STATE OF DELAWARE

EXECUTIVE DEPARTMENT
DOVER

EXECUTIVE ORDER
NUMBER FIVE

TO: HEADS OF ALL STATE DEPARTMENTS AND AGENCIES

RE: GIFTS AND PAYMENTS BY PRIVATE INTERESTS TO MEMBERS OF THE EXECUTIVE BRANCH

WHEREAS, pursuant to Article III, Section 1 of the Constitution of 1897, the Governor possesses the supreme executive powers of the State; and

WHEREAS, pursuant to chapter 58, title 29 of the Delaware Code, a code of conduct does exist for all employees within the Executive Branch; and

WHEREAS, it is in the best interests of members of the Executive Branch and the people of the State of Delaware for some mechanism to be in place to further insure that circumstances do not arise which create appearances of impropriety or call into question actions of senior members of the Executive Branch;

WHEREAS, this public purpose can be achieved by the promulgation of an executive order that requires senior officials of the Executive Branch to disclose more information regarding their activities than the law requires and by requiring those officials to obtain ethics clearance before accepting gifts with a large monetary value.

NOW, THEREFORE, I, THOMAS R. CARPER, by virtue of the authority vested in me as Governor of the State of Delaware, do hereby declare and order that:

1. Each cabinet secretary, each division director and each person of equivalent rank within the Executive Branch shall file a report disclosing certain financial interests as provided below. The report shall be made as an addendum to section 3(E) of the form prescribed by the Controller General pursuant to 29 Del. C. § 5813, shall be filed at the same time as the report required by 29 Del. C. § 5813, shall be signed by the public officer, shall be notarized and shall include at least the following information:

(a) The source of any gift or gifts received by the public officer during the preceding calendar year which in the aggregate have a value in excess of $100.00, provided, however, that in the addendum for calendar year 1993 which is to be filed on or before February 15, 1994, no gifts received before June 1, 1993 need be included; and

(b) The date, value and nature of each such gift.

2. For purposes of this Order, "value" means the price paid for the gift by the source of the gift. However, with respect to an invitation received to an event held by an organization which qualifies as a charitable organization under the federal tax laws, the "value" is the portion of the ticket price which is not deductible by the purchaser for purposes of the federal tax laws. Furthermore, with respect to an invitation received to an event held by an organization other than a charitable organization (such as a citizens' group, a community organization or a trade association), the "value" shall be that portion of the ticket price which reflects the per person cost to the sponsoring organization to hold the event (that is, the ticket price minus that portion of the ticket price that contributes to the sponsor's net profits from holding the event).

3. For purposes of this Order, "gift" has the definition set forth in by 29 Del. C. § 5812(o), and includes meals, travel and tickets to social, theatrical, musical and sporting events unless lawful consideration of equal or greater value is received. For purposes of this Order, "gift" shall not include free admission to any event held within the State of Delaware at which the recipient is asked to address those in attendance. In such a situation, the public officer's agreement to speak at the event is considered lawful consideration of equal or greater value than free attendance at that event.

4. For purposes of this Order, "source" means any person, as defined by 29 Del. C. § 5804(6), who provides a gift to a public officer and includes any group of persons who act in concert to provide a gift to a public officer. However, the definition of source does not alter the definition of "gift" in 29 Del. C. § 5812(o), which expressly excludes from the definition of "gift" things of value received from a spouse or any relative within the 3rd degree of consanguinity of the public officer or the public officer's spouse or from the spouse of any such relative.

5. No cabinet secretary, division director or person of equivalent rank within the Executive Branch shall accept a gift from any source which has a value in excess of $250.00 without the prior approval of the State Ethics Commission. Any application for prior approval shall be made as an application to the State Ethics Commission for an advisory opinion pursuant to 29 Del. C. § 5807.

6. This Order be circulated by all cabinet secretaries to persons within their agencies covered by this Order.

APPROVED this 10th day of May, 1993.

Thomas R Carper

Governor

ATTEST:

William J. Lillen

Secretary of State

CARPER EXECUTIVE ORDER #5 - PUBLIC DISCLOSURE OF GIFTS

SUMMARY - Executive Order #5 supplements existing law by triggering a reporting requirement when a public officer accepts any combination of things of value in excess of $100 from a single source in a calendar year.

WHO IS COVERED?

Cabinet Secretaries, Division Directors and equivalent ranking persons in the Executive Branch.

WHAT ARE THE NEW RULES?

1. You must report any gift or set of gifts from a single source, if the value of the gift(s) received during a given calendar year exceeds $100 in the aggregate. You must report the date, value, source, and nature of each such gift.

2. You may not accept gifts worth more than $250 without prior approval from the State Ethics Commission.

WHEN IS THIS EFFECTIVE?

June 1, 1993. Gifts received prior to June 1, 1993 are not covered by the order.

WHAT CONSTITUTES A GIFT?

A gift is broadly defined to be any item of value. This includes travel, meals, lodging, and tickets.

ARE THERE ANY EXCLUSIONS?

Yes, there are two limited exclusions.

1. You are not required to report free admission to an event in Delaware if you have been invited to formally address the attendees.

2. You are not required to report gifts from relatives within three degrees of consanguity of you or your spouse.

HOW IS VALUE DETERMINED?

Generally, value is the cost of the gift to the source of the gift. However, in the case of tickets to charitable events, value is the non-deductible portion of the ticket price for federal tax purposes. In the case of tickets for non-charitable events, value is the per person cost of sponsoring the event, exclusive of the sponsor's net profit from holding the event.

HOW DO YOU REPORT?

You file an addendum to your annual financial disclosure report which is filed on or before February 15th of each year.

HOW DO YOU KEEP TRACK?

A form is attached that will, if regularly used, provide you with all the information that you are required to report.

WHO CAN ANSWER QUESTIONS?

Your Cabinet Secretary or the Counsel to the Governor.

GIFT TRACKING FORM *

Name of Recipient _____
Calendar Year _____

DATE GIFT(S) RECEIVED [month/day]	SOURCE OF GIFT(S) [name of individual(s) or organization(s)]	DESCRIPTION OF GIFT(S) [include travel, meals, lodging, tickets, and other items of value]	VALUE OF GIFT(S) **
			$.
			$.
			$.