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Acceptance of rewards, gifts and other benefits

The attached Administrative Regulation for Employees of the State of Hesse on the Acceptance of Rewards, Gifts and Other Benefits dated December 13, 2017 (StAnz. 52/2017) states in part:

Employees who accept rewards or gifts in connection with their office or profession jeopardize the trust of the general public and their authority in their reliability and degrade the reputation of the entire public service. This must be avoided in the interest of a functionally, expediently and objectively oriented administration.

Employees of the country may not accept rewards or gifts related to their office or official activities for themselves or third parties.

A general ban on acceptance exists for

- Cash
- Provision of objects (e.g. motor vehicles, accommodation) without payment or for less than the usual payment
- Granting of services (e.g. by providing tickets, airline tickets, taking along on vacation trips) without or for less than the usual remuneration.
- Granting special benefits for private transactions (e.g. interest-free or low-interest loans, discounted purchases).

The acceptance of benefits which the employee receives or is to receive only indirectly (e.g. benefits to relatives, associations, etc.) is also prohibited. The office responsible for approving the acceptance of rewards and gifts must be informed immediately of the offer of the listed benefits.

Acceptance of the following benefits shall be deemed to be generally approved unless otherwise specifically communicated to employees:

- customary and, according to general opinion, unobjectionable low-value items (for example, simple promotional items such as calendars, ballpoint pens or writing pads), provided that the total value does not exceed 20 euros (market value).
- minor services that facilitate or expedite the performance of a service transaction, e.g., pickup by car from the train station.
- Entertainment on the occasion of or on the occasion of official acts (e.g. meetings, visits), if they are customary and appropriate or if they have their basis in the rules of communication and politeness, which even members of the civil service, taking into account their special obligation to perform their duties objectively, cannot avoid without violating social mores (e.g. soft drinks, snacks, lunch). This does not apply if the nature and extent of the hospitality is not insignificant, whereby the standard in the individual case is also based on the official function of the employee.

- customary hospitality at general events attended by employees in the course of their duties or on official business (e.g. receptions, inaugurations).

If hospitality is accepted, there is an obligation to declare meals provided free of charge in the travel expense report.

In all other respects, the decision on the acceptance of rewards, gifts and other benefits shall be made at the discretion of the company in accordance with the circumstances of the individual case. Therefore, the employees concerned must fully disclose the circumstances relevant to the decision. Prior to accepting a reward, gift or other advantage, the approval of the head of the authority must be obtained. At the University of Kassel, this decision-making authority lies with the Chancellor.

This also applies in particular to participation in information or presentation events or trips as well as training events organized by companies or other institutions which bear the costs associated with the trip for the employees. In this case, approval may only be granted if the professional aspects far outweigh any other considerations, if there is an urgent business need for the participation and if there is no connection with an ongoing or foreseeable award procedure.

The acceptance of rewards or gifts can only be approved if it can be ruled out that

- the advantage is intended to influence official actions, and
- the acceptance of the benefit could impair the objective conduct of the office, and
- acceptance of the benefit could give third parties the impression that the benefit could influence official actions or impair the objective performance of official duties, and
- the benefit could be understood as recognition for a particular administrative action.

If employees accept rewards, gifts or other benefits from persons with whom they have dealings in the course of their duties without obtaining their consent or without involving their department, the risk of misjudging the factual and legal situation is borne solely by them and can have serious consequences for them.

Reference is made to the full text of the Administrative Regulation for Employees of the State of Hesse on the Acceptance of Rewards, Gifts and Other Benefits. Appendix 1 to the administrative regulation contains sample letters for non-participation in presentations and festivities and for refusal of gifts. Appendix 2 contains the relevant penal provisions of the Criminal Code.

If you find yourself in a situation and are unsure about your further behavior despite these outlined regulations, you should refrain from accepting.

Date: 11.11.2019

If the seconded official has saved hours on the LAK, the saved time credit must be used by mutual agreement. If a mutually agreeable solution cannot be found and the use of the time credit interferes with official business, the time credit will be forfeited after the end of the secondment.

VI. Recommendation

The municipalities and municipal associations are recommended to proceed accordingly.

VII. Entry into force

These guidelines come into force on January 1, 2018.

