

SUBJECT: DEPARTMENT OF EDUCATION PUBLISHING NEWSPAPER INCLUDING  
ADVERTISEMENTS

SUMMARY:

The Department of Education may publish a newspaper utilizing advertisements, including those from vendors or potential vendors, which are solicited by a contracted publishing company and utilizing safeguards to eliminate pressure on vendors or potential vendors

QUESTION:

The State Superintendent of Education is planning to publish a newspaper beginning in early 1992. To finance the paper, advertisements will be solicited by a contracted publishing company. The newspaper will contain a disclaimer that the advertisements do not constitute an endorsement by the Department. Ads will be scrutinized to insure that there is no blatant effort to sway purchasing decisions. A sales solicitation pitch will be developed devoid of pressure and making clear that the publisher, not the Department, is soliciting the ads. In addition, advertisers will be asked to respond through a mail response card regarding any undue pressure to advertise. The Superintendent requests the Commission's opinion concerning this proposal.

DISCUSSION:

This opinion is rendered in response to a letter dated November 6, 1991 requesting an opinion from the State Ethics Commission. The Commission's jurisdiction is limited to the applicability of the State Ethics Act (Act No. 248 of 1991; Section 8-13-100 et. seq., 1976 Code of Laws). This opinion does not supersede any other statutory or regulatory restrictions or procedures which may apply to this situation.

In prior advisory opinions, the State Ethics Commission has advised that an arms length arrangement needs to be maintained concerning activities with vendors or potential vendors. From the proposal presented to the State Ethics Commission, it appears that the arms length relationship will be maintained. There does not appear to be any personal benefit to be derived by Department employees from this proposal. Further, the precautions to be followed by the Department in contracting with a publishing company to conduct the ad solicitation and insuring that there is no pressure or questions regarding future agency contracts appear to be consistent with the spirit and intent of the Ethics, Government Accountability, and Campaign Reform Act of 1991.