

**Frequently Asked Questions
about the
Code of Ethics of the Town of Greenwich**

B. PURPOSE AND REQUIREMENTS OF THE CODE

Q. What is the purpose of the Code of Ethics?

A. The purpose of the Code of Ethics is to provide a standard of conduct that the Town's employees and other public officials are required to adhere to regarding gifts and favors, conflicts of interest and financial disclosures.

Q. What are the basic requirements of the Code?

A. The Code prohibits Town Officers from:

- (1) accepting valuable gifts, favors, loans or promises that might tend to influence them in the performance or non-performance of their official duties; and
- (2) exerting influence or voting on matters in which they have a substantial financial interest.

The Code also requires each Town Officer that has a substantial financial interest in a transaction or series of transactions with the Town to file an annual statement disclosing such interest and showing the amount, if any, received as a result of such interest.

Q. Does the Code define gift, favor, loan or promise?

A. No. The Code contains no specific definition of the words gift, favor, loan or promise. Consistent with the purposes of the Act, the Board of Ethics interprets these words broadly, but in their normal sense.

A gift is something that is received without bargained for consideration. Thus there need be no discussion of the intent of the giver or what the giver might expect in return in order for a violation of the Code to exist. For an obvious example, if a contractor was planning to bid on a large Town project and, without solicitation, gave a case of fine wine or the use of a vacation home to one of the Town Officers responsible to select the winning bidder, that would be a prohibited gift, even if there was no express indication that it was intended to influence any decision concerning the project.

Influence can arise from factors less obviously related to an immediate transaction. If, instead of sending a case of wine to the Town Officer, the contractor was to make a large contribution to an organization that particularly benefited a member of the family of the

Town Officer, that contribution would be likely to be viewed as a prohibited gift to the Town Officer as well.

Unless incidental to the conduct of Town business, providing free meals or admission to venues or events that members of the public would have to pay for, would be likely to be viewed as a gift. Sometimes these distinctions are subtle. For example, a luncheon before during or after a training session may be a part of the service that is expected of the contractor providing training to Town employees. However, luncheons or other meals provided to Town employees or other Town Officers unrelated to the training sessions a likely to be a violation of the Code. Similarly, police, firemen and other Town Officers may be required to enter venues that charge admission to the general public in the course of their official duties and would not be considered to violate the Code if such admission was provided for free. However, the receipt of free admission unconnected to their official duties could result in a violation of the Code.

Town Officers must exercise caution when receiving gifts from friends if those friends are likely to have business before the Town. So for example, if a Town Officer has a meal with a friend at a restaurant or club and the friend, who normally has no particular business with the Town, pays for the meal, the meal would be likely to be considered a gift that was not intended to influence the performance of Town duties. However, if the restaurant or club itself, which might be expected to have matters before the Town that the Town Officer could influence, paid for the meal, it could be considered a gift that would tend to influence such matters. Under such circumstances, a prudent Town Officer would do well to arrange to pay or reimburse the restaurant or club and obtain a receipt.

A favor is a special accommodation; treatment that is different from what would other wise be normal in the circumstances. For example, an arrangement whereby a manufacturer or wholesaler provides products to a person that is not a distributor or retailer would be a favor to the individual involved if it was not a normal part of the manufacturer's or wholesaler's business practices. Similarly, the granting of privileged access to goods or services to an individual that does not normally qualify for such privileged access would be seen as a favor. For example, an upgrade in class of service, given without additional cost, would be considered a favor if it was not within the normal practice of the provider. An arrangement whereby a Town contractor arranged to provide upgraded airfares or hotel rooms (or tickets, at original cost, to a "sold out" performance) to a Town Officer and/or friends and family members of the Town Officer would be considered a favor.

Loans and promises are a concern for a variety of reasons. They could place the recipient in a position where they have an interest in the entity making the loan or promise.

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In addition, the receipt of a loan or promise may influence a Town Officer in the performance of their official duties.

Unless the source, timing, amount or particular terms of the transaction are unusual, promises or loans made in the ordinary course of business would not normally be seen as tending to influence individuals in the performance of their official duties. However, unusual circumstances may suggest that the terms of a promise or loan were designed to influence official behavior. For example, a loan from an entity that does not normally engage in the business of lending, or which is undocumented or contains major terms that are not specific or are unusual in nature suggests a tendency to be able to affect the individual's performance of their official duties. Similarly, the promise of employment that will begin after a current employee's or official's duties to the Town are completed would be likely to influence the performance of that person's official duties to the extent that they relate to the prospective employer because the individual now has an economic stake in the future success of their prospective employer.

Q. Can a gift be received in a transaction where something is paid for?

A. Yes. To the extent that the value of an item exceeds the amount received in exchange for an item, that additional value may be considered a gift.

Q. What about gifts that are made to the Town rather than a specific employee or other official?

A. The Code of Ethics prohibits Town employees and other officials from accepting valuable gifts, favors, loans or promises that might tend to influence them. If a gift is accepted by the Town, rather than by an employee or other official, it is not considered a gift to the employee or official. However, care should be taken to ensure that persons making gifts to the Town use the appropriate procedures. Reference should be made to the Town's Gift Policy before making a gift to the Town. Gifts made to Town employees, even if intended for Town use, may be viewed as a gift to the employee if the Town does not formally accept the gift or the Town's gift policy is not adhered to.

