



GIFT ACCEPTANCE AND DISCLOSURE AND NON-COMMERCIAL AIR TRAVEL

Under the *CONFLICTS OF INTEREST ACT*

Office of the Ethics Commissioner
Province of Alberta
2015

INTRODUCTION

The basic rule, which is articulated in Section 7(1), is that Members are prohibited from accepting a fee, gift, or other benefit connected directly or indirectly with the performance of their duties as an elected official, regardless of the dollar value. Gifts from family and friends are not subject to section 7.

Ask yourself, if I were not an MLA, would I have been offered the gift? If you answered yes, then you may not accept it. There are some notable exceptions, however, which will be outlined in this document.

In considering accepting an allowable gift, Members should also consider if the donor:

- has official dealings with you, in any professional capacity, or the government;
- has potential future dealings with the government;
- is affected by government programs or policies;
- is regulated by government; or
- is a registered lobbyist.

If the answer is yes to any of these points, a Member may wish to decline the offer. Acceptance of any allowable gift, regardless of value, should be reviewed to consider whether the gift is being offered by someone whose interests could be affected by a decision the Member could be called upon to make. Members should also consider whether accepting a gift from a particular donor would, or would appear, to place the Member under an actual, or perceived, obligation.

Gifts that are offered aside from gifts from family and friends, and those under exemption one below, may only be accepted if they are an incident of protocol or social obligation. There are also value restrictions.

Tangible gifts may be accepted if the value is \$200.00 or less. Any gift above that amount must receive approval from the Ethics Commissioner. In some cases a Member will be put in a position that the Member is not able to refuse the gift. You may be able to return it privately later or you may discuss with our office how to deal with the gift. If the gift amount exceeds \$200 (in aggregate from the same source in a calendar year), approval by the Ethics Commissioner is required and the Commissioner must be satisfied that there is no reasonable possibility that retention of the gift would create a conflict between a private interest and the public duty of the Member.

Members may accept tickets and invitations to events if the value of the ticket(s) is worth less than \$400.00. The value of gifts from one source are cumulative over a year. Generally speaking, it is acceptable to take a ticket or two to a gala or larger scale event from a corporation or individual once per year. However, in those cases, the Member still needs to obtain the approval of the Ethics Commissioner if the ticket is valued at \$400.00 or more. Acceptance of the ticket will be noted in the Member's annual public disclosure.

When determining the value of the gift, the Member should look at the market value, or what any other normal person would pay for a similar ticket. Tickets to dinners should be valued at face value rather than the cost of the food.

If a gift is offered to a spouse, adult interdependent partner or minor child, the same considerations apply as if the gift was given to the Member directly. Also, if a gift includes more than one ticket to an event, the total cost of all tickets received by the Member and his/her family are to be included in valuing the gift. For example, two tickets at \$100 each is \$200 and must be reported as such.

Gift Tracking Form

Members must submit an MLA Gift Tracking Form each year with the Members' financial disclosure. All gifts received greater than \$100, except from family and friends, and those received under exemption 1 must be listed on the form.

THE EXCEPTIONS

Exception #1 – Gifts from charities, any level of government, or political parties

7(2) Subsection (1) does not apply to a non-monetary gift or other non-monetary benefit that is accepted by the Member or the Member's spouse or adult interdependent partner or minor child from the Member's political party or constituency association, a charitable organization or a Canadian government, whether federal, provincial, territorial or municipal.

Regardless of value, the Member may accept gifts from their constituency association, their political party, any charitable organization (as defined by Canada Revenue Agency (CRA): <http://www.cra-arc.gc.ca/chrts-gvng/lstngs/menu-eng.html>), or any level of government (eg. parking passes offered by City of Edmonton). Most of the arts organizations are CRA registered charities such as, the Edmonton and Calgary Jubilee, Symphony, Philharmonic, Opera, Theatre, Ballet, etc.

In all of the above cases, it is not necessary to check with the Ethics Commissioner, nor does the Member need to report it on the MLA Gift Tracking Form.