Wiesbaden, December 1, 2017

**Hessian Ministry of the Interior
and for sports**

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- Validity dec. 3240 -

StAnz. 52/2017 p. 1495

1029 Administrative Regulation for Employees of the State on the Acceptance of Rewards, Gifts and Other Advantages

Introduction

Conducting official business in a disinterested manner and without seeking personal gain is one of the essential foundations of public service. Employees who accept rewards or gifts in connection with their office or profession jeopardize the trust of the general public and their authority in their reliability and degrade the reputation of the entire public service. This must be avoided in the interest of a functionally, expediently and objectively oriented administration.

Even though the vast majority of employees in the public sector take their obligation to perform their duties selflessly and impartially seriously, individual cases of corruption in the public sector give cause to continue to draw attention to the applicable regulations on the acceptance of rewards and gifts and to lay down binding rules for dealing with them. To implement this and to facilitate work, the sample letters attached as Annex 1 are to be understood.

I. Principle

1. Acceptance ban

- 1.1 Pursuant to Section 42 (1) of the Civil Servant Status Act (BeamtStG), civil servants may not demand, allow themselves to be promised or accept any rewards, gifts or other benefits for themselves or a third person in relation to their office, even after termination of their civil servant relationship. Exceptions require the approval of the employer.
- 1.2 Pursuant to Section 3 (3) of the Collective Agreement for the Public Service of the State of Hesse (TV-H), employees may not accept rewards, gifts, commissions or other benefits from third parties with reference to their work. Exceptions require the consent of the employer. If employees are offered such benefits, they must notify the employer immediately.

2. Explanations on the prohibition of acceptance

- 2.1 **Employees** within the meaning of this administrative regulation are civil servants and employees.
- 2.2 Rewards, gifts, commissions and other advantages/benefits are all benefits to which employees have no legal claim and which objectively place them in a better position, either materially or immaterially (**advantage**). This also includes quid pro quo benefits that are not in any reasonable relation to the service (e.g. rebate granting).

In addition to cash payments and non-cash assets, all other benefits are also eligible. These are, for example:

- The transfer of objects (e.g. motor vehicles, equipment or machines for use) for no or less than the usual remuneration;
- Granting of benefits (e.g. by providing tickets, complimentary tickets, admission tickets, vouchers, airline tickets, transportation in a vehicle), work or services without or for less than the usual remuneration;
- Granting of special benefits in private transactions (e.g. interest-free or low-interest loans, acceptance of deferment or waiver of debts, discounted purchases or other benefits of monetary value such as discounts or bonus points);
- Arranging and/or granting part-time or post-retirement employment in special circumstances;
- Invitations with hospitality;
- Free or -favorable granting of accommodation;
- Invitation or entainment to informational, representational and vacation trips or payment for such trips;
- Inheritance law beneficiaries (bequest or establishment of an inheritance);
- Award ceremonies, insofar as they do not take place on the part of the employer.

- 2.3 Employees may neither demand, nor allow themselves to be promised, nor accept advantages with regard to their office or official activities. No express declaration is required for the **acceptance of** benefits. Conclusive behavior is also sufficient, e.g. if the employee actually accepts or uses the benefit.

The acceptance of benefits in relation to the office or official activities which employees only receive or should receive indirectly (e.g. benefits to relatives, friends, acquaintances, clubs, etc., employment of relatives or vacation activities of children under obviously unreasonable conditions) is also covered by the ban on acceptance and is prohibited.

- 2.4 An advantage exists in **relation to the office or the official activity** if the official position, the official activity or the task is the reason for the granting of the advantage or is at least jointly or indirectly causal for it. A reference to a specific past or expected action is not required; a general reference, for example to maintaining contact, is sufficient. If employees are offered benefits by persons with whom they have dealings in the course of their work, these will generally be benefits relating to their office or their work. This also applies if a larger group of persons, e.g. all employees of a unit or a department, is to be favored (e.g. through a celebration).

Gifts from colleagues or employees of a customary and reasonable value (for example, on the occasion of a birthday, a service anniversary or similar) are generally gifts in a private context without any official connection, for the acceptance of which no approval is required.

