Gifts and benefits - policy

Contents

[1. Policy 3](#_Toc170293766)

[2. Purpose 3](#_Toc170293767)

[3. Scope 3](#_Toc170293768)

[4. Reporting 4](#_Toc170293769)

[4.1. Reportable gift or benefit 4](#_Toc170293770)

[5. Roles and responsibilities 5](#_Toc170293771)

[5.1. Employees 5](#_Toc170293772)

[5.2. School body members and their employees 5](#_Toc170293773)

[5.3. Managers 6](#_Toc170293774)

[5.4. Principals 6](#_Toc170293775)

[5.5. Quality Assurance Services unit 7](#_Toc170293776)

[5.6. Chief Executive 7](#_Toc170293777)

[6. Decision making 7](#_Toc170293778)

[7. Definitions 8](#_Toc170293779)

[8. Related policy, legislation, and documents 9](#_Toc170293780)

[8.1. Legislation 9](#_Toc170293781)

[8.2. Policy 10](#_Toc170293782)

[8.2.1. Department of Education y – Policy and advisory library 10](#_Toc170293783)

[8.3. Resources 10](#_Toc170293784)

# Policy

The Department of Education (department) is committed to ensuring that the department’s public sector employees, School Representative Bodies and School Management Councils including their employees (school bodies), perform their duties to the highest ethical standard and in the best interest of the people, and community of the Northern Territory (NT) as required under the:

* Northern Territory Public Sector (NTPS) Values
* section 5 of the NTPS Code of Conduct
* guidelines issues to schools under Section 112(1) and 118(6) of the *Education Act* 2015
* relevant school or school bodies Code of Conduct.

In the course of their duties, employees, school bodies or school body employees may be offered gifts or benefits from different sources including: individuals, parents, businesses or contractors.

This policy sets out the department’s expectations of employees and school bodies, including school body employees, in the management and mitigation of risks associated with the acceptance of gifts and benefits.

Note: Throughout this policy where the terms school body or school bodies are used, this also includes school body employees.

# Purpose

This policy sets out the obligations of all employees and school bodies to consider the appropriateness of accepting gifts or benefits and the appropriateness of declining gifts or benefits where possible.

All employees and school bodies must:

* complete the relevant Gifts and benefits form seeking CE or principal approval prior to accept a reportable gift and benefit
* report a declined gift and benefit
* not seek or accept gifts and benefits for themselves or others, including family members, that could reasonably be perceived as an attempt to influence the performance of their duties
* undertake mandatory reporting of incidents of suspected fraud or improper conduct in line with the departments Fraud control policy and framework, and the *Independent Commissioner Against Corruption Act 2018* (ICAC Act).

# Scope

This policy applies to all employees of the department, both corporate and school-based employees, along with school bodies. It includes the conduct of employees and school bodies and is applicable to all gifts and benefits offered and received at any time, including outside normal working hours, where it is related to their role with the department or school.

The following gifts are exempt from reporting under this policy:

* token gifts offered in business situations such as conferences, seminars, or launches
* modest hospitality and business catering in work meetings
* gifts of appreciation and gifts of no retail value from, or on behalf of, students or parents
* attendance at an event that is paid for by the department for a work-related conference, seminar, training, or development activity
* hospitality and invitations from the NT Government when attendance is work-related or related to their role on the school body, and an NT Government department or government business division is the host or sponsor, or co-host or co-sponsor
* a ceremonial gift, where it could not be declined, as it may offend or cause embarrassment to the gift giver.

This policy does not apply to providing gifts, benefits and hospitality from the department or school using departmental or school held funds. Please refer to the department’s Hospitality: entertainment and work refreshments guidelines and procedures or the Financial and resource management for schools – (FARMS manual) for school bodies.

# Reporting

## Reportable gift or benefit

Reportable gifts and benefits include:

* a substantial gift or benefit with a value of greater than $100
* accumulated gifts or benefits, a series of benefits, obtained from one individual or entity, over the course of a calendar year with combined value of greater than $100
* any benefit required to be recorded in the Gifts and Benefits Register for Fringe Benefits Tax purposes
* any other gift or benefit where the receipt of the gift or benefit, or expectation for which the gift or benefit was offered, might tend to influence, or appear to tend to influence, an employee or school body in their official capacity
* any declined gift and benefit, which is more than a token gift and greater than $100.

