



INTEROFFICE CORRESPONDENCE

INFORMATIVE

To: Members, Board of Education
David L. Brewer III, Superintendent

Date: November 20, 2006

From: Yea-Lan Chiang, Ethics Officer

Subject: Analysis on Changing LAUSD’s Gift Limit

This informative is provided in response to the Board’s request for options and analyses regarding a potential modification to LAUSD’s current \$100 annual gift limit. The background context and benchmark data below should provide you a stronger framework for evaluating the implications of any changes.

Background

In the tradition of the many local agencies (including City of Los Angeles) that aim to set a high ethics standard, LAUSD’s Board of Education has maintained a lower annual gift limit than the allowable state limit since September 1998 when the Board adopted our first “Ethics Policy Statement and Code of Ethics.” Since 1998, the Board has validated and maintained the \$100 gift limit each time the Code has been updated, including both in December 2000 and then again on February 25, 2003 when the Board approved our district’s current *Employee Code of Ethics*. For context, at the time the Board first adopted the lower limit of \$100 in 1998, the state gift limit was \$290. Under Government Code Section 89503, this state limit is adjusted every odd year to reflect changes in California’s Consumer Price Index. Therefore, the state gift limit is now \$360, but will be adjusted to \$390 beginning January 1, 2007 and surpass \$400 by 2009. Meanwhile as the Board is aware, any gifts over \$50 in cumulative value from a single source must be disclosed in the annual Form 700 Statement of Economic Interest – regardless of the ceiling amount. Given this transparency requirement, there is always a great deal of public scrutiny [See Appendix] around gifts – even when gifts are legally permissible. You may have read the recent media critiques against Governor Schwarzenegger’s administration which has been called to task for following the state limit. This continuing scrutiny prompted the governor’s Chief of Staff to issue a memo in August, suggesting that staff pay for items themselves because accepting gifts, even if the law allows it, creates a public perception of impropriety. In fact, so strong are concerns about appearance of conflict in today’s new ethics climate that many organizations are choosing gift policies that are stricter than LAUSD’s current \$100 limit.

Employee Gift Limits for Key Benchmarks

	Organization	Synopsis of Gift Limit(s) Policy	Different Standard for Senior Officials?	Public Integrity Risk
S C H O O L S	LA County Office of Education	\$0 from entities seeking decision-making or resources.	No, same for all	Low
	New York City Department of Education	\$50 per gift; \$100 per year from entities seeking decision-making or resources from the district	No, same for all	Low
	Chicago Public Schools	\$50 per gift; \$100 per year	No, same for all	Low
	Miami-Dade Public Schools	\$25 per gift	No, same for all	Low
	San Francisco Unified School District	\$50 from lobbyists; \$100 per year from entities seeking decision-making or resources from the district	No, same for all	Low
G O V E R N M E N T	City of Los Angeles	\$0 from lobbyists; \$100 per year from entities seeking decision-making or resources; FPPC limit otherwise	Yes, lower gift limit for Form 700 filers	Medium
	City of San Fernando	\$25 per gift from any entity	No, same for all	Low
	City of Torrance	\$25 per year from any entity	No, same for all	Low
	City of West Hollywood	Only shareable edible items or displayable items	No, same for all	Low
	Los Angeles Metropolitan Transit Authority	\$10 per month; \$50 per year from entities seeking decision-making or resources; FPPC limit otherwise	No, same for all	Low
	City (and County) of San Francisco	\$50 from lobbyists; \$100 per year from entities seeking decision-making or resources; FPPC limit otherwise	No, same for all	Low
	United States Government, Executive Branch*	\$20 per gift, \$50 per year from entities seeking decision-making or resources from the agency	No, same for all	Low
United States Congress	\$50 per gift, \$100 per year from any source	No, same for all	Low	

*Includes the Superintendent’s former employer – the U.S. Navy

P R I V A T E	Bill and Melinda Gates Foundation	\$100 from any vendors, suppliers, consultants or grantees.	No, same for all	Low
	Los Angeles Times	\$0. No gifts from individuals covered or likely to be covered by the <i>LA Times</i>	No, same for all	Low
	National Public Radio	\$0. No gifts except those of token value from individuals covered by NPR	No, same for all	Low
	Target Corporation	\$0. Zero tolerance policy – no gifts of any value whatsoever at any time (including holidays, weddings, birthdays, or births). Gifts directed to charities instead.	No, same for all	Low

Based on our review, LAUSD’s current gift limit of \$100 is in keeping with the ethics standards of other leading organizations, especially those that would be considered our relevant benchmarks. While there are government agencies within California who utilize the higher state limit, the local Los Angeles standard and the standard among large school districts tend to be a lower gift limit. Additionally, it appears to be the prevailing practice of most organizations to have one unified gift limit, for the sake of both ethical modeling and consistency. In fact, in the instances when we’ve seen a difference in the standard, there is a higher standard (i.e. a more restrictive limit) placed on more senior officials.

