

SUMMARY OF GIFT PROHIBITIONS AND EXCEPTIONS UNDER NORTH CAROLINA LAW AND POLICY

N.C.G.S. §133-32: Gifts and Favors Regulated (Contractors for Public Works)

- Covered Person: Any university employee who:
- 1) is charged with preparing plans, specifications or estimates for university contracts;
 - 2) is charged with awarding or administering a university contract **(e.g. has signature authority, oversees performance of the contract, interprets the contract, or has authority to make decisions about the contract)**; or
 - 3) inspects or supervises construction.
- Receiving Gifts: It is unlawful for the covered university employee to willfully receive or accept a gift or favor from a person or company who 1) has a contract with the university; or 2) the university has performed under a contract within the past year; or 3) anticipates bidding on a university contract in the future.
- Giving Gifts: If the university is the contractor or subcontractor, it is unlawful for a university employee to give a gift to another state agency or a state employee who would be “covered” at another state agency if
- 1) the university has a contract with the other government agency;
 - or 2) has performed a contract or subcontract within the past year;
 - or 3) the university anticipates bidding on a state contract in the future.
- Gift Exceptions:
- 1) gift and receipt of honorarium for participating in meetings
 - 2) advertising items or souvenirs of **nominal value** [not defined]
 - 3) meals furnished at banquets
 - 4) customary gifts or favors between employees or officers and their friends and relatives or the friends and relatives of their spouses, minor children, or members of their household where it is clear that it is that relationship rather than the business which is the motivating factor for the gift giving
 - 5) **gifts permitted under the Ethics Law**
- All such gift exceptions **must be reported** to the university.
- Statutory Penalty: Class 1 misdemeanor
- Guidance:** Former Board of Ethics Newsletter: “[Annual Gifts and Freebies](#)”

N.C.G.S §14-234: Influence or Benefiting

- Covered Person: State employee
- Receiving Gifts: May not solicit or receive any gift, reward or promise of reward in exchange for recommending, influencing, or attempting to influence the award of a contract by the university.
- Statutory Penalty: Class 1 misdemeanor and contract is void

N.C.G.S. §138A-32: Gifts (Ethics Law)

- Covered Person: Trustees, Chancellor, and Vice Chancellors
- Receiving Gifts: A) A covered person shall not knowingly accept a gift, directly or indirectly, from a lobbyist or a lobbyist principal or accept a gift in return for being influenced in the discharge of the person's official university responsibilities.
- B) A covered person shall not knowingly accept a gift, directly or indirectly, from a person whom you know or have reason to know any of the following: 1) is doing business or seeks to do business of any kind with the university; 2) is engaged in activities that are regulated or controlled by the university; or 3) has a financial interest that may be substantially and materially affected by the performance or nonperformance of the chancellor, vice chancellors or voting members of the Board of Trustees.
- If you receive a prohibited gift, you have 5 choices - decline it, return it, pay fair market value, immediately donate it to charity, or **immediately donate it to the university. The chancellor may designate those employees who are authorized to accept gifts on behalf of the university. The disposition of these gifts should be recorded.**

Gift Definition: **“Anything of monetary value** given or received without valuable consideration by or from a lobbyist, lobbyist principal, or a public servant (as defined by the Ethics Law).” [note: de minimus value is not mentioned in the Ethics Law]

- Non-Gifts: 1) anything for which fair market value or face value if shown, is paid for by the covered person.
2) commercially available loans that are available to the general public in the normal course of business.

- 3) Contractual arrangements or commercial relationships made in the normal course of business and not made for the purpose of lobbying.
- 4) Academic or athletic scholarships based on the same criteria for others.
- 5) Campaign contributions (subject to another law)
- 6) Expressions of condolences sent within a reasonable time of the death [a sympathy card; flowers, food or beverages for immediate consumption; donations to a religious organization, charity, the State or the university not to exceed \$200 per death per donor].

- Gift Exceptions:
- 1) Food or beverages consumed at a public event
 - 2) Informational materials relevant to your official duties
 - 3) Travel and registration expenses for an educational meeting related to your duties or to enable you to participate as a speaker (and more detailed requirements)
 - 4) A plaque or memento recognizing your service
 - 5) **Gifts accepted on behalf of the university**
 - 6) Anything distributed to the general public or all State employees
 - 7) Anything from a member of your extended family or a member of your household
 - 8) Travel expenses associated with industry recruitment, promotion of international trade (more detailed requirements)
 - 9) Gifts worth <\$100 as part of an overseas trade mission if it is customary protocol and given in another country
 - 10) Gifts given or received as part of a business, civic, religious, fraternal, personal or commercial relationship that are not related to your university position and that a reasonable person would conclude the gift was not given for purposes of lobbying

Statutory Penalty: If considered bribery, a Class F felony under G.S. §§14-217 or 14-218. The law states that disciplinary action may be taken, up to and including, dismissal from employment.

N.C.G.S. §120C-501(e): Athletic Tickets (Lobbying Law)

Covered Person: Designated university employees, trustees, and legislative liaison personnel.

Gift Giving: It is unlawful to give to designated individuals (legislators, legislative employees, covered person, members of the Council of State, etc.) athletic tickets for the purpose of lobbying (includes developing good will). [Personal relationships may permit ticket giving, but be prudent, cautious, and interpret the law conservatively.]

See who is a designated individual -

<http://www.ethicscommission.nc.gov/coverage/coveredPersons.aspx>

Note – the UNC System is considered “within the family” and tickets/gifts may be given or received from within provided no conflict of interest exists. Also tickets may be given to a designated individual who is a student on the same basis as received by other students.

UNC Policy Manual 800.5.1[R]

Covered Person: employees whose duties relate to student admissions, student financial aid or student loans

Accepting Gifts: Prohibited from accepting gifts from lenders or consolidator of student loans

Reporting: Must report gifts offered by lenders to the Director of Financial Aid and the Chancellor’s Office.