



Political Law Update

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Alert for Investment Advisers: SEC Investigating Gifts Between Pennsylvania Public School Employees' Retirement System and Investment Managers

The Securities and Exchange Commission (SEC) is investigating gifts, entertainment and travel provided to Pennsylvania Public School Employees' Retirement System (PSERS) officials by its investment managers and other financial service providers, according to a subpoena obtained by several media outlets, including *Bloomberg Law*. The subpoena came six months after the FBI opened a criminal investigation into PSERS after the system first acknowledged miscalculating and misreporting its nine-year average rate of return in December 2020.

According to *Bloomberg Law*, the SEC asked on September 24, 2021, that the pension fund supply "all Documents and Communications Concerning any compensation, remuneration, money, gifts, gratuities, trips or anything of any value" exchanged between PSERS' 180 investment advisers, consultants, and other financial services providers and PSERS representatives. The subpoena asks not only about PSERS employees receiving gifts, but also about gifts that employees gave to outside vendors. The subpoena also specifically requests information on trips taken by staff.

In April 2021, *The Philadelphia Inquirer* reported on expensive trips taken by members of the PSERS investment office, including hotel stays exceeding \$1,000 per night and plane fares that at times exceeded \$11,000. Travel arrangements were booked by the investment advisers and billed to PSERS or the funds in which PSERS invested. However, in July, PSERS announced that it would stop using investment managers to arrange travel bookings and instead book all employee travel directly.

The SEC's investigation may reflect a renewed enforcement interest in gifts and entertainment provided by service providers to public pension fund officials. It also raises new doubts as to whether certain expenses that would not otherwise qualify as a gift under applicable gift laws, such as certain travel charged back to the government or advisory committee meeting expenses paid by the investment adviser, are problematic. Gifts between investment managers and pension funds are also heavily regulated at the state and local level, and may be subject to policies adopted by the pension funds themselves.

We are continuing to monitor the process of the investigation and the implications that it may have in this space.

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