



**City of Atlanta Board of Ethics
Formal Advisory Opinion 2008-7
Use of City Letterhead for Charitable Fundraising**

Opinion Summary

No. City officials may not use official city letterhead or other city resources to raise funds on behalf of individuals, organizations, or non-profit groups that are not affiliated with the City. Elected officials should use the letterhead of the charitable group or their own personal letterhead in any fundraising letter on behalf of the group.

Question Presented

Can official city letterhead and other city resources be used to solicit charitable donations for private, non-profit groups that are not related to the City?

Facts

The Ethics Office has received several inquiries from elected officials, citizens, and potential donors concerning charitable fundraising efforts by city elected officials. Specifically, city council members have asked if they may send a fundraising letter on behalf of a charitable foundation or private group. In addition, a prohibited source has asked whether the Code of Ethics permits it to give money to a project that is unaffiliated with city government when the fundraising letter is written on city stationery and signed by an elected official. These requests suggest the need for guidance on whether elected city officials may use official city letterhead, their titles, and city resources for charitable fundraising activities on behalf of non-profit groups that are not related to the City.

Applicable Law

Section 2-811 prohibits city officials and employees from using “publicly owned or publicly supported property, vehicle, equipment, labor or service for the private advantage of such official or employee or any other person or private entity.” There is an exception when the City has a stated public policy that the property is being used for official city business. In addition, section 2-820 prohibits officials from rendering services for private interests when the service is adverse to and incompatible with the proper discharge of their official duties, and section 2-818 prohibits officials or employees from soliciting or accepting anything of value that is calculated to influence a vote, decision, or the exercise of official authority.

Discussion

City officials and employees may raise funds for city programs

The Board of Ethics has previously issued formal advisory opinions addressing when city officials and employees may raise money or solicit donations from private individuals and entities. Relying on the gift and solicitation rules, the Board determined that city officials and employees may solicit and accept donations in their official capacity for city programs and projects. See FAO2005-6, Solicitations for City Programs that Benefit Citizens. In that opinion, the Board established guidelines for solicitations by city officials and employees for city programs and events, such as the Mayor's Senior Ball, Mayor's Cup, and Atlanta Dream Jamboree. It then distinguished between those city programs and the Mayor's Masked Ball, an annual fundraising event for the United Negro College Fund to which "the City's top elected official for the past two decades has lent his or her name and good offices to support fundraising efforts aimed at helping students attend college."

City officials and employees may not target prohibited sources for donations

In FAO2004-6, the Board determined that city department heads could not personally solicit funds or charitable contributions from city contractors, vendors, and other prohibited sources on behalf of a non-profit group, professional organization, or other private entity. See FAO 2004-6, Solicitation of Charitable Contributions from a Prohibited Source. The rationale was that a targeted solicitation is coercive and might pressure a city contractor to make a donation to retain or expand its business with the City; it might also create the perception that the contractor would gain greater access or receive more favorable treatment as a result of its donation. Applying the same rationale to other solicitations, the Board has adopted a rule that city officials and employees should not target prohibited sources in any solicitation made on behalf of the City and must publicly reports gifts received as a result of a solicitation.

Soliciting funds for city programs is official city business

In a separate line of decisions on the use of public property, the Board has determined that city property may not be used for the private advantage of any official, employee, individual, or private entity. See § 2-811. There is an exception for official city business when a city official or employee is acting in an official capacity and performing official duties on behalf of the City. See FAO2004-1, What Constitutes Official City Business. This exception applies when officials and employees solicit donations for city programs.

Soliciting funds for private, non-profit groups is not city business

The Board concludes that a different situation exists when officials engage in charitable fundraising activities. Elected officials and employees are not acting in their official capacity, performing their official duties, or acting on behalf of the City when they raise funds on behalf of a private, non-profit group unrelated to the City. Because they are not conducting official city business, they cannot use official city letterhead, property, or staff as part of their fundraising efforts. This ban helps maintain the integrity of the public office and the proper exercise of its powers.

A second issue is whether city elected officials may use their city title in charitable fundraising efforts. The Board believes that the better policy is to allow elected officials to use their official title or position in fundraising letters on behalf of non-profit groups, as mayors have done on behalf of the United Negro College Fund. As one legislative body explained, it is "always true that a legislator does properly hold the title of Senator or Representative, and the legislator is perfectly entitled to be identified that way." See Interim [NM] Legislative Ethics Committee, Ethics Advisory Opinion LED9601. The official should make clear in the fundraising letter that he

or she is not acting in an official capacity on behalf of the City, should not use city staff to prepare the mailing or collect the donations, and should avoid using city equipment or facilities as part of the fundraising effort.

To assist in understanding this opinion, the Board offers the following examples:

- The mayor can use official city letterhead to solicit donations for the Mayor's Cup and Mayor's Bowl to benefit two city programs for young people, Camp Best Friends and The First Tee
- A city councilmember can use official city letterhead to solicit donations for a youth program that is jointly sponsored by her office and the parks department
- The mayor can sign a fundraising letter on stationery of the United Negro College Fund asking firms to serve as a sponsor for the Mayor's Masked Ball
- A city councilmember can use his title when signing a fundraising letter on his law school's or law firm's stationery asking all members of his class to contribute to the school's annual fundraising campaign
- No city elected official or employee can use official city letterhead to seek donations on behalf of any private foundation or organization that is not directly related to or affiliated with the City, such as the Atlanta Community Foundation, United Way, American Heart Association, or Habitat for Humanity

This opinion does not address fundraising efforts made on behalf of city-related or city-affiliated non-profit organizations, such as the Police Foundation.

Adopted November 20, 2008

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