

City of Detroit Board of Ethics

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**Advisory Opinion #2018-07
Issued: September 18, 2018**

Advisory Opinion #2018-07: The Ethics Ordinance does not bar the Requestor from taking an item of nominal value from a third party vendor who is doing no business with the City of Detroit and there is no violation of Sec. 2-6-71 of the Ethics Ordinance, the gifts and gratuities prohibition.

I. Procedural Background

Request for Advisory Opinion 2018-07 (the “Request”) is dated July 25, 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”) who waived confidentiality with respect to identity. The Public Servant asked this question at an Ethics Training and is commended for following through and participating in this process.

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 September 18, 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 in summary as follows:

I have a professional contact who runs his own marketing and advertising business. I have personally ordered work shirts that are embroidered with a City of Detroit logo and the name of the department in which I work. Other staff members in my department, xxxx, have expressed interest in acquiring work apparel. This vendor on occasion gives away small, inexpensive items such as pens and cell phone accessories that are branded with his business contact info. If a xxxx employee were to accept such an

item – even if he or she did not choose to make an actual purchase – does this violate acceptable standards of conduct?

By this request, the Public Servant seeks an advisory opinion as to the applicability 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. 2-106.4. - Gifts and Gratuities.

A Public Servant shall not accept gifts, gratuities, honoraria, or other things of value, as determined by ordinance, from any person or company 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 laws.

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.

(Amended, election of 11-6-12)

IV. Application of the Charter to the Facts Presented

The Requestor is basically asking if it is a violation of the Ethics Ordinance to accept a pen from a third party. The third party name is not a contractor or vendor with the City of Detroit and does not do business with the City of Detroit. The third party appears to have no business, no pending contracts, is seeking no official action, and has no interests that could be substantially affected by the performance of the Public Servant's official duties with the City of Detroit. As such, the Requestor has committed no violation in accepting a pen (an item of nominal value) from the third party. The Requestor should be cautioned that if the third party began to seek business from the City or became a contractor/vendor, this Opinion may no longer apply.

V. Conclusion

The Board of Ethics concludes the Request for Advisory Opinion 2018-07 in accordance with Sec. 2-6-104(b)(4) and issues this advisory opinion in response to the request that shows no prohibition of Sec. 2-6-71, the gifts and gratuities prohibition of the Ethics Ordinance.

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Dated: November 27, 2018