

Gifts & Expenditures

Frequently Asked Questions

I'm an executive branch reporting individual, and I received a gift from an executive branch lobbyist. But it's worth less than \$100, so it's ok, right?

Wrong. Sec. 112.3215 prohibits "expenditures" and does not prescribe a threshold amount.

I'm an executive branch reporting individual. Can I accept expenditures from executive branch lobbyists who don't lobby *my* agency?

No. Unlike the definitions provided in sec. 112.3148, the expenditure ban in sec. 112.3215 does not limit the restriction to a particular agency or agencies. See also CEO 08-19, Question 3.

Salary and other things associated primarily with the recipient's employment or service as an officer or director of a corporation or organization are excluded from the definition of "gift" in sec. 112.312. Does that exclusion apply to the expenditure ban of sec. 112.3215?

Not by the terms of the statute itself. But in CEO 06-7, Question 5, the Commission concluded that where the Commissioner of Agriculture served on the board of the Florida Cattlemen's Association, food and beverages provided him by the Association as part of the board's meeting would not be given for the purpose of lobbying and would not be a prohibited expenditure, as long as it was given in an amount commensurate with other similarly situated board members.

A member of an association wants to give me a gift/expenditure. The association is the principal of an executive branch lobbyist. Can I take it?

Yes, as long as it's not an indirect gift that's really coming from the association. Rule 34-12.020, F.A.C. says, "The members of the association are not principals of the lobbyist merely because of their membership in the association."

A lobbyist wants to take me to dinner, and he says I should bring my wife along. Have I received a gift of one dinner, or two dinners?

The dinner for your wife would probably be considered an "indirect" gift to you. In CEO 06-27, the Commission advised city officials that they would receive a reportable "gift" if the city paid for a spouse or other guest to accompany them while traveling on city business. See also Example C to Rule 34-12.190 F.A.C.

I've been offered a gift. I've read Section 112.3148, and don't see anything that would prohibit it. Does that mean I can take it?

Not necessarily. Always check first to see whether the gift is prohibited by Section 112.313(2) or (4), or by the expenditure ban in sec. 112.3215 or the ban on gifts from political committees in sec. 112.31485. Only if it's not *prohibited* under any of those laws do you proceed to an analysis under the gift law.

I don't need to worry about gifts that don't have anything to do with my public office or employment, do I?

You do. Even gifts from friends and gifts unconnected with your public service may be prohibited or required to be reported.

I received a gift worth more than \$100, but I reported it. That means I'm ok, right?

Not necessarily. If a gift is prohibited, reporting it won't "cure" the violation.

Oops! Last week, I accepted a gift worth more than \$100 from a lobbyist who lobbies my agency. Am I in trouble?

If you're subject to the expenditure ban in sec. 112.3215, you may be. That law doesn't make any provision for returning the gift or paying for it after-the-fact. If you're only subject to the gift law in sec. 112.3148, you're not necessarily in trouble. A gift is anything you don't pay for within 90 days. You can return the gift, or reimburse the lobbyist within that time period.

I gave a speech at an event, and a lobbyist of my agency reimbursed me for the reasonable and actual costs of my transportation, lodging, and meals so I could participate. But he didn't give me the information the law requires. Do I still have to report the honorarium event related expenses?

Yes. Also remember, while there is no Commission opinion on this issue, the language of the expenditure ban prohibits "reimbursements" from executive branch lobbyists and their principals. If the entity paying your expenses is one of these, and you're subject to the ban, it would be a good idea to ask for an opinion on the issue before accepting.