

SUBJECT: HOSPITALITY AND EXPENSE PAYMENT FOR EMPLOYEE MEETINGS

SUMMARY:

Public employees are not prohibited from accepting a meal from the sponsoring group for giving a speech where the meal is provided to all persons participating in the same event. Staff members who serve on a committee associated with a Federal agency may have costs paid by the Federal agency. A meal provided by a co-sponsor of a program would not be prohibited. Meals provided to a staff member by vendors for local libraries are not prohibited unless the meal is given to influence an official action

QUESTION:

The Director of the State Library has posed the following questions

- (1) I understand it will be illegal to accept a meal when a state employee is a speaker at a banquet, luncheon, etc. Is this correct?
- (2) A State Library staff member and I are members of a Library of Congress committee. When the committee meets the Library of Congress covers all costs associated with the meeting; airfare, hotel bills, meals, etc. Is this still permitted?
- (3) The State Library is cosponsoring a year-long celebration with a non-profit group, the Palmetto Project. We have monthly luncheon meetings which several staff members attend. Lunch is paid by the Palmetto Project. Is this still permitted?
- (4) Vendors who have sold libraries in the state local automation systems periodically have meetings of their clients to discuss their products. The State Library is often asked to meet with them to discuss how their systems fit in to the overall state plan for sharing library resources. Often these meetings are breakfast or luncheon buffet meetings. Can our staff accept an invitation to eat with the group and participate in their discussions?

DISCUSSION:

This opinion is rendered in response to a letter dated December 5, 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 8-13-715 provides in part as follows:

A public official, public member, or public employee acting in an official capacity may not receive anything of value for speaking before a public or private group. Notwithstanding the limitations of Section 2-17-90, a public official or public member may receive payment or reimbursement for actual expenses incurred for a speaking engagement. The expenses must be reasonable and must be incurred in a reasonable time and manner in which to accomplish the purpose of the engagement.

In Advisory Opinion SEC AO92-023, the State Ethics Commission advised that a public employee would not be prohibited from accepting a meal for giving a speech in an official capacity at a meal function where the meal is provided to all other persons participating in the same event.

As to the second question, the State Ethics Commission notes the provisions of Section 2-17-90 which allow the provision of lodging, transportation, entertainment, food, meals, and beverages when the recipient is a member of a group and is not singled out for receiving such thing of value. It appears that the participation of employees on national boards or committees is beneficial not only to the employee but also to the state. Since such costs associated with attendance at such committee meetings is handled by the Federal agency with no financial benefit being provided to the employee, the State Ethics Commission would see no violation of the Ethics Reform Act for an employee having costs of such service paid by the sponsoring committee for service on a national committee whose responsibilities relate to the employee's official duties.

As to the third question, it appears that meals at such monthly meetings would not be prohibited so long as they are provided to insure that the meeting can proceed without disruption or break, and is not provided with the intent to influence the employees in the discharge of their official responsibilities since the recipients are staff support for a joint project co-sponsored by a non-vendor.

With regard to the fourth question, 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.

Further, 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.

From information provided by the requestor, it does not appear that the vendors in question have contracts with the State Library and attendance of State Library staff is for informational purposes only. Therefore, a State Library staff member attending such vendor-information meetings would not violate the provisions of the Ethics Reform Act to accept such hospitality from vendors for local libraries.