

City of Detroit Board of Ethics

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Advisory Opinion #2018-12
Issued: October 16, 2018

Advisory Opinion #2018-12: The Ethics Ordinance does not bar the Requestor from accepting a meal from a third party entity who is seeking a private transaction directly with a City of Detroit employee and 1) is doing no business with the city; 2) seeks to do no business with the city; 3) is seeking no official action from the city; 4) has no interests that could be substantially affected by the performance of Requestor's duties; or 5) is not registered as a lobbyist.

I. Procedural Background

Request for Advisory Opinion 2018-12 (the "Request") is dated August 30, 2018, and was sent to the Board of Ethics (the "Board") by electronic communication on the same date. The Request was submitted by a current public servant as defined by Section 2-6-3 of the Detroit Ethics Ordinance (the "Ordinance"). The Requestor did not waive confidentiality with respect to identity.

At its meeting on September 18, 2018, the Board determined that the Request met the basic requirements for a Request for Advisory Opinion under Section 2-6-101 of the Ordinance. At this meeting the Board reviewed a Preliminary Analysis of the Request. On October 16, 2018, after consideration and discussion of the issues presented, the Board voted to issue this Advisory Opinion pursuant to Section 2-6-72 of the Ordinance.

II. Facts Alleged In the Request

In the Request, the Requestor states as follows:

██████████ has been hosting an annual event to sign up employees for various insurance products. In doing so, they provide a meal to employees. They have held this event for 30 years. Should employees partake of the meal?

By this request, the question presented to the Board of Ethics is does the acceptance of a meal violate the gifts and gratuities prohibitions found in Section 2-106.4 of the 2012 Detroit City Charter.

III. Applicable Charter Sections

The 2012 Detroit City Charter provides at Section 2-106.1 that the purpose of applying and enforcing these requirements and standards is to ensure that governmental decisions are made in the public's best interest by prohibiting public servants from participating in matters that affect their personal or financial interests. This Request involves Section 2-106.4 of the 2012 Detroit City Charter codified at Section 2-6-71 of the Ethics Ordinance. It states as follows:

Sec. 2-6-71. - Prohibition on gifts and gratuities; exceptions.

(a) A public servant shall not accept gifts, gratuities, honoraria, or other thing of value from any person or entity doing business or seeking to do business with the city, is seeking official action from the city, has interests that could be substantially affected by the performance of the public servant's official duties, or is registered as a lobbyist under applicable law and Section 2-6-35 of this Code.

(b) This prohibition shall not apply to:

1. An award publicly presented to a Public Servant by an individual, governmental body or nongovernmental entity or organization in recognition of public service.
2. Complimentary copies of trade publications, books, reports, pamphlets, calendars, periodicals or other informational materials.
3. A gift received from a Public Servant's relative or immediate family member, provided that the relative or immediate family member is not acting as a third party's intermediary or an agent in an attempt to circumvent this article.
4. Admission or registration fee, travel expenses, entertainment, meals or refreshments that are furnished to the Public Servant:
 - i. By the sponsor(s) of an event, appearance or ceremony which is related to official City business in connection with such an event, appearance or ceremony and to which one (1) or more of the public are invited; or
 - ii. In connection with teaching, a speaking engagement or the provision of assistance to an organization or another governmental entity as long as the City does not compensate the Public Servant for admission or registration fees, travel expenses, entertainment, meals or refreshments for the same activity.

IV. Application of the Charter to the Facts Presented

Requestor indicated that [REDACTED] has hosted an annual event for City employees in several departments for approximately 30 years. The event showcases various insurance products available to employees and food is generally offered. [REDACTED] offers voluntary benefits to City employees to complement health insurance by covering expenses that a health plan may not cover. It also offers supplemental life insurance products to City employees. The two options available for supplemental coverage are [REDACTED] and [REDACTED], both of which are voluntary and participation in either does not provide any benefit to the City.

Subsection (a) clearly prohibits a public servant such as Requester from accepting a gift, gratuity "*or other thing of value,*" regardless of value or amount, from an entity that 1) is doing business with the city 2) seeks to do business 3) seeking official action 4) has interests that could be substantially affected by the performance of Requestor's duties or 5) is registered as a lobbyist.

The purchase of an insurance policy with [REDACTED] is a private transaction between the employee and the vendor, without the involvement of the City. This transaction does not qualify [REDACTED] as an entity that is or will be directly engaged in a business relationship with the City of Detroit. While a meal is certainly a "thing of value" the vendor offering it does not meet any of the exceptions that would prohibit acceptance.

V. Conclusion

The Board of Ethics concludes the Request for Advisory Opinion 2018-12 in accordance with Sec. 2-6-104(b)(4) and issues this advisory opinion in response to the request and shows no prohibition of Sec. 2-6-71 of the Ethics Ordinance. The Ethics Ordinance does not bar the Requestor from accepting a meal from a third party entity who is seeking a private transaction directly with a City of Detroit employee and 1) is doing no business with the City of Detroit; 2) seeks to do no business with the City of Detroit; 3) is seeking no official action from the City of Detroit; 4) has no interests that could be substantially affected by the performance of Requestor's duties; or 5) is not registered as a lobbyist.

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