Options

Several alternatives are available to Board members who wish to explore an adjustment to LAUSD’s gift limit; however each option has distinct implications and trade-offs:

Choice	Details	Implications	Public Integrity Risk
Option #1: <i>Set a Lower Gift Limit</i>	<ul style="list-style-type: none"> Set lower annual limit of \$0 to \$50 	<ul style="list-style-type: none"> PRO: Helps LAUSD improve ethics standard CON: Requires re-training costs and efforts 	
Option #2: <i>Keep the Limit with Immunity</i>	<ul style="list-style-type: none"> Retain \$100 annual gift limit Offer forgiveness for any unintentional pre-2007 violations of the gift policy 	<ul style="list-style-type: none"> PRO: Enables LAUSD to build on existing training PRO: Allows forgiveness for gift violations occurring prior to district-wide ethics training PRO: Encourages employees to donate excess gifts to LAUSD as an agency or to the LAUSD foundation 	
Option #3: <i>Adopt City of LA Hybrid Model</i>	<ul style="list-style-type: none"> Maintain \$100 gift limit for all restricted sources (e.g. entities seeking or doing business with LAUSD) Allow FPPC limit for reportable sources 	<ul style="list-style-type: none"> PRO: Allows additional flexibility for receiving gifts from entities that are not seeking decision-making or resources from the agency CON: Creates complexity that’s harder to follow 	
Option #4: <i>Adjust Limit for Inflation</i>	<ul style="list-style-type: none"> Establish one-time inflation adjustment for this decade, raising \$100 limit to \$150 (based on the projected ~42% FPPC increase for 1998-2010**) <p><i>**Actual increase from 1998-2008 is 34.5%</i></p>	<ul style="list-style-type: none"> PRO: Allows increase to gift limit based on California’s Consumer Price Index with rounding CON: Invites some scrutiny with 50% increase CON: Requires re-training costs and efforts 	
Option #5: <i>Peg to the FPPC Limit</i>	<ul style="list-style-type: none"> Set \$100 as the per gift limit with an allowable aggregate at the FPPC limit 	<ul style="list-style-type: none"> PRO: Enables <i>all</i> employees the flexibility to enjoy business courtesies of \$390+ per year per source CON: Invites certain public scrutiny and potential criticism by quadrupling gift limit (~290% increase) CON: Requires re-training, each biennial adjustment CON: Eliminates benefits to agency as a whole since individuals can keep gifts for themselves (rather than donate to LAUSD) 	

Recommendation

Given that the trend is for public agencies to decrease – rather than increase – gift limits, and the fact that outside entities are monitoring our gift policy, the Ethics Office recommends Option #2. We do not find it advisable to raise our gift limit to the FPPC level because quadrupling our limit to the near \$400 annual FPPC limit will shift LAUSD’s ethics momentum and detract from the Board’s record to-date of supporting strong ethics standards for our district. Moreover, pegging to the FPPC limit requires costly, constant re-training and undermines the effectiveness of the limit, according to other agencies. Finally, raising the limit encourages gifts to individuals, rather than gifts that can benefit LAUSD as a whole.

Appendix – Digest on Gift Limits

EDUCATORS DEMAND LAVISH GIFTS

O.C. couple say they were forced to pay tens of thousands to get proper care for their autistic son, according to a claim they filed.

By Ashley Powers, Times Staff Writer
November 17, 2006

To get proper schooling for their severely autistic son, an Irvine couple say they were forced to shower employees at his elementary school with diamond jewelry, Coach bags, Chanel perfume and other lavish gifts worth a total of \$100,000, according to a legal claim filed this month.

GOVERNOR'S BAN ON STAFF PERKS ISN'T PERFECT

By Peter Nicholas, Times Staff Writer
October 31, 2006

Sacramento — After allowing his staff to accept tens of thousands of dollars' worth of gifts from business interests, Gov. Arnold Schwarzenegger is now worried about the appearance of a conflict of interest and has barred them from taking even a free cup of coffee.

But the policy, stricter than state law, hasn't stopped the perks.

Schwarzenegger aides over the last year have been given free tickets to Disneyland and San Francisco Giants baseball games; to Rolling Stones concerts and Sacramento Kings basketball games

LOBBYISTS' GIFTS: LAVISH BUT LEGAL; CALIFORNIA LIMITS SPENDING, YET LAWMAKERS GLEAN NEARLY \$1 MILLION IN POLITICAL FAVORS

By Tom Chorneau, Chronicle Sacramento Bureau
April 30, 2006

Corporations and trade groups treated state lawmakers, their staffs and members of the governor's office to \$940,000 in gifts last year that included rounds of golf at exclusive resorts, ski outings, hunting trips and seats to watch the Rolling Stones and WrestleMania, according to a Chronicle analysis

NEW RULES FOR TEACHER GIFTS: APPLES (BUT PERHAPS NO IPODS)

By Susan Saulny; Ann Farmer Contributed, New York Times Metropolitan Desk
December 14, 2004

New York City sets \$5 limit on gifts for teachers, stating that they should be principally sentimental in nature and of insignificant financial value; some parents argue that \$5 is not enough, but city holds that larger amount could set up conflict of interest and rule will help students whose cannot afford to give more.

CHANGES PROPOSED IN JUDGES GIFT RULES

By Gina Holland, Associated Press
October 6, 2004

WASHINGTON – A commission that writes ethics rules for judges has recommended new restrictions, including a \$50 limit for some gifts and a requirement that judges disclose free trips every three months.

The American Bar Association panel, which is overhauling the ethics rules for the first time in 15 years, also proposed a new standard for judges to decide whether it's appropriate to take an expenses-paid trip: Trips that would "cast reasonable doubt" on a judge's impartiality would be unacceptable

SANTA ANA UNIFIED MULLS GIFT BAN

By Sarah Tully, The Orange County Register
February 25, 2003

The ethics policy would forbid potential bidders from giving, offering or promising "money, gift or gratuity" to board members or staff. Avila said that should include campaign contributions. Architects, contractors and construction unions have donated at least \$160,000 to Santa Ana candidates since 1999.

"I think that board members should not take contributions from people who are seeking to do business with the district," said board member Sal Tinajero, who in the past received donations from architects and unions.