

Public Investigation Report

2017 – 0022

Elected Official Receiving Something of
Value

OFFICE OF INSPECTOR GENERAL JEFFERSON PARISH



PUBLIC INVESTIGATION REPORT

ELECTED OFFICIAL RECEIVING SOMETHING OF
VALUE

2017-0022

INVESTIGATION
ISSUED 3/27/2019



OFFICE OF INSPECTOR GENERAL
JEFFERSON PARISH

DAVID N. McCLINTOCK
INSPECTOR GENERAL



DATE: 03/27/2019

TO: The Citizens of Jefferson Parish

FROM: David McClintock, Inspector General

RE: Investigative Report #2017-0022 and Referral: Elected Official Receiving Something of Value.

Please find attached the Jefferson Parish Office of Inspector General's (JPOIG) Public Report of Investigation on an Elected Official Receiving Something of Value. The investigation was initiated based upon information that Parish Councilman Paul Johnston was dining with Parish vendors.

The objectives for this investigation were to:

1. Assess information regarding Councilman Johnston receiving something of economic value from Parish vendors; and
2. Assess whether conduct breached state or local ethical standards.

A Confidential Draft Report was issued on 12/27/2018 to Parish Councilman Paul Johnston. Per Parish Ordinance §2-155.10(9), Councilman Johnston had until 02/12/2019 to provide a response to the report. A request for an extension of time was received, and the time for responding was extended through 02/27/2019.

Based upon the data analysis, the JPOIG reached four (4) separate findings. These findings related to the use and participation by Councilman Johnston in the Copeland's Restaurant of New Orleans' customer rewards program, "Lagniappe Club." The program rewards participants with points for money spent dining or drinking at participating restaurants. The points are converted into "Lagniappe Dollars." One Lagniappe Dollar equals \$1.00. Councilman Johnston received rewards points for meals purchased by Parish vendors and Parish employees.

Louisiana Ethics Law permits vendors to expend funds, within certain limits, for the meals of public officials when consumed in the vendor's presence. Records show that Councilman Johnston dined at Copeland's restaurants and that Parish vendors, on occasion, paid for the meals. When vendors paid for the meals Councilman Johnston's Lagniappe Club account was credited with the value of the whole dining bill.

Councilman Johnston also accepted rewards points for the whole dining bill when dining with others at Copeland, including Parish employees and other elected officials.

Between 01/23/2014 and 12/31/2017, Paul Johnston's Lagniappe Club was credited with purchasing \$35,443.65 in food and beverage purchases across more than 500 meals, including food and beverages purchased by Parish vendors. Having received credit for these transactions, Councilman Johnston earned points that were converted into 2,885 Lagniappe Dollars, or \$2,885 redeemable at participating restaurants. Recall that the scope of this report was the conduct of

Councilman Johnston, as such, no vendors were interviewed during the course of this investigation.

Response

Councilman Johnston responded to the report on 02/12/2019. In his response, Councilman Johnston claimed there was insufficient time to respond. Councilman Johnston indicated that he has consulted with “Louisiana Ethics Administration and would like to have this issue reviewed by them”. Lastly, Councilman Johnston indicated that he “ended the practice of acquiring food credits” before being aware of this investigation.

Reporting and Referrals

This report has been provided to the Jefferson Parish Ethics and Compliance Commission in accordance with JPCO 2-155.10 (9)(a).

Further, this matter has been referred to the Jefferson Parish Ethics and Compliance Commission and the Louisiana Board of Ethics for consideration and appropriate action.

Respectfully,



David McClintock

ELECTED OFFICIAL RECEIVING SOMETHING OF VALUE

2017-0022

Table of Contents

INTRODUCTION	001
OBJECTIVES, SCOPE AND METHODOLOGY	001
BACKGROUND	002
DATA REVIEW & ANALYSIS	002
A. Something of Economic Value	002
1. Something of Value from Parish Vendors	003
2. Something of Value from Parish Employees	004
B. Something of Economic Value to Councilman Johnston	004
C. Using Public Office for Private Gain	005
D. Campaign Contributions to Councilman Johnston	007
E. Councilman Johnston Interview	008
FINDINGS AND RECOMMENDATIONS	009
ATTACHMENTS	
Attachment A – Electronic Receipts	013
Attachment B – Original Receipts	552
Attachment C – Louisiana Code of Governmental Ethics	807
Attachment D – Louisiana Board of Ethics - Information Sheet	818
Attachment E – Response to Report by Councilman Paul Johnson	824



OFFICE OF INSPECTOR GENERAL JEFFERSON PARISH

DAVID N. McCLINTOCK
INSPECTOR GENERAL



Date of Report: 3/27/2019	PUBLIC INVESTIGATION REPORT	Case: #2017-0022
Timeframe: 01/01/2014 – 12/31/2017	Investigation By: Paul Lumpkin	Status: Public
<u>Subject of Investigation</u>		
<ul style="list-style-type: none"> • Receipt of a thing of economic value by a Councilmember from a prohibited source 		

INTRODUCTION

Pursuant to JPCO §2-155.10(11) (a), the Jefferson Parish Office of Inspector General (“JPOIG”) initiated an investigation based upon information that Parish Councilman Paul Johnston was receiving something of economic value from Parish vendors and employees. The investigation was conducted in accordance with the Association of Inspectors General Standards for Investigations.

OBJECTIVES

The JPOIG’s objectives for this investigation were to:

1. Determine accuracy of information regarding Councilman Johnston receiving something of economic value from Parish vendors; and
2. Assess whether conduct breached state or local ethical standards.

SCOPE & METHODOLOGY

To accomplish these objectives, the following was undertaken:

- Reviewed receipts and transaction reports obtained through investigative methods;
- Reviewed open source information;
- Reviewed state and local ethics laws;
- Review pertinent Parish ordinances; and
- Conducted Interviews

Acronyms

Copeland	Copeland’s of New Orleans	Parish	Jefferson Parish
JPOIG	Jefferson Parish Office of Inspector General	Lagniappe	Copeland’s Lagniappe Club Promotion

BACKGROUND

Councilman Paul Johnston was elected to the Jefferson Parish Council in 2012.¹ Councilman Johnston was observed frequenting Copeland's of New Orleans ("Copeland") at 1001 South Clearview Parkway with Parish vendors and others following Parish Council meetings.

Copeland is a casual dining restaurant with over 15 locations. It hosts a rewards program, the "Lagniappe Club," which rewards participants with points for money spent dining or drinking at participating restaurants. The points are converted into "Lagniappe Dollars." One Lagniappe Dollar equals \$1.00.² Lagniappe Dollars are accepted at participating restaurants.³ According to records obtained by the JPOIG, Paul Johnston participates in the Copeland Lagniappe Dollars' rewards program, and specifically, he participated in the rewards program from 01/23/2014 through 12/31/2017.

Records show that Parish vendors paid for Councilman Johnston's meal when Councilman Johnston dines with Parish vendors at Copeland, but Councilman Johnston accepts rewards points for the whole dining bill. Councilman Johnston also accepts rewards points for the whole dining bill when dining with others at Copeland, including Parish employees and other elected officials.

Between 01/23/2014 and 12/31/2017, Paul Johnston's Lagniappe Club was credited with purchasing \$35,443.65 in food and beverage purchases across more than 500 meals, including food and beverages purchased by Parish vendors. Having received credit for these transactions, Councilman Johnston earned points that were converted into 2,885 Lagniappe Dollars, or \$2,885 redeemable at participating restaurants.

DATA REVIEW & ANALYSIS

A. Councilman Johnston received something of value from Parish vendors and employees

The JPOIG reviewed transactions on Councilman Johnston's Lagniappe Dollar reward account with Copeland and associated electronic receipts for the time period 01/23/2014 through 12/31/2017.⁴

The JPOIG also reviewed signed receipts associated with the transactions.⁵ Based upon an analysis of this information, the JPOIG learned that Councilman Johnston had frequented

¹ In 2012, Councilman Johnston was elected to the Parish Council, District 2. Prior to being elected to the Jefferson Parish Council, he was elected as Mayor for the City of Harahan. He has more than 23 years of experience in local government.

² \$1 Lagniappe dollar is treated as \$1 US dollar.

