



Policy: AA.1216
Title: **Solicitation and Receipt of Gifts to CalOptima**
Department: CalOptima Administrative
Section: Legal Affairs

Interim CEO Approval: /s/ Richard Sanchez 06/10/2020

Effective Date: 10/01/1998

Revised Date: 06/04/2020

Applicable to:

- Medi-Cal
- OneCare
- OneCare Connect
- PACE
- Administrative

I. PURPOSE

This policy defines the criteria and procedure for Gifts received from outside sources, in accordance with the Political Reform Act and the Federal Anti-Kickback Statute.

II. POLICY

- A. CalOptima Employees and officials are expected to conduct business and provide services in an impartial manner, and the acceptance of gifts, money, or gratuities from any person or organization is prohibited except as provided herein.
- B. Donations and/or Gifts given to CalOptima shall be used only for official CalOptima business, in a way that is compatible with CalOptima's purpose and mission, and in the ordinary course of CalOptima's business.
 - 1. Gifts that are consumable or usable in the common work areas with a fair market value of under \$50 may be accepted by a department director after providing notice and information to the Clerk of the Board with the condition that the Gifts remain on the premises to be enjoyed by all employees in the department or floor.
 - 2. Subject to the discretion of the Chief Executive Officer, gifts that are consumable with a fair market value of \$50 or more, or that are not consumable on the premises shall be returned to the gift giver, donated to CalOptima for use by an employee program (e.g., Biggest Loser, Walk Across America, etc.) or as a door prize at a CalOptima sponsored event, or donated to a community non-profit organization.
 - 3. CalOptima may accept items that can be displayed in public areas of CalOptima's buildings (such as flowers, art, sculptures, photographs, plaques, trophies, etc.).
- C. Projects funded in whole or in part by Gifts from outside entities shall not interfere, alter, or redirect the ongoing business of CalOptima.
- D. Designated Gifts where the donor specifies the specific purpose for CalOptima's use of the Gift may only be accepted when the purpose is consistent with CalOptima's goals and objectives and is in the

best interest of CalOptima. CalOptima shall consider the public trust and exercise sole discretion in determining the use of a Gift, including the designation of specific staff to utilize the Gift.

- E. CalOptima shall not explicitly or implicitly endorse a commercial product, vendor, or service (e.g., pharmaceuticals or health care products).
- F. Gifts may be solicited or received for projects that benefit Members. Special projects may include, but are not limited to, research initiatives, enhancement programs, educational programs, or support services for Members, Providers, partnerships, and other related activities.
- G. CalOptima shall not solicit Gifts for projects or services normally required in managed care operations, or for projects that are required by CalOptima's contract with the Department of Health Care Services and that are accounted for in the CalOptima annual budget.
- H. CalOptima shall not solicit or receive any Gift or remuneration (including any kickback, bribe, or rebate) directly or indirectly, overtly or covertly, in cash or in kind:
 - 1. In return for referring an individual or individuals to a person or business reimbursable under the Medi-Cal or Medicare programs; or
 - 2. In return for purchasing, leasing, ordering, or arranging for or recommending purchasing, leasing or ordering any good, facility, service, or item reimbursable under the Medi-Cal or Medicare programs.
- I. Monetary Gifts shall be payable to CalOptima and shall be deposited in CalOptima's general fund or other fund established for a special project. Gifts or donations with restrictions shall be segregated into a separate account to ensure that any limitation on or use of the received funds will be met and such compliance will be verified.
- J. Any Gift or donation of real property or any estate in real property may only be accepted pursuant to applicable state law, including, but not limited to, the requirement of a resolution of acceptance passed by the governing body pursuant to Government Code section 27281.
- K. Tickets or passes received by CalOptima or any CalOptima Employee or official, whether complimentary or paid for by CalOptima, that provide admission to a facility or event for an entertainment, amusement, recreational or similar purpose may not be accepted or used by an Employee except as provided below:
 - 1. The distribution shall be made solely to accomplish a public purpose as follows:
 - a. Involvement of a CalOptima Employee or official in a noteworthy community event to reflect CalOptima's support and involvement in community, non-governmental and governmental events;
 - b. To educate members of the community regarding CalOptima's interests, operation, organization or community activities in fulfilling CalOptima's mission;
 - c. To promote CalOptima or CalOptima sponsored or supported community programs and/or resources;
 - d. To demonstrate CalOptima's support for events that are socially or community oriented;
 - e. To support cultural, local, State, and national holidays, celebrations and similar festivals; or

- f. To promote and support Employee morale, retention or to reward public service.
 2. Tickets or passes distributed to Employees pursuant to this Policy may not be sold or transferred to any other person, except to other CalOptima Employees or members of the Employee's immediate family. Tickets should be returned to CalOptima for redistribution if the Employee does not intend to use them.
 3. The distribution requirements do not apply to a single ticket provided to and used by a CalOptima Employee or official to an event at which the Employee or official performs a ceremonial role or function on behalf of CalOptima. Such use shall be reported to the Clerk of the Board to ensure CalOptima complies with the posting and disclosure requirements under applicable laws.
- L. The acceptance of any personal Gift by a designated CalOptima officer or employee is governed by CalOptima Policy AA.1204: Gifts, Honoraria, and Travel Payments. A gift includes any payment or other benefit provided to an individual for which the individual does not provide goods or services of equal or greater value. A gift includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public. (See Government Code section 82028.)
- M. In some instances, such as when the mandates of this Policy are not followed, Payments which appear to be Gifts to CalOptima could result in the making of a reportable Gift to a designated officer or employee.
- N. Any Gift or donation that fails to meet the guidelines set forth herein shall be returned to the donor unused within a reasonable period of time.

