

BRIBERY IN OFFICIAL AND POLITICAL MATTERS

(BRIBE GIVER)

(N.J.S.A. 2C:27-2)

Count _____ of the indictment charges defendant with the crime of bribery.

[READ COUNT OF INDICTMENT]

That statute 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 or 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 or administrative proceeding.

(or)

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

(or)

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

In order for you to find the defendant guilty of the crime of bribery, the State must prove beyond a reasonable doubt the following elements:

1. That the defendant directly or indirectly offered, conferred or agreed to confer a benefit upon insert name of person.
2. CHOOSE AS APPROPRIATE
 - (a) That the defendant did so as consideration for (insert name of person)'s decision, opinion, recommendation, vote or exercise

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of official discretion as a public servant (party official) (voter) on a public issue or in any public election.

(or)

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

(or)

(c) that the defendant did so as consideration for (insert name of person), a public servant (party official) violating an official duty.

(or)

(d) that the defendant did so as consideration for (insert name of person)'s performance of official duties).

3. That the defendant acted purposely.

The first element that the State must prove beyond a reasonable doubt is that defendant directly or indirectly offered, conferred or agreed to confer a benefit upon (insert name of person).

“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.¹ “Benefit as consideration” means any benefit not authorized by law.

[CHARGE IF PECUNIARY BENEFIT ALLEGED]

“Pecuniary benefit” is benefit in the form of money, property, commercial interests or anything else the primary significance of which is economic gain.²

[CHARGE IF APPLICABLE]

It is no defense to bribery that a person whom the actor sought to influence was not qualified to act in the desired way whether because he/she had not assumed office, or lacked jurisdiction or for any other reason.

[CHARGE IF APPLICABLE]

¹ N.J.S.A. 2C:27-1a.

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It is no defense to bribery that a person who offered, conferred or agreed to confer a benefit did so as a result of conduct by another constituting theft by extortion or coercion or an attempt to commit either of those crimes.

[CHARGE IN ALL CASES]

The second element that the State must prove beyond a reasonable doubt is: [**CHOOSE AS APPROPRIATE**]:

- (a) That the defendant did so as consideration for (insert name of person)'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.
(or)
- (b) that the defendant did so as consideration for (insert name of person)'s decision, vote, recommendation or exercise of official discretion in a judicial or (an administrative) proceeding.
(or)
- (c) that the defendant did so as consideration for (insert name of person), a public servant (party official) violating an official duty.
(or)
- (d) that the defendant did so as consideration for (insert name of person)'s performance of official duties).

“Consideration” means some right, interest or profit accruing to one party.³

[CHOOSE AS APPLICABLE]

“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.⁴ “Government” means any branch,

² N.J.S.A. 2C:27-1f.

³ Black’s Law Dictionary (5th ed).

⁴ N.J.S.A. 2C:27-1e.

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subdivision or agency of the government of the state or any locality within it.⁵

“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/she directs or conducts, or participates in directing or conducting party affairs at any level or responsibility.⁶

“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.⁷

[CHARGE IN ALL CASES]

The third element that the State must prove beyond a reasonable doubt is that defendant acted purposely. A person acts purposely with respect to the nature of his/her conduct or a result thereof if it is his/her conscious object to engage in conduct of that nature or to cause such a result. Purpose, with purpose, and similar words have the same meaning. In other words, in order for you to find that the defendant acted purposely, the State must prove beyond a reasonable doubt that it was the defendant's conscious object to give a bribe.

Purpose is a state or a condition of the mind which cannot be seen and can only be determined by inferences from conduct, words or acts. A state of mind is rarely susceptible of direct proof, but must ordinarily be inferred from the facts. Therefore, it is not necessary, members of the jury, that witnesses be produced to testify that an accused said he/she had a certain state of mind when he/she engaged in a particular act. His/Her state of mind may be gathered from his/her acts and his/her conduct, and from all he/she said and did at the particular time and place, and from all of

⁵ N.J.S.A. 2C:27-1b.

⁶ N.J.S.A. 2C:27-1g.

⁷ N.J.S.A. 2C:27-1h.

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the surrounding circumstances.

If you find that the State has proved each of these three elements beyond a reasonable doubt, you must find the defendant guilty of bribery. If the State has failed to prove any of these elements beyond a reasonable doubt, you must find the defendant not guilty.

[IF THE STATE ALLEGES THAT THE BENEFIT IS PECUNIARY, ADD]⁸

If the State has proved each element of the crime beyond a reasonable doubt, you must determine the value of the benefit involved. “Pecuniary benefit” is benefit in the form of money, property, commercial interests or anything else the primary significance of which is economic gain. The State must prove beyond a reasonable doubt that the value of the benefit involved [**IF APPROPRIATE, ADD: for each specific instance concerning which you have reached a verdict of guilty**] exceeds \$200.

⁸ If a particular case involves an allegation of receipt of a pecuniary benefit and a non-pecuniary benefit, there should be separate interrogatories on the verdict sheet as to each type of benefit. This is because bribery is a crime of the second degree unless the value of the pecuniary benefit is \$200 or less.