

SUBJECT: CONFERENCE ACTIVITIES AND SUPPORT

SUMMARY:

The Guardian Ad Litem Program would not be required to charge a fee for attendees to participate in an annual conference. Meals and tokens of appreciation may be given without violating the Ethics Reform Act. The Program may solicit private sources for funds, goods, or services to assist with agency activities.

QUESTION:

The Program Director for the Guardian Ad Litem Program is responsible for sponsoring an annual one day educational conference for its volunteers. The volunteers receive no compensation for their activities and the conference allows the Program to recognize their contributions. The conference is held at a Columbia hotel with lunch being provided at no charge to all who attend. Tokens of appreciation such as tote bags, t-shirts, coffee mugs, or commemorative pins are given to all attendees. Printed materials are also provided at no charge to conference attendees.

Members of the Program staff are required to attend and employees of other agencies with whom the Program works are invited to participate at no charge. Employees of non-profit organizations participate at no charge. All members of the General Assembly are invited and some members of the legislative staff. In addition, family court judges as well as some members of the Court Administration staff are invited.

The Director raises several questions regarding the planning for the annual conference.

DISCUSSION:

This opinion is rendered in response to a letter dated June 9, 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.

**1. Should, and can, the Program charge a fee to employees of other state agencies? to staff members of private non-profit organizations? Should the Program charge a fee to members of the General Assembly or Family Court bench who attend?**

Section 8-13-705 provides:

(A) A person may not, directly or indirectly, give, offer, or promise anything of value to a public official, public member, or public employee with the intent to:

- (1) influence the discharge of a public official's, public member's, or public employee's official responsibilities;
- (2) influence a public official, public member, or public employee to commit, aid in committing, collude in, or allow fraud on a governmental entity; or
- (3) induce a public official, public member, or public employee to perform or fail to perform an act in violation of the public official's, public member's, or public employee's official responsibilities.

(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 8-13-705 prohibits the acceptance or giving of anything of value to influence an official action of the recipient. Absent an intent to influence, the acceptance of anything of value is governed by the provisions of Section 8-13-710(B) which 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 8-13-710(B) does not prohibit the acceptance of anything of value. Instead, Section 8-13-710(B) requires disclosure on the Statement of Economic Interests of anything of value received from certain persons when worth \$25 or more in a day and \$200 in a year. Therefore, the Commission knows of no reason why the GAL Program could not provide the conference without charge to public officeholders.

The Commission offers no opinion as to the charging of a fee to staff members of private non-profit organizations since they are not encompassed by the provisions of the Ethics Reform Act.

As to the questions involving members of the General Assembly or Family Court being charged a fee, the respective Legislative Ethics Committee or the Judicial Standards Commission should be contacted for their advice.

**2. Can the Program continue to give tokens of appreciation to volunteer GALs who attend the conference? Can state employees in attendance receive the tokens? Can employees of private non-profit organizations receive the tokens? Can members of the General Assembly or Family Court bench receive the tokens?**

The State Ethics Commission advised in Advisory Opinions SEC AO92-039, SEC AO92-061, and SEC AO92-146 that employees may attend hospitality and meal functions at conferences which are vendor-sponsored if provided on the same basis to all program participants. Promotional or educational items provided to all program participants would not be prohibited. The State Ethics Commission knows of no reason why the GAL Program could not distribute promotional items or tokens of appreciation to various program participants.

**3. Can the program solicit funds or goods from private sources to underwrite any part of or all of the costs associated with the conference? If the Program can solicit funds or goods, for what purpose(s) can they be solicited and by whom on the Program staff?**

Section 8-13-705 prohibits the solicitation or receipt of anything of value by a public official, public member or public employee in return for being influenced. The Commission does not believe that the provision of goods or funds to the GAL Program are ipso facto violations of Section 8-13-705. In Advisory Opinions SEC AO92-172 and SEC AO92-211, the Commission expressed the need for the establishment of guidelines for solicitation and donation so as to minimize the possibility of undue influence.

In light of the fact that some firms which are asked to help provide funds or goods to the Program may be doing business or be seeking to do business with the agency, the Commission suggests the following guidelines for any such solicitation:

- (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 may be identified as a conference supporter or sponsor on conference programs, billboards, etc. with no amounts being shown to participants.

The prior opinions mentioned above have advised that private business support of agency activities is not prohibited if given to assist the agency in carrying out its agency responsibilities. Any funds, goods, or services so solicited should be properly accounted for and should be used for the purpose of carrying out agency responsibilities.