



## **ADVISORY OPINION 26-01**

Date: March 11, 2026

Decision by Commissioners:

Robert Hicks, Sally Jensen, George Thompson, and Allan Zaback

### **Question**

Whether an elected County official may accept a donation of a ticket for admission to a cultural performing arts event without violating the Ethics Code?

### **Conclusion**

Given the facts provided by the requester, she will not violate the Ethics Code by accepting a free ticket to attend the cultural performing arts event because it falls into a category of permitted gifts under the Ethics Code and there are no known circumstances which would cause a reasonable person to question the integrity of County government or the requester if the gift is accepted. Any such gift, however, must be recorded in a publicly accessible gift log.

### **Facts**

A member of County Council consulted the Ethics Commission to determine whether she would violate the Ethics Code if she accepted an offer of a free ticket to an upcoming cultural performing arts event. The requester informed the Commission that some Council members were offered free tickets to attend Shen Yun's show, marking its 20<sup>th</sup> anniversary, in Philadelphia, Pennsylvania, in April 2026. The requester further informed the Commission that Shen Yun was established in New York in 2006 and its mission is to revive 5000 years of traditional Chinese culture, arts, and values. The show is touring two hundred cities worldwide and has become quite a phenomenon. Shen Yun showcases the Chinese traditions of truth, compassion, tolerance, loyalty, and freedom and has been well-received on a global scale. The program has faced opposition from certain political factions in China yet has found support from audiences everywhere.

Shen Yun's website states that tickets to the program run from \$110.00 to \$135.00 each. Its Philadelphia-based shows run in mid-April 2026 at the Kimmel Center. Its website also explains that the Official Shen Yun Performing Arts Company is a Section

501(c)(3) nonprofit organization based in New York. It is not regulated by New Castle County. The requester has no financial interest in the organization.

**Code or Prior Opinion:**

***Relevant Ethics Code Provisions and Case Law***

In Section 2.03.102, terms which may be relevant to this opinion are defined by the Ethics Code, as follows:

*Business* means any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock company, receivership, trust or any legal entity organized for profit.

*Business with which he or she is associated* means any business in which the person is a director, officer, owner or employee; or a business in which a member of the person's immediate family is a director, officer, owner or has a financial interest.

*Compensation* means any money, thing of value or any other economic benefit of any kind or nature whatsoever conferred on or received by any person in return for services rendered or to be rendered by oneself or another.

*Conflict or conflict of interest* means conduct which is prohibited by Section 2.03.103.

*Contract* means an agreement or arrangement for the acquisition, use or disposal by the County of consulting or other services or of supplies, materials, equipment, land or other personal or real property. "Contract" shall not mean an agreement or arrangement between the County as one (1) party and a County official or County employee as the other party concerning his or her expense, reimbursement, salary, wage, retirement or other benefit, tenure or other matters in consideration of his or her current public employment with the County.

*County* means New Castle County, including any County Department.

*County Employee* means any person who receives compensation as an employee of a County Department or County row office.

*County official* means any person elected or appointed to any County office, board, commission or the New Castle County Council Audit Committee provided, however, that for purposes of Sections 2.03.103(B)(2),

2.03.103(C), and 2.03.104(C). "County official" does not include any member of a board or commission which operates solely in an advisory capacity, and whose members are not compensated, other than reimbursement for expenses.

*De minimis* means an economic consequence which has a cost or value less than fifty dollars (\$50.00).

*Financial interest* means any interest representing more than five (5) percent of a corporation, partnership, sole proprietorship, firm, enterprise, franchise, organization, holding company, joint stock company, receivership, trust, or any legal entity organized for profit.

*Gift* means anything that is received without consideration of equal or greater value. ... A gift is considered accepted upon receipt or control or direction unless it is promptly returned in its entirety. An email invitation, unless specifically accepted, is not considered a gift.

*Governmental body* means any department, authority, commission, committee, council, board, bureau, division, service, office, official, administration, legislative body, or other establishment in the executive, legislative or judicial branch of a state, a nation or a political subdivision thereof or any department performing a governmental function.

*Governmental body with which a County official or County employee* is or has been associated means the governmental body within County government by which the County official or employee is or has been employed or by which the County official or employee is or has been appointed or elected and subdivisions and offices within that governmental body.

