

SEC AO2010-002

March 17, 2010

SUBJECT: LOBBYIST PROVIDING TRAVEL

SUMMARY: The Ethics Reform Act prohibits a lobbyist from providing travel or sharing the cost of travel with a public official of a state agency, i.e. a university president. The exceptions are limited and do not include economic feasibility or efficiency or the fact that the lobbyist has been retained by the state agency of which the public official is employed.

QUESTION: May a registered lobbyist, whose clients include a state university, share travel expenses with a public official from the state university?

DISCUSSION: The State Ethics 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 2-17-5 et seq. and Section 8-13-100 et seq., as amended, 1976 Code of Laws of South Carolina). This opinion does not supersede any other statutory or regulatory restrictions or procedures which may apply to this situation. Failure to disclose relevant information may void the opinion.

Section 2-17-80 provides as follows:

(A) A lobbyist or a person acting on behalf of a lobbyist shall not offer, solicit, facilitate, or provide to or on behalf of any member of the General Assembly, the Governor, the Lieutenant Governor, any other statewide constitutional officer, any public official of any state agency who engaged in covered agency actions, or any of their employees

any of the following:

- (1) lodging;
- (2) transportation;
- (3) entertainment;
- (4) food, meals, beverages, money, or any other thing of value;
- (5) contributions, as defined in Section 8-13-1300(7).

(B) A member of the General Assembly, the Governor, the Lieutenant Governor, any other statewide constitutional officer, any public official of any state agency who engaged in covered agency actions, or any of their employees shall not solicit or receive from a lobbyist or a person acting on behalf of a lobbyist any of the following:

- (1) lodging;
- (2) transportation;
- (3) entertainment;
- (4) food, meals, beverages, money, or any other thing of value;
- (5) contributions, as defined in Section 8-13-1300(7).

(C) Subsections (A)(1) through (A)(4) and subsections (B)(1) through (B)(4) of this section do not apply to the furnishing of lodging, transportation, entertainment, food, meals, beverages, or any other thing of value which also is furnished on the same terms or at the same expense to a member of the general public without regard to status as a public official or public employee.

(D) Subsections (A)(1), (A)(2), (B)(1), and (B)(2) of this section do not apply to the rendering of emergency assistance given gratuitously and in good faith by a lobbyist, a lobbyist's principal, or any person acting on behalf of a lobbyist or a lobbyist's principal to any member of the General Assembly, the Governor, the Lieutenant Governor, any other statewide constitutional officer, any public official of any state agency who engaged in covered agency actions, or any of their employees.

(E) Subsections (A) and (B) do not apply to anything of value given to a family member for love and affection.

Coastal Carolina University, hereinafter "Coastal Carolina", is a state agency. The Coastal Carolina's president is a public official of the agency. In addition, Coastal Carolina employs a lobbyist and as such, Coastal Carolina is a lobbyist's principal. The lobbyist wishes to share travel with Coastal Carolina's president. Although the reasons for sharing travel are laudable, i.e. economic feasibility and efficiency, they are not included in the exceptions to Section 2-17-80(A) strict prohibition on travel or the provision of anything of value from a lobbyist to a public official. Specific exceptions are found at Section 2-17-80(C), (D) and (E): an event to which the general public is

invited, emergency aid, and gifts to family members. Legislative action would be required in order to create an exception as sought by Coastal Carolina's lobbyist where none now exists.

CONCLUSION:

Lobbyists may not give anything of value to any member of the General Assembly, a statewide constitutional officer, any public official of any state agency who engaged in covered agency actions, or any of their employees. Nor may those covered individuals accept anything of value from a lobbyist. The sole exceptions are for events to which the general public is invited, emergency aid and gifts given to family members. Section 2-17-80(C), (D) and (E). Transportation is specifically prohibited.

KEY WORDS:	lobbyist, state agency, public official
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ANNOTATIONS:	2-17-80
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