

SUBJECT: EMPLOYEE UTILIZING CONDO WHILE ATTENDING CONFERENCES

SUMMARY:

A school district employee is advised against charging the school district for use of a condo he/she owns while attending a nearby conference since she obtains financial gain without cost.

QUESTION:

A school district employee attends conferences in the vicinity of a condo which the employee owns. The superintendent allows any employee who owns rental property to stay in their rental unit at the lower of the advertised rental rate for the unit or the cost of lodging at the conference site. The school district pays the realty company which handles the rental of the condo unit. The employee questions how this should be reported on the Statement of Economic Interests and/or whether it violates the Ethics Reform Act.

DISCUSSION:

This opinion is rendered in response to a letter dated February 3, 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 8-13-700 provides in part as follows:

(A) No public official, public member, or public employee may knowingly use his official office, membership, or employment to obtain an economic interest for himself, a member of his immediate family, an individual with whom he is associated, or a business with which he is associated. This prohibition does not extend to the incidental use of public materials, personnel, or equipment, subject to or available for a public official's, public member's, or public employee's use which does not result in additional public expense.

From the facts as submitted, the school district pays the rental agency for the cost determined to be most beneficial to the district. The employee then receives a portion of this rental fee without incurring any costs associated with use of the condo. It appears that the employee is utilizing the attendance at such conference to make rental income. The State Ethics Commission advises that such arrangement, while cost beneficial to the school district, be discontinued since it appears to violate the provisions of Section 8-13-700(A).