³ The points to cash value ratio changed during the relevant time period. Prior to 08/29/2017, 300 points equaled \$25 lagniappe dollars. As of 08/29/2017, a 150 points led to \$10 Lagniappe Dollars. Lagniappe dollars allows account holder to purchase food at a later date dollar for dollar.

⁴ Refer to Attachment A. The electronic receipts do not reflect payee information, but they do reflect last four digits of a card transaction.

⁵ Refer to Attachment B. Signed receipts show both the payee's signature as well as information on method of payment, such as last four digits of a card transaction. Signed receipts for the period 01/23/2014 through 10/31/2015 were not available.

Copeland on at least 501 occasions to dine with Parish vendors, Parish employees, elected officials, and others. Councilman Johnston’s reward account with Copeland reflects points earned from transactions totaling \$35,443.65 over a four year period which earned him 2,891.52 in Lagniappe Dollars.

On occasions when Councilman Johnston dined at Copeland with Parish vendors, the Parish vendors paid for the meal(s). Councilman Johnston accepted reward points on his account with Copeland for money spent by Parish vendors on meals.⁶ Investigators found that points earned from these transactions resulted in Councilman Johnston receiving 491.02 in Lagniappe Dollars for later use.⁵ On occasions when Councilman Johnston dined at Copeland with Parish employees and other elected officials, Councilman Johnston may have paid for his meal. Still, Councilman Johnston accepted reward points for the meals paid for by Parish employees, other elected officials and individuals.

Points earned from these transactions resulted in Councilman Johnston receiving an additional 1,278.41 in Lagniappe Dollars for later use. Finally, Councilman Johnston received further rewards points for meals purchased by gift cards or payees who could not be identified. Points earned from these transactions resulted in Councilman Johnston receiving another 1,122.10 in Lagniappe Dollars for later use. This data is summarized in the table below.

Transactions	Frequency	Total Payments	Lagniappe \$ Earned	% of Total Payments
Vendor Payees	66	\$6,040.30	\$491.02 ⁷	17%
Johnston and Other Payees	235	\$15,518.64	\$1,278.41	44%
Unknown Payees/Gift Cards	200	\$13,884.71	\$1,122.10	39%
Total	501	\$35,443.65	\$2,891.52⁸	100%

1. Something of value from Parish vendors

The Louisiana Code of Governmental Ethics Section 1115, *Gifts*, states that no public servant shall solicit, directly or indirectly, anything of economic value as a gift or gratuity from any person or from any officer, director, or employee of such person, who has or is seeking to obtain contractual or other business or financial relationships with the public servant’s agency.⁹

⁶ The JPOIG identified payees from the signed receipts, which showed the last four digits of the payee’s credit card account. The JPOIG identified the last four digits of the credit card account on electronic receipts, which did not identify payee. The information was matched, and the JPOIG identified payees on electronic receipts based upon last four digits of credit card account.

⁷ The benefit of earning lagniappe dollars though identified vendor payments is considered “something of economic value” and is a potential violation Louisiana Revised State Statute and Jefferson Parish Code of Ordinances.

⁸ Per Councilman Johnston’s Lagniappe transaction report the Councilman has accrued \$2,885 in lagniappe dollars. The amount reflected in table 2 is off by \$6.52. The reason of this difference is due to the way Copelands converts actual dollars spent to lagniappe dollars. See footnote 3.

⁹ La.R.S. 42:1115(A). La.R.S. 42:1102(19) defines a “public servant” to be a public employee or an elected official. Councilman Johnston is an elected official.

Based upon the above, it appears that Councilman Johnston received a gift or gratuity in an equivalent value of \$491.02 from Parish vendors who paid dining tabs totaling \$6,040.30.¹⁰

2. Something of value from Parish employees

The Louisiana Code of Governmental Ethics Section 1116, *Abuse of office*, states that no public servant shall use the authority of the office or position, directly or indirectly, in a manner intended to compel or coerce any person or other public servant to provide himself with anything of economic value.¹¹ The Louisiana Board of Ethics has considered potential ethics violations arising from circumstances where a person in a supervisory position, directly or indirectly, compels or coerces another public servant to provide something of value.

Based upon the above, it could be that Councilman Johnston coerced, directly or indirectly, public employees working for the Parish Council to provide him something of value by accepting reward points on his Copeland Lagniappe Dollar for meals paid for by Parish employees.

The JPCO Section 2-155, *Office of the inspector general*, provides at Sub-paragraph (11), [u]pon detecting a potential violation of state ethics law the office of inspector general shall notify the state ethics board pursuant to R.S. 42:1161.” The data and analysis reflect a potential violation of the state ethics law, and the JPOIG notifies the ethics board pursuant to R.S. 42:1161.

B. Parish vendors giving something of value to Councilman Johnston

On at least 66 occasions, Councilman Johnston dined at Copeland with Parish vendors.¹² Parish vendors paid documented dining tabs totaling \$6,040.30 resulting in Councilman Johnston claiming reward points with Copeland.¹³ Points earned from these transactions resulted in Councilman Johnston receiving 491.02 in Lagniappe Dollars for later use.⁵ The table below shows the total amount spent by Parish vendors at Copeland while dining with Councilman Johnston.

The Louisiana Code of Governmental Ethics at Section 1117, *Illegal payments*, states that “[n]o public servant *or* other person shall give pay, loan, transfer or deliver or offer to give, pay, loan, transfer or deliver, directly or indirectly, to any public servant... anything of economic value which the public servant” would be prohibited from receiving.¹⁴

¹⁰ La.R.S. 42:1115(A). La.R.S. 42:1115.1 permits a public servant from accepting a meal as long as the meal is consumed in the presence of the provider. The Louisiana Board of Ethics has sanctioned public servant for accepting gift cards from government vendors, or prospective vendors. La.Bd.Ethics 2009-120.

¹¹ La.R.S. 42:1116(A).

¹² The JPOIG identified payees from the signed receipts, which showed the last four digits of the payee’s credit card account. The JPOIG identified the last four digits of the credit card account on electronic receipts, which did not identify payee. The information was matched, and the JPOIG identified payees on electronic receipts based upon last four digits of credit card account.

¹³ La.R.S. 42:1115(A). La.R.S. 42:1115.1 permits a public servant from accepting a meal as long as the meal is consumed in the presence of the provider. The Louisiana Board of Ethics has sanctioned public servant for accepting gift cards from government vendors, or prospective vendors. La.Bd.Ethics 2009-120.

¹⁴ La.R.S. 42:1117 (emphasis supplied). La.R.S. 42:1102(19) defines a “public servant” to be a public employee or an elected official. Councilman Johnston is an elected official.

Based upon the above, it appears that Parish vendors may have indirectly given something of value to Councilman Johnston, assuming Parish vendors knew that Councilman Johnston was claiming money spent by Parish vendors on his rewards account with Copeland.¹⁵

The JPCO § 2-155, *Office of the inspector general*, provides at Sub-paragraph (11)(t), [u]pon detecting a potential violation of state ethics law the office of inspector general shall notify the state ethics board pursuant to R.S. 42:1161.” The data and analysis reflect a potential violation of the state ethics law, and the JPOIG notifies the ethics board pursuant to R.S. 42:1161.

C. Using public office for private gain

The JPOIG pulled data for all contracts between the Parish and the vendors listed in Table 2. The JPOIG determined that during the 4 year period, Parish vendors listed in Table 2 had contracts with the Parish totaling \$46,862,275.48. The JPOIG is not asserting that contracts were awarded as a *quid pro quo* for meals. However, the value of the contracts is demonstrative of the scope and scale of the Council member-vendor relationship. See Table #3.

Before a contract is awarded, the Parish Council votes on the selection of the vendor. For contracts identified in Table 3, Councilman Johnston voted “yea” in favor of the Council resolution selecting the vendor. Of the \$46,862,275.48 in contracts awarded, \$14,176,891.35 were earmarked for work in Council District 2, Councilman Johnston’s district.

