

“Ethics Guidelines for Civil Servants”Q&A

June 2016.

I. Question: What is the purpose of the establishing this Ethics Guidelines? And what are the legal references?

Answer:

(I) Background of Legislation:

1. **Alignment with world trends:** The use and allocation of public resources by civil servants is based on public trust. To reduce waste of public resources and abusive use of public power, the Organization for Economic Co-operation and Development (OECD) spared no effort in the buildup of the infrastructure for the Ethics of Public Service of the Governments. Likewise, the Anti-Corruption and Transparency Working Group of the Asia-Pacific Economic Cooperation (APEC) suggested that member economies should institute and enforce legal rules governing the conduct of civil servants and review the state of pursuit. These indicated that attention to the ethics of civil services has emerged as an international trend and the objective for advanced nations that dictate further effort.
2. **Setting up a new model of integrity and clean politics:** The Ministry of Justice has instituted this Ethics Guidelines in accordance with the instructions of the Executive Yuan as the very first task necessary for the advocacy of ethics in civil service. The purpose of which is to put public interest as the guideline and the ultimate goal for all civil servants in the performance of official duties. This Ethics Guidelines also serves as the new model for integrity and clean politics to rebuild the trust and support of the people in the government.

(II) Legal References:

1. Legislation in other countries: The Ethics Reform Act of 1989 and “Executive Order 12674 of April 12, 1989” of the USA contributed to the establishment of the 14-point Principles of Ethical Conduct for Government Officers and Employees. The “State and Public Officials Ethics Act” and the “Code of Conduct for State Ministers, Deputy Ministers, and Public Officials at a Ministerial Level” of Japan, the “Conduct and Discipline” and “Code of Conduct of the Ministers” of Singapore.
2. Legislation in Taiwan: In Taiwan, the “Important Notice in the Pursuit of Anti-Bribery Under the Integrity and Anti-Corruption Action Plan”, the “Ethics Guidelines for Civil Servants of Taipei City Government”, and the “Ethics Regulations for Procurement Personnel”.

II. Question: What is the core value and the purpose of legislation for this Ethics Guidelines?

Answer:

(I) Core Value:

In light of the core value of countries like the USA, Japan, and Singapore, and OECD members in the ethics of civil service, we take the carrying out of duties with integrity, fairness, and unselfish motivation in accordance with laws and regulations as the core value of this **Ethics Guidelines**. (First part in I of this **Guidelines**).

(II) Purpose of Legislation:

This **Ethics Guidelines** is aimed at guiding civil servants towards the aforementioned core value in the course of their performance of duties to improve the image of the government in clean politics and integrity (Latter part in I of this **Guidelines**).

III. Question: Who shall be governed by this Code? Should the conduct of physicians in public hospitals, teachers in public schools, and service personnel at public enterprises be governed by this Ethics Guidelines?

Answer:

(I) Scope of Application: This Ethics Guidelines shall govern all personnel of the Executive Yuan and its subordinate entities governed by the Civil Servant Work Act. (Refer to II- (II) of this Code).

1. According to Article 24 of the Civil Servant Work Act, “This law is applicable to all public officials, civilian and military, and personnel working at all public enterprises and entities with remuneration from the government”.
2. Judicial InterpretationJudicial Interpretation No. 308 (summary): Teachers who also perform administrative duties shall also be governed by the Civil Servant Work Act in the aspect and within the scope of the administrative duties.

(II) Physicians at Public Hospitals:

1. Medical service personnel employed and promoted pursuant to Article 33 of the Civil Servant Work Act and Articles 3, 4, 8, and 10 of the Medical Personnel Management Act shall be construed as public officials, civilian and military, under Article 24 of the Civil Servant Work Act. Accordingly, they shall be governed by this Code.
2. Physicians of public hospitals recruited by contract-based employment under the “Contract-based Worker Employment Act” are still construed as subjects governed by the “Civil Servant Work Act” and are thereby governed by this Ethics Guidelines. If they are employed under the “Guidelines for the

Employment and Administration of Contract-based Personnel by Medical Institutions Administered by the Ministry of Health and Welfare Administration” they are not governed by the “ Civil Servant Work Act”. However, the hospital administration may apply this Ethics Guidelines to these personnel for management needs or inscribe the clause of no acceptance of gifts and other related clauses into the ethic codes governing civil servants in the employment agreement to maintain an image of integrity.

3. In sum, entities (institutions) may consider establishing a higher standard or widen the scope of application according to requirements of service to prevent negative influence on integrity.