# Roles and responsibilities

## Employees

Employees have the primary responsibility for applying to accept gifts and benefits and for declaringthe offerofgifts and benefits, regardless of acceptance or refusal as soon as an offer has been made. Employees must:

* never seek out gifts and benefits and ensure their behaviour is professional and meet expectations under the Code of Conduct, refer to section 8.3
* seek the Department of Education’s Chief Executive (CE) approval via the Gifts and benefits form prior to accepting any gifts or benefits in accordance with this policy
* provide an estimated value of the gift or benefit by undertaking research. For example, search the web to identify the cost or value of the gift or benefit
* report a declined gift or benefit
* advise the CE via the Gifts and benefits form, where they, or one of their family members, have received an offer for a substantial gift or benefit that is directly or indirectly linked to the employees’ position with the department
* identify, avoid, and manage conflicts of interest and circumstances where it may appear that a person or body, through the provision of a gift or benefit is securing, or attempting to secure, the influence or favour of the employee
* take all reasonable steps to ensure that their family members do not solicit, and are not the recipients of, gifts and benefits where it may appear that a person or body, through the provision of gifts or benefits is securing, or attempting to secure, the influence or favour of the employee
* ensure all gifts or benefits are treated in accordance with the CE’s decision
* immediately report any gift or benefit suspected of being an attempted gift of influence or a bribe to the department’s [nominated recipient](http://ed.ntschools.net/SiteAssets/Pages/Home/Report%20Misconduct.oft) or the [ICAC](https://icac.nt.gov.au/report) as soon as possible.

## School body members and their employees

School bodies have a primary responsibility for applying to accept gifts and benefits and declaring the offer of gifts and benefits to the principal regardless of acceptance or refusal and must:

* never seek out gifts and benefits and ensure their behaviour is professional and meet expectations under their Code of Conduct
* seek principal approval via the Gifts and benefits form prior to accepting any gifts or benefits in accordance with this policy and the FARMS manual
* report a declined gift or benefit
* advise the principal via the Gifts and benefits form, where they, or one of their family members, have received an offer for a substantial gift or benefit that is directly or indirectly linked to the school
* identify, avoid, and manage conflicts of interest and circumstances where it may appear that a person or body, through the provision of a gift or benefit is securing, or attempting to secure, the influence or favour of the school body
* take all reasonable steps to ensure that their family members do not solicit and are not the recipients of gifts and benefits where it may appear that a person or body, through the provision of gifts or benefits is securing, or attempting to secure, the influence or favour of the school body
* ensure all gifts or benefits are treated in accordance with the principal’s decision
* immediately report any gift or benefit suspected of being an attempted gift of influence or a bribe to the department’s [nominated recipient](http://ed.ntschools.net/SiteAssets/Pages/Home/Report%20Misconduct.oft) or the [ICAC](https://icac.nt.gov.au/report) as soon as possible.

Where a school body member is an NTPS employee, they are to follow the roles and responsibilities under employee, refer to section 5.1 above.

## Managers

Managersincluding school leadership teams are responsible for:

* discussing gifts and benefits with employees to ensure they understand their obligations and the protocols for declaring gifts and benefits. For example, how to seek approval to accept a gift or benefit, and how to report a declined or returned gift or benefit
* ensuring employees are not the recipients of gifts or benefits which could give the appearance of a direct or indirect attempt to secure the influence or favour of the employee. This includes invitations to hospitality events
* ensuring employees complete the Gifts and benefits form as required and in line with this policy
* endorsing and reviewing the Gifts and benefits forms for their employees for consideration and instructions from the CE or principal on how the gift is to be treated
* immediately reporting any gift or benefit suspected of being an attempted gift of influence or a bribe to either the department’s nominated recipient or the ICAC.