The process of selecting Parish vendors for receipt of Parish contracts is a core function of the Parish Council. The Parish Council is comprised of seven members, including Districts 1 through 5 and two At-Large positions. Districts 1 through 5 are defined by geographic boundaries. The two At-Large positions, Division A and B, are Parish-wide. Traditionally, vendors for projects occurring within a Council District are selected by the Council

Table #2 Vendor and Individuals	Total Payments
Vendor #1	\$ 476.94
Individual #1	\$ 476.94
Vendor #2	\$ 123.59
Individual #1	\$ 36.40
Individual #2	\$ 87.19
Vendor #3	\$ 1,202.83
Individual #1	\$ 1,202.83
Vendor #4	\$ 115.12
Individual #1	\$ 115.12
Vendor #5	\$ 469.66
Individual #1	\$ 469.66
Vendor #6	\$ 310.63
Individual #1	\$ 310.63
Vendor #7	\$ 579.87
Individual #1	\$ 579.87
Vendor #8	\$ 27.57
Individual #1	\$ 27.57
Vendor #9	\$ 120.16
Individual #1	\$ 120.16
Vendor #10	\$ 718.60
Individual #1	\$ 718.60
Vendor #11	\$ 32.01
Individual #1	\$ 32.01
Vendor #12	\$ 125.03
Individual #1	\$ 125.03
Vendor #13	\$ 29.45
Individual #1	\$ 29.45
Vendor #14	\$ 345.05
Individual #1	\$ 345.05
Vendor #15	\$ 57.36
Individual #1	\$ 57.36
Vendor #16	\$ 91.55
Individual #1	\$ 91.55
Vendor #17	\$ 274.94
Individual #1	\$ 274.94
Vendor #18	\$ 435.81
Individual #1	\$ 435.81
Vendor #19	\$ 477.57
Individual #1	\$ 477.57
Vendor #20	\$ 26.56
Individual #1	\$ 26.56
Grand Total	\$ 6,040.30

¹⁵ The scope of this report was the conduct of Councilman Johnston, no vendors were interviewed during the course of this investigation.

member representing that district. The At-Large Councilmember may make selection on projects with a Parish-wide impact.

The value placed on the ability to select vendors by the individual Council member is demonstrated, in some part, by comments made by Councilman Johnston during an exchange with other Council members at the conclusion of the 06/06/2018 Council Meeting.¹⁶ At that time, Councilman Johnston was critical of the selection of a vendor, or vendors, to clean and paint parish water towers:

The reason why I bring it up because... I hope... I don't take want anybody to take this wrong, is that I don't remember anybody talking to me about this. I mean maybe they did. But we've got so much on the agenda. We talk about a lot of issues. I don't remember anybody talk to me about these towers, and I saw it on the agenda....

It brings back memory... and I say this is that when we had the issue with the rails on the canals ... when everybody was pushing us to put rails on the canals and we did a study. This is maybe three years ago. I don't remember ... Mark you might remember... Cynthia... Ricky... Each Council District selected a company to do this study in their district. And for some reason, it's changing as far as I have four or five tanks in my district ... why don't I have a say on who does the tanks in my district. Or Dominick. Or Jennifer. Or Ricky...

I had no problem with the two companies they picked. I'm just saying... we never had no input. I didn't know of any other councilman did but I didn't.

My whole thing is just communicate with the Council District person to let us know... We got the stake in the game. That's all I ask.¹⁷

████████████████████ were selected for the work, but Councilman Johnston took issue with the fact that he was not informed, or did not have the opportunity to select the contractors.¹⁸ ████████████████████ is one of the contractors with whom Councilman Johnston's dines. In addition, substantial campaign contributions are made by some vendors to Parish elected officials. This element will be addressed in further detail in a following section.

Lastly, the JPOIG went back as far as 12/09/2015 to verify if vendors were meeting with Councilman Johnston immediately after council meetings on days they were awarded contracts. There were seven instances where Councilman Johnston voted "yea," taking favorable action for a vendor, and thereafter, he dined with the vendor at Copeland.¹⁹

¹⁶ As a matter of custom, the Council-At Large who is not serving as Council Chair selects vendor(s) for Parish wide projects.

¹⁷ <http://jeffersonparishla.swagit.com/play/06062018-740>

¹⁸ <http://jeffersonparishla.swagit.com/play/06062018-740>

¹⁹ All contracts for Vendor #12 were agreed on prior to 01/23/2014, the date in which Councilman Johnston opened his lagniappe account; therefore, the JPOIG did not include the dollar amount for these contracts in Table 3.

The JPCO, *Elected Officials Ethical Standards*, provides at Section 23:131, *Standards generally*:

It shall be deemed incompatible with the discharge of his responsibilities for any elected official to accept any compensation or *anything of economic value* in any circumstance which would result in the use of public office for private gain or in the granting of preferential treatment to any person doing business with the parish or involved in a transaction with the parish.

The JPCO §2-155, *Office of the inspector general*, provides at Sub-paragraph (11)(u), [u]pon detecting a potential violation of a parish ethics ordinance or code, the office of inspector general shall notify the ethics and compliance commission.”

Vendors	Total dollar of Contracts	# of Contracts
Vendor #1	\$ 4,290,000.00	2
Vendor #2	\$ 2,885,753.91	12
Vendor #3	\$ 3,734,611.82	11
Vendor #4	\$ 800,000.00	2
Vendor #5	\$ 293,891.00	3
Vendor #6	\$ 674,841.00	4
Vendor #7	\$ 3,183,733.89	11
Vendor #8	\$ 370,750.00	2
Vendor #9	\$ -	0
Vendor #10	\$ 8,713,650.60	13
Vendor #11	\$ 800,000.00	3
Vendor #12	\$ -	
Vendor #13	\$ 1,450,000.00	5
Vendor #14	\$ 909,788.00	4
Vendor #15	\$ 1,025,000.00	8
Vendor #16	\$ 3,968,246.68	12
Vendor #17	\$ 7,698,482.26	3
Vendor #18	\$ 3,431,864.32	12
Vendor #19	\$ 1,695,289.00	8
Vendor #20	\$ 936,373.00	5
Total	\$46,862,275.48	120

D. Campaign Contributions to Councilman Johnston

For the years 2014 through 2017, Councilman Johnston received \$76,980 in contributions by representatives and/or companies that met with him at Copelands. The information is demonstrative of the relationship between the vendors and vendor representatives with the Councilman. See Table 4.

JPCO, *Elected Officials Ethical Standards*, provides at Section 23:132.1, *Abstention or statement by certain elected officials relative to campaign contributions*,

Whenever any member of the Jefferson Parish Council, in the discharge of an official legislative duty, is called upon to vote on a matter which would economically benefit any person who has made campaign contribution(s) to said councilmember, which contribution(s),

Vendor # 9 is in the Parish’s system as a vendor. According to the Parish’s system Vendor #9 submitted 4 bid proposals; however, to this date no contract has been awarded.

in the aggregate, exceeds the sum of one thousand dollars (\$1,000.00), the councilmember shall abstain from the vote on the matter affecting said person; or shall, prior to or during the council meeting at which said vote is scheduled and before said vote is taken, submit to the parish clerk a statement signed by the council member stating the reasons why said member's votes would be fair, objective and in the public's interest.

The parish clerk shall cause the councilmember's statement to be recorded in the official journal of the parish or in the minutes of the parish council. For the purposes of this section, "person" shall mean an individual, partnership, association, labor union, political committee, corporation or other legal entity, including their successors and assigns.

Contributions made to Councilman Johnston	
Vendors	Total
Vendor #1	\$ 3,000
Vendor #2	\$ 2,000
Vendor #3	\$ 5,000
Vendor #4	\$ 1,000
Vendor #5	\$ 4,500
Vendor #6	\$ 1,100
Vendor #7	\$ 4,100
Vendor #8	\$ 2,500
Vendor #10	\$ 2,800
Vendor #11	\$ 7,500
Vendor #13	\$ 6,750
Vendor #14	\$ 5,500
Vendor #16	\$ 2,500
Vendor #16	\$ 4,475
Vendor #17	\$ 1,000
Vendor #17	\$ 500
Vendor #18	\$ 5,400
Vendor #19	\$ 8,950
Vendor #12	\$2,000
Grand Total	\$ 70,575

E. Councilman Johnston’s Interview

Based upon the above information, the JPOIG requested an interview with Councilman Johnston. Councilman Johnston voluntarily appeared at the offices of the JPOIG for an interview at a mutually agreed upon time and date. Councilman Johnston answered questions posed by the JPOIG. When questioned about meals with Parish vendors, Councilman Johnston confirmed that he dined with Parish vendors at Copeland, which included meals immediately following Council meetings. He did not believe it was a problem because vendors are allowed to spend \$61 on a meal for you, and the meal at Copeland would have been around \$25.00.²⁰ He also did not believe that accepting reward points for the dining tab was a problem. Councilman Johnston stated that he offered everyone at the table the option to take the points, but when people declined he took the points rather than let them die at the table. Councilman Johnston stated that he often paid for meals with vendors. Councilman Johnston stated that he stopped having meals at Copeland with vendors a little over a year ago. Councilman Johnston was not explicitly asked about accepting reward points for meals attended by others, including other elected officials and Parish employees.

