

Municipality of Anchorage



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BOARD OF ETHICS

Date: March 19, 2007

To: Jeff Friedman, President, Anchorage School Board

From: Paul Davis, Chair, Municipal Board of Ethics

Re: Advisory Opinion Request

The following is a response to your written request for an advisory opinion, dated December 17, 2006, and also presented in person to the Ethics Board in a meeting on January 29, 2007.

Statement of Facts

As stated in the request for an advisory opinion, dated December 17, 2006, School Board members and School District employees occasionally attend local and national conferences where various gifts are sometimes handed out by the sponsoring organizations and vendors. According to testimony taken from you on January 29, 2007, the maximum number of such conferences attended in any one year for some School Board Members and School District Employees is around six. These gifts are classified by you into three types:

1. Items valued at \$5.00 or less, such as pens, packages of file folders, refrigerator magnets, and blank CDs, with a cumulative value of about \$30.00.
2. Items of larger value, but less than \$50.00, such as hats, shirts with the sponsor's logo, and tote bags. The cumulative value for any one participant may be greater than \$50.00.
3. Meals and entertainment at the conference sponsored by a vendor. Some meals are worth less than \$50.00, but some may be more than \$50.00. Entertainment typically takes the form of a concert by a nationally recognized performer or admission to an amusement park.

Discussion

The matter at hand falls under 1.15.020 (A) (8) and (9); 1.15.025 (H) for municipal employees; and 1.15.035 (O) for elected officials.

It is presumed that attendance at the local and national conferences indicated falls under the scope of work of School Employees and official duties for School Board members.

In general, it is thought that gifts of a certain value or frequency may influence an employee's or elected official's independence of judgment. The general standard for such a determination is the "reasonable person" criteria, that is, whether a reasonable person would consider the gift to be of such a value as to influence judgment. The benchmark in the Municipal code of ethics is \$50.00, according to 1.15.025.H.2, but may be higher for certain categories of gifts. A second benchmark is the frequency of such gifts, even those below \$50.00, if it is thought that the frequency of such gifts, particularly from the same donor, might influence judgment. Another mitigating factor may be whether the gift is generally available to employees or officials, or whether it targets someone for special treatment.

In regard to gifts of the sort listed in item (1) above, since each gift is worth less than \$50.00, and the total cumulative value of such gifts is less than \$50.00, then this easily meets the reasonable person criteria. Additionally, since attendance at such conferences is, at most, 6 times a year for some employees and officials, the gift is not of such a frequency that it would likely affect judgment. Moreover, since these gifts are generally available to conference participants, and do not target specific individuals, and come from a variety of vendors, then this also meets the reasonable person criteria.

In regard to gifts of the sort listed in item (2) above, since each gift is less than \$50.00, then this meets the reasonable person criteria. Even though the cumulative value of such gifts may be more than \$50.00 for some individuals, because they are distributed by various vendors, then the cumulative value is not associated with any one vendor and would, presumably, not influence the judgment of an official or employee by the reasonable person criteria. In this case, too, the frequency of such gifts is not sufficient to warrant concern, since these occur, at most, six times a year.

In regard to gifts of the sort listed in item (3), the Code of Ethics treats Municipal employees, including School employees, and, elected officials, including, members of the School Board, somewhat differently. According to 1.15.025.H.2.a, "a municipal employee shall disclose meals valued in excess of \$50.00, beverage included, as provided in the Gift Disclosure form available from the designated ethics officer and filed with the municipal clerk within 10 working days of the meal." Such a limit dollar amount is not provided for elected officials in 1.15.030.O.2 and 1.15.030.O.3.a. For both employees and elected officials, however, the frequency of such meals can be a concern. However, in this case, the frequency of the meals is not a concern, since these occur at most six times a year.

The cost of entertainment, especially if available to all participants, may be difficult to assess. However, since the entertainment is generally available to all conference participants, and does not target individuals specifically, and, so long as the entertainment is not so extravagant or lavish as to influence judgment by the reasonable person standard, then it appears consistent with the Ethics Code. The Ethics Board would have concerns if the entertainment were, for example, outside of such official venues and complimentary tickets over \$50.00 were provided for a particular employee or official, or a small group of employees or officials. In this case complimentary tickets to amusement

parks or similar venues would be of concern only if their estimated value is more than \$50.00.

In considering the whole matter, it could be reasonably expected that an employee or elected official could receive gifts at any one conference well in excess of \$50.00. However, since these are distributed by several vendors, and made available to all participants in such events; and, furthermore, since each item of value is under \$50.00, then it can be assumed that they would not have significant influence on an employee's or official's judgment.

Conclusion

In regard to gifts described in your request for advisory opinion, as

“1. Items valued at \$5.00 or less, such as pens, packages of file folders, refrigerator magnets, and blank CDs, with a cumulative value of about \$30.00.”

These are exempt from disclosure, consistent with provisions in 1.15.025.H and 1.15.030.O.

In regard to gifts described in your request for advisory opinion, as

“2. Items of larger value, but less than \$50.00, such as hats, shirts with the sponsor's logo, and tote bags. The cumulative value for any one participant may be greater than \$50.00.”

These are exempt from disclosure, consistent with provisions in 1.15.025.H and 1.15.030.O.

In regard to gifts described in your request for advisory opinion, as

“3. Meals and entertainment at the conference sponsored by a vendor. Some meals are worth less than \$50.00, but some may be more than \$50.00. Entertainment typically takes the form of a concert by a nationally recognized performer or admission to an amusement park.”

Meals for elected officials, including School Board members, in this case, are exempt from disclosure, under 1.15.030.H.a. Meals for Municipal Employees, including School Employees, in this case, are exempt from disclosure under 1.15.025.H.a, if they are under \$50.00 in value. If they are over \$50.00, 1.15.025.H.a. states that, “A municipal employee shall disclose meals valued in excess of \$50.00, beverage included, as provided in the Gift Disclosure form, available from the designated Ethics Officer and filed with the municipal clerk within 10 working days of the meal.”

It appears difficult to assess the value of a form of entertainment that is readily available to all conference participants. Because it does not target individuals specifically, and,

assuming that the entertainment is not extravagant and lavish as to influence judgment, then it appears to fall within the reasonable person standard, and does not have to be disclosed. The Ethics Board would have concerns if the entertainment were, for example, outside of such official venues and complimentary tickets over \$50.00 were provided for a particular employee or official, or a small group of employees or officials. In this case complimentary tickets to amusement parks or similar venues would be of concern only if their estimated value is more than \$50.00, and should be disclosed if that is the case.

Adopted by the Municipality of Anchorage Ethics Board on January 29, 2007. Members present and concurring in the opinion were:

Paul Davis, Chair
Marisa Flannery
Connie Jones
Gregory Kimura
James Liszka

There were no members dissenting from the opinion.

Please be advised that, according to 1.15.080.1, "in any later proceeding involving the inquirer, the inquirer is entitled to rely on the advice of the board, and may not be sanctioned for acting in compliance with the board's advice, so long as the facts remain substantially unchanged from those represented to the board in the inquiry."

According to 1.15.080.A.2, requests for advice are confidential, unless confidentiality is waived by the person requesting an advisory opinion. At the meeting of January 29, 2007, such notice was given, and you agreed to waive confidentiality in this case.

Please be advised that, for the purposes of instruction and advice, according to 1.15.080.C, the Ethics Board is to publish advisory opinions in a generic form on the municipal website. In doing so, the Ethics Board will make sufficient deletions and changes to prevent disclosure of the identity of persons involved in the advisory opinion.