



**City of Atlanta Board of Ethics
Formal Advisory Opinion 2008-6
Financial Transactions with Subordinates**

Opinion Summary

Supervisors should not engage in financial transactions with subordinates. Financial transactions may include the solicitation of charitable donations or campaign contributions and the purchase or sale of goods and services.

Question Presented

May supervisors engage in financial transactions with their subordinates and, if so, under what conditions?

Facts

The Ethics Office has received several questions from employees concerning financial transactions with other employees, including whether they can ask coworkers for charitable donations, give money to a commissioner's farewell party, or sell insurance to fellow employees. In addition, the Board last fall considered an ethics complaint in which an employee alleged that his supervisor had a conflict of interest based on her promotion of another employee who had sold a car to her at a discounted price. The Board of Ethics dismissed the complaint because the transaction had occurred five years earlier and was too remote in time to infer any connection between the car sale and promotion. Because these recurring questions indicate that employees need guidance on acceptable transactions among employees, the Ethics Officer has asked the Board to address whether supervisors should engage in any business transactions with subordinates and, if so, what safeguards should be followed to prevent undue influence, unfair pressure, or the appearance of impropriety.

Discussion

The Atlanta Code of Ethics does not have any provision that directly addresses financial relationships between employees. There are several provisions that indirectly deal with the subject:

- The purpose clause states that the ethical standards seek to protect the integrity of government by prohibiting employees from engaging in business transactions or

having contractual, financial, or personal interests that would tend to impair independence or objectivity of judgment or action in the performance of official duties (§ 2-802)

- Section 2-811 prohibits the use of city property, equipment or labor for the private advantage of any employee
- Section 2-818 prohibits an employee from soliciting or accepting anything of value calculated to influence a decision and
- 2-821 prohibits an employee from loaning money to another employee, except loans of \$2,000 or less may be obtained in emergencies

In addition, the Civil Service Code prohibits employees from giving any money or consideration for any appointment, promotion, or advantage. Atlanta, Ga., Code § 114-2 (i).

Based on these provisions, the Ethics Office applies a rule of reason and advises employees that the Code of Ethics does not generally prohibit transactions between employees. Specifically, an employee can ask other employees to give to a school fundraiser or support a private charity as long as city resources are not used, employees do not use their position to obtain a personal advantage, and the transactions are not disruptive or interfere with the ability of employees to perform their work.

The sale of services or products to coworkers is subject to more restrictions since it involves the direct financial interests of both the seller and buyer. The rules on outside employment in the personnel code require employees to obtain permission from their department head on any outside employment; this process enables management to review the proposed work for a potential conflict of interest and set reasonable conditions to prevent any interference with the employee's job with the City. The Code of Ethics further prohibits employees from operating their business on city time or using city resources in their business operations, including a ban on use of confidential information, vehicles, computers, copiers, or cell phones.

Because of the potential for abuse, the Board of Ethics believes that similar financial transactions between a supervisor and subordinate should be discouraged. First, a supervisor's solicitation or acceptance of a charitable donation or negotiation of a business transaction with a subordinate could be interpreted as an action "calculated to influence a vote, decision, or the exercise of official authority." Second, the transactions would appear to violate the purpose of the ethical standards because the supervisor engaged in a transaction that suggests his or her independence has been impaired. Employees owe a fiduciary duty to the City to place their city job above their own financial interests, and engaging in personal business with a subordinate provides opportunities for supervisors to use their position for unfair advantage. Even when the transaction is purportedly for fair market value, the fact that the two are not peers with equal bargaining power raises questions about the appearance of impropriety and whether personal favors are being given in exchange for a favorable evaluation, promotion, or salary increase.

In deciding whether to engage in personal business with coworkers, employees should consider the relationship between the parties, the significance of the transaction, the terms of the transaction, its availability to others on the same or similar terms, and the primary beneficiary. To provide general guidance in understanding these rules, the Board offers the following examples:

Examples of permissible transactions

- Employee posts an order form for Girl Scout cookies on an employee bulletin board designated for personal notices and her supervisor places an order
- Supervisor distributes an office memorandum encouraging employees in the office to contribute to a city-sponsored charitable giving program
- Employee who has received department approval to work as a real estate agent on weekends shows a coworker a house on a Saturday
- Office receptionist sells candy on behalf of the department to raise funds to pay for the office holiday party

Examples of impermissible transactions

- Employee circulates department-wide email and posts flyers in elevators announcing the sale of Girl Scout cookies
- Supervisor asks employees under her for donations to enable her daughter to participate in a student ambassador program
- Official or employee who is a candidate for office asks other employees at work to give a campaign contribution
- Employee sells an insurance policy to another employee, using a city cell phone to confirm the price, a city computer to process the application, and a city printer to print out a copy of the policy

In summary, employees may engage in financial transactions with coworkers if (1) city resources are not used, (2) the transaction does not disrupt the normal course of city business, and (3) there is no attempt to use a position to obtain a personal advantage. On the other hand, supervisors should not solicit donations for private charities or engage in business transactions with the subordinates in their office because it is an inherently coercive situation and easily subject to abuse or misinterpretation. These guidelines are minimum standards, and city agencies may choose to adopt stricter rules and forbid any fundraising or business transactions among their employees.

Approved October 16, 2008

City of Atlanta Board of Ethics

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