²⁰ La. Code of Ethics Section 1115.1 does not prohibit a public servant from accepting food, drink or refreshment which does not exceed \$61 at a single event. La.R.S. 42:1115.1. La Bd of Ethics, Publications, Information Sheets, Gifts. Refer to Attachment D.

FINDINGS AND RECOMMENDATIONS

Finding # 1: Councilman Johnston received something of economic value from Parish vendors in the form of Copeland Lagniappe Dollars

Condition:

From 01/23/2014 through 12/31/2017, food and beverage purchases applied to Councilman Johnston's Copelands' rewards account totaled \$35,443.65. As of 12/31/2017, Mr. Johnson's account has accrued 2,885.00 in Lagniappe Dollars, which can be used to purchase food at participating restaurant locations. Of the 2,885 Lagniappe Dollars, 491.02 are identified with meals paid for by Parish vendors.

Councilman Johnston obtained something of value from Parish vendors by way of Copeland Lagniappe Dollars which can be used at future meals.

The Louisiana Code of Governmental Ethics Section 1115, *Gifts*, states that no public servant shall solicit, directly or indirectly, anything of economic value as a gift or gratuity from any person or from any officer, director, or employee of such person, who has or is seeking to obtain contractual or other business or financial relationships with the public servant's agency.²¹

The Louisiana Code of Governmental Ethics at Section 1117, *Illegal payments*, states that "[n]o public servant or other person shall give pay, loan, transfer or deliver or offer to give, pay, loan, transfer or deliver, directly or indirectly, to any public servant... anything of economic value which the public servant" would be prohibited from receiving..²²

Recommendation:

It is recommended that Councilman Johnson engage in additional training on the Louisiana Code of Governmental Ethics.

The JPOIG is required to notify the state ethics board upon detecting a potential violation of state ethics law. Based on the facts presented in this report, the JPOIG is referring this matter to the Louisiana Board of Ethics.

²¹ La.R.S. 42:1115(A). La.R.S. 42:1102(19) defines a "public servant" to be a public employee or an elected official. Councilman Johnston is an elected official.

²² La.R.S. 42:1117 (emphasis supplied). La.R.S. 42:1102(19) defines a "public servant" to be a public employee or an elected official. Councilman Johnston is an elected official.

Finding # 2: Councilman Johnston may have received something of economic value from Parish employees

Condition:

From 01/23/2014 through 12/31/2017, food and beverage purchases applied to Councilman Johnston's Copelands' Lagniappe rewards account totaled \$35,443.65. As of 12/31/2017, Mr. Johnson's account has accrued 2,885.00 in Lagniappe Dollars, which can be used to purchase food at participating restaurant locations. Of the 2,885 Lagniappe Dollars, 1,278.41 are identified with meals paid for by Councilman Johnston and others, including Parish employees.

The Louisiana Code of Governmental Ethics at Section 1117, *Illegal payments*, states that “[n]o public servant *or* other person shall give pay, loan, transfer or deliver or offer to give, pay, loan, transfer or deliver, directly or indirectly, to any public servant... anything of economic value which the public servant” would be prohibited from receiving.²³

Recommendation:

It is recommended that Councilman Johnson engage in additional training on the Louisiana Code of Governmental Ethics.

The JPOIG is required to notify the state ethics board upon detecting a potential violation of state ethics law. Based on the facts presented in this report, the JPOIG is referring this matter to the Louisiana Board of Ethics.

²³ La.R.S. 42:1117 (emphasis supplied). La.R.S. 42:1102(19) defines a “public servant” to be a public employee or an elected official. Councilman Johnston is an elected official.

Finding # 3: Parish vendors may have given something of value to Councilman Johnston

Condition:

From 01/23/2014 through 12/31/2017, food and beverage purchases applied to Councilman Johnston's Copelands' rewards account totaled \$35,443.65. As of 12/31/2017, Mr. Johnson's account has accrued 2,885.00 in Lagniappe Dollars, which can be used to purchase food at participating restaurant locations. Of the 2,885 Lagniappe Dollars, 491.02 are identified with meals paid for by Parish vendors.

Parish vendors gave something of value to Councilman Johnston by way of Copeland Lagniappe Dollars.

The Louisiana Code of Governmental Ethics at Section 1117, *Illegal payments*, states that “[n]o public servant *or* other person shall give pay, loan, transfer or deliver or offer to give, pay, loan, transfer or deliver, directly or indirectly, to any public servant... anything of economic value which the public servant” would be prohibited from receiving..²⁴

Recommendation:

It is recommended that Parish consider implementing or expanding its ethics program to ensure that Parish vendors are aware of relevant provisions of the Louisiana Code of Governmental Ethics.

The JPOIG is required to notify the state ethics board upon detecting a potential violation of state ethics law. Based on the facts presented in this report, the JPOIG is referring this matter to the Louisiana Board of Ethics.

²⁴ La.R.S. 42:1117 (emphasis supplied). La.R.S. 42:1102(19) defines a “public servant” to be a public employee or an elected official. Councilman Johnston is an elected official.

Finding # 4: Councilman Johnston received something of economic value from Parish vendors and Parish employees

Condition:

From 01/23/2014 through 12/31/2017, food and beverage purchases applied to Councilman Johnston's Copelands' Lagniappe rewards account totaled \$35,443.65. As of 12/31/2017, Mr. Johnson's account has accrued 2,885.00 in Lagniappe Dollars, which can be used to purchase food at participating restaurant locations. Of the 2,885 Lagniappe Dollars, 491.02 are identified with meals paid for by Parish vendor, and 1,278.41 are identified with meals paid for by Councilman Johnston and others, including Parish employees.

Councilman Johnston obtained something of value from Parish employees by way of Copeland Lagniappe Dollars which can be used at future meals.

The JPCO, *Elected Officials Ethical Standards*, provides at Section 23:131, *Standards generally*: It shall be deemed incompatible with the discharge of his responsibilities for any elected official to accept any compensation or *anything of economic value* in any circumstance which would result in the use of public office for private gain or in the granting of preferential treatment to any person doing business with the parish or involved in a transaction with the parish.

Recommendation:

It is recommended that Councilman Johnson familiarize himself with local ethics ordinances.

The JPOIG is required to notify the Jefferson Parish Ethics and Compliance Commission upon detecting a potential violation of local ethics ordinance. Based on the facts presented in this report, the JPOIG is referring this matter to the Jefferson Parish Ethics and Compliance Commission.

Copeland Electronic Receipts





**OFFICE OF INSPECTOR GENERAL
JEFFERSON PARISH**

DAVID N. MCCLINTOCK
INSPECTOR GENERAL



Documents in Attachment A have been redacted. In this attachment were 537 pages of receipts that contained sensitive information, such as, credit card information of the payees.

Copeland Original Receipts





**OFFICE OF INSPECTOR GENERAL
JEFFERSON PARISH**

DAVID N. MCCLINTOCK
INSPECTOR GENERAL



Documents in Attachment B have been redacted. In this attachment were 253 pages of receipts that contained sensitive information, such as, credit card information of the payees.

