

SUBJECT: STATE EMPLOYEE ATTENDANCE AT VENDOR-SPONSORED SHOWS

SUMMARY:

State employees would not be prohibited from accepting a meal or coffee break from vendors at vendor-sponsored shows or seminars, so long as they are provided to all program participants.

QUESTION:

The General Counsel and Finance Director of the Criminal Justice Academy has requested an opinion on the following situation: State employees, including purchasing officials and others responsible for decisions concerning vendors, are often invited to vendor-sponsored shows or seminars. These seminars typically include free coffee breaks and meals (lunch) and may or may not involve a registration fee. These shows or seminars are valuable in that new technology is often explained, employees learn of the availability of new equipment, and have an opportunity to talk to other customers.

DISCUSSION:

This opinion is rendered in response to a letter dated December 9, 1991 requesting an opinion from the State Ethics Commission.

The Commission's jurisdiction is limited to the applicability of the Ethics, Government Accountability, and Campaign Reform Act of 1991 (Act No. 248 of 1991; Section 8-13-100 et. seq., as amended, 1976 Code of Laws). This opinion does not supersede any other statutory or regulatory restrictions or procedures which may apply to this situation.

Section 8-13-710(B) provides:

(B) A public official, public member, or public employee required to file a statement of economic interests under Section 8-13-1110 who receives, accepts, or takes, directly or indirectly, from a person, anything of value worth twenty-five dollars or more in a day and anything of value worth two hundred dollars or more in the aggregate in a calendar year must report on his statement of economic interests pursuant to Section 8-13-1120 the thing of value from:

- (1) a person, if there is reason to believe the donor would not give the thing of value but for the public official's, public member's, or public employee's office or position;
- (2) a person, or from an officer or director of a person, if the public official, public member, or public employee has reason to believe the person:
  - (a) has or is seeking to obtain contractual or other business or financial relationships with the public official's, public member's, or public employee's governmental entity.
  - (b) conducts operations or activities which are regulated by the public official's, public

member's or public employee's governmental entity.

Section 8-13-705(b) provides:

(B) A public official, public member, or public employee may not, directly or indirectly, knowingly ask, demand, exact, solicit, seek, accept, assign, receive, or agree to receive anything of value for himself or for another person in return for being:

- (1) influenced in the discharge of his official responsibilities;
- (2) influenced to commit, aid in committing, collude in, allow fraud, or make an opportunity for the commission of fraud on a governmental entity; or
- (3) induced to perform or fail to perform an act in violation of his official responsibilities.

In Advisory Opinion SEC AO92-032, the State Ethics Commission advised:

Acceptance of anything of value from a regulated association is not a per se violation of the Ethics Reform Act. In accordance with Section 8-13-710(B), the acceptance of anything of value given by a person whose activities are regulated by the recipient's agency is to be reported on the Statement of Economic Interests

if it exceeds \$25 per or \$200 in a calendar year. Whether acceptance of such thing of value is a violation of Section 8-13-705 would depend on the circumstances of such offer or receipt of the thing of value.

The provision of a coffee break or meal by a vendor to all participants at a show or seminar would not violate the provisions of the Ethics Reform Act; unless given to influence the recipient.