II. Exception: consent to acceptance

Employees may only accept benefits relating to their office or activity if they have received general approval in accordance with Section II. 1. or if approval in accordance with Section II. 2. has been granted in individual cases by the competent body (Section 42 (1) Sentence 2 BeamtStG in conjunction with Section 51 (1) of the Hessian Civil Service Act (HBG), Section 3 (3) Sentence 2 TV-H).

The acceptance of cash is not acceptable and must therefore be avoided in any case.

1. General consent

Consent to accept the benefits set forth below shall be deemed to have been generally given unless otherwise specifically communicated to employees:

- 1.1 customary and, according to general opinion, low-value gifts (e.g. simple promotional items such as calendars, pens or writing pads), provided that the total value does not exceed 20 euros (market value);
- 1.2 minor services that facilitate or expedite the performance of a service transaction, for example, pick-up by car from the train station;

- 1.3 hospitality on the occasion of or on the occasion of official acts (e.g. meetings, visits) if it is customary and appropriate or if it is based on the rules of communication and politeness, which even members of the public service, taking into account their special obligation to perform their duties objectively, cannot avoid without violating social mores (e.g. soft drinks, snacks, lunch). This does not apply if the type and extent of the hospitality is not insignificant, whereby the standard in the individual case is also based on the official function of the employee;
- 1.4 Attendance by the head of the authority, its permanent representatives or expressly authorized employees at general events in which they participate within the scope of their office or with regard to the social obligations imposed on them by their office (e.g. introduction and farewell of officials), official receptions, cultural and cultural events, social events serving official interests, anniversaries, laying of foundation stones, topping-out ceremonies, inaugurations, opening of exhibitions, company tours and meetings of bodies of economic enterprises in which the public sector has a stake);
- 1.5 customary and reasonable hospitality when participating in events pursuant to Section II. 1.4.

2. Consent in individual cases

- 2.1 In other respects, the competent body shall decide on the acceptance of benefits at its own discretion within the framework of the circumstances of the individual case.
The acceptance of benefits can only be approved if there is no concern that
- the advantage is intended to influence official actions, and
 - the acceptance of the benefit could impair the objective conduct of the office, and
 - the acceptance of the advantage could give third parties the impression that the advantage could influence official conduct or impair the objective performance of official duties, and
 - the benefit could be understood as recognition for a certain administrative action.
- 2.2 Consent to participate in information or presentation events/trips as well as training events organized by companies or other institutions which bear the costs for the employees in connection with the event or trip may only be granted if the professional aspects far outweigh any other considerations, if there is an urgent official need for the participation and if there is no connection with an ongoing or foreseeable award procedure.
- ## 3. Consent Procedure
- 3.1 The responsible office in each case shall be made known to the employees.
- 3.2 The approval of the responsible office must be obtained in text form through official channels prior to acceptance. The circumstances relevant to the decision, including the occasion, type and market value of the grant, as well as a letter from the grantor, if any, must be communicated in full.
If it was not possible to obtain consent in advance for factual reasons or if the granting of the benefit was not initially foreseeable, the benefit is only to be accepted subject to a declared reservation and consent to acceptance is to be applied for without delay thereafter. In exceptional cases, the declaration of the reservation of acceptance may be waived, for example if the acceptance is in accordance with protocol practice.
- 3.3 The consent must be given in text form. It may be subject to the condition that the donation be passed on to the employer, a social institution or another body, institution or foundation under public law.
- 3.4 The consent of the competent body to the acceptance of a benefit does not preclude criminal liability for the act or consequences under service or employment law if the benefit was requested by the employee.

or if it represents consideration for a past or future official act or official activity in breach of duty.

- 3.5 If the consent is subsequently refused, the benefit must be returned. Even the benefit initially obtained without knowledge, for which consent to acceptance is usually out of the question (e.g. letter with cash, check or valuables in the mailbox, amount of money in the account), must be returned immediately after becoming known. The responsible office must be informed of the circumstance. If the return is not possible for reasons of fact or protocol, an application for approval must be submitted to the competent office without delay. The competent office decides on the further procedure.

III. Duty of disclosure

The offer of benefits in accordance with Section I. must be reported immediately to the office responsible for approving the acceptance of benefits.