Code of Governmental
Ethics



THE LOUISIANA CODE OF GOVERNMENTAL ETHICS



I. INTRODUCTION TO THE CODE OF GOVERNMENTAL ETHICS

A. Policy Goals (R.S. 42:1101)

- * To ensure the public confidence in the integrity of government
- * To ensure the independence and impartiality of elected officials and public employees
- * To ensure that governmental decisions and policy are made in the proper channel of the government structure
- * To ensure that public office and employment are not used for private gain

B. Administration (R.S. 42:1131 et seq.)

(1) **Board of Ethics**

- Composed of 11 members; 7 appointed by the Governor; 2 elected by the Senate, 2 elected by the House of Representatives
- Initial terms are staggered, thereafter; each term is for 5 years with a 2 term limit on Board membership
- Administers the Code as to all state and local public employees, appointed members of boards and commissions, and elected officials other than judges

(2) **Duties of the Board**

- Issue advisory opinions interpreting the Code (R.S. 42:1134E)
- Conduct private investigations of alleged violations of the Code (R.S. 42:1134C and 1141C)
- Establish a computerized data management system (R.S. 42:1134M)
- Conduct educational activities, seminars and publish appropriate materials to provide instruction (R.S. 42:1134N)
- Function as the Supervisory Committee on Campaign Finance Disclosure to administer and enforce the provisions of the Campaign Finance Disclosure Act (R.S. 18:1511.1)

II. KEY DEFINITIONS (R.S. 42:1102)

- A. **“Agency”** means a department, office, division, agency, commission, board, committee, or other organizational unit of a governmental entity.
- B. **“Agency head”** means the chief executive or administrative officer of an agency or any member of a board or commission who exercises supervision over the agency.
- C. **“Controlling interest”** means any ownership in any legal entity or beneficial interest in a trust, held by or on behalf of an individual or a member of his immediate family, either individually or collectively, which exceeds 25 percent of that legal entity.
- D. **“Immediate family”** as the term relates to a public servant means his children, spouses of children, brothers, sisters, spouses of his brothers and sisters, parents, spouse, and the parents of his spouse.
- E. **“Participate”** means not only to have final decision-making authority, but to take part in or to **have or share responsibility** for an action of the governmental entity through approval, disapproval, decision, recommendation, the rendering of advice, investigation, or the failure to act or perform a duty.
- F. **“Public employee”** means anyone, whether compensated or not, who is (a) an officer or official of a governmental entity who is not filling an elective office; (b) appointed by an elected official to a position to serve the government or government agency, when the elected official was acting in his official capacity; (c) engaged in the performance of a governmental function; or (d) is under the supervision or authority of an elected official or another governmental employee.
- G. **“Public servant”** means a public employee or an elected official.
- H. **“Regulatory employee”** means a public employee who performs the function of regulating, monitoring, or enforcing regulations of any agency.
- I. **“Substantial economic interest”** means an economic interest which is of greater benefit to the public servant or other person than to a general class or group of persons, except the interest the public servant has in his public employment or the interest a person has as a member of the general public.
- J. **“Thing of economic value”** means money or any other thing having economic value, except:
- (1) promotional items having no substantial resale value;
 - (2) food, drink, or refreshments, including reasonable transportation and entertainment incident thereto, consumed while the personal guest of some person;

- (3) with reference to legislators and legislative employees only, reasonable transportation when organized primarily for educational or informational purposes, including food and drink incidental thereto; and,
- (4) salary and related benefits due to public employment.

K. **“Service”** means the performance of work, duties, or responsibilities, or the leasing, rental, or sale of movable or immovable property.

III. GENERAL PROHIBITIONS (R.S. 42:1111 - 1121)

NOTE: The following is a synopsis of some of the key provisions of the Code of Governmental Ethics. It is only a summary. For the official text of the provisions described below and for the text of other provisions of the Code, including information relative to exceptions to these general restrictions, refer to the Code at LSA R.S. 42:1101 et seq.

The Code of Governmental Ethics prohibits the:

- A. 1111A - Receipt of a thing of economic value from a source other than the governmental entity for the performance of official duties and responsibilities.
- B. 1111C(1)(a) - Receipt of a thing of economic value for the performance of a service substantially related to public duties or which draws on non-public information.
- C. 1111C(2)(d) - Receipt of a thing of economic value by a public servant for services rendered to or for the following:
 - (1) persons who have or are seeking to obtain a contractual or other business or financial relationship with the public servant’s agency;
 - (2) persons who are regulated by the public employee’s agency; or
 - (3) persons who have substantial economic interests which may be substantially affected by the performance or nonperformance of the public employee’s official duties.

These same restrictions apply to the public servant’s spouse and to any legal entity in which the public servant exercises control or owns an interest in excess of 25%.

- D. 1115 – Elected officials and public employees are prohibited from soliciting or accepting a gift from the following persons:
 - (1) persons who have or are seeking to obtain a contractual or other business or financial relationship with the public servant’s agency; or
 - (2) persons who are seeking, for compensation, to influence the passage or defeat of legislation by the public servant’s agency.

Public employees, not elected officials, are also prohibited from soliciting or accepting a gift from the following persons:

- (1) persons who conduct operations or activities regulated by the public employee's agency; or
- (2) persons who have substantial economic interests which may be substantially affected by the performance or nonperformance of the public employee's official duties.

The prohibition against soliciting or accepting a gift from certain persons, extends to officers, directors, agents, or employees of such person.

The gift prohibition does not prohibit food or drink consumed as the personal guest of the person providing the food or drink, including reasonable transportation and entertainment incidental thereto. The person providing the food and drink may not provide a public servant more than \$60¹ of food and drink per single event. The \$60 limit does not apply to a gathering held in conjunction with a meeting of a national or regional organization or a statewide organization of government officials or employees, or to a public servant of a post-secondary education attending a private fundraiser for the post-secondary institution.

The gift prohibition does not prohibit the receipt of promotional items having no substantial resale value (i.e.: cups, hats, or pens with a company's logo).

Section 1123(26)(b) allows teachers and other school employees to accept gifts valued at \$25 or less and \$75 as a total in one calendar year from or on behalf of students or former students.

- E. 1111E - Receipt of a thing of economic value for assisting someone with a transaction with the agency of the public servant.
- F. 1112 - Participation by a public servant in a transaction involving the governmental entity in which any of the following persons have a substantial economic interest:
 - (1) the public servant;
 - (2) any member of his immediate family;
 - (3) any person in which he has an ownership interest that is greater than the interest of a general class;
 - (4) any person of which he is an officer, director, trustee, partner, or employee;
 - (5) any person with whom he is negotiating or has an arrangement concerning prospective employment;
 - (6) any person who is indebted to him or is a party to an existing contract with him and by reason thereof is in a position to affect directly his

¹ The limitation on food, drink and refreshment (R.S. 42:1115.1(C)) shall be adjusted by the Board of Ethics according to the Consumer Price Index (CPI-U) and adopted and promulgated as a rule annually.

economic interests.

An **elected official** may participate in the debate and discussion of a matter which could violate this provision, but only if he discloses the nature of the conflict on the record of his agency prior to his participation in the debate and discussion, and prior to any vote taken on the matter. The elected official is not allowed to vote on the matter and he must recuse himself. R.S. 42:1120.

Appointed members of boards and commissions may recuse themselves to avoid a violation of Section 1112. Unlike elected officials, they may not participate in the debate or discussion of the matter. They must recuse themselves from all participation. R.S. 42:1112D.

Other public employees who are not sole decision makers can be disqualified from transactions that would violate this prohibition. A mechanism for disqualification is found in the rules promulgated by the Board. R.S. 42:1112C.

- G. 1113A – For public servants, other than legislators or appointed members of boards and commission, bidding on or entering into any contract, subcontract or other transaction under the supervision or jurisdiction of the public servant's agency. This restriction also applies to the immediate family members of the public servant and to legal entities in which the public servant and/or his family members own an interest in excess of 25%.
- 1113B - Appointed members of boards and commissions are not only prohibited from bidding on or entering into such contracts, subcontracts or transactions under the supervision or jurisdiction of their board, but also being “in any way interested” in them. Also, the restriction applies to their immediate family members and legal entities in which they or their immediate family members have a “substantial economic interest.”
 - 1113C – Legislators are prohibited from bidding on, entering into or being in any way interested in contract, subcontracts or other transactions that are under the supervision or jurisdiction of the legislative branch of government. This restriction also applies to the immediate family members of the legislator and to legal entities in which the legislator and/or his family members own an interest in excess of 25%.
 - 1113D - Additional prohibition applicable to legislators, certain executive branch officials, their spouses or legal entities in which either owns an interest in excess of 5% from entering into a contract with any branch, agency, department or institution of state government, with a few exceptions.
- H. 1116 - A public servant's use of the authority of his office to compel or coerce a person to provide himself or someone else with a thing of economic value that they are not entitled to by law or the use of the authority of his office to compel or coerce a person to engage in political activity. Also, a regulatory employee is prohibited from participating in any way in the sale of goods or services to persons regulated by his agency, if a member of his

immediate family or if a business enterprise in which the regulatory employee or members of his immediate family own in excess of 25%, receives or will receive a thing of economic value by virtue of the sale.

