

MEMORANDUM FOR THE FILE

To: File No. 3.1.6
From: Dennis J. Quinn, Designated Agency Ethics Officer
Date: June 15, 1995

Subject: Acceptance of Gift from Outside Source

Today the high school class that was assisting us this week presented Christopher Barger with two gifts in appreciation for being their coordinator. One gift was a large, matted photo of JFK and RFK standing outside the Oval Office, the other was a campaign button for RFK. Chris came to me asking if he was permitted to keep these gifts.

I told him that first, we needed to determine the market value of the gifts. We found out the photo cost \$19.95 and the button cost \$20.00(see attached receipt).

Under 5 C.F.R. §2635.202, a Federal employee cannot accept a gift:

- (1) from a prohibited source; or
- (2) given because of the employee's official position.

While the high school students are not a prohibited source, the gift was clearly given to Chris because of his official position. Checking the exemptions of §2635.203, the closest one I could find was (2) "greeting cards and other items with little intrinsic value, such as plaques, certificates and trophies, which are intended solely for presentation." The gifts were intended for presentation, but they have more than intrinsic value. As such, I do not think this exemption applies.

I next looked toward the exceptions of §2635.204, particularly (a), which deals with gifts of \$20 or less. I thought that since each gift was \$20 or less, this exception would apply. A closer reading of this section revealed that the rule applies to gifts "having an aggregate market value of \$20 or less per occasion . . . (w)here the aggregate value of tangible items offered on a single occasion exceeds \$20, the employee may decline any distinct and separate item in order to accept those items aggregating \$20 or less."

I concluded that the two gifts, having an aggregate market value of \$39.95 and being given on a single occasion, do not fit the \$20 or less exception §2635.204.

I then spoke to Cheryl Kane-Piasecki, our desk officer at OGE, who agreed with my analysis and conclusion.

I told David Marwell of my conclusions, and advised him that Chris could keep either the photo or the button, since individually each item has a market value of \$20 or less, but that he could not keep both.