IV. Travel expenses

The general regulations on travel expenses remain unaffected by this administrative regulation. For example, if hospitality is accepted, there is an obligation to state meals provided free of charge in the travel expense report in accordance with Section 10 of the Hessian Travel Expenses Act.

V. Cases of doubt

In all cases of doubt, employees are advised to contact the office responsible for approval. This is also advisable in cases where the acceptance of even minor services, courtesy offers or hospitality could give the impression of bias or favoritism towards individuals.

If employees exceptionally believe that a benefit is a private benefit, they are advised to contact the office responsible for approval to clarify whether approval is required.

This is the only way to avoid doubts from the outset. If, for example, employees accept benefits from persons with whom they have dealings in the course of their duties without having obtained consent or without having consulted the competent body, the risk of misjudging the factual and legal situation is entirely borne by them and can have serious consequences for them (cf. Sections VI. and VII. below).

VI. Criminal consequences

1. In the event of a violation of the prohibition on accepting benefits, employees may be prosecuted and sentenced
 - for **accepting an advantage** to a prison sentence of up to three years or to a fine if they demand, allow themselves to be promised or accept an advantage for themselves or a third party in the performance of their duties (cf. Section 331 (1) StGB),
 - for **bribery** to a term of imprisonment of up to five years or to a fine if they demand an advantage for themselves or a third party in return for it, allow themselves to be promised or assume that they have performed or would in future perform an official act and have thereby violated or would violate their official duty (cf. Section 332 (1) StGB),
 - **in particularly serious cases of corruption**, to a **term of imprisonment of up to ten years** (cf. Section 335 (1) No. 1 of the Criminal Code).
2. The relevant penal provisions are listed in Appendix 2.

VII. Consequences under service and labor law

1. In the case of civil servants, a culpable breach of the prohibition on demanding, being promised or accepting benefits in relation to their office is a misdemeanor (Section 42 (1) sentence 1, Section 47 (1) BeamtStG). The culpable breach of the duty to inform the competent office of the advantage offered but not accepted (Section III) is also an official misconduct.
2. In the case of retired civil servants or former civil servants with pension benefits, it shall be deemed to be an official misconduct if they culpably violate the prohibition on accepting advantages with regard to

violate their former office (Sec. 42 (1) Sentence 1, Sec. 47 (2)

- Sentence 1 BeamtStG).
3. In the case of civil servants, if there is a suspicion of a corresponding breach of duty, it must be examined whether disciplinary proceedings need to be instituted - if necessary with the aim of removing the civil servant from the service - and what provisional measures (e.g. prohibition of conducting official business, Section 39 sentence 1 BeamtStG in conjunction with Section 49 (1) HBG, or provisional removal from service, if necessary with withholding of part of the remuneration, § 43 HDG), are necessary.
 4. If a civil servant is sentenced in ordinary criminal proceedings by a German court to a term of imprisonment of at least one year for a prior offense or, in the case of a conviction for bribery, to a term of at least six months if the offense relates to an official act in the principal office, his or her civil servant status shall end when the judgment becomes final (Section 24 (1) BeamtStG). If the civil servant has retired after the act, he or she loses his or her rights as a retired civil servant when the decision becomes final (Section 72 HBeamtVG).
 5. In the case of employees who culpably violate their duty to accept rewards, gifts, commissions or other benefits offered to them by third parties in connection with their work only with their consent (§ 3 Para. 3 Sentences 1 and 2 TV-H), measures under labor law shall be considered; this may also include the extraordinary termination of the employment relationship for good cause.

VIII. Instruction, ongoing sensitization

1. Employees must be made aware of the obligations arising from Section 42 BeamtStG in conjunction with Section 51 HBG or the corresponding provisions of collective agreements and from this administrative regulation.
These regulations are to be issued to all employees of the state against confirmation of receipt; the confirmation of receipt is to be included in the personnel files. This also applies to new hires.
2. The supervisors are obligated to discuss the regulations and issues of corruption with the employees at regular intervals - at least once a year - in discussions, e.g. service meetings, in order to continuously sensitize them to the topic. Documentation shall be prepared on this.
3. In the case of activities in work areas that are particularly susceptible to corruption, employees should receive in-depth, job-related and needs-oriented instruction. The work areas at particular risk are to be determined and documented for the area of responsibility of the respective authority (for example, by means of a hazard register).

