

West Virginia Ethics Commission



Public Employee Recognition and Retirement Guideline

The West Virginia Ethics Commission finds that recognizing public employees and honoring the departure of dedicated public officials and employees serves the public purpose of promoting morale by acknowledging achievement. Subject to the limitations below or as authorized by other laws, the expenditure of public funds for these purposes does not violate the Ethics Act's prohibition against the use of office for private gain.¹ In addition, an employee being recognized or an employee or public official departing his/her public position due to retirement, transfer, resignation, or completion of his/her employment or term of office may accept gifts from co-workers and subordinates that are given voluntarily.

Who is a “public employee or official?”

The term “public employee” includes full-time and part-time public employees who serve in state, county, or municipal government. “Public officials” are elected or appointed officials who serve in state, county, or municipal government. The term “public official” also includes a public servant volunteer, which is “any person who, without compensation, performs services on behalf of a public official and who is granted or vested with powers, privileges, or authorities ordinarily reserved to public officials.”²

Appreciation events and mementos: monetary limits and rules

Events recognizing a public employee or the retirement or departure of a public employee or public official may include a gathering with food, beverages, entertainment, and/or the presentation of a gift or memento of service to the public employee or official or his/her spouse and/or dependent(s). The head of an agency, an elected official, or an appointed board is responsible for determining whether public funds should be used for this purpose.

The Ethics Commission finds that the expenditure of public funds for events or mementos recognizing employees or for departing employees or officials does not

¹ W. Va. Code § 6B-2-5(b).

² W. Va. Code §§ 6B-1-3 (j)(k) and (l).

violate the Ethics Act if an agency expends no more than a total of \$25 per employee per fiscal year. This amount may be allocated between one or more events, gifts, or activities. An agency may allocate more than \$25 to recognize one or more employees, in lieu of expending up to \$25 per employee per fiscal year, so long as the expenditure on any one employee does not exceed \$100 and the total amount expended for this purpose during the fiscal year does not exceed the sum of \$25 per employee.

- Recognition ceremonies may be conducted on government premises or at an off- site location.
- Public employees and officials may contribute any amount of their personal money for food, beverages, and entertainment for the event.
- Public employees and officials should not accept gifts or services for an event valued at over \$25 per year from a person or entity with a matter before the departing public employee or official or his or her subordinates.
- Public employees and officials may plan an event, solicit contributions for a gift and/or meals, and prepare and send invitations to an event in accordance with this guideline while on their public employer's time. Any such activities must be of limited duration and may not negatively impact the mission of the public agency.

It is permissible to use a de minimis amount of public funds above the \$25 per employee amount to include public officials in public employee recognition events. For example, if a public agency uses public funds for a year-end luncheon, it does not violate the Ethics Act for the public agency to use a de minimis amount of public funds to include public officials, such as city council members or county commissioners, in the event.

Retirement plaques and/or commemorative items

In addition to the expenditure of public funds authorized above, the head of an agency or governing body may authorize the use of public funds not to exceed \$100 to purchase a plaque or other commemorative item for a public employee or official who is retiring from public service. This does not establish or confer an employee benefit. The head of an agency or its governing body must determine whether any such expenditure is consistent with fiscal responsibility and whether to use appropriated funds for this purpose.

What constitutes permissible mementos or commemorative items?

For purposes of this guideline and the Ethics Act, permissible mementos or commemorative items include gift cards, apparel, plaques, or other items. Public agencies may only purchase gift cards and other items if the laws governing public agency expenditures authorize the expenditure of funds for this purpose and if the agency properly accounts for the purchases and distributions of the items.

Solicitation of gifts/contributions from public employees and public officials

The following requirements apply to the solicitation of gifts and contributions from public employees and public officials for a recognition, departure, or retirement gift or event:

- A public employee or official may not solicit a gift from which he or she may personally benefit.
- Supervisors may not solicit their subordinates for a contribution.
- Requests for contributions, if made, should be disseminated in a general announcement to all employees. Announcements should clearly convey that participation is voluntary and free of coercion and that employees may contribute less than the recommended amount or nothing at all. Reasonable reminders are permissible. Supervisors should not sign or distribute these requests to their subordinates.

Solicitation and acceptance of gifts from certain entities

The Ethics Act restricts public employees and public officials from soliciting and/or accepting gifts from:

- Lobbyists; or
- Any person whom the official or employee knows or has reason to know:
 - (A) Is doing or seeking to do business of any kind with his or her agency;
 - (B) Is engaged in activities that are regulated or controlled by his or her agency; or
 - (C) Has financial interests which may be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or nonperformance of his or her official duties.

Public employees and public officials may not solicit these persons or other persons³ to contribute to an event or to a gift to recognize a public employee or a departing public employee or public official. If one of these persons/entities wishes to make a voluntary contribution toward a gift, the person/entity may contribute no more than \$25. If a government agency receives “anonymous” gifts valued over \$25 for which the donor cannot be identified, the agency must reject the gift, donate it to charity, or use the gift for a public purpose related to the government agency’s mission.

Public employees and public officials must comply with the Ethics Act gift rules. The Ethics Act Gift Guideline may be reviewed [here](#).

³ Other persons do not include other public officials and public employees who are afforded the opportunity to contribute to the event in the manner prescribed in this guideline.

General

An agency must have express or implied authority to expend money for the purposes stated in this guideline. This guideline establishes monetary limits and rules for purposes of complying with the Ethics Act. The guidance does not supplant other laws authorizing public agencies to recognize employees, such as laws authorizing agencies to implement employee recruiting or retention programs or to give an employee a salary increase based on exemplary performance or tenure.

West Virginia Ethics Commission
210 BROOKS STREET, SUITE 300
CHARLESTON, WV 25301-1804
(304) 558-0664 - FAX (304) 558-2169
ethics@wv.gov ethics.wv.gov

Issued April 4, 2024