III. PROCEDURE

- A. Each Gift shall be reported to the Clerk of the Board on the Gift Tracking Form within five (5) business days and documented in the CalOptima Gift Record within thirty (30) days after receipt. The Clerk of the Board of Directors shall be responsible for maintaining CalOptima's Gift Record and shall make it available to the public upon request, pursuant CalOptima Policy AA.1215: Public Records Requests and Subpoenas.
1. The Gift Record shall consist of a CalOptima Gift Tracking Form and shall contain the following information:
 - a. Name and address of the donor;
 - b. If the donor is not an individual, the business or organization name and address;
 - c. Description of the Gift and actual or estimated fair market value of the Gift or services provided (e.g., cash donation or other);
 - d. Intended purpose of the Gift;
 - e. Official CalOptima use of the Gift, and the name, title, and department of the Employee(s) who used the Gift;
 - f. Date that CalOptima received the Gift;
 - g. Date that Gift was filed in Gift Record.

2. The Clerk of the Board of Directors shall submit, post and disclose all Gifts made to CalOptima for use by CalOptima Employees or officials on the appropriate Fair Political Practices Committee (FPPC) form based on the nature of the Gift within thirty (30) days after the close of the quarter. Unless otherwise required, Gifts made to CalOptima for CalOptima's programs will not need to be included in the FPPC form.
 3. The Clerk of the Board of Directors shall provide a quarterly report to the Chief Executive Officer and the Chief Financial Officer of all Gifts received during that period.
- B. All entities seeking to donate a Gift to CalOptima shall contact CalOptima's Communications Department.
 - C. CalOptima's Communications Department is authorized to make initial contacts to potential donors regarding solicitation of Gifts.
 - D. CalOptima staff seeking funds for special projects shall contact CalOptima's Communications Department.
 - E. Tickets or passes donated to CalOptima may not be earmarked by any outside source for use by a specific CalOptima Employee or official. CalOptima shall have absolute discretion on who uses the ticket or pass or how it will be distributed. CalOptima's CEO shall have authority to determine the public purpose and method of distribution of any ticket or pass to Employees or officials.
1. Within forty-five (45) days of distribution of a ticket or pass, the Clerk of the Board must report the following on the appropriate FPPC form:
 - a. The name of the Employee or official receiving the ticket or pass;
 - b. A description of the event;
 - c. The date of the event;
 - d. The fair value of the ticket or pass;
 - e. The number of tickets or passes provided to each person; and
 - f. A description of the public purpose under which the distribution was made.

IV. ATTACHMENT(S)

- A. Gift Tracking Form
- B. FPPC Form 801 (Gifts and Donations)
- C. FPPC Form 802 (Tickets and Passes)

V. REFERENCE(S)

- A. CalOptima Policy AA.1001: Glossary of Terms
- B. CalOptima Policy AA.1204: Gifts, Honoraria, and Travel Payments
- C. CalOptima Policy AA.1215: Public Records Requests and Subpoenas
- D. California Government Code, Section 82028
- E. Title 2, California Code of Regulations, Section 18940, *et seq.*
- F. Title 42, United States Code Section 1320a-7b(b)

VI. REGULATORY AGENCY APPROVAL(S)

None to Date

VII. BOARD ACTION(S)

Date	Meeting
06/04/2020	Regular Meeting of the CalOptima Board of Directors

VIII. REVISION HISTORY

Action	Date	Policy	Policy Title	Program(s)
Effective	10/01/1998	AA.1216	Solicitation and Receipt of Gifts	Administrative
Revised	07/01/2007	AA.1216	Solicitation and Receipt of Gifts	Administrative
Revised	11/01/2013	AA.1216	Solicitation and Receipt of Gifts	Administrative
Revised	06/04/2020	AA.1216	Solicitation and Receipt of Gifts	Administrative

IX. GLOSSARY

Term	Definition
Gift	For purposes of this policy, a gift is any payment, service or other benefit given to CalOptima for which CalOptima does not provide goods or services of equal or greater value.
Member	A beneficiary who is enrolled in a CalOptima program.
Payment	A payment, distribution, transfer, loan, advance, deposit, gift or other rendering of money, property, services or anything else of value, whether tangible or intangible, including the payment for, or provision of, fees, goods or services to CalOptima where the person providing the payment has no legal obligation to do so.
Provider	All contracted Providers including physicians, ancillary Providers, and Facilities.