What is the Gift Ban?

The Ethics Act prohibits public servants, legislators, and legislative employees from accepting gifts from lobbyist and lobbyist principals, and public servants from accepting gifts from those doing or seeking to do business with the State, unless a gift ban exception applies. (See G.S. 138A-32). Likewise, the Lobbying Law prohibits lobbyists, lobbyist principals, and liaison personnel from giving gifts to those individuals. (See G.S. 120C-303 and -501).

What is a Gift?

A *gift* is anything of monetary value given or received without valuable consideration. In North Carolina, there is no allowance for *de minimis* or small gifts, so all gifts from givers listed above are prohibited unless an exception applies.



Gift Ban Continued...

Who is Covered?

Not sure if the gift ban applies to you? Names of covered persons and boards can be found at: <https://ethics.nc.gov/coverage>.

Public Servants – Unless an exception applies, cannot *accept* gifts from lobbyists, lobbyist principals, or those seeking or doing business with the State, who are regulated by the State, or have financial interests that may be impacted by a public servant's actions.

Legislators & Legislative Employees – Unless an exception applies, cannot *accept* gifts from lobbyists, lobbyist principals, or liaison personnel.

Lobbyists, Lobbyists Principals & Legislative Liaison Personnel – Unless an exception applies, cannot give gifts to legislators, legislative employees. Search for registered lobbyists, lobbyist principals and liaison personnel at: https://sosnc.gov/online_services/search/by_title/lobbying.





Holiday Gift Ban Q & A

Q: *May I give/receive a holiday greeting card?*

A: Yes, holiday greeting cards are not considered gifts and may therefore be exchanged without violating the gift ban.

Q: *What about gifts from family members?*

A: Gifts to/from extended family members or members of the same household are allowed but may need to be reported if a registered lobbyist is doing the giving.

Q: *I'm a Public Servant/Legislator/Legislative Employee, can I ask my employees to contribute to a local charity instead of giving me a holiday gift?*

A: No, covered persons are generally prohibited from soliciting charitable donations from subordinate State employees, although generic written solicitations sent to all employees are allowed.

Q: *What should I do if I receive a prohibited gift?*

A: Promptly decline or return it, pay fair market value for it, or donate it to a charity or the State. And make sure you get a receipt if you decide to pay for it or donate it to charity.

Q: *What should I do if I'm uncertain about whether I can give/receive a gift?*

A: If you have any questions or doubts, please contact the State Ethics Commission staff and we will be happy to assist you.

Q: *May I attend a holiday party hosted by my neighbor, a lobbyist?*

A: Since the food and beverages are being given by a lobbyist, a gift ban exception must apply before you join in the merriment. One exception allows gifts given as part of a business, civic, religious, fraternal, personal, or commercial relationship if: (1) that relationship is not tied to your public position; and (2) the gift is not given to lobby you. Here, since you were invited the party because you are a neighbor, and not because you are a public servant, and you are being given the same food and beverages as all attendees, you may accept the food and beverages.

Final Words of Wisdom – Don't Forget, You Wear Your "Covered Person" Hat at all Times!

If you are a public servant, legislator, or legislative employee, remember you "wear that hat" 24/7/365, not just during the holidays and not only when you are engaged in your official duties. Before accepting a gift, you should always consider the following 3 questions:

- Is this a "gift" as defined in the Ethics Act? Remember, a "gift" is anything with monetary value, regardless of the amount of the value.
- Who is paying for or funding the gift? In other words, is the gift directly, or indirectly, being paid for or funded by a lobbyist, lobbyist principal, liaison personnel, or interested person?
- If the gift is from a prohibited giver, does the gift fit within a gift ban exception? If no exception applies, you cannot accept the gift. A full list of exceptions is listed in [G.S. § 138A-32\(f\)](#).



A Very Long SEI Season

Sigh...what a year 2020 has been! When the COVID-19 Pandemic hit in March, the SEI Unit was in the middle of the SEI filing season. With it being an election year, there were also many candidates that were required to file in addition to the 6500+ regular filers. It was a record year for the number of candidates, with over 800 filing for candidacy in December 2019. As you can imagine, with an April 15 statutory deadline and Ethics staff teleworking, this year's filing season was a challenge for us all.

