



PRESS-REGISTER

Tyson probing schools funding

Donations were solicited from companies doing business with the Mobile system

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Staff Reporter

To pay for food, entertainment and door prizes at various events, Mobile County school system representatives solicited and received thousands of dollars in donations from companies doing business with the system.

That included \$1,100 worth of Wal-Mart gift certificates for attendees at one teacher workshop, a \$4,350 catered lunch at the same workshop, and a disc jockey at another event, according to records obtained by the Press-Register.

Mobile County District Attorney John Tyson Jr. said last week that he is investigating the fundraising but declined to provide details.

"A public entity cannot do that," said Hugh Evans, general counsel for the Alabama Ethics Commission, after being told last week about the school system solicitations.

Evans said that while he could not comment on the Mobile County case specifically, "if they were to contact me about it, I would strenuously encourage them to stop that. The bottom line is that you cannot solicit anything of value from anyone who does business with you."

In May, Mobile County school officials stopped the solicitations under instructions of the system's chief financial officer, Dinish Simpson. In fact, the system has returned \$5,600 in checks to various businesses since school officials began reviewing the practice.

Ingram's memo

Deputy Superintendent Samantha Ingram -- the No. 2 person in the school system -- explained the solicitation process in a July 2005 memorandum. At the time, Ingram was assistant superintendent over federal and special programs, the division that received and then spent the donated money.

Concerning a luncheon to wrap up three-weeks of training known as "Raise the Bar: Close the Gap," Ingram wrote that employees in her department "rallied financial support from vendors who are currently affiliated with the Mobile County Public School System. An account was set up to accept donations to provide a luncheon and gift certificates for the faculties of the 15 schools involved in the conference."

That money paid for the \$4,350 buffet lunch as well as 22 Wal-Mart gift certificates for \$50 apiece, given out as door prizes, according to the records. The conference was held at Blount High School in Prichard.

Ingram could not be reached for comment for this story.

Several system employees who are listed on the records obtained by the Press-Register declined to comment.

"I've been told not to discuss it until it's settled," said Lynn Huey, a supervisor in the federal programs division, who received some of the checks and wrote notes to the school system's finance department directing those checks to pay for specific events.

Charles Johnson, fiscal administrator for federal programs, used e-mail to respond to Press-Register questions. He wrote that his department, like others within the school system, had been soliciting funds in this manner for the past eight or nine years under guidance of the system's business department.

He said employees do not pressure the vendors for money.

"It is done strictly on a volunteer basis," Johnson wrote. "All vendors are informed regarding the upcoming events, and they volunteer their support to us based on their budgeted discretionary funds ..."

Through a spokeswoman, schools Superintendent Harold Dodge declined to comment, due to the pending investigation.

According to school system documents, companies gave checks worth a total of at least \$12,000 from May 2004 until May this year, when the system halted solicitations. The funds were then earmarked for various luncheons or workshops.

Those checks were deposited into specially created accounts within the school system's general fund, and the funds were withdrawn to pay bills for food, facility rentals and other expenses without going through the full budget approval process.

Felt no pressure

Last summer, Toni Shay, a consultant with Scholastic Inc., wrote a check for \$1,000 out of her personal account to help pay for the Raise the Bar luncheon.

When contacted, Shay said she can't remember who specifically from the school system called her, "but someone said, 'You do a lot of work with the school district. We need some help,'" Shay said.

She said she didn't feel pressured to give the money.

And, she said, she didn't think that refusing to contribute would cost her work with the school system in the future.

She said that school systems across the state have similarly asked for and received money from her and other vendors whom she knows.

"It's a way to give back to the community," said Shay, whose company trains teachers. "School systems aren't provided money in the budget to provide refreshments. It's against school district policy. I see this as a nice thing to do for teachers who are coming in to work during the summer.

"Teachers generally don't get treated as professionals, and this is one small thing we can do."

Some of the vendors that wrote checks to the school system provide after-school tutoring or other academic programs for students.

Two -- Scholastic Inc. and the McGraw-Hill Companies -- each sold more than \$1 million in textbooks to the school system over the last two years.

Shay said she's not certain how much money the school system has paid her over the years, and the system was unable to provide that information last week. Shay said her work with Scholastic is separate from the textbooks division. She estimated that she has done work in each of the system's approximately 100 schools.

What the records show

The companies contributing funds to the system held contracts that the system was not required to put out for competitive bids under state law, according to records examined by the newspaper.

Those records show, for example:

Five federal and special programs employees attended a retreat at the Lazy P Ranch in Tillman's Corner in August 2005, each paying a \$200 registration fee. A \$250 check from Catapult Learning -- a tutoring service -- was designated to pay for at least one catered meal.

