



TEXAS ETHICS COMMISSION



ETHICS ADVISORY OPINION NO. 66

October 23, 1992

Whether a state agency may accept and pass on to its employees discount coupons to an amusement park. (AOR-57)

The Texas Ethics Commission has received a request for an advisory opinion from a state agency that has received from amusement parks promotional discount coupons for distribution to its employees. The amusement parks are not regulated by the agency. The agency has asked whether either chapter 36 of the Penal Code or chapter 305 of the lobby statute prohibits the employees from accepting such coupons. See [Ethics Advisory Opinion No. 31](#) (1992) (regarding gifts to agencies).

Under specified circumstances, state employees are prohibited from accepting "benefits." Penal Code § 36.08. "Benefit," for purposes of those prohibitions, means anything "reasonably regarded as pecuniary gain or pecuniary advantage." *Id.* § 36.01(5). The coupons in question are not free passes. Rather they permit a small reduction in the price of a ticket. Similar discounts are apparently widely available from the amusement parks through other sources. In these circumstances, the coupons do not fall within the definition of benefit. See [Ethics Advisory Opinions Nos. 62, 61, 60, 36](#) (1992) (considering whether various things are benefits).

Chapter 305 of the Government Code regulates expenditures made to communicate with agency employees to influence agency action. If the donor's purpose is to drum up business from state employees acting in their private capacity, not to influence agency action, the lobby statute would not be applicable in the situation described.

Constitutional limits on the use of public funds for private purposes would limit the use of state resources to distribute coupons to state employees. Tex. Const. art. III, § 51. The constitution would not, however, prohibit the incidental use of agency space--a table in the personnel office, for example--to make the coupons available to agency employees. See Attorney General Opinion JM-431 (1986) (constitution does not prohibit incidental use of county office space to collect aid for disaster victims).

SUMMARY

"Benefit" under chapter 36 of the Penal Code does not include promotional discount coupons, as described in this opinion, that are delivered to state agencies for distribution to agency employees. The lobby statute does not apply to the delivery of such coupons if the donor's purpose is not to influence agency action but to attract business from state employees in their private capacity.