In March, when teleworking began, most Ethics Commission staff members did not even have laptops. Figuring out how to productively work from home during the busy SEI filing season was overwhelming, but with a statutory deadline we had to make it work. On June 15th, over 1200 covered persons had not yet filed their SEIs. The SEI team reached out to late filers and by the August 13, 2020, Ethics Commission meeting, we had less than 150 late filers to present to the Commission for fine consideration.

With consideration for the unique challenges our filers faced because of the pandemic, the Commission suspended any fines for one month. This gave late filers one additional opportunity to file their SEIs, extending the filing deadline to September 13, 2020. Ultimately, only 19 late filers were fined, including six candidates. Although this year presented its fair share of challenges for the SEI filing season, with the help of the Ethics Liaisons our team stepped up to the plate and reduced the number of late filers from 1,200 to less than 20 before the end of the year.



New Ethics Education Webinars

The pandemic has created many changes, challenges, and opportunities. This Spring, the Ethics Commission took advantage of the difficult circumstances to change the way it delivers live ethics education to public servants. It developed a live ethics education webinar using Microsoft Teams software.

Twenty-five people participated in the first webinar in May.



After smoothing out a few connectivity problems in the beginning, feedback from the webinars has been quite positive. By October, enrollment had increased to 50 participants.

The webinar has three advantages compared to earlier live presentations: (1) They allow public servants and others to avoid indoor conference rooms and complete required ethics education safely; (2) They are presented by legal counsel to the Commission who is prepared to answer questions in real time; and (3) The program has been streamlined to be completed in about 90 minutes.

Participants have been pleased with this live option, as it has proven to be technologically simple and engaging for viewers. Plus, people can take the training in their pajamas if they wish! (We won't tell!)



A webinar is scheduled for December 16, 2020. Classes for 2021 will be scheduled and posted shortly. Please make sure your agency is up-to-date on Ethics education compliance by checking here <https://et.ncsbe.gov/Report>. And encourage board members, employees and other public servants to register at the Ethics Commission website: <http://ethics.nc.gov>.



Hero Corner

Because Ethics Liaisons are our heroes!

Did you know...

...that our database system is not automated or linked to outside sources?

When a member joins or leaves a Board or Commission, or an employee's exempt status changes, we rely on the Ethics Liaison to tell us so we can make the update and start tracking compliance with the Ethics Act.

...that we need specific information for creating a record for a new member?

When you send an update, please send the **appointment start and end date**, **appointing authority**, **Board role** (if applicable), **who the member replaces** and **contact information** for the new members. **Tip:** send the appointment letter – it's super helpful!

...that we have a [webpage](#) dedicated to *Ethics Liaisons*?

It is on our new website under the heading "**Ethics Liaison**": there you will find general information, links, and searchable database for tracking your members' compliance with filings and education requirements.

Your Questions Answered:

Q – *Our Ethics Liaison left! Who should we assign to be our new EL?*

A – Thank you for asking! Assigning the ethics liaison role correctly is an important decision -- the EL is critical to ensuring statutory compliance as they are a liaison to Ethics Commission staff, responding to staff requests for details on covered persons, ensuring SEI and education compliance, and assisting covered persons with gift ban and conflict of interest questions—so we are happy to provide some guidance from experience:

For a **board or commission**, we find that an Ethics Liaison must have access to or handle the *administrative functions* for the board. Someone who routinely interacts with the board members will do particularly well in that role. For a **State agency**, we recommend that the Ethics Liaison also have access to or handle human resources information and administrative matters re: new hires, exempt employee status, or employees leaving their agency.

If you any additional questions, or a follow-up, call us at the Commission and we will be happy to help!

Ethics Liaison Superheroes- Recognition for outstanding service!



🏆 **ZIA RIFKIN** of **Land of Sky RPO** and **French Broad River MPO TACs**

Zia is the EL for two different entities and does a fantastic job with both! She consistently and timely informs Ethics Commission staff of membership changes. She always communicates ethics requirements to her new members, so they know what to do, what to file and when to do it. She follows up to make sure her members complete their filings. **Thank you, Zia!**

🏆 **LAURA ROWE** of the **State Treasurer's Office**

Laura is responsible not only for all covered Treasurer employees, but for seven boards and commissions as well. She works diligently to ensure her covered individuals are compliant, and she is proactive when notifying us of changes in board membership or in agency personnel. Tracking changes to the covered status of employees is very demanding, and we could not do our job without the assistance of our Ethics Liaisons. **Thank you, Laura!**