(III) Teachers in Public Schools:

Judicial Interpretation No. 308 (summary):

Teachers who also perform administrative duties shall be governed by the Civil Servant Work Act in the aspect and within the scope of the administrative duties. Accordingly, teachers in public schools who also perform administrative duties shall also be governed by this Ethics Guidelines. Yet, the competent authority of education may institute separate rules and regulations governing the authority and responsibility of these teachers, which will served as the code of conduct for these teachers.

(IV) Personnel Working With Public Enterprises:

These personnel shall be governed by Article 24 of the Civil Servant Work Act. As such, employees of public enterprises (including the directors, supervisors, and general managers, pursuant to the Judicial Interpretation No. 24) shall be governed by this Ethics Guidelines except for janitorial staff and workers

performing manual labor only.

IV. Question: Shall the interactions among the entities (institutions) of the executive branch of the government be governed by this Ethics Guidelines?

Answer:

- (I) Purpose of This Ethics Guidelines :** Assurance of carrying out of duties with integrity, fairness, and unselfish motivation in accordance with laws and regulations, and upgrading of the image of integrity of the government. (Part I of this **Guidelines**).
- (II) Focus Aimed at Regulating Individual Behaviors of Civil Servants:** The content of the provisions is aimed at civil servants in acceptance of gifts, invitations to meals and entertainment, requests for intercession, part-time jobs, invitations for delivery of speech, and anything involving the ethics of civil service with the standards and solutions explicitly stated.
- (III) Interactions Among the Entities (Institutions) of the Executive Branch of the Government are not Regulated by this Code:** Mutual visits among government entities (institutions) and other activities for benevolent purposes are held transparently, which can be witnessed and heard by the public. As such, no interest is involved and it is thereby not governed by this **Ethics Guidelines** . For interactions between individuals, institutions, groups, or other units beyond government entities (institutions), if there is an interest involved due to their job positions or functions performed as defined in II- (II) of this **Ethics Guidelines** , this **Ethics Guidelines** shall govern.

V. Question: What does “ Having vested interests in civil servants’ official duties” as stated in this Ethics Guidelines ? What are examples?

Answer:

(I) Having vested interests in civil servants’ official duties: This refers to any of the following applying to individuals, institutions, groups, or other units and the entity (institution) or the subordinate entities (institutions) (refer to II- (II) of this Ethics Guidelines):

1. Business dealings, supervision, or subsidies (prizes);
2. Seeking, executing, or signing contracts of hire or work, sale, or other matters;
3. Other positive or negative impacts from decisions, implementation, or non-implementation by an organ/organization.

(II) Examples:

1. Business Dealings: Designated professions or groups, the existence of which is to act as the intermediary, agent or assisting natural persons and institutions in their interactions with government entities. Examples are the relations between the eight major professions: police, lawyers, and public prosecutors or court; land administration agent and national land administration entities or landoffice ; certified public accountants or bookkeepers and tax agents; architects, or technicians and architecture administration entities; customs agents and customs, inspection service providers, and inspection and monitoring entities; fire safety administrators or fire safety technicians and fire safety entities.
2. Supervision: Examples are the relations between a senior entity and subordinate entity, supervisors and subordinated

staff, county/city councilors and county/city governments; legislators and the ministries and commission of Executive Yuan; Financial Supervisory Commission and financial institutions; Ministry of Economic Affairs and companies and business entities; Ministry of Transportation and Communication and transportation business entities.

3. Subsidies(prizes): Examples are the Ministry of Culture subsidizing particular arts and cultural groups, the Ministry of Interior awarding a particular charity group, the Youth Development Administration subsidizing the National Innovation and Entrepreneurship Association.
4. Seeking, executing, or signing contracts of hire or work, sale, or other matters: Examples are an entity is in the process of tender invitation to bid for purchase of goods and services, and a particular bidder participates in the bidding. Those who have participated in bidding or the awarded bidder also fall into this category.
5. Other Contractual Relations: Such as entering into a lease agreement with an entity.
6. Other positive or negative impacts from decisions, implementation, or non-implementation by an organ/organization: Civil servants in processing applications of the public, or subjects under the inspection, compulsory action, and levy of civil servants.

VI. Question: What is “ Ceremonial protocol in the conduct of official duties” as stated in this Ethics Guidelines? What are examples?

Answer:

- (I) Meaning:** polite, routine, or customary activities when paying visits or receiving guests at home or abroad to conduct public duties, communication, and coordination. (refer to II- (IV) of this Ethics Guidelines).
- (II) Examples:** The head or colleagues of the entity pay a visit to other entities with the presentation or acceptance of souvenirs; officials of the Ministry of Foreign Affairs, Overseas Community Affairs Council , or other government agencies participating in the events organized by the overseas Chinese groups.

VII. Question: If a civil servant accepts gifts from a party where interest is involved due to the job position or functions assigned to this civil servant, what should be done?