*Income* means any money, thing of value or other pecuniary benefit received or to be received in return for, or as reimbursement for, services rendered or to be rendered. The term does not include gifts; governmentally mandated payments or benefits; retirement, pension or annuity payments funded totally by contributions of the County official or employee; or miscellaneous, incidental income of minor dependent children.

*Negligible value* means value of less than twenty-five dollars (\$25.00).

*Person* means a business, governmental body, individual, corporation, union, association, firm, partnership, committee, trust, joint venture, club or other organization or group of persons.

*Private enterprise* means any activity conducted by any person, whether conducted for profit or not for profit and includes the ownership of real or personal property. Private enterprise does not include any activity of the federal, State or local government or of any department, authority or instrumentality of the federal, State or local government.

*Reasonably foreseeable* means an event which should be expected or anticipated based upon credible past and present facts known to a reasonable observer or participant at the time a decision is made or an action taken.

The New Castle County Ethics Code prohibits conduct on the part of County officials or employees which creates the appearance of impropriety even where no direct conflict of interest is present. Specifically, conduct which creates an appearance of impropriety is prohibited by Section 2.03.104.A of the New Castle County Code.<sup>1</sup> To determine if an appearance of impropriety exists, the Delaware courts have stated that “[t]he test is... if the conduct would create in reasonable minds, with knowledge of all relevant facts, a perception that an official’s ability to carry out [his or] her duties with integrity, impartiality and competence is impaired.” *Hanson v. Delaware State Public Integrity Com’n*, 2012WL3860732, at \*16 (Del.Super. 2012), aff’d, 69 A.3d 370 (Del.Supr. 2013); and “[t]he test for appearance of impropriety is whether the conduct would create in reasonable minds, with knowledge of all the relevant circumstances that a reasonable inquiry would disclose, a perception that the [official’s] ability to carry out [the official’s] responsibilities with integrity, impartiality and competence is impaired.” *In re Williams*, 701 A.2d 825, 832 (Del.Super. 1997). The courts have advised the Commission to look at the totality of the facts presented, and this Commission has historically applied this standard when reviewing the conduct of County officials and employees.

*New Castle County Code* Section 2.03.104.I covers gifts which may be accepted without violating the Ethics Code. Subsection 2.03.104.I.6 states:

A gift of a ticket of attendance or an invitation which waives the cost, valued at more than one hundred one dollars (\$101.00), for publicly advertised or regularly scheduled functions of a non-profit organization, civic or government group, or association of businesses or trade groups which

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<sup>1</sup> New Castle County Code Section 2.03.104.A states: “No County employee or County official shall engage in conduct which, while not constituting a violation of Subsection 2.03.103.A.1 undermines the public confidence in the impartiality of a governmental body with which the County employee or County official is or has been associated by creating an appearance that the decisions or actions of the County employee, County official or governmental body are influenced by factors other than the merits.”

are open to the public and the gift shall be promptly recorded in a public gift log.

Additionally, it is a violation of the New Castle County Ethics Code if a County official or employee uses his or her office or employment for his or her personal or private benefit, the benefit of a member of his or her immediate family, or a business with which he or she is associated.<sup>2</sup> The Ethics Code's conduct rules in Section 2.03.104.A prohibit exercise of official authority which creates an appearance that the decisions or actions of a County official or employee are influenced by factors other than the merits of the matter for the decision. This prohibition exists because such conduct undermines public confidence in the impartiality of the individual or governmental body with which the employee or official is associated.

The Code recites special prohibitions on County officials concerning their involvement with outside interests which interact with the County government. Section 2.03.103.B.1 prohibits any County official or employee from "represent[ing] or otherwise assist[ing] any private enterprise with respect to any matter before the County Department with which the employee or official is associated by employment or appointment." Further, Section 2.03.103.B.2 prohibits the official from representing or assisting any private enterprise with respect to any matter before the County. This restriction extends to non-profit organizations as well as private businesses or private concerns.