Federal and special programs hosted a workshop and Christmas party at the Lazy P on Dec. 8-9, 2005, paying \$1,500 to rent the facility.

The staff was treated to \$1,695 worth of Saucy Q barbecue ribs, chicken and side dishes and five hours of entertainment provided by a disc jockey, who charged \$300. Catapult Learning wrote a check to the school system for \$1,995 to pay for those items.

In November 2005, the school system paid \$1,365 to Perfect Touch Catering for a buffet dinner, "linens, chafing and serving dishes, paper products and service personnel required for a total of 287 guests over a three-day-period." The nature of the event was not clear in the records provided, though it was designated as staff development for the system's federal programs office on the purchase order.

The school system received a \$1,365 check from Catapult Learning that month "for food for workshop."

In the spring of 2004, the school system received one check from another representative of Scholastic Inc. and two from a representative of Compass Learning -- a software supplier -- for a total of \$750. Those checks were marked as being intended to pay for an End of the Year Celebration held at the school system's Russell Building on Broad Street, which houses federal and special programs.

In early August, the Press-Register requested copies of records of expenditures from that End of the Year event. The school system had not provided any as of last week.

Tyson's investigation, along with an internal review by the school system, has prompted questions about whom the school system can receive money from and what the system can use that money for.

'A very fine line'

Evans, with the Alabama Ethics Commission, said definitively that school system officials cannot ask for money from companies that do business with that system.

But, he said, if an outside business -- he gave Coca-Cola as an example -- wanted to give a school money, then "Coca-Cola could do anything that they want to do as a member of the community."

"There's a very fine line. Once you cross that line, and you're soliciting, and a vendor feels obligated, then you have a problem," Evans said.

Craig Pouncey, assistant state superintendent for the Alabama Department of Education, said county superintendent Dodge contacted him recently for advice on the matter.

Pouncey said Dodge brought him a copy of a report from the system's internal review and asked if the school system had done anything wrong.

Pouncey said he didn't believe that the school system did anything improper because no employees reaped personal gain.

An employee soliciting the funds, for example, would not be able to keep one of the gift certificates bought with that money, he said. Giving those certificates out as an incentive for staff, he said, "is something that is acceptable."

Pouncey said he had heard that Tyson looked into the situation, found no wrongdoing and dropped the

investigation. "Certainly I think it speaks volumes that some of this same information was reviewed by the DA and he choose not to pursue it," Pouncey said. "There was no wrongdoing."

Tyson said that Pouncey was misinformed about the investigation. "The DA hasn't dropped anything," Tyson said.

The Alabama Ethics Commission has provided some differing opinions on the issue.

A 1998 opinion stated that a public agency -- in that case the Geological Survey of Alabama and the Oil and Gas Board -- could not solicit donations from vendors doing business with that agency.

A similar opinion in 1996 stated that agencies could not solicit a thing of value from businesses that the agencies "directly inspect, regulate or supervise."

But Pouncey cited a 2004 Ethics Commission opinion that allowed employees of the Alabama Crime Victims Compensation Commission to solicit donations for its Fund Run, which benefited crime victims.

That opinion stated that the commission employees could do so -- as long as "specific vendors do not feel coerced into contributing" -- because there was no "personal gain" for the employees.

Donations returned

This year, as Mobile County school officials returned \$5,600 worth of checks, they enclosed letters telling the donors "we are unable to accept."

Simpson, the school system's chief financial officer, wrote in a May 18 memorandum to various school officials: "Recent events dictate that we change our procedures on ... accepting donations from vendors.

"All donations from vendors (whether or not we do business with them) to sponsor meetings of any kind can no longer be accepted," she wrote.

Lori Zirlott, comptroller for Mobile County schools, said the system is reworking its policy concerning whether system money can be used to pay for food at workshops.

Zirlott said she has read conflicting opinions by various state agencies, some saying that public entities can buy food and other opinions saying that the agencies can't plan to feed their employees.

She said Simpson -- who was out of town and could not be reached for comment last week -- is working with the system's lawyer and the Ethics Commission to come up with the new policy.

School board members contacted last week said they were concerned by the practice of soliciting funds from vendors.

Board President Lonnie Parsons said he wasn't sure about how the law applied, but he worried that the practice could generate negative perceptions.

"I think it's great that they're looking into this. If it's something that's wrong, we need to do something about it," Parsons said.

Board member Bill Meredith said he had looked through the same documents obtained by the Press-Register, and still had questions about how the money was solicited.

He said he was also concerned about why the school system leased facilities, such as the Lazy P Ranch, when the system has its own buildings.

"One of the questions I have is why weren't there any funds given from people who weren't doing business with the school board?" Meredith said.

"If you call somebody up and said, 'Look you're doing a million dollars worth of business with us. We need help,' If I was doing one million dollars worth of business, I know what I would do."

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