IX. Scope

1. The above provisions apply uniformly to all employees of the State of Hesse. The supreme state authorities may adopt supplementary or more far-reaching regulations in order to take account of the specific circumstances of their area of business.
2. It is recommended that municipalities, associations of municipalities and other public corporations, institutions and foundations subject to the supervision of the state proceed accordingly.
3. The decree of June 18, 2012 (StAnz. S 676) is repealed.

Wiesbaden, December 13, 2017

Hessian Ministry of the Interior and Sports

Z8-06a02-02-11/001

StAnz. 52/2017 p. 1497

Attachment 1

Sample letter 1

(Invitation to presentations)

Address

Invitation to ...

Dear Sir or Madam,
I would like to thank you for your invitation to ...

Since the character of your event is essentially determined by the accompanying program, I ask for your understanding that it is not possible for me to accept your invitation.

The public service is obligated to neutrality. For this reason, I am generally required to avoid from the outset any appearance of influence that might arise from participation in a presentation that goes beyond a mere information event.

However, I am still interested in information about ... and ask you to keep me on your mailing list.

With kind regards

...

Sample letter 2

(Invitation to festivities)

Address

Invitation to ...

Dear Sir or Madam,
I would like to thank you for your invitation to ...

The Hessian state administration also sees itself as a modern, customer-oriented service provider. As its employees, we strive to meet the concerns of citizens (quickly and comprehensively) within the scope of legal possibilities. If this has been successful, I am pleased, and I thank you for the expression of satisfaction associated with the invitation.

However, I ask for your understanding that, in order to preserve the neutrality of public service, I am generally required to avoid any appearance of influence from the outset that might arise from participation. Since the character of your event is essentially shaped by the festive program, I cannot accept your invitation.

I wish you a successful event on Yours sincerely

...

Sample letter 3

(sending/giving of gifts)

Address

Sending a ...

Dear Sir or Madam,
(Binding introductory sentence depending on the opportunity, for example:)

Another year in which we have worked well together has come to an end / We have just successfully completed a joint project.

By sending your gift, you have thanked me for this good cooperation. That is how I understood your gift. This practice causes me difficulties, because the public service is obliged to be neutral. For this reason, employees are not allowed to accept rewards or gifts. Against this background, I ask for your understanding that it is not possible for me to accept your gift, however well-intentioned it may be.

(Alternatively, in the case of initial handover:)

With your gift you have thanked me for this good cooperation. That is how I understood your gift. This practice does cause me problems, because the civil service is obliged to be neutral. That is why employees are not allowed to accept any rewards or gifts. After consulting with my supervisor, I therefore feel compelled to return the gift given to me on

In addition, the Hessian state administration sees itself as a modern, customer-oriented service provider: It strives to,

to address all concerns within the scope of legal possibilities. If this has been successful, I am pleased.

Variant 1:

It would be best if you would refrain from sending/delivering gifts in the future. I hope for your understanding and therefore ask you to pick up your gift or have it picked up within the next four weeks. Otherwise, assuming you agree, I will pass the gift on to ... (social institution).

Variant 2:

I assume that you agree to the gift being passed on to ... (social institution). It would be best if you would refrain from sending/giving gifts in the future.

With kind regards

...

Enclosur

e 2

The provisions of Section VI of the Administrative Regulations and other relevant criminal provisions of the Criminal Code (StGB):

§ 331

Acceptance of Advantage

(1) A public official, a European public official or a person with special public service obligations who demands, allows himself to be promised or accepts an advantage for himself or a third party for the performance of his duties shall be punished by imprisonment for not more than three years or a fine.

(2) A judge, member of a court of the European Union or arbitrator who demands, allows himself to be promised or accepts an advantage for himself or a third party in return for the fact that he has performed or will perform a judicial act, shall be punished by imprisonment for not more than five years or a fine. The attempt is punishable.

(3) The act shall not be punishable under paragraph 1 if the perpetrator allows himself to be promised or accepts an advantage not demanded by him and the competent authority, within the scope of its powers, has either approved the acceptance in advance or the perpetrator reports to it without delay and it approves the acceptance.

