

The Legislative Ethics Commission has approved generic advice on the topic listed below. The guidance offered is general in nature and the Commission's response to individual questions may vary according to the facts of each particular request. You are strongly advised to consult Commission staff or your counsel's office for advice pertaining to your individual situation.

Interpretation of “widely attended event”
GENERIC ADVICE for Legislative staff

The following advice pertaining to the definition of a “widely attended event” that is “related to the attendee’s duties or responsibilities as a public official” was approved by the Commission in response to numerous requests from legislative staff for advice as to whether attending certain functions would be in violation of the Public Officers Law.

RELEVANT STATUTE: Public Officers Law §73(5)(b); Legislative Law §1-c(j)

DISCUSSION: Public Officers Law §73(5)(b) provides the applicable standard on gifts and reads in pertinent part that no legislative employee shall:

Solicit, accept or receive any gift, as defined in section one-c of the legislative law, from any person who is prohibited from delivering such gift pursuant to section one-m of the legislative law unless under the circumstances it is not reasonable to infer that the gift was intended to influence him

Section 1-c(j) of the Legislative Law provides, in pertinent part, as follows:

The term ‘gift’ shall mean anything of more than nominal value given to a public official in any form including, but not limited to money, service, loan, travel, lodging, meals, refreshments, entertainment, discount, forbearance, or promise, having a monetary value. The following are excluded from the definition of a gift:...

(ii) complimentary attendance, food and beverage offered by the sponsor **of an event that is widely attended** or was in good faith intended to be widely attended when attendance at the event is **related to the attendee’s duties or responsibilities as a public official** or allows the public official to perform a ceremonial function appropriate to his or her position (emphasis added)

A person prohibited from delivering a gift pursuant to §1-m of the Legislative Law is an individual or entity who is required to be listed on a statement of registration as a lobbyist or the client of a lobbyist.

To determine whether an event is exempt under Legislative Law §1-c(j)(ii), two threshold questions must be answered. The first is whether the event “is widely attended or was in good

faith intended to be widely attended...” The second question is whether attendance at the event is “related to the attendee’s duties or responsibilities as a public official.”

The term “widely attended event” is currently not defined in New York State statute, nor is there a commonly accepted understanding of the term. Because of the many inquiries that have been received in recent weeks, we find it necessary to adopt a clear, workable standard that legislative staff may use for guidance. Recent legislation passed by both houses of the legislature defines “widely attended event” to mean an event “...[at] which at least twenty-five individuals other than members, officers, or employees from the governmental entity in which the public official serves attend or were, in good faith, intended to attend.” (Assembly bill 9544 / Senate bill 6457) We believe this to be an appropriate, clear standard to apply in reviewing the widely attended event exemption. Therefore, the Commission formally adopts this definition of “widely attended event” going forward, unless and until there is a change in the law.

The widely attended event exception (Legislative Law §1-c(j)(ii)) further requires that attendance at the event be related to a public official’s duties or responsibilities. Events must be related to a legislative employee’s specific duties in order for that employee’s attendance to be permissible. For example, events held by associations who have an interest in legislation or subject matter for which a staff member is responsible would be related to his or her duties. Additionally, if a legislative employee has been asked to attend an event as staff support for a member, attendance at the event would be permissible. There are certainly legislative receptions and like events that are unrelated to the official duties of many state and legislative employees. We note that an event that serves predominantly as entertainment, such as an invitation that would involve only viewing a professional sporting event, movie or show would not likely be acceptable under the widely attended event exemption to the definition of gift. If a staff person is attending an event as the representative of a member of the legislature at the direction of that legislator, he or she should follow the advice in the opinion for legislative members regarding widely attended events.

Adopted Unanimously February 9, 2010