

THE JOINT LEGISLATIVE ETHICS COMMITTEE

Advisory Opinion 00-002
May 25, 2000

Syllabus by the Committee:

- (1) A ticket to a political fundraiser given to a member or employee of the General Assembly by a person other than the candidate on whose behalf the fundraiser is being held is a gift pursuant to R.C. 102.02(A)(7);
- (2) A ticket to a political fundraiser given to a member or employee of the General Assembly by the candidate on whose behalf the fundraiser is being held is not a gift pursuant to R.C. 102.02(A)(7);
- (3) A ticket to a political fundraiser given to a member or employee of the General Assembly by their caucus is not a gift pursuant to R.C. 102.02(A)(7);
- (4) A ticket to a non-political fundraiser where the source is a third party is a gift pursuant to R.C. 102.02(A)(7); and
- (5) A ticket to a non-political fundraiser where the source is the entity holding the event is not a gift pursuant to R.C. 102.02(A)(7).

Jurisdiction and Question Presented

Pursuant to sections 101.34 and 102.08 of the Revised Code that direct the Joint Legislative Ethics Committee to act as an advisory body to the members and employees of the

General Assembly on questions relating to ethics, conflicts of interest, and financial disclosure, the Joint Legislative Ethics Committee advises the members and employees of the General Assembly on the following questions: (1) Are tickets to a political fundraiser a gift as defined in R.C. 102.02(A)(7)? and (2) Are tickets to a non-political fundraiser a gift as defined in R.C. 102.02(A)(7)?

Background

Members and employees of the General Assembly may receive tickets to certain events from various sources. Depending upon the circumstances, these tickets may be considered gifts and therefore potentially subject to disclosure or prohibited.

A review of the applicable disclosure requirements and prohibitions for members and employees of the General Assembly with respect to gifts is beneficial. As used in this opinion, the term *employees* refers to those staff persons who file a Financial Disclosure Statement.

Financial Disclosure Statement Disclosure

1. *Gift Section:* Members and employees must disclose the source (the name of the person or entity) where they have received more than \$75 in gifts from that source during the calendar year. These gifts aggregate, meaning if a member receives three \$30 gifts from a person during a calendar year, the \$75 threshold has been exceeded and that person's name must be reported in the Gift Section of the Financial Disclosure Statement. See R.C. 102.02(A)(7)
2. *Gift Section:* If the source of a gift or gifts is a Legislative Agent, members and employees must disclose the source where they have received more than \$25 in gifts, aggregated per calendar year. It is important to remember, this threshold only applies to sources who are Legislative Agents, not entities that are Employers of Legislative Agents. See R.C. 102.02(A)(7)
3. *Non-Disputed Information Section:* Legislative Agents and Employers of Legislative Agents are required to report gifts given to members and employees of the General Assembly where the gift exceeds \$25. When an Agent or Employer

has reported a member or employee, they are required to send a copy of their lobbying form to the member or employee 10 days before it is filed with the Committee. When the member or employee receives the copy, they may dispute the expenditure during that 10 day period. If the expenditure is not disputed, then the member is required to attach that form or write in the information on their Financial Disclosure Statement. See R.C. 102.02(A)(10)

Prohibitions

1. Members and employees are prohibited from accepting more than \$75 in gifts from a Legislative Agent, aggregated per calendar year. Again, it should be noted this is from a Legislative Agent, not from the Employer of a Legislative Agent. R.C. 102.031(C)(3)
2. Members and employees are prohibited from accepting a gift of any amount in the form of cash or the equivalent of cash from a Legislative Agent. R.C. 102.031(C)(3)

Consideration of the Issues

Political Fundraisers

As used in this opinion, political fundraisers are considered to be those events where all monies are paid to the political campaign fund of a person running for office. All monies are considered to be campaign contributions under Title 35 of the Ohio Revised Code. There are several situations where a member or employee of the General Assembly can receive a ticket, each situation shall be addressed separately.

Third Party as Giver

The first circumstance is where a third party purchases a ticket and gives it to a member or employee. This third person is not the candidate for whom the fundraiser is being held. In this situation, the ticket is strictly a gift and depending on the amount may be reportable or prohibited based upon the thresholds noted above. The value of the gift is the face value of the ticket. Therefore, the Committee finds a ticket to a political fundraiser given to a member or

employee of the General Assembly by a person other than the candidate on whose behalf the fundraiser is being held is a gift pursuant to R.C. 102.02(A)(7).

The Committee reminds the members and employees of the prohibition for gifts from Legislative Agents which exceed \$75.

