



Ethical/Legal Standards in the Utah Procurement Code

The Granite School District Board of Education adopted our Fiscal Policy Manual on September 3, 2013. The policy was revised May 2015 and then again in August 2019. This policy is included in that policy and is posted publicly on the Purchasing website.

State law mandates that all public employees comply with ethical/legal standards when administering or using public funds. Utah Code 67-16-4 & 5 et. seq. outlines conduct considered unlawful and proscribes penalties for violating these ethical laws.

67-16-4. Improperly disclosing or using private, controlled, or protected information -- Using position to secure privileges or exemptions -- Accepting employment that would impair independence of judgment or ethical performance -- Exception.

1. Except as provided in Subsection (3), it is an offense for a public officer, public employee, or legislator to:
 - a. accept employment or engage in any business or professional activity that he might reasonably expect would require or induce him to improperly disclose controlled information that he has gained by reason of his official position;
 - b. disclose or improperly use controlled, private, or protected information acquired by reason of his official position or in the course of official duties in order to further substantially the officer's or employee's personal economic interest or to secure special privileges or exemptions for himself or others;
 - c. use or attempt to use his official position to:
 - i. further substantially the officer's or employee's personal economic interest;
or
 - ii. secure special privileges or exemptions for himself or others;
 - d. accept other employment that he might expect would impair his independence of judgment in the performance of his public duties; or
 - e. accept other employment that he might expect would interfere with the ethical performance of his public duties.
2.
 - a. Subsection (1) does not apply to the provision of education-related services to public school students by public education employees acting outside their regular employment.



b. The conduct referred to in Subsection (2)(a) is subject to Section 53A-1-402.5.

3. This section does not apply to a public officer, public employee, or legislator who engages in conduct that constitutes a violation of this section to the extent that the public officer, public employee, or legislator is chargeable, for the same conduct, under Section 63G-6a-2404 or Section 76-8-105.

67-16-5. Accepting gift, compensation, or loan -- When prohibited.

1. As used in this section, "economic benefit tantamount to a gift" includes:

- a. a loan at an interest rate that is substantially lower than the commercial rate then currently prevalent for similar loans; and
- b. compensation received for private services rendered at a rate substantially exceeding the fair market value of the services.

2. Except as provided in Subsection (4), it is an offense for a public officer or public employee to knowingly receive, accept, take, seek, or solicit, directly or indirectly for himself or another a gift of substantial value or a substantial economic benefit tantamount to a gift:

- a. that would tend improperly to influence a reasonable person in the person's position to depart from the faithful and impartial discharge of the person's public duties;
- b. that the public officer or public employee knows or that a reasonable person in that position should know under the circumstances is primarily for the purpose of rewarding the public officer or public employee for official action taken; or
- c. if the public officer or public employee recently has been, is now, or in the near future may be involved in any governmental action directly affecting the donor or lender, unless a disclosure of the gift, compensation, or loan and other relevant information has been made in the manner provided in Section 67-16-6.

3. Subsection (2) does not apply to:

- a. an occasional nonpecuniary gift, having a value of not in excess of \$50;
- b. an award publicly presented in recognition of public services;
- c. any bona fide loan made in the ordinary course of business; or
- d. a political campaign contribution.



4. This section does not apply to a public officer or public employee who engages in conduct that constitutes a violation of this section to the extent that the public officer or public employee is chargeable, for the same conduct, under Section 63G-6a-2404 or Section 76-8-105.

State law mandates procurement professionals comply with ethical/legal standards when administering or using public funds. Utah Code 63G-6a-2404 et. seq. outlines conduct considered unlawful and proscribes penalties for violating procurement laws.

