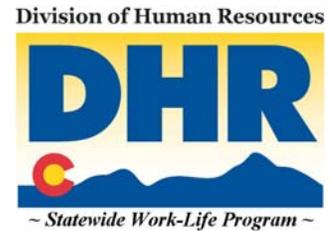


## IMPACT OF AMENDMENT 41

Revised September 9, 2009



**Amendment 41** restricts state employees from receiving certain "gifts" and "special discounts" that have a value of more than \$50. Since implementation on January 1, 2007, questions regarding its impact on the Work-Life Employee Discount Program (EDP) have arisen.

After review of Position Statement 08-03 (Special Discounts) issued by the Independent Ethics Commission (IEC) as well as consultation with the Office of the Attorney General, DPA has determined that Amendment 41 does not preclude the EDP.

### **Position Statement 08-03 (Special Discounts)**

According to the Position Statement issued by the IEC, a "special discount" refers to a discount targeted at a particular employee(s) where there is potential to influence government action. Government employees and officials may generally accept special discounts; so long as the opportunity is uniformly offered and the group is large enough that it is unlikely that the discount would in any way influence the recipients in the performance of their official duties.

The discounts under the EDP are not prohibited by Amendment 41 as they are uniformly offered to all permanent state employees and unlikely to influence performance of official duties. Limitations on participation in the EDP may exist for those specific employees directly and significantly involved in the procurement process. Such employees must consult their purchasing director or the Independent Ethics Commission for guidance, as appropriate.

### **Consultation with the Office of the Attorney General**

Amendment 41 exempts components of the total compensation package per Colorado Constitution Article XXIX, Section 3 (3)(h). The State Personnel Director has statutory authority (24-50-104, C.R.S.) to determine the total compensation package for state employees. The EDP is a component of the State of Colorado's total compensation package and, therefore, not subject to the prohibitions in Amendment 41. Amendment 41 has no impact on the EDP and all state employees can continue to take advantage of the EDP, regardless of the total amount saved by the employee.

An employee discount program is an important part of total compensation and DPA appreciates the HR community's continued cooperation in informing employees of new and existing EDP offers. New offers are emailed to department HR Directors and all EDP discount offers are listed on the DPA Web site at [www.colorado.gov/dpa/discounts](http://www.colorado.gov/dpa/discounts). If you have any questions regarding the EDP, please email the Statewide Work-Life Coordinator at [discounts@state.co.us](mailto:discounts@state.co.us).

### **Leave Sharing**

Based on the same legal analysis, DPA has also determined that leave sharing does not violate Amendment 41. Leave and leave sharing are authorized under the same statutes as other

components of total compensation; falling under the same Amendment 41 exemption. If you have any questions regarding leave, please contact Joi Simpson at [joi.simpson@state.co.us](mailto:joi.simpson@state.co.us).

**Please be advised that this is only DPA's opinion on these issues and we cannot guarantee that the Independent Ethics Committee will agree in all circumstances. The IEC encourages employees to request further clarification if needed, through a request for advisory opinion.**