§ 332

Bribery

(1) A public official, a European public official or a person with a special public service obligation who demands, allows himself to be promised or accepts a benefit for himself or a third party in return for the fact that he has performed or will perform an official act and has thereby violated or would violate his official duties shall be punished by imprisonment for a term of six months to five years. In less serious cases, the penalty is imprisonment for up to three years or a fine. Attempt is punishable.

(2) A judge, member of a court of the European Union or arbitrator who demands, allows himself to be promised or accepts an advantage for himself or a third party in return for the fact that he has performed or will perform a judicial act and has thereby violated or would violate his judicial duties shall be punished by imprisonment from one year to ten years. In less serious cases, the penalty is imprisonment from six months to five years.

(3) If the perpetrator demands, allows himself to be promised or accepts the benefit as consideration for a future act, paragraphs 1 and 2 shall be applied already when he has shown his willingness to the other person,

1. In the act to violate his duties or,
2. to the extent that the action is within his discretion, to be influenced by the benefit when exercising the discretion.

§ 335

Particularly serious cases of bribery and corruption

(1) In particularly serious cases

1. an act according to
 - a) § Section 332 (1) sentence 1, also in conjunction with (3), and
 - b) § Section 334 (1) sentence 1 and (2), in each case also in conjunction with (3),
 with imprisonment from one year to ten years and
2. an act under section 332 (2), also in conjunction with (3), with imprisonment for not less than two years punished.

(2) A particularly serious case within the meaning of paragraph 1 shall generally be deemed to exist if

1. the act relates to an advantage of great magnitude,
2. the offender continues to accept benefits which he has demanded in return for performing an official act in the future, or
3. the perpetrator acts commercially or as a member of a gang that has formed an association for the continued commission of such acts.

§ 336

Failure to perform official act

The performance of an official act or a judicial act within the meaning of sections 331 to 335a shall be equivalent to the omission of the act.

§ 337

Referee compensation

The remuneration of an arbitrator shall be a benefit within the meaning of sections 331 to 335 only if the arbitrator demands it from one party behind the back of the other, allows it to be promised or accepts it, or if one party offers, promises or grants it to him behind the back of the other.

§ 357

Inducing a subordinate to commit a crime

(1) A superior who induces or attempts to induce his subordinates to commit an unlawful act in office, or who allows such an unlawful act to be committed by his subordinates, shall be liable to the punishment threatened for such unlawful act.

(2) The same provision shall apply to a public official who is entrusted with supervision or control over the official business of another public official, provided that the unlawful act committed by the latter public official concerns the business belonging to the supervision or control.

1030 Police announcement by the Frankfurt am Main Police Headquarters pursuant to No. 43.4.2.4 VwV-HSOG;

Invitation to register rights to items seized by the police

On January 11, 2016, the Frankfurt am Main Police Department seized suspected stolen property from pickpocketing and trick theft in Frankfurt am Main for the purpose of securing property (Section 40 No. 2 HSOG) and placed it in police custody. It is an **iPhone 5s, system language in Korean, IMEI: 352040066118472.**

The owners or other entitled persons are hereby requested to register their rights with the **Frankfurt am Main Police Pre- sidium, Administration Department - V 12 -, Adi- ckesallee 70, 60322 Frankfurt am Main, Tel.: 069/755-0**, by February 28, 2018, and to provide credible evidence in a suitable form.

Frankfurt am Main, December 8, 2017

Frankfurt am Main Police Headquarters

V 12 - 21a 02 - 229/17

StAnz. 52/2017 p. 1500

1031 Police announcement by the Frankfurt am Main Police Headquarters pursuant to No. 43.4.2.4 VwV-HSOG;

Invitation to register rights to items seized by the police

On October 9, 2013, Frankfurt am Main Police Headquarters seized suspected stolen property in Frankfurt am Main for the purpose of securing property (Section 40 No. 2 HSOG) and took it into police custody. The item in question is a **ladies' bicycle, brand: Triumph, model: PS 131.**

Owners or other persons entitled thereto are hereby notified by February 28, 2018, to file their rights with the **Police Dept.**