

SUBJECT: SHERIFFS AND DEPUTIES ACCEPTING MEALS, HOSPITALITY, AND DISCOUNTS

SUMMARY:

Sheriffs and deputies are not prohibited from accepting meals from groups when they are participating in their official capacity. Officers may partake of meals at hospitality functions when provided on the same basis to all participants. Free or discounted rent may be provided to officers only upon prior written documentation and approval of the law enforcement agency. Out-of-state participation in speeches requiring reimbursement or payment of expenses requires approval of attendance prior to confirmation or participation in the speaking engagement.

QUESTION:

The Executive Director of the SC Sheriffs' Association has requested an advisory opinion on a series of questions:

- (1) May an officer accept a meal as part of an awards ceremony in his/her honor?
- (2) May officers working during an emergency, ie. hurricane, flood, etc., accept meals provided by the Red Cross or Salvation Army or other volunteer organizations?
- (3) May officers accept meals provided by an organization such as Neighborhood Watch, which may precede a meeting at which the officer will be speaking?
- (4) May a group of officers performing as a musical group (in uniform) accept meals from a church or civic group?
- (5) May an officer accept a meal paid for by a governmental entity ie. school, recreation commission, or other public official which is not a lobbyist principal.
- (6) When attending conventions, seminars, etc., may officers partake of hospitality rooms provided by vendors serving food and drink?
- (7) May officers accept free or discounted rent in an apartment complex? Obviously, this is provided by the management as an added security measure.
- (8) Does 8-13-715 require prior written approval before "incurring" expenses out of state; or before "reimbursement" for those expenses?

DISCUSSION:

This opinion is rendered in response to a letter dated January 13, 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.

As to questions one, three, and four the State Ethics Commission advised in Advisory Opinion SEC AO92-023 that a public employee speaking "in an official capacity" could accept a meal which is incidental to the giving of the speech where the meal is provided to all other persons participating in the same event. The Commission advises that such advice would apply to these situations.

As to the second question, meals provided by relief organizations to all volunteer workers in an extraordinary event, such as a hurricane, flood, etc., would not be prohibited. Events such as those may be in remote locations where traditional meals may not be accessible or available. The Commission would advise that meals given in such extraordinary circumstances are not given to influence official action but are part of the overall relief effort to affected parties as well as the relief workers.

As to the fifth and sixth questions, the State Ethics Commission advised in Advisory Opinion SEC AO92-039 that a coffee break or meal provided by a vendor at a show or seminar was not prohibited if provided on the same basis to all participants in the event.

With regard to the seventh question, Section 8-13-705 provides in part as follows:

(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.

While the provision of free rent or discounted rent is not expressly prohibited by the above-quoted section, the Commission notes that the General Assembly passed legislation in 1978 to allow law enforcement officers to engage in off-duty security work. Such free or discounted rent can be construed to be payment for such security measure. The State Ethics Commission would, therefore, advise that the chief law enforcement officer document and approve any such rental arrangements to insure that it is a legitimate security measure and not a means to offer financial support to a law enforcement officer.

As to the last question, Section 8-13-715 provides 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. If the expenses are incurred out of state, the public official or public member incurring the expenses must receive prior written approval for the payment or reimbursement from:

- (1) the Governor, in the case of a public official of a state agency who is not listed in an item in this section;
 - (2) a statewide constitutional officer, in the case of himself;
 - (3) the President Pro Tempore of the Senate, in the case of a member of the Senate;
 - (4) the Speaker of the House, in the case of a member of the House of Representatives;
- or
- (5) the chief executive of the governmental entity in all other cases.

The State Ethics Commission advises that the intent is to have prior written approval before the activity is engaged in. Payment or reimbursement can be coincident with the giving of the out-of-state speech so approval prior to payment or reimbursement would probably be unworkable. The Commission, therefore, advises that such official seek approval from the appropriate person prior to confirming or participating in the speaking engagement.