## Principals

Principals are responsible for:

* discussing gifts and benefits with employees and school bodies to ensure they understand their obligations and the protocols for declaring gifts and benefits. For example, how to seek approval to accept a gift or benefit, and how to report a declined or returned gift or benefit
* ensuring employees and school bodies are not the recipients of gifts or benefits which could give the appearance of a direct or indirect attempt to secure the influence or favour of the employee. This includes invitations to hospitality events
* ensuring employees and school bodies complete the Gifts and benefits form as required and in line with this policy
* endorsing and reviewing the gifts and benefits forms for their employees for consideration and instructions on how the gift is to be treated
* approving the Gifts and benefits form for school bodies and advising the applicant of the outcome on how it is to be treated
* maintain a school body gifts and benefits register on a restricted file, this file is to contain all records of gifts and benefits received
* immediately reporting any gift or benefit suspected of being an attempted gift of influence or a bribe to either the department’s nominated recipient or the ICAC
* liaising with the school business manager to ensure Fringe Benefits Tax (FBT) reporting obligations are being met.

## Quality Assurance Services

For employees the Quality Assurance Services unit is responsible for:

* coordinating applications for approval for NTPS employees
* advising applicants of the outcome of their application
* maintaining the department’s gifts and benefits register
* ensuring appropriate strategies are in place to support employee compliance with this policy including reminders for employees, particularly around peak gift giving times. For example, end of financial year and Christmas
* providing the department’s gift register to Taxation Services, at the end of each quarter for FBT assessment
* conducting an annual review of the register and preparing a report to the executive leadership team and the Audit and Risk Committee. The purpose of the review is to identify any trends or patterns, which may cause concern or require corrective action.

## Chief Executive

The CE is responsible for determining the action to be taken for gifts and benefits offered to employees in relation to the acceptance, refusal or disposal of such gifts or benefits. The exception to this is for school bodies and their employees who are not NTPS employees.

Where the CE receives an offer for a gift or benefit, the gifts and benefit form is to be submitted to a Deputy CE for approval and the decision recorded in the department’s gifts and benefits register.

# Decision making

The CE or the principal will make a decision regarding how the gift or benefit is to be managed.

The following consideration may be taken into account by the CE or the principal when making a decision:

* who offered the gift or benefit?
* the reason why the gift or benefit was offered
* what is the relationship between the gift giver and employee, school bodies member and their employees?
* the type of gift and benefit offered
* if there have been several offers offered to the individual or department over the past 12 months
* are there any procurement activities occurring involving the gift giver?
* how would the public view the acceptance of the gift or benefit?
* if the gift or benefit given is to gain influence over decisions or actions
* if the gift or benefit given is to seek a favour in return
* whether acceptance of the gift or benefit is in the interest of the NT and stand up to public scrutiny.

The decision will be confirmed regarding the gift or benefit. It could be:

Decline the gift or benefit – if the gift or benefit has already been accepted. Return it to the gift giver. Exception to this is where returning it would be inappropriate due to cultural, protocol or other reasons.

Retain – the gift or benefit can be kept by the individual or department.

Donate to charity – the gift or benefit is to be donated to a charity where they can utilise the gift of benefit. For example, this could be to auction off as part of a charity auction.

Transfer ownership to work unit or school – this could occur where the gift is a ceremonial or cultural gift offered during conducting official business and such gifts are retained by the department or school due to their intrinsic value and displayed in an appropriate setting.