Just a caution, a Member may receive tickets to an event put on by a charity but they may come from, or the seats may be paid for by, a corporation or an individual and they may or may not, want the Member to sit at their table. In these cases, the tickets are not coming from a charity and, under the Act, tickets offered in these circumstances are reportable gifts if they are \$100 or more and approval must be received from the Ethics Commissioner before accepting if the value of the ticket(s) are \$400.00 or more.

Exception #2 – Gifts of clearly nominal value

7(3) Subsection (1) does not apply to a fee, gift or other benefit that is accepted by the Member or the Member's spouse or adult interdependent partner or minor child as an incident of protocol or of the social obligations that normally accompany the Member's office

- (a) if the value of the fee, non-monetary gift or other non-monetary benefit given to the Member, the Member's spouse or adult interdependent partner or minor children does not exceed \$200,*

Gifts to buffet luncheons, lunch 'n' learns, stampede breakfasts, t-shirts, coffee mugs, books, flowers, chocolates, etc, are gifts that are normally under \$100.00 may be accepted. However, if the value is more than \$100, Members do need to list it on the MLA Gift Tracking Sheet.

Sometimes various delegations and communities offer token gifts to MLAs for showing up at an event, saying just a few quick words, or handing out some prize or award. In these cases, the gift is being offered as an incident of protocol and to not accept may be considered an insult.

If it is worth more than \$200.00, and the Member does not feel the gift can be refused, it may be accepted and must then be immediately reported it to the Ethics Commissioner who will then advise as to a course of action. A Member may also consider accepting the gift while the event is underway and is being offered, and then afterwards, in a more confidential setting, advise the provider of the gift the Conflicts of Interest Act prohibits the Member from actually taking the gift and it has to be returned.

Exception #3 – Gifts to concerts, sporting events, and other shows

(3) Subsection (1) does not apply to a fee, gift or other benefit that is accepted by the Member or the Member's spouse or adult interdependent partner or minor child as an incident of protocol or of the social obligations that normally accompany the Member's office

- (b) in the case of tickets and invitations to events, if the total value of all tickets and invitations to events accepted by the Member and the Member's spouse or adult interdependent partner and minor children from the same source in any calendar year does not exceed \$400;*

Under the Act, a Member may accept invitations to events like concerts, sporting events, and local rodeos if the donor is going to attend with the Member and offer the Member hospitality. Note: if the donor is not attending with the Member and is simply offering the Member free tickets to do with as the Member pleases, the Member should check with our office beforehand as the Member likely will not be able to accept tickets under such circumstances. Regardless, the Member should always carefully think about accepting such tickets as the media and public perception around the Member's attendance at these events as a guest of a corporation or lobbyist can be damaging. As tickets to these events are usually over \$100 they would need to be listed on the Member's MLA Gift Tracking Form. If the value of the ticket(s) exceeds \$400 it would also be listed on the Member's public disclosure statement.

Rodeos such as the Edmonton Exhibition, Ponoka Stampede and Calgary Stampede are not registered charities but there is no difficulty accepting the entrance passes from the rodeo board that are offered to all MLAs each year. However, tickets to infield boxes and invite only events should be recorded on the gift tracking form along with the value of the gift.

Alberta's various communities host annual parades, small community BBQs, community roasts, hot dog days, and fairs. It is common practice by many municipalities that complimentary tickets are given to local, and even nearby, involved MLAs. Members do not need to record these attendances on the Member's gift tracking sheet.

Exception #4 – Gifts of conferences

(3) Subsection (1) does not apply to a fee, gift or other benefit that is accepted by the Member or the Member's spouse or adult interdependent partner or minor child as an incident of protocol or of the social obligations that normally accompany the Member's office

- (c) in the case of the invitation of a Member to a conference or meeting in respect of which the Member accepts a waiver of the attendance fee and the payment or reimbursement of reasonable travel expenses incurred for the Member's attendance at the conference or meeting, if the total value of attendance fees waived and travel expenses paid or reimbursed by the same source in any calendar year does not exceed \$400;*

Members may accept invitations to conferences or other training events and sessions. Such invitations, unbeknownst to some Members, comes with an automatic waiver of registration fees and they subsequently may list the Member's name in their list of attendees. The offer of the free registration is acceptable provided the registration fee, or travel and accommodation expenses offered does not exceed \$400. The Member would still list the conference and any travel or accommodation expenses that were gifted to the Member on the MLA Gift Tracking Sheet. If the value of what is being offered is \$400.00 or more, then prior approval from the Ethics Commissioner is required.

