

Staff Memorandum 2017-03

Ethics Rules 5.8 and 5.10 allow lobbyists and legislative liaisons to provide gifts to individuals they lobby only “in recognition of infrequently occurring occasions of personal significance.” This memorandum provides additional guidance on the Commission’s interpretation of when an occasion is “infrequently occurring.”

Ethics Rules 5.8 and 5.10 provide that a lobbyist or legislative liaison may make a gift “in recognition of infrequently occurring occasions of personal significance.” The Commission specifically declined to specify what occasions qualify under this provision, as applied to state officers and employees, when the Rule was first adopted in 2014. Unfortunately, that has led to confusion as to what qualifies as an “infrequently occurring occasion of personal significance.” Do birthdays and anniversaries fall within this Rule as personally significant occasions, and if so, are those events considered infrequent?

Personally Significant Occasions

Occasions of personal significance are numerous and often subjective to the recipient of the gift. The Ethics Rules do not provide a specific list of occasions of personal significance for state officers and employees but some examples are listed within the Rules. For instance, gifts to family members of a state officer or employee may be provided for an “infrequently occurring occasion of personal significance” “provided the family member is a party to a marriage, serious illness, birth or adoption of a child, or retirement.” The gifts to state officers and employees are not similarly limited to a specified list, but the list for family members is indicative of the type of occasions for which gifts are permissible. In 2017, the Commission revisited these Rules and clarified that the Commission intended to preclude gifts except for events that are considered major life events, such as a marriage, birth or adoption of a child, or retirement. Accordingly, an occasion will meet one of the two required conditions for a gift under the “infrequently occurring occasion of personal significance” Rules provided the occasion is a major life event that is personally significant to the recipient.

Infrequently Occurring Occasions

The second condition in these Rules is that the occasion of personal significance be “infrequently occurring.” In 2017, the Commission also provided guidance and context for what is meant by “infrequently occurring” when promulgating amendments to these provisions within the Rules. In general, an occasion is not “infrequently occurring” if it occurs annually or more frequently than annually. Based on this reasoning, there are occasions that may be personally significant but are not permitted by this Rule if the occasion(s) occur annually or more frequently, such as anniversaries, birthdays, and holidays. Accordingly, an occasion will meet the second of the two

required conditions for a gift under the “infrequently occurring occasion of personal significance” Rules provided the occasion does not occur annually.

Conclusion

Therefore, beginning January 1, 2018, a gift must be given on an occasion that is less frequent than an annual occasion in recognition of a major life event that is personally significant to the recipient in order for an “infrequently occurring occasion of personal significance” to be permitted within the meaning of Ethics Rules 5.8 and 5.11.