

**BRIBERY IN OFFICIAL AND POLITICAL MATTERS**  
**(BRIBE GIVER)**  
**(N.J.S.A. 2C:27-2)**

The defendant is charged with the crime of bribery in an official (or, a political) matter. N.J.S.A. 2C:27-2, the statute referred to in the indictment, reads in pertinent part as follows:

"A person is guilty of bribery if he directly or indirectly offers, confers or agrees to confer upon another...:

(a) Any benefit as consideration for a decision, opinion, recommendation, vote or exercise of discretion of a public servant ... (... party official) (... voter), on any public issue or in any public election.

**(or)**

(b) Any benefit as consideration for a decision, vote, recommendation or exercise of official discretion in a judicial ... (administrative) proceeding.

**(or)**

(c) Any benefit as consideration for a violation of an official duty of a public servant ... (... party official).

**(or)**

(d) Any benefit as consideration for the performance of official duties."

The law seeks to prohibit corruption in official (or political) matters, and the part of the statute I have just read to you is directed against the bribe giver or person who offers, confers or agrees to confer a benefit upon a public servant (party official) (voter). Essentially, the offense consists of corruptly tendering a price (or benefit) for official action or non-action, that is, offering any undue reward or advantage to someone in a public (or political) office in order to influence (his/her) behavior in office and incline (him/her) to act contrary to the known rules of

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honesty and integrity. The crime is committed by the mere offer as well as by the actual payment.

In this case the indictment charges (**insert applicable part of indictment**) \_\_\_\_\_.

In order to convict the defendant of the criminal offense of bribery in an official (or a political) matter the state must prove beyond a reasonable doubt each of the following:

1. that the defendant directly or indirectly offered, conferred or agreed to confer a benefit upon \_\_\_\_\_. Benefit means gain or advantage, or anything regarded by the beneficiary as gain or advantage, including a pecuniary benefit or a benefit to any other person or entity in whose welfare (he/she) is interested. Pecuniary benefit is benefit in the form of money, property, commercial interests or anything else the primary significance of which is economic gain. Anything may serve as a benefit so long as it is of sufficient value in the eyes of the person bribed. But, since the value of the benefit offered (or, conferred, or agreed to be conferred) determines the severity of the offense, the State must also prove its value beyond a reasonable doubt.
2. that the defendant did so as consideration for \_\_\_\_\_'s decision, opinion, recommendation, vote or exercise of official discretion as a public servant (party official) (voter) on a public issue or in any public election.<sup>1</sup>

(or)

(that the defendant did so as consideration for \_\_\_\_\_'s decision, vote, recommendation or exercise of official discretion in a judicial (an administrative) proceeding.

<sup>1</sup>

It is no defense to the charge of bribery that the person whom the actor sought to influence was not qualified to act in the desired way whether because (he/she) had not yet assumed office, or lacked jurisdiction, or for any other reason. But the defendant must know the official character of the person to whom (he/she) offers the benefit. It therefore is not necessary that the act requested be one which the official has the authority to do. It is sufficient if (he/she) has the official power, ability or apparent ability to bring about or contribute to the desired end. And it makes no difference whether the official action bargained for thereafter actually takes place, whether or not immediate action or inaction is called for, or whether the bribe is refused.

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Administrative proceeding means any proceeding, other than a judicial proceeding, the outcome of which is required to be based on a record or documentation prescribed by law, or in which law or regulation is particularized in application to individuals).<sup>2</sup>

(or)

(that the defendant did so as consideration for (\_\_\_\_\_) a public servant (party official) violating an official duty. Public servant means any officer or employee of government, including legislators and judges, and any person participating as juror, advisor, consultant or otherwise, in performing a governmental function, but the term does not include witnesses. Party official means a person who holds an elective or appointive post in a political party in the United States by virtue of which he directs or conducts, or participates in directing or conducting party affairs at any level or responsibility).<sup>3</sup>

(or)

(that the defendant did so as consideration for (\_\_\_\_\_) performance of official duties).<sup>4</sup>

3. that the defendant acted purposely.<sup>5</sup> [Define purposely and relate it to the actual facts of the case]. Generally, the State must prove that (his/her) purpose was to subject the official action of the recipient to the influence of some benefit or advantage rather than to the influence of the public welfare, so that (he/she) would act contrary to (his/her) official public duty. The offer of that benefit as consideration for (\_\_\_\_\_) decision (opinion, recommendation, vote, etc.), then must be accompanied by such a corrupt purpose or objective.

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<sup>2</sup> Ibid.

<sup>3</sup> Ibid.

<sup>4</sup> Ibid.

<sup>5</sup> But see State v. Merlino, 208 N.J. Super 147 (App. Div. 1985), certif. den. 103 N.J. 460 (1986) in which the trial judge ruled that the statute required only a knowing state of mind. The Appellate Division noted "neither party questions that ruling and we express no opinion as to whether it is correct." 208 N.J. Super at 149, n.2.

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If you find that the State has proved all of the foregoing elements of the offense beyond a reasonable doubt, you should find the defendant guilty of bribery. If you find the defendant guilty of bribery, you must then indicate whether you find the value of the benefit involved to be more than \$200, or \$200 or less. If the State has failed to prove any of the three elements of the offense beyond a reasonable doubt, you must find the defendant not guilty.