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## Legal Defense Funds for New York City Public Servants

On March 29, 2017, the New York City Conflicts of Interest Board (COIB or the Board) unanimously issued [Advisory Opinion 2017-2](#), regarding contributions to legal defense funds established to defray legal expenses of public servants. The Board noted that there are a variety of vehicles for public servants to receive legal services without expense when they are connected to the public servant's official duties. In other circumstances, however, if a legal defense fund is established to pay for legal services that would otherwise be the responsibility of the public servant, any donation received by the fund would be considered a gift to the public servant, and therefore subject to Chapter 68 of the City Charter and the related Board Rules.

The COIB held that, pursuant to the established rules and law regulating gifts, a public servant may not accept:

- > A gift (contribution) of \$50.00 or more, or a series of gifts over a twelve-month period aggregating to \$50.00, from any person or firm having, or intending to have business dealings with the City. This \$50 limit also applies to two or more members of the same firm, relatives, or domestic partners, thereby limiting the family or firm to a total contribution of under \$50 during a given year.
- > Any contribution from the public servant's City subordinates.
- > A contribution of \$50 or more from virtually all other persons who are not engaged in business dealings with the City, but presumably are making the contribution because the person is aware of the public servant's City position.

Notwithstanding the foregoing, a public servant may accept contributions in any amount from a family member or close personal friend who is not engaged in business dealings with the City, does not appear before the City, and otherwise has no non-ministerial dealings with the City. Ministerial matters are administrative acts, such as the issuance of a license or a permit, which are carried out in a prescribed manner and do not involve a discretionary determination by the governmental entity.

The Board also noted that there are other jurisdictions that have laws or rules allowing for gifts to legal defense funds which do not exist in New York City, implying that the City could consider such a law.

Although the Board did not directly address the question of gifts from lobbyists registered with the New York City Clerk, pursuant to the Administration Code §3-225, registered lobbyists may not give *any* gift to a public servant. Since the COIB determined that a donation to a legal defense fund would be a gift, it appears that lobbyists and lobbying firms are barred from making contributions to a public servant’s legal defense fund. Moreover, City lobbyists may also be subject to the State Lobbying Law, which prohibits any gift from a lobbyist to a public official, where it is reasonable to infer that the gift was intended to influence the public servant benefiting from the gift. Therefore, pursuant to the Advisory Opinion, the Administrative Code, and the State Lobbying Law, lobbyists registered with the City Clerk and the Joint Commission on Public Ethics, are prohibited from contributing to a public servant’s legal defense fund.

Greenberg Traurig’s Government Law Compliance Practice is available to assist with questions regarding New York City and State’s lobbying, ethics, and election laws. Greenberg Traurig has a broad range of experience in New York City and State, and provides advice to some of the world’s leading corporations, lobbying firms, public officials, candidates, advocacy organizations, and others who seek to navigate New York’s complex political law compliance requirements.

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