
Memo

DATE: December 10, 1996

TO: Agency Heads, Human Resource Directors/Designees and Labor Relations Representatives

FROM: Karen L. Carpenter
Deputy Commissioner/Acting Commissioner

RE: Acceptance of Special Discounts to Government Employees

I have received a number of inquiries regarding whether state employees can take advantage of special discounts or offers made by private businesses without violating the Code of Ethics.

The following is clarification of our policy concerning acceptance of discounts.

Acceptance of Discounts 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 for Executive Branch employees? 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. 43.38. 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.” (emphasis added)

“The following actions by an employee in the executive branch shall be deemed a conflict of interest ... (a) 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; (b) acceptance of other employment or contractual relationship that will affect the employee’s independence of judgment in the exercise of official duties.”

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

When a private business offers a special discount on their services/products for “government employees” the issue becomes whether this offer is *in the course of or in relations 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 *their 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.

The only situations in which acceptance of these offers is not allowed is 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. This is because the employee’s work responsibilities have a direct connection to the business and would create a conflict of interest.

This policy does not eradicate the airline travel credit policy described in M.S. 15.435.

If you have any questions about this opinion or need to discuss the specifics of a particular special offer, please feel free to contact Sandy Hyllengren at 296-2642 (rev. 2/98).

cc: Exclusive Representatives