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Formal Advisory Opinion 2004-7 Gifs of Tickets to Athletic and Entertainment Events

Opinion Summary

The City's Standards of Conduct prohibit city officials or employees from accepting a gift of free or reduced tickets to an entertainment or athletic event that is offered due to their position with the city, unless the official or employee is performing an official duty at the event.

Question Presented

May city officials and employees accept complimentary tickets to entertainment and sports events under the Code of Ethics?

Facts

The Ethics Office has received several inquiries from city employees or officials concerning when they may accept complimentary tickets to an entertainment event. Typically, these situations involve unsolicited offers of tickets to a professional sports event from a variety of sources, including professional sports teams, registered lobbyists, and non-profit foundations, with the offers made to the officials or employees in their official capacity. To provide guidance to both donors and recipients, the Board of Ethics addresses the following questions:

1. May a city council member accept the gift of a ticket from a local lobbyist to a professional football game at the Georgia Dome?
2. May a city judge solicit or accept free tickets from the Atlanta-Fulton County Recreation Authority to attend a professional baseball game?
3. May a city employee who is appointed by the mayor accept a complimentary ticket to a professional football game from the Atlanta Falcons or the Arthur Blank Foundation?
4. May the city council president who serves as a member of the host city delegation accept an invitation to attend the National Basketball Association's All-Star Game?

5. May a city employee who serves on the Board of Directors of the Atlanta Convention and Visitors Bureau have his entry fee waived to participate in the ACVB's charity golf tournament?
6. May the Atlanta Workforce Development Agency accept an offer from the Atlanta Braves to provide tickets to a Braves game for 600 youth in the agency's summer work program?

Discussion

Unlike most city codes of ethics, the City of Atlanta's code has a specific provision addressing gifts of tickets. Prior to 1997, members of the Atlanta City Council received free tickets to sports and entertainment events, often as part of a city contract. The Atlanta City Council that year amended section 2-816 on passes, tickets, and gratuities after a city council member was discovered trading her free tickets for gifts and favors. The provision was intended to prohibit officials and employees from receiving free or reduced tickets to entertainment and athletic events due to their city position. See Atlanta, Ga., Ordinance 97-0-1861 (Dec. 1, 1997), codified at Atlanta, Ga. Code § 2-816.

The 1997 amendment bans city officials, employees, and board members from accepting a gift of tickets to entertainment and athletic events for less than face value when the tickets are offered because of the individual's position with the city. The provision specifically states:

(b) No official, employee or person appointed to any board, corporation, commission or authority, including the mayor, the president of council, members of council, and judges of the municipal and traffic courts, shall knowingly accept any ticket of admission or other evidence of right of entry to any entertainment event, such as, but not limited to, musical concerts and dramatic productions, or to any athletic events, as a gift or for a value less than the price printed on the ticket, which would not be offered or given to such official or employee if such person were not an official or employee. For purposes of determining whether such ticket would be offered or given by reason of the official's or employee's position with the city, it shall be presumed that the offer of such ticket or right of entry from a member of the official's or employee's immediate family or from a business other than a public agency in which the official or employee, or a member of the official's or employee's immediate family, serves as an officer, director, stockholder, creditor, trustee, partner, or employee, is not made by virtue of that official's or employee's position. For purposes of determining whether such ticket would be offered or given by reason of the official's or employee's position with the city, it shall be presumed that any offer of such ticket or right of entry made by any prohibited source, but not limited to the Atlanta Fulton County Recreation Authority and any professional sports team located in the metro Atlanta area, is given by reason of such official's or employee's position with the city. As used in this section, "entertainment event" shall not include breakfasts, lunches, or dinners.

(1) Any official or employee who is performing an official duty at an entertainment event shall be exempt from this section with regard to that particular entertainment event.

Atlanta, Ga. Code of Ordinances § 2-816 (b).

Unlike the more general prohibition in the code against gratuities, which is limited to gifts from a prohibited source, this specific prohibition against free or reduced tickets is not based on the

source of the gifts. Instead, it bans tickets given from any source “by reason of the official’s or employee’s position with the city.” To determine whether a ticket is offered because of the individual’s position, the provision describes two presumptions. First, it is presumed that a ticket from a prohibited source is given by reason of an individual’s position with the city. Second, it is presumed that a ticket from an immediate family member or from a business for which the individual or an immediate family member works or serves as a board member is not given by reason of an individual’s position with the city.

The ticket ban applies to personal gifts of tickets to two types of events: entertainment events, including musical concerts and dramatic productions, and athletic events, such as professional sporting events. There is an express exception when the official or employee is performing an official duty at an entertainment event. In addition, the ban on tickets does not apply to meals or to civic, charitable, or political events, which would be analyzed under section 2-801’s ban on gratuities.

Applying these guidelines, the Board of Ethics gives the following answers and analysis to each of the factual situations involving a gift of tickets to an entertainment or athletic event.

1. No. A city council member may not accept a gift of a ticket from a local lobbyist to a professional football game at the Georgia Dome based on the presumption that the offer of the ticket from a prohibited source is given by reason of the official’s position on the city council.
2. No. A city judge may not solicit or accept tickets to a professional baseball game from the Atlanta-Fulton County Recreation Authority due to the presumption that any ticket from the authority is given by reason of the judge’s position with the city.
3. No. A city employee who is appointed by the mayor may not accept tickets to a professional football game from the Atlanta Falcons or the Arthur Blank Foundation for a value less than the printed ticket price when the ticket would not have been offered or given if the person were not a city employee.
4. Yes. The city council president who serves as a member of the host city delegation may accept an offer of tickets to attend the National Basketball Association’s All-Star Game based on the exception for an official who performs an official duty at an entertainment event. Although the “official duty” exception is mentioned in connection with an entertainment event, the Board interprets the exception to apply also to athletic events. If, for example, the mayor were asked to throw out the first pitch at a baseball game, she would be performing an official duty that permits her to accept a complimentary ticket to the game. This exception is a narrow one limited to a specific duty at a specific event and is not intended to give an official or employee an on-going right of free entry to a series of similar events based on continuing responsibilities to monitor or examine a situation.
5. Yes. A city employee who serves on the Board of Directors of the Atlanta Convention and Visitors Bureau may accept complimentary tickets to participate in the ACVB’s charity golf tournament because he is being offered the ticket in his capacity as a board member of the sponsoring organization and not by reason of his position with the city. In addition, his attendance falls within the official duty exception since he is serving as a host and representative of the sponsoring organization.

6. Yes. A city agency with no authority over the Atlanta Braves may accept the team's offer of 600 tickets for city youth to attend a baseball game because it is a gift to the City of Atlanta, rather than a personal benefit to an individual employee. Sections 2-801 and 2-816 of the Code of Ethics permit city officials and employees to accept anything of value on behalf of the city so long as the gift is not calculated to influence a pending decision or the exercise of official authority. The Atlanta Workforce Development Agency operates a Summer Youth Employment Program to provide temporary employment opportunities for approximately 700 young people. The Georgia Department of Labor funds the program from the federal Workforce Investment Act. The city agency does not exercise any official action concerning the Braves. In 2003 the Atlanta City Council adopted a resolution authorizing the mayor or her designee to accept donations of money and services to support the agency's efforts in funding summer job opportunities for youth. Atlanta, Ga. Res. 03-R-0975. This resolution thus gives authority to the workforce agency to accept the donation of baseball tickets as a reward to the youth for their work.

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