- I. 1117 - It is prohibited for a public servant or other person to make a payment, give, loan, transfer, or deliver or offer to give, loan, transfer or deliver a thing of economic value to a public servant when the public servant is prohibited by the Ethics Code from receiving such a thing of economic value.

- J. 1119 - Nepotism
 - (1) Members of the immediate family of an agency head may not be employed in the agency.
 - (2) Members of the immediate family of a member of a governing authority or the chief executive of a governmental entity may not be employed in the governmental entity. The term "governing authority" includes parish councils, police juries, school boards, town councils, boards of aldermen, etc.
 - (3) Note that the application of this restriction is not affected by whether the agency head, chief executive or governing authority member has authority over or actually participates in the hiring decision - such family members are simply ineligible for employment.
 - (4) **Exceptions:**
 - (a) persons employed in violation of this rule continuously since April 1, 1980;
 - (b) a person employed for one year prior to their family member becoming an agency head;
 - (c) employment of a school teacher who is a member of the immediate family of the superintendent or a school board member as long as the family member is certified to teach or is temporarily authorized to teach while pursuing certification. Annual disclosure is required and forms are available from the Ethics Administration Program office. If the required disclosure is not timely filed, a late fee assessment of \$50 per day, with a maximum penalty of \$1,500, may be imposed;
 - (d) employment as a health care provider, of an immediate family member of a hospital service district board member or of a public trust authority board member, as long as the family member is a licensed physician, allied health professional, or a registered nurse. Annual disclosure is required and forms are available from the Ethics Administration Program office. If the required disclosure is not timely filed, a late fee assessment of \$50 per day may be imposed, with a maximum penalty of \$1,500; or
 - (e) persons employed as volunteer firefighters.

K. 1121- Post Employment

- (1) During the two year period following the termination of public service as an **agency head** or **elected official**, these individuals may not assist another for compensation, in a transaction, or in an appearance in connection with any transaction involving their former agency nor may they render any service on a contractual basis to or for their former agency.
- (2) During the two year period following the termination of public service as a **board or commission member**, these individuals may not contract with, be employed in any capacity by, or be appointed to any position by that board or commission. The Board has interpreted “board or commission” to include a collective body that shares responsibility for its actions. This would include school boards, police juries, boards of aldermen, a group of selectmen, a council, etc.
- (3) During the two year period following the termination of public service as a **public employee**, these individuals may not assist another for compensation, in a transaction, or in an appearance in connection with a transaction involving the agency in which the former public employee participated while employed by the agency nor may the former public employee provide on a contractual basis to his former public employer, any service he provided while employed there.

IV. PROCEDURE

- A. Complaints - The Board can initiate an investigation into any matter which it has reason to believe may be a violation of the Code by a 2/3 vote of its membership (8 votes). A copy of the vote and a detailed explanation of the matter are sent to the complainant and the respondent. Additionally, the Board must consider any signed sworn complaint.
- B. Investigations - The Board considers information discovered through a confidential investigation. Some cases lead to voluntary admissions of violations of the Code through the publication of a consent opinion.

V. PENALTIES

- A. Agency heads have a responsibility to report possible Code violations to the Board. R.S. 42:1161A
- B. Penalties that may be imposed upon a finding of a violation of the laws under the Board’s jurisdiction:
 - (1) Censure of an elected official or other person within its jurisdiction and imposition of a fine of not more than \$10,000 per violation. R.S. 42:1153A
 - (2) Removal, suspension, or reduction of the pay or demotion of a public employee or

other person and imposition of a fine of not more than \$10,000 per violation. R.S. 42:1153B

- (3) Imposition of restrictions on a former public servant and other persons to prevent appearances before the agency and to prohibit the negotiation for or entering into business relationships with the agency. R.S. 42:1151B
- (4) Rescission of contracts, permits and licenses, without contractual liability to the public, whenever the Board finds that a violation has influenced the making of such contract, permit or license, and that such rescission is in the best interest of the public. R.S. 42:1152
- (5) Order the payment of penalties if an investigation reveals that any public servant or other person has violated the Code to his economic advantage and penalties can include the amount of such economic advantage plus one half. R.S. 42:1155A
- (6) Order the forfeiture of any gifts or payments made in violation of the Code. R.S. 42:1155B
- (7) Imposition of late fees for reports that are not timely filed. R.S. 42:1157
- (8) Object to the candidacy of a person who has an outstanding fine, fee or penalty equal to or greater than \$250 pursuant to the Code of Governmental Ethics for which all appeals have been exhausted. R.S. 18:463A(2)(a)(vii)

VI. PERSONAL FINANCIAL DISCLOSURE (PFD)

- A. **PFDs must be filed annually by May 15th. The report must be filed each year the office or position is held and the year following the termination of the office or position. The report filed by May 15th covers activity in the prior calendar year.** If a public servant's term of office ends in January, he may file a "final" personal financial disclosure statement for the days served in January, if the disclosure statement is filed on or before May 15 of the year in which his service ends. By filing this "final" personal financial disclosure statement, he is not required to file the year following the termination of the holding of such office.
- B. Tier 1 PFD - Filed by persons holding statewide elected office, the secretaries of certain departments of state government, the superintendent of education, the commissioner of higher education, the president of each public postsecondary education system, and persons holding certain positions in the office of the governor. R.S. 42:1124. The penalty for late filing is \$500 per day.
- C. Tier 2 PFD – Filed by state legislators, elected officials holding a public office representing a voting district with a population of 5,000 or greater, members of the Board of Ethics, the ethics administrator, and members of the Board of Elementary and Secondary Education, the superintendent of the Recovery School District, the executive director of the Louisiana Housing Corporation, and the members of the Board of Pardons. The penalty for late filing is \$100 per day. R.S. 42:1124.2.
- D. Tier 2.1 PFDs – Filed by members and designees of boards and commissions which

have the authority to expend, disburse or invest \$10,000 or more in funds in a fiscal year, members of the State Civil Service Commission, and members of the Board of Commissioners of the Louisiana Stadium and Exposition District. The penalty for late filing is \$50 per day. R.S. 42:1124.2.1. Boards or commissions that do not have the authority to expend, disburse or invest more than \$50,000 in a fiscal year **and** whose members **are not eligible** to receive any compensation, per diem, or reimbursement of expenses for service on the board of commission are excluded from the reporting requirement.

- E. Tier 3 PFDs – Filed by elected officials holding a public office representing a voting district with a population of less than 5,000 and members of the governing authority or management board of a charter school. The penalty for late filing is \$50 per day. R.S. 42:1124.3.

VII. ETHICS TRAINING

- A. Each **public servant** shall receive a minimum of one hour of education and training on the Code of Ethics during each year of his public employment or term of office. Each political subdivision shall designate at least one person who shall provide information, notices, and updates to employees and officials of the political subdivision and assist the board in any way necessary to fulfill the education requirements. Newly elected officials must receive training within 90 days of taking the oath of office. (R.S. 42:1170)

- (1) Persons who are public servants solely because they are an uncompensated, volunteer fireman or an uncompensated, auxiliary or reserve law enforcement officer are exempt from the training.
- (2) Nonsalaried employees of hospitals operated by a hospital service are exempt unless the employee is authorized to enter into contracts on behalf of the hospital for goods or services or the duties of the employee include the supervision of another public employee.
- (3) A former public servant whose public service in a calendar year lasted less than 90 days shall not be required to receive education and training.

- B. An **elected official** must receive at least one hour of Campaign Finance training during his term of office.

