

City of Detroit Board of Ethics

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REQUEST FOR ADVISORY OPINION #2017-04 Issued: August 29, 2017

Advisory Opinion #2017-04: The Ethics Ordinance does not bar the Requestor, who is a [REDACTED] with a City department, from accepting an honorarium from a donor who does not fall within the restricted categories of donors.

I. Procedural Background

Request for Advisory Opinion #2017-04 (the "Request"), is dated June 6, 2017, and was sent to the Board of Ethics (the "Board") by electronic communication and received June 12, 2017. The Request was submitted by a current public servant as defined by Section 2-6-3 of the Detroit Ethics Ordinance (the "Ordinance"), who did not waive confidentiality with respect to identity.

At its meeting on July 20, 2017, 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 and Staff Memo of the Request. After consideration and discussion of the issues presented, the Board voted to issue this Advisory Opinion pursuant to Section 2-6-104(B)(3) of the Ordinance.

II. Facts Alleged In the Request

In the Request, the Requestor states in summary as follows:

I was asked to speak to a group of executives about millennial engagement by a former professor at a local university. The professor also runs [REDACTED] a company that runs innovation & strategy workshops. I agreed to participate and planned to take a half day for the engagement. Upon second contact, during a prep meeting with the Professor, he offered to provide a sum of \$1000 as an honorarium for my time. I did not accept at the moment so that I could ensure that it was not a violation of ethics policy. Either way I am willing and excited to do the engagement. The engagement is to present to a group from a private equity corporation, to my knowledge. As an alternative, the professor was willing to make a donation to a charity of my choice. Is accepting the honorarium a violation? To my knowledge, [REDACTED] doesn't currently or plan to do business with the City of Detroit.

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.

The 2012 Detroit City Charter, at Section 2-105.A provides the following relevant definition:

27. *Public Servant* means the mayor, members of the city council, the city clerk, any member of any city agency, board, commission, or other voting body that is established by the 1997 Detroit City Charter or by this Code, and any appointee, any employee, or any individual who provides services to the City of Detroit within or outside of its offices or facilities pursuant to a personal services contract.

The 2012 Detroit City Charter, at Section 2-106.A.4, provides:

A Public Servant shall not accept gifts, gratuities, honoraria, or other things of value 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.

IV. Application of the Charter to the Facts Presented

The inquiry concerns standards of conduct and the receipt of gifts. The above provision requires a two pronged analysis of the receipt of gifts or gratuities. The first prong concerns the status of the donors; the second prong concerns the nature of the gift. If the potential donor is not among those entities regulated by this provision, analysis of the nature of the gift is not required.

Unless the potential donor is “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,” the gift is not barred by the Ordinance. The Requestor indicated that to the best of his knowledge the donor does not currently have a contract with the City and is not currently seeking a contract with the City. If this is accurate, acceptance of the \$1000 honorarium will not violate the Ordinance.

An investigation was conducted to determine if the donor was “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. The City’s list of lobbyists, vendors, contractors, and the list of entities holding contracts and pending contracts was reviewed. The donor was not among those entities doing business or seeking business with the City; it was not among those entities holding a contract from the City, was not listed as an entity seeking official action from the City; and was not registered as a lobbyist.

V. Conclusion

The Board of Ethics concludes based on a review and investigation, the Requestor, who is a [REDACTED] with a City department, may accept an honorarium from a donor who does not fall within the restricted categories of donors.

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Dated: August 29, 2017