

UNITED STATES OFFICE OF
GOVERNMENT ETHICS



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LEGAL ADVISORY

TO: Designated Agency Ethics Officials

FROM: David J. Apol
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SUBJECT: Free Attendance at Speaking Engagements and Widely Attended Gatherings;
Waiver of Separate Fee for a Meal or Reception

The U.S. Office of Government Ethics (OGE) is issuing this Legal Advisory in response to a question recently raised by an agency ethics official. That question concerned whether an employee who is permitted to accept a gift of free attendance to an event pursuant to 5 C.F.R. § 2635.204(g)(1) or (g)(2) may also accept, as part of the gift of free attendance at the event, the waiver of an additional fee to attend a meal or reception that is open only to attendees who pay the additional fee. In short, the answer is no.

The exceptions at § 2635.204(g) permit an employee to accept free attendance to an event when either the employee is assigned to present information on behalf of the agency at the event, or the event qualifies as a Widely Attended Gathering. For purposes of both exceptions, the term “free attendance” includes food, refreshments, entertainment, instruction and materials that are “furnished to all attendees as an integral part of the event,” but specifically excludes “entertainment collateral to the event, or meals taken other than in a group setting with all other attendees.” *See* 5 C.F.R. § 2635.204(g)(4).

Meals and receptions that are open only to attendees who pay an additional fee are deemed to be separate from, and collateral to, the original event. An employee may therefore attend a separate meal or reception only if the employee pays the additional fee, *see* 5 C.F.R. § 2635.203(b)(9), or the employee may independently accept the waiver of the fee under an exception to the gift rules. The separate fee for the meal could be waived, for example, if the meal or reception itself qualified as a WAG or had a market value below the *de minimis* amount found at 5 C.F.R. § 2635.204(a). In determining whether a meal or reception that is collateral to an event independently qualifies as a WAG, agencies should review the guidance provided in OGE Informal Advisory Opinion 07 x 14.