# Definitions

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| Term | Definition  |
| Benefit  | A benefit is similar to a gift in that it is valuable to the receiver, however it is usually less tangible. Benefits can include preferential treatment, privileged access to confidential information, favours, discounts and loyalty programs, a new job or promotion or promises of a new job or promotion.  |
| Ceremonial gift | An official gift from one organisation to another organisation. Ceremonial gifts are provided as part of the culture and practices of communities and government, within Australia or internationally. Ceremonial gifts are usually provided when conducting official business with delegates from another organisation or representatives of foreign governments. |
| Employee  | An employee (public sector officer) is a person employed by the Department of Education, in a school or corporate setting, and includes ongoing, fixed term contract or casual employees. This includes school-based staff employed on ongoing, fixed term or casual contracts with the NTPS, under the *Public Sector Employment and Management Act 1993*. |
| Gift  | Refers to an item given or offered in the course of a business relationship and includes token gifts and substantial gifts.  |
| Gifts and benefits register  | The gifts and benefits register is maintained by the Quality Assurance Services Unit and records the details of the gift/benefit, donor, recipient (employee) and the CE or principals’ decision regarding the gifts and benefits.  |
| Gifts of influence  | A gift or benefit intended to secure the favour or influence of an employee. |
| Gifts of no retail value (school-based staff) | Gifts or benefits that have no retail value. These include such things as home-made mementos or food items and small value items. |
| Modest hospitality  | Refers to light refreshments such as tea, coffee, biscuits and light lunch provided they are associated with work meetings, conferences, and ceremonies |
| Nominated recipient  | The department’s nominated recipient is the primary contact for ICAC matters pursuant to section 97 of the ICAC Act. |
| Public duty  | Public duty is the responsibility of public sector employees to put the public interest above their own personal or private interests when carrying out their official duties. |
| Public sector officer  | A person employed by the NTPS under the *Public Sector Employment and Management Act 1993*, are referred to as employees in this policy. |
| School-based staff | Are employed by the Department of Education in a school on an going, fixed term or casual contract. They are referred to throughout this policy as employees. |
| School Bodies | School bodies is the single term used throughout this policy and the guideline, to bring together both school management council members, school representative body members and their employees. |
| School Body employees | Employees of a school management council or school representative body in accordance with the *Education Act 2015* section 107(1)(k) and 119(1)(g) under the *Fair Work Act 2009* (Cth) and any relevant award. |
| School Management Council | Is a school management council established under section 118(2) of the Act. The school management council can be referred to as a multi-school management council. |
| School Representative Body | Is a school representative body established under section 103(2) of the Act. The school representative body can be referred to as an independent public-school board, school council or joint school representative body. |
| Substantial gift | A gift of considerable value that is worth more than $100 |
| Token gift | A token gift is usually offered in a business situation and is often mass produced (For example, pens, cups, mugs, calendars, stationery, or items with company logo on them). Employees may use their discretion in accepting token gifts. No approvals or forms are required. |

# Related policy, legislation, and documents

* 1. Legislation

[*Fringe Benefits Tax Assessment Act 1986*](https://www.legislation.gov.au/Details/C2014C00048)

[*Independent Commissioner Against Corruption Act 2017*](https://legislation.nt.gov.au/Legislation/INDEPENDENT-COMMISSIONER-AGAINST-CORRUPTION-ACT-2017)

[*Public Sector Employment and Management Act 1993*](https://legislation.nt.gov.au/Legislation/PUBLIC-SECTOR-EMPLOYMENT-AND-MANAGEMENT-ACT-1993)

* 1. Policy

[Corporate tax policy advice no. 6: Fringe benefits tax application to gifts received by NTG employees](https://ntgcentral.nt.gov.au/services-and-support/money-finance/corporate-taxation/taxation-policies/corporate-tax-policy-advice-no-6-fringe-benefits-tax-application-to-gifts-received-by-northern-territory-government-employees)

[Office of the Commissioner for Public Employment, Employment Instruction 12 – Code of Conduct](https://ocpe.nt.gov.au/__data/assets/pdf_file/0006/379329/ei-12-code-of-conduct.pdf)

### Department of Education – Policy and advisory library

[Conflict of interest policy and procedures](https://elearn.ntschools.net/policies/category/1543)

[Fraud control policy and framework](https://elearn.ntschools.net/policies/category/1543)

[Hospitality: entertainment and work refreshments guidelines and procedures](https://elearn.ntschools.net/policies/4317)

[Financial and Resource Management for Schools (FARMS) Manual](https://elearn.ntschools.net/policies/category/1537)

## Resources

OCPE code of conduct - <https://ocpe.nt.gov.au/__data/assets/pdf_file/0006/379329/code-of-conduct-for-the-northern-territory-public-sector.pdf>

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| Acronyms | Full form |
| CE | Chief Executive |
| FARMS | Financial and Resource Management for Schools Manual |
| FBT | Fringe Benefits Tax |
| ICAC | Independent Commissioner Against Corruption |
| NT | Northern Territory |
| NTPS | Northern Territory Public Sector |

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