VIII. MISCELLANEOUS

- A. It is a violation of the Code to have one or more employees on the payroll who are not rendering services for which they are being paid or having one or more employees on the payroll whose employment is prohibited by the nepotism section of the Code. R.S. 42:1161F
- B. No action can be maintained by the Board more than 2 years after the discovery of the occurrence of the violation nor more than 4 years after the occurrence of the violation,

whichever is shorter. R.S. 42:1163

- C. Judges, as defined in the Code of Judicial Conduct, are exempt from the provisions of the Code, although employees of the judge are subject to the Code. R.S. 42:1167
- D. It is a violation of the Code for any public employee to be disciplined or otherwise subjected to acts of reprisal for reporting to his agency head, the Board, or any person of competent authority or jurisdiction, information which he reasonably believes is in violation of any law, order, rule, or regulation within the Board's jurisdiction or any other alleged acts of impropriety within any governmental entity. A person who is a public employee because of a contractual arrangement with a governmental entity or agency, whose contract is wrongfully suspended, reduced, or terminated as an act of reprisal for reporting an alleged act of impropriety, shall be entitled to reinstatement of his contract and receipt of any lost compensation under the terms of the contract. R.S. 42:1169
- E. Attorneys who are also public servants are subject to the provisions of the Code in that capacity, notwithstanding any conflicting provisions in the Code of Professional Responsibility that might otherwise allow an attorney to engage in conduct which is prohibited by the Code. A recent addition to the Code allows for an attorney, who serves on a civil service commission, to receive a thing of economic value for legal services rendered to a classified employee under the jurisdiction of the civil service commission, so long as the legal services rendered to the employee do not involve the matter before the civil service commission. The attorney shall recuse himself in a matter before the civil service commission involving the employee if he or his law firm is representing the employee in other matters.

Contact the Ethics Administration Program for additional information at 225-219-5600 or visit our web site at www.ethics.la.gov.

NOTE: This outline does not fully state the law. If interpretations of this outline conflict with the provisions of the Code of Governmental Ethics (LSA-R.S. 42:1101, et seq.), the Code will control.

Rev. 10/16

Louisiana Board of
Ethics - Information
Sheet



GIFTS

A summary of the gift restrictions contained in Louisiana's Code of Governmental Ethics

Louisiana Board of Ethics
P.O. Box 4368
Baton Rouge, LA 70821



Revised: September 2018

Information Sheet #2

The provisions restricting the receipt of gifts by public servants are found in §1115 of Louisiana's Code of Governmental Ethics. (LSA-R.S. 42:1115) In addition to these restrictions, §1111A of the Code also applies to restrict the receipt of gifts in certain situations. (LSA-R.S. 42:1111A). Section §1115.1 contains specific limitations concerning public servants receiving food and drink. The purpose of this information sheet is to outline these restrictions and to highlight some common misconceptions and related issues regarding each of these provisions.

GENERAL PROVISIONS OF §1115

- **No PUBLIC SERVANT shall solicit or accept, directly or indirectly, any thing of economic value as a gift or gratuity from any person who has or is seeking a contractual, business, or financial relationship with the public servant's agency.**
 - **Who is a "public servant?"** Anyone, whether compensated or not, who is a public employee, appointed or elected official (except judges), or anyone in the performance of a governmental function.
 - **What is a "thing of economic value?"** Money or any other thing having economic value. The exceptions to the definition of "thing of economic value" include:
 - (1) promotional items having no substantial resale value such as calendars, pens, hats, and t-shirts which bear a company's name or logo, and
 - (2) food and drink consumed while the personal guest of the giver. In order for this second exception to apply, the giver or a representative of the giver must be present when the food and drink are consumed. Reasonable transportation and entertainment which are incidental to the food and drink are also allowed. (Section 1115.1, below, limits the value of the food and drink to \$61)
 - (3) complimentary admission to a civic, non-profit, educational or political event. This exception applies only when the public servant is giving a speech at the event, is on a panel for discussion during the event, or is a program honoree. Tickets to collegiate, professional, and semi-professional sporting events are not included within the exception.
 - (4) flowers or a donation in connection with the death of an immediate family member of the public servant, if the value does not exceed \$100. §1123(26).



Example #1: You are an employee for the Louisiana State Employees' Retirement System (LASERS). A vendor of LASERS invites you and your co-workers to a pre-game tailgate party hosted by the vendor. May you and your co-workers attend?

Answer: Yes, as long as a representative of the vendor is present at the pre-game party. In contrast, you could not accept a gift certificate to a restaurant for dinner.

Example #2: At the pre-game party, the vendor offers you tickets to the LSU game. May you accept the tickets?

Answer: No. The vendor has a business relationship with your agency, therefore you may not solicit or accept any thing of economic value from them.



- **No PUBLIC SERVANT shall solicit or accept, directly or indirectly, any thing of economic value as a gift or gratuity from a person who is seeking, for compensation, to influence the passage or defeat of legislation by the public servant's agency.**

- **What is "legislation?"** Any laws, rules, ordinances, etc. which are considered by the public servant's agency.

E
c
o
n
d
o
m
i
n
i
u
m
A
n
s
w
e
r



Example #3: You are a member of the metro council. A friend of yours offers you the use of his condominium in Colorado. He is also the attorney who represents a business that wishes to have an area your district re-zoned for commercial use. This item is on the agenda for the next metro council meeting, and your friend is appearing on the business' behalf. May you accept the invitation to use the condo?

Answer: No. Even though this attorney is a friend, he is seeking, for compensation, to influence the passage of an ordinance before your agency, and use of the condo is a thing of economic value.

- **No PUBLIC EMPLOYEE shall solicit or accept, directly or indirectly, any thing of economic value as a gift or gratuity from any person who conducts operations or activities which are regulated by the public employee's agency.**

This restriction applies **only** to public employees and pertains to regulatory relationships such as permits or licenses.

Example #4: You are an inspector for the Department of Health and Hospitals. You inspect restaurants within a certain area to make sure they comply with certain health requirements. A restaurant owner in your area sends you concert tickets. May you accept the tickets?

Answer: No. A concert ticket is a thing of economic value and does not fall under one of the exceptions. Since the restaurant is regulated by your agency, you are prohibited from receiving such a gift from the owner. You would also be prohibited from receiving concert tickets or any other thing of economic value from the restaurant owner's employees.

- **No PUBLIC EMPLOYEE shall solicit or accept, directly or indirectly, any thing of economic value as a gift or gratuity from a person who has substantial economic interests which may be substantially affected by the performance or nonperformance of the public employee's official job duty(ies).**

Again, this restriction applies **only** to public employees. It is intended to cover situations which are not covered by the other restrictions above. In other words, although the public employee does not regulate the gift giver, nor does the giver have any type of contractual, business, or financial relationship with the public employee's agency, the public employee is still in a position to affect the economic interest of the giver, and the gift is prohibited.

Example #5: You are employed with the Department of Revenue and Taxation. One of your official duties is to determine whether individual taxpayers are entitled to certain deductions. An issue comes before you in which a taxpayer may be entitled to a substantial deduction. After meeting with the individual to collect pertinent

information, he sends a potted plant to your office. May you keep the plant?

Answer: No. Since one of your official duties at the department is to determine whether the taxpayer is entitled to a deduction, the taxpayer has a substantial economic interest which may be affected by the performance of one of your official duties.

GENERAL PROVISIONS OF §1115.1

- **No person from whom a PUBLIC SERVANT or a PUBLIC EMPLOYEE is prohibited by §1115 or §1111A from receiving any thing of economic value shall provide the public servant with more than sixty-one dollars (\$61) in food, drink, or refreshment at single event. The amount given at a single event shall not exceed \$61, regardless of the number of persons providing the food, drink, or refreshments.**
 - **What is an “event?”** A single activity, occasion, reception, meal or meeting at a given time and place.
- **Where a group of PUBLIC SERVANTS are invited to an event, the \$61 limit is calculated by dividing the total cost of the food, drink, and refreshments by the number of persons invited to the event.**
- **The limitation of \$61 does not apply to a gathering held in conjunction with a meeting related to a national or regional organization, or to a meeting of a statewide organization of governmental officials or employees.**

Example #6: Several contractors and vendors of the Department of Transportation and Development (DOTD) volunteer to provide food and beverages for an employee appreciation day. Representatives from the participating companies will be in attendance. 50 employees of DOTD are invited to the event. The total cost of the food and drink is \$1250. Is this permissible?