### ***Prior Commission Opinions***

In Advisory Opinion 05-25, an official asked the Ethics Commission whether he could accept two complimentary tickets valued at \$60.00 each from a nonprofit civic organization to attend a publicly advertised holiday celebration sponsored by that organization without violating the Ethics Code. The Commission determined that the official could accept the tickets from the non-profit because he did not have any financial interest in the entity, the non-profit did not do business with nor was it regulated by the County and, in light of the value of the tickets and under the circumstances reported, a reasonable member of the public would not believe that acceptance of the tickets would impair the official's independent judgment or that the official was using his public office for private gain.

In Advisory Opinion 91-07, the Commission was consulted about whether it would violate the Ethics Code if County officials and employees accepted gifts or invitations to social, sporting or other events generally open to the public from people with whom the County has a relationship. The Ethics Commission responded that it presumed that gifts and invitations to a County official or employee, the value of which did not exceed \$75.00 in the aggregate per year per donor, would not create an appearance of impropriety. It

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<sup>2</sup> *New Castle County Code* Section 2.03.103.A.1.

should be noted, however, that this opinion was issued before the current applicable Code Section was enacted.

In Advisory Opinion 97-03, a County Public Works employee, with inspecting, licensing, regulating and/or auditing responsibilities, asked whether he could accept a free ticket to attend a Flyers game in a super/club box from a company with construction projects in New Castle County if the ticket states the cost is \$66.50. The Ethics Commission ruled that accepting that gift would violate the Ethics Code because there would be an appearance of impropriety if a County Public Works employee with inspecting, licensing, regulating and/or auditing responsibilities accepted a free ticket to attend a Flyers game from a company with County construction projects because the actual cost to the donor and the value received by the recipient exceeds the then-statutory maximum of \$75.00 despite what it states on the face of the ticket.

### **Analysis**

The review of an Ethics Code issue is fact-sensitive, and the Commission applies the relevant law to the facts presented. This matter requires an examination of the laws which regulate gifts, and the acceptance of gifts by County officials and employees is disfavored by the Ethics Code.

When the Code does not specifically allow the acceptance of a particular gift, the Commission may determine that acceptance of that gift may be allowed if (1) there is no conflict of interest arising out of a personal and/or financial interest in the matter on the part of the County official or employee involved or (2) when there is little likelihood that the acceptance of the gift will create a perception on the part of a member of the public that the County official or employee has engaged in improper behavior. In making that determination, the Commission stands in the place of a reasonable member of the public with knowledge of the relevant facts. Ultimately, the Commission will not approve proposed conduct on the part of a County official or employee which involves decision-making that is not based on the merits of the matter as such conduct would be likely to cause the public to lose faith in the integrity of County government.

For the issue at hand, however, the Code specifically provides that the ticket in question may be accepted without violating the Ethics Code. Section 2.03.104.I.6 allows for the acceptance of a “gift of a ticket of attendance or an invitation which waives the cost, valued at more than one hundred one dollars (\$101.00), for publicly advertised or regularly scheduled functions of a nonprofit organization, civic or government group, or association of businesses or trade groups which are open to the public and the gift shall be promptly recorded in a public gift log.”<sup>3</sup> The ticket from Shen Yun falls squarely into this Code section: the ticket being offered will waive its cost, it is valued at greater than

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<sup>3</sup> See *New Castle County Code* Section 2.03.104.I.6.

one hundred dollars, it is for a publicly advertised function of a nonprofit organization, and the event is open to the public. Thus, acceptance of this ticket will not violate the Ethics Code. Additionally, the requester has no financial interest in the nonprofit organization donating the ticket.

To complete Code compliance, such a gift must be recorded in a publicly available gift log, such as the Commission's online gift log. The Ethics Commission thanks the requester for contacting the Ethics Commission about this matter before accepting the free ticket offered.

### **Finding**

The Commission finds that the ticket to attend the Shen Yun cultural arts event is covered squarely by Code Section 2.03.104.I.6 and may be accepted without violating the Ethics Code. The gift must be recorded in a public gift log on a timely basis to be compliant with the Code.

In rendering this advisory opinion, this Commission has applied the New Castle County Ethics Code, which establishes the minimum level of ethical conduct required of County officials and employees.

BY AND FOR THE NEW CASTLE COUNTY ETHICS COMMISSION

ON THIS 11<sup>TH</sup> DAY OF MARCH 2026

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Robert I. Hicks, Jr.  
Chair, New Castle County Ethics Commission

Decision: Unanimous