

ED GAINEY
MAYOR



LEANNE DAVIS
EXECUTIVE DIRECTOR

CITY OF PITTSBURGH
ETHICS HEARING BOARD
CITY-COUNTY BUILDING

BOARD OPINION

July 12, 2024

To the Requester:

Rachael Heisler, City Controller
Via electronic mail

RE: 24-A-013 Advisory Opinion on Travel

Dear Requester:

You requested advice from the City of Pittsburgh Ethics Hearing Board (“Ethics Hearing Board” or “Board”), as to whether the ethics rules permit you to accept travel, meals, and lodging from a charitable organization, the American Israel Education Foundation (“AIEF”).

Short Answer: Yes, the trip is a permissible gift for multiple reasons. The gifts rule does not appear to apply in this situation. As with all Board advisories on gifts, this opinion also references conflicts and disclosures to provide a more useful response.

Statement of Facts: Advice is issued based upon the facts submitted. [City of Pittsburgh Code of Ordinances \(“Code”\) § 197.13](#). In issuing this opinion, no independent investigation of the stated facts or speculation of omitted facts are considered. It is the burden of each requesting party to truthfully disclose all material facts relevant to the inquiry. The provided facts as stated are:

- You work for the City of Pittsburgh (“City”) as its City Controller, an elected position.
- You have been offered travel, lodging, meals and related expenses to participate in a seminar occurring in August 2024.
- The prospective donor is AIEF. AIEF is solely responsible for recruiting, coordinating, executing, and funding all aspects of this trip.
- AIEF a 501(c)(3) non-profit organization with a charitable and educational mission which includes, among other things, educating policy members and opinion leaders about the U.S.- Israel relationship.

- The purpose of the travel is to educate political leaders throughout the country about the U.S.-Israel relationship.
- Seminar participants include political and community leaders who seek to gain an in-depth understanding of modern Israel and the U.S.-Israel relationship.
- You note you would have access to this opportunity regardless of your current City role. In your private life, you have prior and current community service experience specifically relating to in the U.S.-Israel relationship and Jewish communal issues.
 - o You served as the 2022-23 Wechsler Fellow with the Jewish Federation of Greater Pittsburgh.
 - o You currently volunteer on the Board of Pittsburgh's Jewish Family and Community Service, which is affiliated with the Jewish Federation of Greater Pittsburgh.
 - o You also serve as a community leader by heading several other charitable organizations through board membership.
 - o You have concurrent and prior political leadership experience relevant to the international issues to be discussed at the seminar: Congressman Jason Altmire for six years, the inaugural campaign of U.S. Senator Bob Casey, and as the current Chair of the City of Pittsburgh's 22nd Ward Democratic Committee.

Relevant Law: The State Ethics Act and Code contain conflict of interest laws, which implicate gifts, and our City law restricts gifts. [65 Pa.C.S. §§ 1103 and 1102](#); [Code § 197.03\(a\)](#); [Home Rule Charter § 706](#), and [Code § 197.07](#). The State Ethics Commission has regulations concerning the disclosure of gifts. [51 Pa. Code §11.1, et seq.](#) Several terms within these laws have statutory definitions. Relevant laws and definitions are listed in full at the end of this letter.

Legal Analysis

Gifts under the State Ethics Act: “No-strings-attached” gifts are generally permissible under the State Ethics Act, yet rules on disclosure and conflicts apply. [Cooper](#), Opinion, 92-009 citing [Wolfgang](#), Opinion, 89-028). Disclosure for travel, hospitality, and lodging, is generally required when the gift is not reimbursed by the governmental body where you serve in an official capacity. [51 Pa. Code §17.6\(b\)](#).

Here, the stated facts provide the trip is offered as a gift without conditions, and to serve an educational purpose. It should be disclosed on the Statement of Financial Interests under “travel, hospitality, and lodging,” listing the donor as the source.

Gifts under the Code: Unlike the state approach, if the gift is from an interested party, then the City generally bans the gift, including travel and hospitality. [Code § 197.02](#); [Code § 197.07](#). With few exceptions, it is unlawful to solicit gifts from an interested party, unlawful for interested parties to offer gifts, and unlawful to accept a gift from interested parties. [Id.](#) Finally, disclosure is required once the gift is valued in the aggregate at \$100 and, at \$500, is open to Valuable Gifts Committee review. Accordingly, our analysis hinges on whether the donor is an “interested party,” as that term is defined by our Code.

Here, it does not appear that it is possible for the donor to be an interested party – to our knowledge the donor, AIEF, is not in a current or prospective financial relationship with the City, it is not an adverse legal party, and does not appear to have any interest which could be substantially affected through the authority of your office. Your public role is integral to municipal fiscal and performance matters, and it is presently inconceivable how the performance of your role could substantially impact AIEF's interests. Since the donor is not an interested party, we find the restrictions on gifts would not apply, and the gift is permitted.