If the Member is speaking at a conference on government business, government should pay for travel and accommodation. If the Member is only doing opening or closing remarks, and may partake of the breakfast or lunch, and then the Member leaves, the Member does not need to record the event on the MLA Gift tracking Sheet.

Exception #5 – Exceptions to the rule, gifts that do not fall within the above

There will always be situations or gifts that do not fall neatly within one of the previously mentioned exceptions. In these cases, where the Member does not have absolute clarity, the Member should contact the Office of the Ethics Commissioner and obtain the Commissioner's advice. If the Member needs a quick response, the Member should be prepared to provide the following information:

- a) Exactly who is offering the ticket and do they represent anyone?
- b) What is the market, or fair, value of the gift being offered?
- c) Has there been any interaction with them previously, if so, how?
- d) Is there any reason someone may conclude that you accepting the gift might be considered wrong?
- e) Has the Member accepted any other gifts from them in the last reporting year?

- f) Are they a lobbyist, and are they lobbying the Member, or any board, committee, agency or panel on which the Member sits or has influence over?

PRIZES

A Member may purchase a raffle ticket from their own personal funds and win a prize at some event. The Member may keep the prize as it is not connected to their official duties. No disclosure is required. If the Member wins a door prize or similar draw where the Member has not bought a ticket the Member might consider declining it.

DONATING GIFTS

Members may wish to donate a gift that was received to a local community association or charity. If a Member donates a gift, no tax benefit can be claimed.

Regardless of the gift's final disposition, the same rules of still apply as the Member is the first person receiving the gift. If the gift valued over \$100 and is donated to a charity auction, it must be reported.

WHAT IF.....

If a Member has already accepted a gift and later discovered acceptance was not allowed, the Member should contact the Ethics Commissioner for direction. Resolution may include:

- Returning the gift to the donor; or
- If the hospitality has been enjoyed, the Member needs to determine the value of the benefit received and return that amount to the donor.

Copies of related correspondence denoting the return of the benefit should be provided to the Ethics Commissioner.

TRAVEL ON NON COMMERCIAL AIRCRAFT

Generally speaking, unless the flight being offered is required for the performance of the Member's office, there are exceptional circumstances, or the member receives prior approval of the Ethics Commissioner, the Member may not accept the flight. The discretion as to whether such a flight meets those conditions rests solely with the Ethics Commissioner. As noted, and for the Member's protection, the Member should always seek advance approval before accepting a flight. If the Ethics Commissioner determines, for whatever reason, the flight does not meet the criteria the Member may end up having to reimburse the air service company for the entire flight costs.

All non-commercial flights will be reported on the Member's annual public disclosure statements.

If a Member is considering accepting a non-commercial flight, please go to our website, complete the Non-Commercial Air travel form and submit it to the Office of the Ethics Commissioner for the Commissioner's consideration and approval.

ADVISORY SERVICES

Members are encouraged to contact the Office of the Ethics Commissioner at any time should they have any questions or concerns. Under the Act, the Office shall maintain the confidentiality of all information and allegations that come to our knowledge in the course of the administration of the *Conflicts of Interest Act*

BINDING ADVICE AND RECOMMENDATIONS

Based on the facts communicated to the Ethics Commissioner, if a Member complies with the recommendations contained in the Commissioner's advice, no proceedings or prosecution shall be taken against the Member.

FOR FURTHER INFORMATION

Members of the Legislative Assembly and members of the public may obtain further information on the role of the Ethics Commissioner and copies of any reports issued by the Office by contacting us directly or electronically, from our website.

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This document is intended to provide a quick guide to Members in determining gift acceptance and disclosure. Where there is uncertainty, the guide should not become a substitute for seeking advice from the Ethics Commissioner.

It is not a legal document and the *Conflicts of Interest Act* should be consulted for the full text of all definitions and obligations.