

STATE OF NEW HAMPSHIRE  
EXECUTIVE BRANCH ETHICS COMMITTEE



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**Advisory Opinion 2016-03**

**Question Presented**

Can a state law enforcement officer accept a firearm valued at approximately \$700 that he won as a raffle prize at a work-related conference paid for by the employer that was open to members of a national alliance of state drug enforcement agencies, where each of the approximately 65 conference attendees, representing 33 states, was eligible for raffle prizes by virtue of his/her registration?

**Summary Answer**

Yes. Although the Committee has serious reservations about appearance of impropriety stemming from acceptance of a prize of such significant value, under the circumstances described, the committee finds that prohibiting acceptance of the prize would not advance the purpose of the gift prohibition because it is awarded randomly and cannot be targeted to a specific person or group of people. However, the recipient of the prize must evaluate whether acceptance of the prize would create a conflict based on his or her position in relation to the entity or person donating the prize.

**Legal Authority**

RSA 15-B:1; RSA 15-B:2; RSA 15-B:3, III; RSA 21-G:21, II.

**Analysis**

RSA 15-B:3, III states that “[n]o elected official, public official, public employee, constitutional official, or legislative employee shall knowingly accept, directly or indirectly, any gift as defined in this chapter.” The term “gift” is defined in RSA 15-B:2, V(a):

- (1) Money in any amount, whether in the form of cash, check, or any other negotiable or non-negotiable instrumentality for the transfer of money;
- (2) Any other tangible thing, intangible thing, service, or the use thereof, having more than insignificant economic value. Any such item with a value of less than \$25 is presumed to be of insignificant value.

RSA 15-B:2, V(b) lists thirteen exceptions to this broad definition of the term gift. If the transaction or item does not fall within one of those exceptions then it is a gift and the prohibition against the acceptance of gifts would apply.

The purpose of the prohibition against acceptance of gifts “is to ensure that the performance of official duties does not give rise to a conflict of interest” and shall be liberally construed to effect that purpose. RSA 15-B:1.

A firearm, being a tangible thing of more than insignificant economic value, would fall within the definition of gift under RSA 15-B:2, V(a)(2). However, in our recent advisory opinion 2016-01, we stated that acceptance of a raffle prize—even one that met the definition of gift--would not necessarily constitute a violation of RSA 15-B:3, which prohibits the giving of gifts to, and the acceptance of gifts by individuals working or volunteering for the State of New Hampshire.

The purpose of the gift prohibition is to avoid conflicts of interest. In other words, in this context, the inquiry is whether the receipt of the raffle prize would predispose the recipient to a sense of obligation or favoritism towards the entity awarding the prize, in violation of the public trust, or could the giving of the prize be viewed as an attempt to curry favor improperly with a state regulator. Because a raffle prize is randomly awarded, it cannot be targeted to a specific individual and, depending on the circumstances, may not even be targeted to State of New Hampshire employees or volunteers. Thus, the character of the potential recipient group is an important component of the analysis.

In this instance, the potential recipient group consisted of state drug unit directors, commanders and supervisors from approximately 33 states. They were drawn from law enforcement agencies, not regulatory agencies. The entity that provided the prize, which is located in Maine, is not subject to regulation or oversight by the State of New Hampshire.

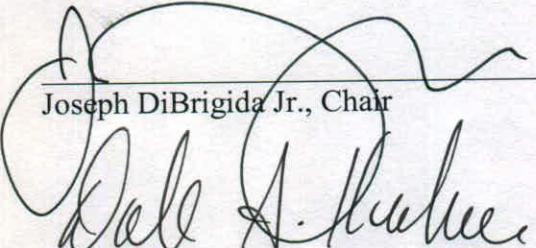
While the committee has serious reservation given the value of the raffle prize in this case, we conclude, under these specific circumstances, that the purpose of the gift prohibition is satisfied, and acceptance of the firearm would not violate the gift statute.

However, as with all circumstances implicating the gift statute, a state employee who wins a raffle prize at a work-related conference should perform his or her own conflict of interest analysis. The person should evaluate whether, in light of that employee’s duties relative to the person or entity offering the prize, receipt of the prize would have “the potential to cause a private interest to interfere with the proper exercise of a public duty.” RSA 21-G:21, II. For example, a State employee who has regulatory enforcement authority over the business entity that provided the prize should not accept a raffle prize from that business.

Additionally, if the prize winner experiences discomfort about the public perception of his or her acceptance of the prize, the better practice, although not required by law, would be to decline the prize and avoid any potential conflict or appearance of impropriety.

Finally, because state agencies are authorized to adopt ethics and gift policies that are more restrictive than those set out in statute, the employee should familiarize him or herself with the policies of the agency where he or she is employed.

This Advisory Opinion is issued by the Executive Branch Ethics Committee on November 2, 2016 pursuant to RSA 21-G:30-a.



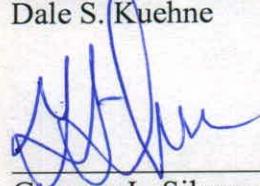
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Joseph DiBrigida Jr., Chair



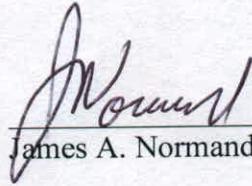
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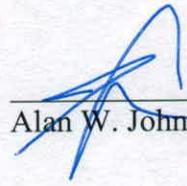
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