Answer: Yes. Dividing the total value of the food and drink (\$1250) by the number of persons invited (50), the amount of food and drink does not exceed \$61 at the event.

GENERAL PROVISIONS OF §1111A

- **No PUBLIC SERVANT shall receive any thing of economic value, other than the compensation and benefits to which he is entitled from his governmental employer, for the performance of the duties and responsibilities of his office or position.**

If a public servant is given an item because of the office he holds, then it is probably prohibited by §1111A. The most common violation of this section occurs with the payment of travel expenses. (See information sheet on Travel Expenses) However, there are other instances where this situation arises.

Example #7: You are a Workers’ Compensation judge. During the month of December, many law firms and attorneys who appeared before you during the year send turkeys, hams and other baked goods to your agency in the spirit of the holiday season. May you accept these items?

Answer: No. The firms and attorneys are sending you these items because of your position as a workers’ compensation judge and the performance of your duties as a judge. The hams and cookies are all considered things of economic value, even if they are homemade. The exception for food and drink only applies

when the giver is present.

COMMON MISCONCEPTIONS AND RELATED ISSUES

- **I can receive the gift or gratuity if it is worth less than \$25.**

A common misconception concerning §1115 is that the dollar value of the gift determines whether or not a public servant can receive it. **However, the law does not set a monetary threshold.** If the gift does not fall under one of the exceptions, then it is a prohibited gift regardless of its price. Where the exception for food and drink applies, it is limited to \$61

- **Teachers and other school employees may accept gifts valued at \$25 or less and \$75 as a total in one calendar year from or on behalf of students or former students.**

Section §1123(26)(b) created an exception for school employees to receive gifts from students or former students. This exception is **only available if** you are employed by a pre-kindergarten, kindergarten, elementary, or secondary school. The maximum value an accepted gift can have is \$25.00. The total value of gifts you can receive from any one student or former student in a calendar year is \$75.00. **Exceeding the value limits is a violation.**

- **I can receive this gift or gratuity because it came from a friend of mine.**

Another misconception is that a public servant may receive gifts from friends even if they fall into one of the categories of prohibited sources listed above or that gifts for special occasions are allowed. Such is not the case.

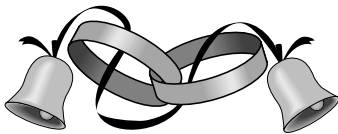
Example #8: A school food service supervisor has a neighbor who sells food products to her school. The supervisor receives a wedding gift from the neighbor. May she accept the gift?

Answer: No. The gift must be returned because the neighbor has a business relationship with the public servant's agency by virtue of the neighbor selling food products to the school.

The application of the "directly or indirectly" language of §1115 presents another tricky issue. If a public servant is prohibited from directly accepting a gift from a person, then the public servant is also prohibited from indirectly accepting any gift from this person. How does a public servant indirectly receive a gift? The most common way is through his spouse or minor child.

Example #9: An employee in the Department of Transportation and Development has a minor son who participates in high school rodeos. A trucking company which is regulated by the employee's agency wants to sponsor the employee's son in one of these rodeos. Is the sponsorship permitted under §1115?

Answer: No. Since the son is a minor, the mother would be indirectly receiving the benefit of the company sponsoring her son, she would have to pay for his participation. Therefore, the sponsorship is prohibited.



- **No PUBLIC SERVANT or OTHER PERSON shall give, pay, loan, transfer, or deliver or offer to give, pay, loan, transfer, or deliver, directly or indirectly, to any public servant or other person any thing of economic value which such public servant or other person would be prohibited from receiving by any provision of the Ethics Code.**

Persons who **give** prohibited gifts to public servants violate §1117 of the Code and are subject to the enforcement proceedings and penalties for their violation.

The Board encourages public servants to seek advice from the Board as to how the law applies to their own situations by writing for an advisory opinion. Advisory opinions are not issued as to past conduct, but can provide crucial advice on how to avoid problems in the future. If you wish to obtain an advisory opinion, please send your request to the above address. In addition, our staff is available for informal advice at (225) 219-5600 or toll free 1-800-842-6630.

The Board has a web site located at: www.ethics.state.la.us



This information sheet is only a summary of the gift provisions contained in §1115, §1111A and §1117 of the Code of Governmental Ethics. If interpretations of this information sheet conflict with the provisions of the Code, the Code will control.

Response to Report by
Councilman Paul
Johnson





PAUL D. JOHNSTON
COUNCILMAN, DISTRICT 2
JEFFERSON PARISH

EASTBANK
1221 ELMWOOD PARK BOULEVARD
JOSEPH S. YENNI BLDG., SUITE 1013
JEFFERSON, LOUISIANA 70123
OFFICE: (504) 736-6607

WESTBANK
200 DERBIGNY STREET
GEN. GOVERNMENT BLDG., SUITE 6300
GRETN, LOUISIANA 70053
OFFICE: (504) 364-3446

February 12, 2019

VIA EMAIL AND REGULAR MAIL

Jefferson Parish Office of Inspector General
David McClintock
990 N. Corporate Dr. - Suite 300
Jefferson, Louisiana 70123
dmclintock@jpoig.net

Mr. McClintock,

I would like to submit this response to draft report 2017-0022.

I have been given 30 days to respond to the draft report and have been diligently reviewing the 800 pages of receipts and documents. In addition, when I requested additional time to complete our review of the receipts and documents you have only granted an additional two (2) days. Unfortunately given the complexity of matching the overwhelming number of receipts to people and days we have been unable to complete the review in the short time frame given.

The Office of Inspector General has been reviewing this material since 2017. I believe a short delay to allow my own inspection of this complicated timeline would have allowed many unanswered questions to be brought to light.

A few key components of my incomplete review to date:

- 1) Every single instance of an unknown credit card purchasing food has been my personal credit card or debit card in the receipts I have been able to verify. The overwhelming number and dollar amount of purchases have been on my personal credit or debit card.
- 2) There are purchases where I paid the entire bill personally including for the meals of vendors.
- 3) I did not receive lagniappe points after every council meeting, in fact the majority of the council meetings the points went to other individuals including the same vendors you discuss in your report. We alternated amongst everyone present that had a lagniappe card.
- 4) A review of what I spend the points on will show that I have used the accumulated points to provide catered trays for senior center events. In fact, I have used a considerable amount more

in food credits for senior and community events than I have earned when someone else paid the bill on an alternating basis.

- 5) I have redeemed lagniappe food credits when dining with vendors. In other words I used the food credits on occasion to pay for meals consumed by vendors.
- 6) Your report discusses my employee's food being on the same bill without any evidence of who, when, and how you came to that conclusion. If you observed my administrative assistant at these lunches you should be aware that my administrative assistant pays for his own meals and an employee from research and budget. No vendor has ever paid for his meals. My employee has receipts and credit card statements from the days in question. I have not received points from his meals because his meal is paid for by him personally and I have never received lagniappe food credit for his meals.
- 7) There are many instances in your report that uses the language "may have violated" "" Johnston may have paid for his meal" and other ambiguous language that should not have been unknowns after an almost 2 year review of this material by your office.
- 8) There is no direct guidance or bulletin issued by the Louisiana Ethics Administration that I can find on the issue of lagniappe cards. I analogized the use to the Federal Government guidelines on the acquisition of airline miles or other rewards programs that allow the personal accumulation of these rewards even when the government is paying the bill.

Due the large number of unknowns and ambiguous references included in this report along with a quoted dollar amount that the report itself acknowledges was paid for by myself the report unnecessarily makes the amount of food credits appear larger than they are.

I have initiated a consultation with the Louisiana Ethics Administration and would like to see this reviewed by them since they are the proper authority to look into potential ethics violations. I assure you that if the state ethics administration finds any issue I will take the appropriate action to remedy the situation.

I would also like to note I ended the practice of acquiring food credits after council meetings and with vendors long ago before even being informed of this investigation. I look forward to working with your office to resolve any issues presented by this report and clear up the many instances of uncertainty in your report.

Yours in a Better Government,



Paul Johnston
Councilman, Jefferson Parish
Office 504-736-6607