

**City of Memphis
Board of Ethics**

January 2, 2017

Advisory Ethics Opinion No. 17-01

This opinion responds to a specific question presented, particularly whether certain behavior is permissible pursuant to the City of Memphis Code of Ethics, Ordinance 5206. It does not address any other applicable policy, local, state or federal laws. The Board of Ethics' jurisdiction is limited to the applicability of the City of Memphis Code of Ethics, Ordinance 5206, as amended. This opinion does not supersede any other statutory or regulatory restrictions or procedures which may apply to this situation. Failure to disclose relevant information may void the opinion.

Question

Whether or not City of Memphis Board Members, whose duties include observing and overseeing certain events, should get complimentary admission to these events, when the Board's by-laws include a re-imbursement procedure for such situations?

Whether or not the Board Member should also be allowed "plus one" or two (2) complimentary admissions, so that the Board member could bring a second person with them?

Opinion

City employees are generally prohibited from accepting gifts from individuals or entities that do business with the City. Complimentary ticket(s) to these functions might reasonably be interpreted as a gratuity. That Board's By-laws governing reimbursement serve a purpose. Board Members should therefore follow their By-laws, purchase the tickets and proceed through the reimbursement process.

It is therefore not permissible for the Board members to accept complimentary admission to the events.

Consequently, it is also not permissible for Board members to receive "plus-one" or two complimentary admissions.

Facts

A City of Memphis Board, whose duties include observing and overseeing certain events, inquired whether or not Board Members should receive complimentary admission to the events. The Board also inquired whether or not Board Members should receive "plus-one" or a second complimentary ticket as well. The Board's By-laws set out that Board Members should be reimbursed for said expenses.

Analysis

Chapter 2-10 Code of Ethics for City Officials provides, in pertinent part:

“Section 2-10-5. Acceptance of gratuities, etc. An employee may not accept, directly or indirectly, any money, gift, gratuity, or other consideration or favor of any kind from anyone other than the city: For the performance of an act, or refraining from performance of an act, that he would be expected to perform, or refrain from performing, in the regular course of his duties; or [t]hat might reasonably be interpreted as an attempt to influence his action, or reward him for past action, in executing business of the city.”

In the instant case, it appears that the ticket to the function might reasonably be interpreted as a gratuity.

The By-laws of this particular Board anticipate and set out a reimbursement procedure for its Board Members. That fact provides Board Members with the appropriate course of action. The proper documentation of the reimbursement would serve to clarify matters and promote transparency.

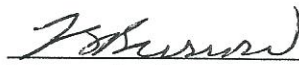
As to the “plus –one” or second ticket, it is also not permissible. The second person is not a Board Member, and has no duty, authorized by the City, to attend and/or observe said functions. The second person should be required to pay regular admission, equal to what other citizens of Memphis would pay. There would be no re-imbusement through Board By-law procedure.

Conclusion

Based upon the foregoing, it is my opinion that the acceptance of complimentary ticket(s) to the events might reasonably be interpreted as a gratuity contemplated within the meaning in Section 2-10-5, Code of Ethics for City Officials, Acceptance of Gratuities, etc., and is thereby not permitted. Board Members should follow the reimbursement procedure set forth in its By-laws.

It is also my opinion that the acceptance of a “plus-one” complimentary ticket is not permitted.

Board of Ethics, City of Memphis



Latonya Sue Burrow
Chief Ethics Officer

Requested by:

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