

USG Intercollegiate Athletics Conference

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Laws, Regulations and Policies Related to Colleges and Universities

- State Gratuity Clause – Constitution Art. III, Sect.VI, Para VI
- Numerous Attorney General Opinions
- Board of Regents Policy Manual
- USG Business Procedures Manual
- State of Georgia Travel Regulations
- State Accounting Office Policy Manual
- DOAS Purchasing Regulations
- State P-Card Program Policy
- State Ethics Code – Executive Order

Expenditures - Things to Consider

State Gratuity Clause Constitution Art. III, Sect.VI, Para VI

Gratuities. (a) Except as otherwise provided in the Constitution, (1) the General Assembly shall not have the power to grant any donation or gratuity or to forgive any debt or obligation owing to the public, and (2) the General Assembly shall not grant or authorize extra compensation to any public

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Expenditures - Things to Consider

Attorney General Opinions

The gratuities clause as written is fairly ambiguous, however, there are numerous court cases and AG Opinions over the years which provide the true substance behind the intent of the “gratuities clause”.

Several notable opinions:

- 2004-3
- U2001-4
- U98-15
- 95-22
- 71-42

Expenditures - Things to Consider

Key component of AG opinions:

State must derive some “substantial benefit” from the grant or use of its assets. Substantial benefit means that State would receive fair value in return for value given. Return of anything less than fair value would be gratuitous.

Best way to avoid a gratuities violation: Ensure that benefit received is substantial, reciprocal, measurable and it directly benefits the school/State.

Expenditures - Things to Consider

The USG operates in a complex purchasing and contracting environment governed by laws of the State of Georgia, policies of the Board of Regents, and regulations of the Georgia Department of Administrative Services (DOAS), State Accounting Office (SAO), Georgia Technology Authority (GTA), and Georgia Office of State Treasurer (OST).

Example: A purchase order is required for all goods and services more than \$2,500 in accordance with SAO/Statewide Purchase Order Policy.

Expenditures - Things to Consider

- External and internal audits
- IRS Compensation audits
- All purchases are monitored by DOAS purchasing auditors on a continuous basis
- Travel
 - Per Diem \$28 per day in State/\$36 per day High Cost Area in State/ GSA Rate (U.S. General Services Administration)
 - Lodging - Hotels/Condos/Houses
 - VRBO/AirBNB is prohibited
- Cash Advances

Expenditures - Things to Consider

- Executive Fringe Benefits
- P-Card purchases are monitored by DOAS on a continuous basis
 - All P-Card purchases over \$100 requires prior approval/purchase order
 - P-Cards are not allowed to be utilized to pay for employee travel costs (lodging, meals, etc.)
- Public Scrutiny/Newspaper Test
- Review of financial transaction activity

Taxability of Employee Uniforms/Clothing

Work Clothes and Uniform Allowances and Reimbursements

Clothing or uniforms are excluded from wages of an employee if they are:

- specifically required as a condition of employment; and
- are not worn or adaptable to general usage as ordinary clothing.

The accountable plan rules must be met for reimbursements or clothing allowances. *IRC §162; Reg. §1.62-2(c)(1)*

Taxability of Employee Uniforms/Clothing

Periodic allowance payments made to employees for the purchase and maintenance of specific articles of *employer-required* uniforms are not taxable to the employees to the extent that the allowances are used to pay for uniforms are not adaptable to general use,

Taxability of Employee Uniforms/Clothing

Court cases may provide us enough flexibility to continue to provide grounds, maintenance and food service employees with uniforms without having to reflect as taxable compensation as they are characterized as “torn or stinky” (Madsen v. Commissioner, “bulky, utilitarian in fashion and unsuitable for personal use” (Jackson v. Commissioner) or dirty and stained (Cross v. Commissioner).

Questions?