For reference, Valuable Gifts Committee review is unwarranted here because the gift is not from an interested party and is unrelated to your official capacity.

In summary, the described trip is permitted. It should be disclosed on the Statement of Financial Interests for 2024 activities, due May 1, 2025, and on our City disclosure form, which will be sent to you by our staff.

Next, conflicts of interest are addressed, not to imply that there has or will be any violation of the law, but merely to set forth a more complete response to your question.

Conflict of Interest: Statutory conflicts of interest involve the use of the authority of one's position to benefit themselves, their family, or a business or property with which they or their family is associated. The "use of authority" of a public position is very broad. Juliante, Order 809. Similarly, a "business" is broadly defined to include non-profit organizations and associations. Rendell v. Pa. State Ethics Comm'n, 603 Pa. 292, 983 A.2d 708 (2009). State Ethics Commission cases have held that acceptance of reimbursed travel from vendors who actively have or seek a financial relationship with the recipient's governmental body can create a conflict of interest violation. See, Hawes, Order 1263; Espenshade, Order 1387; Eppley, Order 1419; Crispell, Order 1771.

Under these particular facts and circumstances, notably given your community service roles and concurrent and prior political experience, the Board finds that you would have access to this opportunity regardless of your public role as the Controller, and there is no use of your position. Kistler v. Com., State Ethics Comm'n, 610 Pa. 516, 522, 22 A.3d 223, 227 (2011) ("[T]o violate subsection 1103(a), a public official must 'use' his or her office for private pecuniary benefit.")

We find it highly unlikely that this donor will ever intersect with your official duties. In the unlikely event that this should occur, you are advised to contact this office for advice on whether you should recuse yourself and abstain from matters involving the AIEF.

For any public readers of this opinion unfamiliar with conflicts of interest, identifying conflicted parties is not equivalent to identifying a conflict violation: most conflicts can be managed responsibly with proper recusals from use of office relating to the conflicted party.

Reliance: This ethics opinion is based solely on the provided facts summarized in this opinion letter. Code §§ 197.13, and 197.16(a). Please contact our staff if these facts are inaccurate or incomplete – or if the facts change in the future. Advice can be appealed or amended. Code § 197.13.

Formal advice is issued by the full Ethics Hearing Board in public meeting and is binding on the Board in a subsequent proceeding concerning the person or entity that requested this advice, or to which this advice referred. [Code §§ 197.13, 197.16, and Board Regulation 3.1](#). The date of this advisory aligns with the date of our executive session meeting; deliberations are properly held in closed session under the law. We are issuing this to you immediately in consideration of travel arrangements. It will be formally adopted at our next public meeting that we achieve quorum.

The Ethics Hearing Board works from the City's Code of Conduct, which includes all of the State Ethics Act, portions of the Code and the Home Rule Charter. [Code §§ 197.09, 197.01](#). The State Ethics Commission is the authority on the State Ethics Act. [65 Pa.C.S. §§ 1107, and 1109](#). The Board and its staff are legally bound to adopt or exceed State Ethics Commission interpretations of the State Ethics Act. [65 Pa.C.S. § 1111](#).

Conclusion: You are permitted to accept the described trip, because the State Ethics Act does not ban no-strings-attached gifts, and the City's ban applies only to gifts from interested parties, and AIEF does not meet the broad criteria on who qualifies as an interested party. You are advised to disclose the gift, both with the Ethics Hearing Board, and on the Statement of Financial Interests because the trip is not reimbursed by the City.

Thank you for requesting this ethics opinion. Please contact our staff with any questions.

Sincerely,

A handwritten signature in blue ink that reads "Maryann Herman". The signature is written in a cursive, flowing style.

Maryann Herman, Chair

Relevant Governmental Ethics Provisions:

Home Rule Charter § 706: No elected official, officer or employee shall in any manner receive benefit from the profits or emoluments of any contract, job work or service for the City, or accept any service or thing of value directly or indirectly upon more favorable terms than those granted to the public generally, from any person, firm or corporation having dealings with the City. No elected official, officer, or employee shall solicit or receive any compensation, gratuity or other thing for any act done in the course of public work. This section shall be broadly construed and strictly enforced. Any violation of this section shall cause the offending official, officer, or employee to forfeit office or employment.

State Ethics Act 65 Pa.C.S. § 1103 (a) Conflict of interest.—No public official or public employee shall engage in conduct that constitutes a conflict of interest.

State Ethics Act 65 Pa.C.S. § 1102 (a) "Conflict" or "conflict of interest." Use by a public official or public employee of the authority of his office or employment or any confidential information received through his holding public office or employment for the private pecuniary benefit of himself, a member of his immediate family or a business with which he or a member of his immediate family is associated. The term does not include an action having a de minimis economic impact or which affects to the same degree a class consisting of the general public or a subclass consisting of an industry, occupation or other group which includes the public official or public employee, a member of his immediate family or a business with which he or a member of his immediate family is associated.

