

Ethics of Using an Exclusive Referral Partner

Dear Ask A Pro,

If we develop a referral relationship with a business that may provide a service to those we serve, is it unethical to accept a corporate sponsorship from this business? The corporate sponsorship would provide publicity for the business on our website, newsletter, etc.

I am concerned about the potential for the public and those we serve to see the corporate sponsorship as a payment/incentive to us for the referrals...although that is not the case. The business does not get any money from those we refer (they provide a free service):

- 1) Are there things we can do to make sure that this partnership can be pursued in an ethical manner?
- 2) Does it become too risky, if, in addition to this referral relationship, a member of our board of directors works for this business? I have to state that this business provides a unique opportunity for those we serve, not provided by any other business in the area. There are no other businesses in our area who provide this service. We would make sure to disclose this relationship with the board.

Signed, Referral Partner

Dear Referral Partner,

You raise several important issues about the ethics involved between your nonprofit and your corporate referral partner.

As you described your relationship to this business, it is both a vendor (provider of services) and contributor (corporate sponsor). Given your special relationship with them, their employee serving on your board and their willingness to provide "free" services to those you serve, they are also "volunteers". On the surface, it sounds like a wonderful relationship.

You are wise to question the "perception" of ethical conflict even when there may not be one present. Indeed, if there were other businesses to which you could refer but you only referred to the one business, it could be a problem, especially given the relationship to a member of your board. We usually suggest that when there are multiple businesses that provide a service to those served by nonprofits, that the referring organization suggest at least two or three from which it's client/member/customer/patient can choose. In your case, you have indicated there are no other businesses in your area that provide the service free or otherwise.

On the matter of publicity and recognition, another caution. You indicated that you will give recognition on your web site and in other ways to this corporate sponsor. Is it a "condition or quid pro quo" of the gift that you will give them special recognition on your web site? If so, it elevates the concern and

indeed presents ethical issues. Focus your recognition on the corporate sponsorship in the same way that you would with any other corporate sponsor, which gives at the same level. Try to avoid any indication of them being a preferred vendor or partner. You want to make sure that their gift is not seen as a purchase of advertising space, if indeed it is a charitable gift. There is nothing inappropriate in giving recognition to them for their free services but focus on that being part of their overall donation and volunteer services to your organization. If you ARE selling them a space for special recognition on your web page, would you, (do you) offer similar opportunities to other businesses? Do you have an advertising policy and established rates? Based upon all of the facts that you have presented, this is where your example above is most vulnerable related to ethics if you are providing an “exclusive” relationship not offered to other businesses.

Does your gift acceptance policy deal with these issues? If not, it should. The following is taken from a sample gift acceptance policy that addresses potential issues such as you have identified.

- When considering whether to solicit or accept gifts, the organization will consider the following factors:
- Values—whether the acceptance of the gift compromises any of the core values of [Organization Name]
- Compatibility—Whether there is compatibility between the intent of the donor and the organization’s use of the gift
- Public Relationships—whether acceptance of the gift damage the reputation of [Organization Name]
- Primary Benefit—whether the primary benefit is to [Organization Name], versus the donor
- Consistency—is acceptance of the gift consistent with prior practice?
- Form of Gift—Is the gift offered in a form that [Organization Name] can use without incurring substantial expense or difficulty?
- Effect on Future Giving—Will the gift encourage or discourage future gifts?

All decisions to solicit and/or accept potentially controversial gifts will be made by the Executive Committee of the Board in consultation with the Executive Director. The primary consideration will be the impact of the gift on the organization.

The best way to avoid the “appearance” of impropriety is to be fully transparent. Be clear that the business has volunteered to provide free services to those you serve and that they continue to be supporters of your mission and programs through their volunteer work and contributions.

First and foremost, make sure your CEO/Executive Director and Board Chair are in agreement on how to handle this situation. You can give them input and guidance on ways to proceed.

When you disclose the relationship to the board, make sure that you have first discussed the matter completely with the board member who works for that business and that he/she understands that there would be a conflict of interest if in any way, he/she used their influence related to the corporate relationship. He/she should recuse themselves from any board discussion or vote related to that business. It would also be appropriate to ask him/her to leave the board meeting during the time that this issue is discussed.

We would also suggest that you approach this whole situation as a very positive development. Focus on the benefits to your organization and at the same time present your recommendations to leadership related to any potential perception of conflict.

While you can be most helpful in giving guidance to this process, it is important that the CEO/Executive Director and Board Chair take the lead, especially related to the presentation to the Board and discussions with the Board member.

Once formally reviewed by your board and approved, we also suggest that you follow up with those who you refer to the business to ensure that they received a quality service and that the business is doing all that they have agreed to as part of your referral understandings.

Most nonprofit professionals would be jealous of your relationship with this business. You have a vendor who provides free service, has one of its own leaders involved on your board and is a financial supporter to boot. If handled appropriately, it can be a grand slam.

Sincerely,

ASK A PRO