

SB1640



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB1640

Introduced 2/26/2021, by Sen. Chapin Rose

SYNOPSIS AS INTRODUCED:

105 ILCS 5/22-90 new

Amends the School Code. Provides that a guidance counselor may not intentionally solicit or accept any gift from any prohibited source or solicit or accept a gift that would be in violation of any federal or State statute or rule, with exceptions; defines terms. Provides that a guidance counselor is not in violation of the prohibition if he or she promptly takes reasonable action to return the gift to the prohibited source or donates the gift or an amount equal to its value to an appropriate charity that is exempt from income taxation under the Internal Revenue Code of 1986. Provides that a guidance counselor or prohibited source who intentionally violates the prohibition is guilty of a business offense and is subject to a fine of at least \$1,001 and up to \$5,000.

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FISCAL NOTE ACT
MAY APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

A BILL FOR

1 AN ACT concerning education.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The School Code is amended by adding Section
5 22-90 as follows:

6 (105 ILCS 5/22-90 new)

7 Sec. 22-90. School guidance counselor; gift ban.

8 (a) In this Section:

9 "Guidance counselor" means a person employed by a school
10 district and working in a high school to offer students advice
11 and assistance in making career or college plans.

12 "Prohibited source" means any person who is employed by an
13 institution of higher education or is an agent or spouse of or
14 an immediate family member living with a person employed by an
15 institution of higher education.

16 "Relative" means an individual related to another as
17 father, mother, son, daughter, brother, sister, uncle, aunt,
18 great-aunt, great-uncle, first cousin, nephew, niece, husband,
19 wife, grandfather, grandmother, grandson, granddaughter,
20 father-in-law, mother-in-law, son-in-law, daughter-in-law,
21 brother-in-law, sister-in-law, stepfather, stepmother,
22 stepson, stepdaughter, stepbrother, stepsister, half brother,
23 or half sister or the father, mother, grandfather, or

1 grandmother of the individual's spouse or the individual's
2 fiance or fiancée.

3 (b) A guidance counselor may not intentionally solicit or
4 accept any gift from a prohibited source or solicit or accept a
5 gift that would be in violation of any federal or State statute
6 or rule. A prohibited source may not intentionally offer or
7 make a gift that violates this Section.

8 (c) The prohibition in subsection (b) does not apply to
9 any of the following:

10 (1) Opportunities, benefits, and services that are
11 available on the same conditions as for the general
12 public.

13 (2) Anything for which the guidance counselor pays the
14 market value.

15 (3) A gift from a relative.

16 (4) Anything provided by an individual on the basis of
17 a personal friendship, unless the guidance counselor has
18 reason to believe that, under the circumstances, the gift
19 was provided because of the official position or
20 employment of the guidance counselor and not because of
21 the personal friendship. In determining whether a gift is
22 provided on the basis of personal friendship, the guidance
23 counselor must consider the circumstances in which the
24 gift was offered, including any of the following:

25 (A) The history of the relationship between the
26 individual giving the gift and the guidance counselor,

1 including any previous exchange of gifts between those
2 individuals.

3 (B) Whether, to the actual knowledge of the
4 guidance counselor, the individual who gave the gift
5 personally paid for the gift or sought a tax deduction
6 or business reimbursement for the gift.

7 (C) Whether, to the actual knowledge of the
8 guidance counselor, the individual who gave the gift
9 also, at the same time, gave the same or a similar gift
10 to other school district employees.

11 (5) Bequests, inheritances, or other transfers at
12 death.

13 (6) Any item or items from any one prohibited source
14 during any calendar year having a cumulative total value
15 of less than \$100.

16 Each exception listed under this subsection is mutually
17 exclusive and independent of one another.

18 (d) A guidance counselor is not in violation of this
19 Section if he or she promptly takes reasonable action to
20 return the gift to the prohibited source or donates the gift or
21 an amount equal to its value to an appropriate charity that is
22 exempt from income taxation under Section 501(c)(3) of the
23 Internal Revenue Code of 1986.

24 A guidance counselor or prohibited source who
25 intentionally violates this Section is guilty of a business
26 offense and is subject to a fine of at least \$1,001 and up to

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1 \$5,000.