

קונטרס בענין שוחד

Practical Applications of the Prohibition of Bribery

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It is biblically prohibited for a judge to accept a bribe. The *Tur* and *Shulchan Aruch* use exceptional wording when warning against accepting bribes. They write that one must be "**very, very**" careful not to accept bribes. The *Sema* explains that since people naturally have a tremendous desire for money, it was necessary for the *Tur* and *Shulchan Aruch* to use this double wording when warning against bribery.

Which Decision Makers Are Included

Many *Poskim*¹ explain that the prohibition against accepting bribes isn't limited to judges. It applies to all public officials who are responsible for making decisions in the best interest of the public that they represent.

Gifts and Verbal Bribery

Not only can a bribe consist of money, but it can include any gift, including an extraordinary display of honor or performance of favors.² The *Aruch Hashulchan* seems to imply that this too applies to any public official.

The Giver

Although the biblical prohibition only truly applies to the recipient of the bribe [the judge or public official], the one offering the bribe is in violation of the prohibition of *lifnei iver* for tempting the recipient. The *Pischei Teshuva* states that the giver violates the prohibition of *lifnei iver* even if the recipient is not Jewish, because non-Jews are also prohibited from taking bribes. It is interesting to note, however, that if the other party already bribed the non-Jewish judge then it is technically permitted for the Jew to do so as well in order to better ensure that he will be judged fairly.

After the Verdict was Given

Giving a gift after a verdict has been delivered, in appreciation of the verdict, is also prohibited.³

Appraiser

An appraiser who was hired [whether paid or not] by two parties to evaluate an item, would also be considered a "judge" for the purpose of this *Halacha* if the parties are bound to the value set by the appraiser. As the *Terumas Hadeshen*⁴ writes, "when they sit to supervise public or individual matters they take the place of *Beis Din*."

¹ *Shu"t Chasam Sofer*, CM 160 and *Pischei Teshuva* 9:1, in the name of *Pilpula Charifta*, *Sanhedrin perek 3 letter shin*, as per *Sefer Mishpetei Tzedek*, *siman 9* and *Sefer Shimru Mishpat*, *siman 2*. See also *Aruch Hashulchan* CM 9:1,11 and *Kovetz Hayashar Vehatov*, Rabbi M. Shafran's article.

² Sometimes favors or measures of respect are only prohibited as a *middas chassidus*, however this is an issue beyond the scope of this article.

³ CM 34:18.

⁴ *Psakim* 214.

Board Members

Board members of a shul (and the like) are also prohibited from taking bribes to sway their vote. Of course, it is forbidden to offer such bribes, as well. In fact, one who ever accepted a bribe for a specific matter becomes disqualified from ever voting on that matter again.⁵

Zoning Board

The members of a city zoning board (and the like) are also forbidden to take bribes. It is also forbidden for anyone, Jewish or not, to offer such people a bribe.⁶

School Principal

A school principal must often make judgments or decisions that affect others. For example, he must decide whom to hire as a teacher, which children to accept as students, or whether a student deserves to be punished for poor behavior. The principal's decisions are considered to be a form of judgment and are therefore subject to the laws of bribery, according to the opinion of the *Mishpetei Tzedek*.⁷ As such, sending the principal a beautiful *mishlo'ach manos* with the intention that he promote you to a better position or that he not expel your child would be considered a forbidden form of bribery. It might even be forbidden to give such gifts in appreciation of a favorable decision after the fact, as well.

However, it is worth noting that in some instances the laws of bribery would not apply to a school principal, even according to this opinion. If the school is privately owned (versus a community school), the owner of the school has the right to make all the decisions himself because in such a situation the school doesn't have any obligations to the public. If the owner of the school authorizes the principal to make all the decisions as he pleases (even if they aren't for the best interest of the public) or he is the principal himself, then the laws of bribery would not apply.

Treasurer of a Public Fund

A treasurer of a public fund is also subject to the laws of bribery. Rav Nissim Karelitz Shlit"ta⁸ was once asked if one can give an elaborate *mishlo'ach manos* to the treasurer of a public fund. The questioner intended to gain the favor of the treasurer and receive an allocation of the fund, for which he was technically eligible anyway. R' Karelitz replied that if the giver's intention is for this purpose then it is forbidden, even if the receiver believes that it is a standard gift.

⁵ See *Shu"t Chasam Sofer*, CM 160 and *Shu"t Minchas Elazar*, vol. 1 no. 6.

⁶ See *Sefer Shimru Mishpat*.

⁷ See also *Kovetz Hayashar Vehatov* that prohibits this as well, but perhaps for another reason.

⁸ Quoted in *Sefer Mishpetei Tzedek*, siman 9.