

June 9, 1992

SUBJECT: ACCEPTANCE OF MEALS FROM OTHER PUBLIC OFFICEHOLDERS

SUMMARY:

Public officeholders are not prohibited from accepting meals if not given to influence official actions, however, they must be reported on the Statement of Economic Interests if they exceed \$25 a day or \$200 a year from certain individuals.

QUESTION:

The Executive Director of the Upper Savannah Council of Governments questions: Can public officials receive meals from other public employees in the course of every day business activities? Do these officials have to report these meals on their Statement of Economic Interest forms?

DISCUSSION:

This opinion is rendered in response to a letter dated March 23, 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 8-13-705 prohibits both the offer and acceptance of anything of value to influence the actions of a public official, public member, or public employee. Section 8-13-705(A) provides:

- (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.

Anything of value is defined in Section 8-13-100(1) as:

- (1)(a) "Anything of value" or "thing of value" means:
 - (i) a pecuniary item, including money, a bank bill, or a bank note;

- (ii) a promissory note, bill of exchange, an order, a draft, warrant, check or bond given for the payment of money;
 - (iii) a contract, agreement, promise, or other obligation for an advance, a conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge, or transfer of money;
 - (iv) a stock, bond, note, or other investment interest in an entity;
 - (v) a receipt given for the payment of money or other property;
 - (vi) a chose-in-action;
 - (vii) a gift, tangible good, chattel, or an interest in a gift, tangible good, or chattel;
 - (viii) a loan or forgiveness of indebtedness;
 - (ix) a work of art, an antique, or a collectible;
 - (x) an automobile or other means of personal transportation;
 - (xi) real property or an interest in real property, including title to realty, a fee simple or partial interest in realty including present, future, contingent, or vested interests in realty, a leasehold interest, or other beneficial interest in realty;
 - (xii) an honorarium or compensation for services;
 - (xiii) a promise or offer of employment;
 - (xiv) any other item that is of pecuniary or compensatory worth to a person.
- (b) "Anything of value" or "thing of value" does not mean:
- (i) printed informational or promotional material, not to exceed ten dollars in monetary value;
 - (ii) items of nominal value, not to exceed ten dollars, containing or displaying promotional material;
 - (iii) a personalized plaque or trophy with a value that does not exceed one hundred fifty dollars;
 - (iv) educational material of a nominal value directly related to the public official's, public member's, or public employee's official responsibilities;
 - (v) an honorary degree bestowed upon a public official, public member, or public employee by a public or private university or college;
 - (vi) promotional or marketing items offered to the general public on the same terms and conditions without regard to status as a public official or public employee; or
 - (vii) a campaign contribution properly received and reported under the provisions of this chapter.

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.

This section requires disclosure of anything of value worth \$25 or more in a day or \$200 in the aggregate in a calendar year if the gift is from a person who is giving the thing of value because of the officeholder's position, someone who is a potential contractor or someone whose activities are regulated by the officeholder's agency.

Thus, if the meals are not given to influence the Council members in their official functions, they are not prohibited from accepting the meal. If the meal is given because of the recipient's public position, they must be reported on the Statement of Economic Interests if they are worth \$25 or more in a day or \$200 or more in a calendar year.