

SUBJECT: SCHOOL BOARD MEMBERS RELATIONSHIPS WITH VENDORS

SUMMARY:

The State Ethics Commission would advise that public employees or officials weigh the impact on a case by case basis of offers by vendors who have contracts with a school district to provide meals, golf outings, etc. Vendors may sponsor conference activities in accordance with sponsor solicitation guidelines established in Advisory Opinion SEC AO92-061.

QUESTION:

The Deputy Executive Director of the SC School Boards Association questions: Can a vendor, lawyer, architect, or any such person who recently works with a school district or who may be employed with the district in the future take school board members to dinner, play golf, etc.? She also advised that vendors or lawyers have been asked to sponsor conference activities and question whether such support is prohibited. Also, a vendor has questioned whether he can continue to invite individual school board members out for a meal or to play golf.

DISCUSSION:

This opinion is rendered in response to a letter dated January 8, 1992 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.

Section 8-13-100(1) defines anything of value as:

(1)(a) "Anything of value" or "thing of value" means:

- (i) a pecuniary item, including money, a bank bill, or a bank note;
- (ii) a promissory note, bill of exchange, an order, a draft, warrant, check, or bond given for the payment of money;
- (iii) a contract, agreement, promise, or other obligation for an advance, a conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge, or transfer of money;
- (iv) a stock, bond, note, or other investment interest in an entity;
- (v) a receipt given for the payment of money or other property;
- (vi) a chose-in-action;
- (vii) a gift, tangible good, chattel, or an interest in a gift, tangible good, or chattel;
- (viii) a loan or forgiveness of indebtedness;
- (ix) a work of art, an antique, or a collectible;
- (x) an automobile or other means of personal transportation;
- (xi) real property or an interest in real property, including title to realty, a fee simple or partial interest in realty including present, future, contingent, or vested interests in realty, a leasehold interest, or other beneficial interest in realty;
- (xii) an honorarium or compensation for services;
- (xiii) a promise or offer of employment;
- (xiv) any other item that is of pecuniary or compensatory worth to a person.

(b) "Anything of value" or "thing of value" does not mean:

- (i) printed informational or promotional material, not to exceed ten dollars in monetary value;
- (ii) items of nominal value, not to exceed ten dollars, containing or displaying promotional material;
- (iii) a personalized plaque or trophy with a value that does not exceed one hundred fifty dollars;
- (iv) educational material of a nominal value directly related to the public official's, public member's, or public employee's official responsibilities;
- (v) an honorary degree bestowed upon a public official, public member, or public

employee by a public or private university or college;
(vi) promotional or marketing items offered to the general public on the same terms and conditions without regard to status as a public official or public employee; or
(vii) a campaign contribution properly received and reported under the provisions of this chapter.

Whether acceptance of such travel, meals, and lodging is prohibited by Section 8-13-705 should be determined on a case by case advisory basis, depending upon the donee, the donor, the type and amount involved, and whether there are any matters pertaining to the donor before the agency with which the officeholder or employee is associated.

As to sponsorship of conference programs, the State Ethics Commission advised in Advisory Opinion SEC AO92-061 that:

- (1) Solicitation be done either by a separate foundation and/or by employees who are not directly involved in agency activities regarding such businesses which are being solicited.
- (2) All interested potential sponsors be given the opportunity to contribute.
- (3) The contribution be made to a separate fund or account, with no industry source supporting any particular activity or event
- (4) Such industry source be identified as a conference supporter or sponsor on conference programs, billboards, etc. with no amounts being shown to participants.