

HR/LR Policy #1332

Code of Ethics – Acceptance of Discounts Offered to Government Employees

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Authority: Labor Relations

OVERVIEW

Objective

To clarify the Code of Ethics provisions regarding acceptance of special discounts or offers made by private businesses to state employees.

Policy Statement

State employees will follow the provisions of M.S. 43A.38 as clarified in this policy.

Scope

This policy applies to employees of executive branch agencies, as defined in M.S. 43A.02, subd. 22.

Definitions and Key Terms

N/A

Exclusions

This policy does not change the airline travel credit policy described in M.S. 15.435, which requires state employees and elected officials to assign or transfer to the state any airline travel credits earned from state-paid travel.

Statutory References

M.S. 43A.38, Code of Ethics for Employees in the Executive Branch

GENERAL STANDARDS AND EXPECTATIONS

Acceptance of Discounts Offered to Government Employees

Question:

Can state employees take advantage of special discounts or offers made by private businesses to “government employees” without violating the Code of Ethics? Specifically, would acceptance of a special discount or offer violate the prohibition on employees accepting gifts or violate the conflict of interest prohibition?

Answer:

Special discounts or offers made generically to “government employees” are generally not a violation of the Code of Ethics prohibition on gifts. Employees may generally take advantage of these offers, unless a conflict of interest is involved in that the work responsibilities of the state employee directly concern the private business that is making the offer.

Discussion:

The Code of Ethics for employees of the executive branch is codified at M.S. 43A.38. The applicable sections regarding this issue are as follows:

“Employees in the executive branch *in the course of or in relation to their official duties* shall not directly or indirectly receive or agree to receive any payment of expense, compensation, gift, reward, gratuity, favor, service or promise of future employment or other future benefit from any source, except the state for *any activity related to the duties of the employee* unless otherwise provided by law.” (M.S. 43A.38, subd. 2, emphasis added.)

“The following actions by an employee in the executive branch shall be deemed a conflict of interest . . . (1) use or attempted use of the employee’s official position to secure benefits, privileges, exemptions or advantages for the employee . . . which are different from those available to the general public; (2) acceptance of other employment or contractual relationship that will affect the employee’s independence of judgment in the exercise of official duties.” (M.S. 43A.38, subd. 5.)

In other words, state employees may only be paid for the work they do for the state *by the state*. The rationale for this prohibition is to assure that the loyalty of state employees in conducting their work responsibilities is not unduly influenced by payment from an outside source.

When a private business offers a special discount on its services/products for “government employees”, the issue becomes whether this offer *is in the course of or in relation to the employee’s official duties* or is some type of a payment for an *activity related to the duties of the employee*. When a special discount is offered to “government employees” in general, it is most likely a marketing strategy of the private business to increase *its business*, not to influence the work responsibilities performed by a government employee. For this reason, such discounts are generally *not* a violation of the Code of Ethics prohibition on gifts. Employees may generally take advantage of these offers.

Acceptance of these offers is not allowed, however, if the work responsibilities of the employee directly concern the private business that is making the offer. For example, an employee whose work responsibilities are the licensing of health club facilities cannot accept a special discounted membership for government employees to a health club facility. This is because the employee’s work responsibilities have a direct connection to the business and would create a conflict of interest.

RESPONSIBILITIES

Agencies are responsible for the request:

Ensuring that employees are aware of the Code of Ethics and specific provisions clarified in this policy.

MMB is responsible for:

Assisting agencies with any questions or concerns regarding the Code of Ethics, and making determinations of whether particular activities are allowable or not allowable under the Code of Ethics.

FORMS AND SUPPLEMENTS

N/A

REFERENCES

M.S. 43A.38, Code of Ethics for Employees in the Executive Branch

CONTACTS

Labor Relations/State Ethics Officer

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