1. For purposes of this section, the following definitions apply:

a. "Contract administration professional" means an individual who is directly under contract with the district or employed by a person under contract with the district and has responsibility in developing a solicitation or grant, or conducting the procurement process; or supervising or overseeing the administration or management of a contract or grant. This does not include an employee of the district. (Utah Code 63G-6a-2402).

b. "Procurement professional" means an individual who is an employee, and not an independent contractor, of the district, and who, by title or primary responsibility has procurement decision making authority and is assigned to be engaged in or is engaged in the procurement process or the process of administering a contract or grant, including enforcing contract or grant compliance, approving contract or grant payments, or approving contract or grant change orders or amendments. Procurement professional excludes:

i. Any individual who, by title or primary responsibility, does not have procurement decision making authority;

ii. The superintendent, business administrator, principal, or vice principal of the district, or the chief assistant or deputy of the superintendent, business administrator, principal, or vice principal (Utah Code 63G-6a-2402).

c. "Hospitality gift" means a token gift of minimal value, including, a pen, pencil, stationery, toy, pin, trinket, snack, beverage, or appetizer, given for promotional or hospitality purposes. This does not include money, a meal, admission to an event for which a charge is normally made, entertainment for which a charge is normally made, travel, or lodging (Utah Code 63G-6a-2402).

i. Utah Code 63G-6a-2404 states that it is not unlawful for a person to give or receive, offer to give or receive, or promise or pledge to give or ask for a promise or pledge of, a hospitality gift if the total value of the hospitality gift is less than \$10; and the aggregate value of all hospitality gifts from the person to the recipient in a calendar year is less than \$50.



ii. Any hospitality gift exceeding the \$10 and \$50 threshold is considered a gratuity, and the provisions below apply.

d. "Gratuity" means anything of value given without anything provided in exchange or in excess of the market value of that which is provided in exchange, including a gift or favor, money, a loan at an interest rate below the market value or with terms that are more advantageous to the borrower than terms offered generally on the market, anything of value provided with an award (other than a certificate, plaque, or trophy), employment, admission to an event, a meal, lodging, travel, entertainment for which a charge is normally made, and a raffle, drawing for a prize, or lottery.

i. Gratuity does not include:

- a. An item, including a meal in association with a training seminar, that is:
- b. Included in a contract or grant; or
- c. Provided in the proper performance of a requirement of a contract or grant;
- d. An item requested to evaluate properly the award of a contract or grant;
- e. A rebate, coupon, discount, airline travel award, dividend, or other offering included in the price of a procurement item;
- f. A meal provided by an organization or association, including a professional or educational association, an association of vendors, or an association composed of public agencies or public entities, that does not, as an organization or association, respond to solicitations;
- g. A product sample submitted to a public entity to assist the public entity to evaluate a solicitation;
- h. A political campaign contribution;
- i. An item generally available to the public; or
- j. Anything of value that one public agency provides to another public agency (Utah Code 63G-6a-2402).

e. "Kickback" means a negotiated bribe in connection with a procurement or the administration of a contract or grant; and does not include items in subsection 4.e.(1) (Utah Code 63G-6a-2402).



2. Utah Code 63G-6a-2404 makes it unlawful:
 - a. For a person who has or is seeking a contract with or a grant from a public entity knowingly to give, or offer, promise, or pledge to give, a gratuity to the district, a procurement professional or contract administration professional, or an individual who the person knows is a family member of an individual.
 - b. For a “procurement professional” or “contract administration professional,” or a family member of either, knowingly to receive or accept, offer or agree to receive or accept, or ask for a promise or pledge of, a gratuity from a person who has or is seeking a contract with or a grant from a public entity.
 - c. For a person who has or is seeking a contract with or a grant from a public entity knowingly to give, or offer, promise, or pledge to give, a kickback to the district, a procurement professional or contract administration professional, or an individual who the person knows is a family member of an individual.
 - d. For a “procurement professional” or “contract administration professional,” or a family member of either, knowingly to receive or accept, offer or agree to receive or accept, or ask for a promise or pledge of, a kickback from a person who has or is seeking a contract with or a grant from a public entity.
3. Penalties for violating this statute are established in Utah Code 63G-6a-2404 & 2407. Individuals will adhere to these penalties and report violations to the attorney general’s office, as required by statute. Penalties range from a class B misdemeanor to a second degree felony and individuals are subject to disciplinary action up to and including dismissal from public employment or return the value of the unlawful gratuity.