Where a gift to the Town provides a specific benefit for a particular employee or other official or any particular group of them, it may be considered a favor to that individual or group. Similarly, the promise of a gift to the Town, conditioned on the Town taking some particular action, may be seen as a promise to the employee or official to which it is made, rather than a promise to the Town. A key factor in determining whether a gift or promise is a favor or promise made to a particular individual is the relative value of the gift to the individual as compared to the Town and its residents as a whole.

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So, for example, a promise to give land to the Town for use by the Department of Parks and Recreation as a public park would not be considered a favor to any of the employees of the Department, while a promise to give a luxury automobile to the Town for use by the head of a particular department or agency would be likely to be considered a promise to the head of such agency or department, and the gift a favor to such individual, if it might tend to influence the individual in the performance or non-performance of his or her official duties.

Similarly, if the Town, as part of an effort to build morale and reward the members of a Town Department for their services, is able to secure discounted admission for the members of the Department to a particular sporting event on terms and conditions available to similar groups employed by other municipalities in the area, this would not be considered a gift or favor from the owners or managers of the team to the employees of the Department. However, an invitation from the team or its managers or owners to specific supervisory employees to sit in the owner's box for a game would be likely to be seen as a gift or favor prohibited by the Code, particularly in a situation where the team or its managers or owners (and/or members of their families or companies owned or controlled by them) might have dealings with the Department or the Town currently or in the foreseeable future.

Q. What if a Town Officer receives meals or other items of value from a Town contractor in the course of and as a part of performing official duties?

A. It is necessary for certain items of value to be given to the Town or its employees and other officials in order for various contractors to fulfill the terms of their contract. For example, it might be expected that a company providing training for Town employees would provide suitable refreshments, booklets and other written materials, pencils, pads, chalk and other similar items for the use of the employees as part of the training program. These items are not a gift, since they are paid for by the Town as part of the contract for the service of providing training. Similarly, a contractor seeking a contract with the Town might provide Town employees and other officials with drawings, models and other materials suitable to allow the Town to better evaluate the proposal that it is making. Such items are a normal part of the contracting process and are offered in exchange for the Town's consideration of the proposal.

Items that are unrelated to or unnecessary and inappropriate in connection with the services being provided or proposed could potentially be considered gifts or favors to the Town Officers involved, however. For example, in its advisory opinions, the Board of Ethics has expressed concerns where a contractor offered to pay the cost for a Town employees' travel to attend a conference relating to the employees' work. In that case, it was

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felt that the gift was unrelated to the services that the Town had contracted for and might tend to influence the employee in official dealings with the contractor.

Q. What makes an interest a financial interest?

A. A financial interest is something that has the ability to directly or indirectly increase or decrease an individual's net worth when measured in monetary terms. Thus, a financial interest can exist when the matter involved is not money, but something else of value. For example, the expectation to receive valuable property as a result of a contract, promise or inheritance can create a financial interest.

Q. What makes an interest "substantial"?

A. The Code of Ethics does not provide a simple test for or definition of what is considered a "substantial" financial interest since it varies under different circumstances. Even where the amount involved seems trivial in relation to a particular transaction, it may be substantial in relation to the net worth or household budget of the individual involved or the budget or net worth of others. Factors that may be considered in determining whether an interest is substantial are how important the relationship that gives rise to the interest is to both the Town Officer involved and the party engaging in the transaction with the Town. If their relationship makes either of them appreciably better or worse off, it's likely to be considered substantial.

Q. What about holiday greetings and other gestures of sympathy or goodwill?

A. The financial value of a gift to the recipient depends on its value after it is received. A holiday greeting card, although it may have cost the sender money, typically has no commercial value after it has been addressed to the recipient and signed by the sender. Similarly, a gift of flowers sent to a Town department to express sympathy over the death of a valued co-worker will have no lasting value. These civil niceties do not present a problem under the Code of Ethics. However, where the gift is an item that has significant future value specific to the person or persons receiving it, it is likely to be treated as having a tendency to influence the receiver under the Code of Ethics. This could apply to an invitation to a holiday party or other social event. An invitation to an event where the primary focus is on social interaction and modest refreshments are served as an incidental matter would not be a problem, but accepting an invitation to a lavish dinner with entertainment involves accepting a thing of obvious future value.

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Q. What should a Town Officer do if he or she receives and unsolicited gift or realizes after a gift is received that the person who gave it is involved with a transaction with the Town?

A. If it can be done without undue expense to the Town, the employee or official who has received the gift should return it to the sender. Other wise, the gift should be turned over to the appropriate Town officials and the sender notified that, if it does not reclaim the gift within a reasonable time, it will be forfeit or disposed of by the Town.

Q. Does the Code of Ethics prohibit Town Officers from speaking out on matters that affect them?

A. Certainly not. Every Town employee or other public official has a right, and sometimes a duty, to express his or her opinion about matters that affect them. What the Code prohibits is using one's office to influence the Town's decisions on matters that the individual has a substantial personal financial interest. It strictly prohibits voting on or participating as a Town official in the deliberations concerning those matters. If a Town Officer is responsible for (or sits on a board, commission, committee or other body that has responsibility for) participating in the decision making with respect to a matter in which they have a substantial personal financial interest, the Code requires the Town Officer to remove himself or herself from participating in that decision making process.

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