

School Law – Gifts Q&A

32:31. **Question:** Are there any restrictions applicable to the acceptance of gifts on behalf of a school district?

Answer: Yes. A school board may not accept a gift that imposes conditions that are contrary to law or district policy. That would be the case, for example, if a gift of money for the support of interscholastic sports required the board to delegate to the donor the board's responsibility for determining whether or not to offer such a program (Appeal of DeMasi, 18 Ed Dept Rep 320 (1978)).

Similarly, the terms of a trust that would require a district to administer scholarships for only male or female students would be contrary to Title IX of the Federal Amendments of 1972 (20 USC § 1681 et seq), which prohibits school districts from engaging in practices or activities that discriminate on the basis of sex (see 25:42), even though "gender restrictions in a private trust do not necessarily violate public policy" or the Equal Protection Clause of the US. Constitution in the absence of action by public officials in furtherance of the discriminatory practice (Matter of Wilson, 59 N.Y.2d 461 (1983)). A gift conditioned on the naming of a facility after the donor of the gift would also be unlawful, if it requires that the board relinquish its authority to rename the facility (Opn. St. Comp. 90-6; see also Appeal of Bonham, 44 Ed Dept Rep 179 (2004)).

32:32. **Question:** May a school district make gifts and charitable contributions using district funds?

Answer: No. Such a gift or contribution would be considered an improper gift of public funds under Article 8, Section 1 of the New York State Constitution, which prohibits the disbursement, gift or loan of public moneys and resources for the benefit of private groups or individuals (see, for example, Appeal of LaLonde, 31 Ed Dept Rep 408 (1992); 29 Opn. St. Comp. 154 (1973)).

Accordingly, a school district may not, for example:

- Make a donation in memory of the parent of a school district employee (Appeal of LaLonde).
- Purchase sweaters or jackets for students who have participated in athletic activities (Opn. St. Comp. 7103 (1955)), even though extra-classroom activity funds, if duly authorized, may be used for this purpose because they are not school district moneys (Id.; see 32:18).
- Purchase graduation pins and flowers for students (4 Opn. St. Comp. 579 (1948)).
- Pay for a dinner, picnic, or similar outing for employees and/or officers unless pursuant to a collective bargaining agreement (see, Opn. St. Comp. 82-263).

32:33. **Question:** Are there any exceptions to the constitutional prohibition against gifts of public funds?

Answer: Yes, when a public purpose is served. Accordingly, a school district may:

- Purchase a plaque of nominal value in recognition of service by unsalaried individuals (Opn. St. Comp 79-882)
- Pay only for the meals of board members at a dinner held to recognize service, provided the cost of the dinner is reasonable (see, Opn. St. Comp 80-775).
- Pay only for the meal of a retiring board member at a dinner held to honor the retiring board member (Opn St Comp 83-57)
- Pay only for the meals of school volunteers at a dinner held to recognize their contribution (see, Opn. St. Comp. 82-66), rather than primarily as a social gathering (see Opn. St. Comp. 90-63).
- Purchase pins for employees in recognition of their years of service (Opn. St. Comp. 99-11).