

Commonwealth of Massachusetts



Supporting a Commonwealth of Communities

**Massachusetts Government
Finance Officers Association**

September 27, 2023

Commonwealth of Massachusetts



DLS

DIVISION OF LOCAL SERVICES
MA DEPARTMENT OF REVENUE

Supporting a Commonwealth of Communities

Food and Public Purpose



Food

- **Relevant Statutory Considerations**
 - **G.L. c. 40, § 5 (applies to cities under G.L. c. 40, § 1)**
 - **Mass. Const., Art. XI, c. 2, s. 1 and Art. IV, c. 1, s. 1**
 - **G.L. c. 40, § 53**
 - **G.L. c. 44, § 53A**
 - **G.L. c. 44, § 58**
- **Public Purpose Doctrine**
 - **Public funds cannot be used for private purposes**
- **Source of the Funds**
 - **Appropriation v. gift/grant**



Hypothetical

- **City of Bourbon is on the brink of celebrating it's 350th anniversary. It establishes an incorporation celebration special fund pursuant to G.L. c. 44, § 53I and appropriates \$100,000 into the fund to pay for festivities at the anniversary's signature gala event. The City of Bourbon, founded by the cousin of "The Father of Bourbon" Elijah Craig, wants to honor that heritage by purchasing 10 barrels of Kentucky's finest to be enjoyed by gala guests. Is this purchase permissible?**
 - **G.L. c. 44, § 58**



Hypotheticals

- **Refreshments are served at public functions, such as a ribbon cutting ceremony, an opening day, a reception or banquet, or a presentation. Is this a public purpose?**
- **Refreshments are served to employees, such as coffee made available at a staff meeting or light refreshments provided to election workers or lunch served at an all-day training program or planning meeting. Is this a public purpose?**
- **Reimbursement of a department head for attending retirement or department dinners or parties or for attending other events not sponsored by the department or municipality?**



Hypotheticals

- **Accountant has refused to authorize payment for two invoices submitted by the school department for functions held last month. One invoice was for food and raffle prizes consumed and used during a reception held on a weekend afternoon at a local restaurant for the purpose of introducing new teachers to the school committee. The selectmen were also invited. This meeting did not include any formal orientation for new teachers, which was held on another occasion. The reception was not an "official posted meeting" and was not open to parents, students, or the public generally. The attendees included the school committee, school administration, new teachers and some spouses. Is the accountant correct to refuse payment?**



Hypotheticals

- **You have asked whether the school committee may spend municipal funds in its budget to purchase snack foods and beverages and related expenses for a reception given for the new school superintendent at a local inn. It appears that this reception was open to the community and lasted from 2:00 P.M. to 7:00 P.M. on a school day. Although budgeted for \$600, the bill received was for \$376.75, half of which was picked up by the teacher’s association, leaving a balance of approximately \$188. Is this is public purpose?**



Food for community engagement & staff professional development

- **Questions to consider (need an appropriation as well):**
 - **Who receives the primary benefit of the purchase?**
 - **Is the food at a municipal sponsored event? Or else for an employee carrying out an official act?**
 - **Is the event related to the official duties of the sponsoring department?**
 - **Is the event open to the public?**
 - **Is the food and cost of the food modest?**
 - **What municipal purpose is advanced?**
 - › **Will it keep the participants alert and receptive or enhance efficiency by avoiding loss of time and disruption if participants leave the premises**