

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 members

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 members of the legislature 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 member of the legislature 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 as 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 members may use for guidance. Recent legislation passed by both houses of the legislature on January 20, 2010, 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. Since there are certainly legislative receptions and like events that are unrelated to the official duties of many legislative employees, we are issuing a separate opinion for legislative employees with regard to widely attended events.

Members of the legislature serve in a representative capacity. Consequently, it is an integral part of their duties to meet with constituents and constituent groups, including associations and their membership, who are impacted by the laws and proposed legislation in New York State. The inclusion of the widely attended event exception in statute is recognition of the need for legislators to interact with the public and to familiarize themselves with the views of different constituencies on matters of public concern. We therefore find it is well within the scope of a legislator’s responsibilities to attend events, including but not limited to legislative receptions, where legislative members are afforded the opportunity to meet and interact with local constituents or with constituencies who have positions on existing laws or legislative proposals. Attendance at such events is clearly “related to the...[attendees’] duties or responsibilities as a public official.”

We distinguish these events from those that serve predominantly as entertainment. Unless an event “...allows the public official to perform a ceremonial function appropriate to his or her position” (Legislative Law §1-c(j)(ii)), 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 a gift.

Adopted Unanimously February 9, 2010