Answer:

(I) Principle: In general, Civil servants may not require, expect, or accept gifts from interested parties. (refer to (IV) of this part of this Ethics Guidelines).

(II) Exceptions: the following gifts may be accepted, when they are sporadic and without risk of affecting specific rights and obligations: (refer to the IV on the exceptions of this Ethics Guidelines):

1. Matter of Ceremonial protocol in the conduct of official duties.
2. Rewards, relief, or condolence gifts from one's supervisor.
3. The market value of the gift received is less than TWD 500 when given individually, or less than TWD1,000 when given to several persons within the organ/organization.
4. The market price of a gift received on the occasion of engagement, marriage, childbirth, relocation, inauguration, promotion, transfer, retirement, resignation, and injury, sickness, or death of the civil servant, their spouse, or immediate family shall not exceed the Standard limit on normal courtesy gratuities.

(III) Handling Procedure:

1. **Quick Response:** Gifts should be declined or returned except under the exclusions specified in IV of this Ethics Guidelines, and reported to the supervisor and the Ethics Office should be notified. If it is impossible to return, deliver the gift to the Ethics Office within 3 days after the offering of gifts (refer to

V – (I) – 1 of this Ethics Guidelines).

2. **Recommendation of the Ethics Office:** The Ethics Office should give appropriate recommendations on how to respond including effecting payment for accepting the gift, surrendering the gift to the government, referring the gift to charity donation, or others depending on the nature and the value of the gifts, and act in accordance with the decision and approval of the head of the entity (refer to V- (II) of this Ethics Guidelines).
3. **Registration by Ethics Office for Filing:** On receiving the notification of the offering of gifts, the Ethics Office should register the details and create a new file for tracking (refer to XII of this Ethics Guidelines), and enter the basic information of the civil servant concerned and the donors of gifts, the reason for the offering, the summary of the event, and status of response, recommendations, and the countersigning procedure.

VIII. Question: Does this Ethics Guidelines permit civil servants to accept gifts in the name of a spouse or give instructions to subordinate staff to accept gifts? What is the meaning of relatives sharing common property and dwelling at the same residence?

Answer:

- (I) Acceptance of Gifts in the Name of a Spouse Shall be Construed as the Acceptance of Gifts by the Civil Servant:** According to VI-(I) of this Ethics Guidelines , civil servants who accept a gift in the name of the spouse, next of kin, or relative sharing common property and dwelling at the same residence shall be construed as the acceptance of gifts by the civil servant concerned. Yet, the civil servant concerned may disprove the accusation such as the offering of gifts to a spouse by the donor is just a matter of personal affiliation and friendship with sufficient evidence to disprove the accusation.
- (II) Subordinate Staff Under Supervision Refers to an Interest Involved in Performing Official Duties of Civil Servants:** According to II – (I) of this Ethics Guidelines , there is an interest between the civil servant and subordinate staff by virtue of the function performed by both sides.
- (III) Limit of Acceptable Gifts to Individuals:**
1. The market value of the gifts is less than NT\$500; the gifts were offered to most people of the entity (institution) and the total market value is less than NT\$1,000 (refer to IV – (III) of this Ethics Guidelines).
 2. Gifts for engagement, wedding, maternity, relocation of domicile, assumption of office, promotion and rotation of duties, retirement, resignation, severance, and the injury,

illness, or decease of the person, spouse, or next of kin, and the market value falls within the standard of common courtesy in protocol (refer to IV – (IV) of this Code).

(IV) Relative Sharing Common Property and Dwelling at the Same

Residence: Persons who live in the same residence and share common property.

IX. Question: What does “ improper Contact” as stated in VIII of this Code mean?

Answer:

“improper Contact” refers to private contact between civil servants and stakeholders on the occasions of dinner parties, benevolent social gatherings, golf games, traveling, and foreign traveling, particularly when the bottom line between civil servants and the enterprises becomes vague so that it stirs up suspicion of affiliation by outsiders:

Examples are:

1. Personnel of education authorities and cram school people.
2. Procurement personnel of entities and suppliers.
3. Court judges and litigants or judicial scalpers.
4. Public prosecutors and litigants or lawyers.
5. Physicians at public hospitals and pharmacists and pharmaceutical firms, medical devices firms.
6. Police and mafia gangs.
7. Civil servants from different types of supervisory or auditing entities such as financial supervisory, communication and broadcasting, food hygiene, road administration, construction administration, and fire safety, and the subjects of supervision like financial institutions, certified public accountants, telecommunication service providers, food manufacturers, and builders.
8. Customs and tax personnel and customs agents.
9. Taxation authorities and certified public accountants or bookkeepers.
10. Land management entities or land office and land administration agent.