Code § 197.03 (a) - CONFLICT OF INTEREST. No public official or public employee shall exert influence with respect to property or a business with which he or a member of his or her direct family is associated.

Code § 197.02 "GIFT."

Any money, service, license, permit, contract, authorization, loan, travel, entertainment, hospitality, gratuity, or any promise of these or anything else of value received or given without equivalent compensation. The term shall not include a political contribution otherwise reportable as required by law or a commercially reasonable loan made in the ordinary course of business.

Code § 197.02 "Interested Party"

- (1) A person or agent having or seeking to obtain a contract, grant, employment or any financial relationship with the City or any of its departments, agencies, boards, commissions or authorities;
- (2) A principal, agent and/or attorney in legal proceedings in which the City is then an adverse party; or
- (3) A person with an interest that may be substantially affected by the performance or nonperformance of the official duties of the public official or City employee.

§ 197.07 OFFERING, SOLICITING OR ACCEPTING GIFTS.

- (a) *General rule on soliciting gifts.* A Public Official, Public Employee, or City Employee shall not solicit anything of value from any person or entity that the Public Official, Public Employee, or City Employee knows, or has reason to know, is an Interested Party, subject to the exception in subsection (d)(1), and subsection (i).
- (b) *General rule on accepting gifts.* A Public Official, Public Employee or City Employee shall not accept anything of value from any person or entity that the Public Official, Public Employee or City Employee knows, or has reason to know is an Interested Party, subject to the exceptions in subsection (d).
- (c) *General rule on offering gifts.* No interested party shall offer or give anything of value to a Public Official, Public Employee, or City Employee subject to the exceptions in (d or g).
- (d) *Exceptions.*
 - (1) Any gift occasioned by an immediate family relationship.
 - (2) Complimentary food and refreshment of nominal value, not to exceed four (4) times per year from the same organization or individual.
 - (3) When offered by the sponsoring organization, and attended by the Employee in an official capacity, admission, attendance, food and refreshment at a public event or ceremony sponsored by a non-profit organization, or by a civic, political, community, sports or cultural organization. This exception is limited to two (2) tickets per employee per event, not to exceed four (4) events per year from the same organization or individual. These gifts are subject to the gift disclosure rules set forth in Section (e).
 - (4) Accompaniment as an immediate family member or spouse to a public event or ceremony where the immediate family member or spouse is acting in an official capacity.
 - (5) Memberships, events or admissions associated with any boards on which an Employee serves either in his/her official capacity or as a private citizen.
 - (6) A nonpecuniary award publicly presented, in recognition of public service.
 - (7) Gifts from one (1) City Employee to another in recognition of a special occasion, illness or holiday.
 - (8) Gifts of nominal value in recognition of a special occasion such as the birth of child, marriage or retirement.
 - (9) Nonpecuniary gifts of nominal value.
 - (10) Reasonable expenses for travel and accommodation where the travel is business related.
- (e) *Electronic gift disclosure.* In addition to the financial disclosure requirements set forth in the Pennsylvania Public Official and Employee Ethics Act, Public Officials and Public Employees employed by the City of Pittsburgh shall disclose any gifts received:
 - (1) Which exceed one hundred dollars (\$100.00) in value per gift or aggregated together from any one (1) source (an individual or an organization) unless from immediate family members.
 - (2) Such gifts shall be reported on a form developed by The Department of City Information Systems, to the webmaster of the City of Pittsburgh internet site. The report shall include a description of the gift and its approximate value, and the name and employer of the donor.
 - (3) The Department of City Information Systems will maintain an on-line database reflecting all gifts reported under subsection (c). The list will be updated no less frequently than monthly.

- (f) *Ethics Board review of gifts valued at five hundred dollars (\$500.00) or higher.* The Ethics Board will designate two (2) members (hereinafter the Subcommittee) who will evaluate the propriety of gifts valued at five hundred dollars (\$500.00) or more. The subcommittee members will rotate their duties on a quarterly basis, according to the initials of the Board members' last names. Contact information for the Subcommittee will be posted on the City's website. Requests for approval of gifts valued at five hundred dollars (\$500.00) or more shall be made in written hard copy or e-mail to the Subcommittee, and shall specify the nature of the gift, its approximate value, the name and employer of the donor, the public purpose of the gift, and any other material facts. The Subcommittee will evaluate the propriety of the gift according to the following criteria:
- (1) The value of the gift and its relation, if any, to the Employee's official functions;
 - (2) The public purpose of the gift.

The Subcommittee will issue a written opinion within twenty-one (21) days unless the Employee requests a shorter timeline. The opinion will include all material facts relied on by the Subcommittee, and articulate a basis for the decision. All opinions will be posted on the City's website. The Employee will have the right to appeal the decision to the entire Ethics Hearing Board. Gifts from immediate family members are exempt from this subsection.