Candidate as Giver

Where the giver of the ticket is the candidate for whom the fundraiser is being held, this differs from where the giver has no relation to the event. In essence, when a candidate allows someone to attend his or her fundraiser without purchasing a ticket, the campaign fund itself is paying for that ticket. The source of the money is campaign funds. There is no intent on the part of the candidate to give a gift, it is the nature of political fundraisers to have other elected official attend in order to support the candidate for whom the fundraiser is being held. The Committee believes this type of arrangement does not fall within the definition of gift as that term is used in R.C. 102.02. Therefore, the Committee finds a ticket to a political fundraiser given to a member or employee of the General Assembly by the candidate on whose behalf the fundraiser is being held is not a gift pursuant to R.C. 102.02(A)(7).

Caucus as Giver

A caucus may provide its members with tickets to certain political fundraisers, fundraisers at the local, state, or federal level. Similar to a candidate providing complimentary tickets, where a caucus provides tickets, the source of money is campaign funds. Thus the same reasoning applies when determining whether the tickets should be considered gifts. As with the candidate as giver scenario, the Committee also believes this type of arrangement does not fall within the definition of gift. Therefore, the Committee finds a ticket to a political fundraiser given to a member or employee of the General Assembly by their caucus is not a gift pursuant to R.C. 102.02(A)(7).

Non-Political Fundraisers

There are several kinds of fundraisers that are held that are not political in nature. For purposes of this opinion, the fundraisers discussed in this section are by non-profit organizations

which have 501(c)(3) designation from the Internal Revenue Service¹. Unlike above, campaign funds are not used for the tickets. Generally, tickets are purchased by third parties or given out as complimentary tickets from the entity holding the fundraiser. Depending upon the source, a ticket may or may not be a gift

Third Party As Giver

Where a third party is the giver of a ticket to a non-political fundraiser, these tickets do not differ from any other thing of value that a member or employee may receive. The member or employee has received something of value with no consideration given, therefore these are considered to be a gift. A ticket may be required to be disclosed if the amount of the ticket exceeds the thresholds noted above or may even be prohibited if the source is a Legislative Agent. For purposes of valuation, the value of the ticket is the face value. Hence, the Committee finds a ticket to a non-political fundraiser where the source is a third party is a gift pursuant to R.C. 102.02(A)(7).

Sponsoring Entity As Giver

Where the entity holding the fundraiser is the source of the tickets, the Committee does not consider these to be a gift to the member or employee. As noted, these are nonprofit organizations who are attempting to raise funds for their charitable cause. Where complimentary tickets are given, there is little monetary benefit to either the member or the organization. Therefore, a ticket to a non-political fundraiser where the source is the entity holding the event is not a gift pursuant to R.C. 102.02(A)(7).

¹ 26 USCA 501 provides: (c) List of exempt organizations: (3) Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

Member of the Organization Holding the Fundraiser

The Committee would note that where a member or employee is a member of an organization, for example American Legislative Exchange Council (ALEC), a complimentary ticket from that organization to its own fundraiser to raise funds for itself may not be considered a gift in some circumstances. Where the organization allows its members to attend the function for free, because they are members, this is not a gift. As a dues paying member of the organization, attendance at such events is a benefit of membership and the person has essentially paid for admission through the dues.

All-Invited Functions

Lastly, the Committee would remind all members that there are no “all-invited” ticketed events. Where all members are invited to a dinner, party, or other similar function where there is *no cost for admission*, any food consumed at that function does not accrue toward the \$100 threshold for meals on the Financial Disclosure Statement. Furthermore, where the entity holding the “all-invited” event is a Legislative Agent or Employer of a Legislative Agent, this type of function is only reported in the aggregate by the lobbyist or employer. In other words, they simply report the total amount for the event, not the individuals attending. However, for events where a ticket must be purchased, the “all-invited” exception does not apply. As noted above, a ticket is simply a gift.

Conclusion

Accordingly, the Committee finds and the members and employees are so advised: (1) A ticket to a political fundraiser given to a member or employee of the General Assembly by a person other than the candidate on whose behalf the fundraiser is being held is a gift pursuant to R.C. 102.02(A)(7); (2) A ticket to a political fundraiser given to a member or employee of the General Assembly by the candidate on whose behalf the fundraiser is being held is not a gift pursuant to R.C. 102.02(A)(7); (3) A ticket to a political fundraiser given to a member or employee of the General Assembly by their caucus is not a gift pursuant to R.C. 102.02(A)(7); and (4) A ticket to a non-political fundraiser where the source is a third party is a gift pursuant to

R.C. 102.02(A)(7); and (5) A ticket to a non-political fundraiser where the source is the entity holding the event is not a gift pursuant to R.C. 102.02(A)(7).

This advisory opinion is based on the facts presented. It is limited to questions arising under Chapter 102. and Sections 2921.42 and 2921.43 of the Revised Code and does not purport to interpret other laws or rules.

Richard H. Finan, Chairman
Joint Legislative Ethics Committee