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THE JOINT LEGISLATIVE ETHICS COMMITTEE

Advisory Opinion 95-003
March 14, 1995

Syllabus by the Committee:

- (1) A staff member of the General Assembly who is required to file a Financial Disclosure Statement pursuant to R.C. 102.02 and is married to a legislative agent is not required to disclose any gifts personally paid for by his spouse on his Financial Disclosure Statement.
- (2) The spouse of a staff member who is required to file a Financial Disclosure Statement is not required to disclose on the Legislative Agent Updated Registration Statement gifts given to the staff member.
- (3) Meals consumed in the home or at a restaurant by the staff member and spouse only and paid for by their joint account are not "related to" the staff member's position as a public employee and therefore do not count towards the \$100 threshold found in R.C. 102.02(A)(9).
- (4) Meals for the staff member paid for by the legislative agent spouse on behalf of a client are attributable to the staff member's \$100 aggregation amount for purposes of R.C. 102.02(A)(9).
- (5) A meal at which a member or employee of the General Assembly or any other public official or employee that falls within Chapter 101. or 121. are present and is paid for by the legislative agent spouse on behalf of a client is attributable to the staff member's \$100 aggregation amount for purposes of R.C. 102.02(A)(9).

(6) R.C. 102.02(A)(8) requires a staff member to disclose expenses incurred for travel in connection with the person's official duties. Travel expenses paid to the staff member by the spouse on behalf of a client or the employer must be disclosed by the staff member.

(7) R.C. 102.02(A)(3) requires identification of the name of every corporation in which the person filing the statement or any other person for his use or benefit had during the preceding year an investment of over \$1000 at fair market value.

This opinion is based upon the following facts. The staff member is an employee of the General Assembly and has been designated as a person required to file a Financial Disclosure Statement pursuant to R.C. 102.02. The staff member's spouse is a registered legislative agent for several clients and is the president and a minority co-owner a consulting firm. The staff member and his spouse have been married since March 6, 1993. As of December 31, 1994, the staff member has no contractual relationship with or obligations to the consulting firm.

Based upon these facts, the staff member has posed several questions to the Committee for a determination of what, if any, reporting requirements or ethical considerations exist with regard to this relationship. For purposes of simplification, the opinion has been divided into sections pertaining to each potential reporting requirement and corresponding ethical consideration. As a preliminary matter, the Committee would note there are many more reporting requirements than will be addressed here; only those potential requirements arising out of the marriage will be discussed.

GIFTS

R.C. 102.02(A)(7) provides an employee must report the source of each gift of over \$75 dollars received during the preceding year except gifts received from a spouse. Therefore, the staff member does not have to report any gifts received from his spouse. Furthermore, there are no dollar limits on the amount the spouse may spend for a gift. Technically, the spouse must report all gifts on her Updated Registration Statement since she has made an expenditure to a particular member of the staff of the General Assembly as staff is defined in R.C. 101.70(J). However, since a spousal exception is recognized with regard to gifts in the R.C. 102.02

statements, it seems only logical that the exception apply to Chapter 101 reporting. Therefore, the spouse is not required to report any gift given to the staff member that she has given personally. Of course, the spouse still must report gifts given to the staff member on behalf of a client in her capacity as a legislative agent.

MEALS AND OTHER FOOD AND BEVERAGES

Pursuant to R.C. 102.02(A)(9), an employee is required to identify the source of payment of expenses for meals and other food and beverages incurred in connection with his official duties and that exceed \$100 aggregated per source per calendar year. In order to be required to be reported as meal expenses under R.C. 102.02(A)(9), the meal expense must be "in connection with the person's official duties." In order for meals to be "in connection with . . . official duties" it is necessary that the functions are related to, or associated with, an individual's position as a public official or employee. Therefore, for meals in the staff member's home or for the staff member and his spouse at a restaurant paid for by your joint account, it is assumed these functions are not "related to" the staff member's position as a public employee and these would not count toward the \$100 aggregated amount from a source. Moreover, since the staff member contributes to the income of the household, he is not actually receiving the payment of expenses from his spouse, but in fact paying for the meals himself. However, if the spouse pays for a meal or other food and beverages on behalf of either a client or her consulting firm as an employer of a legislative agent, this would, in all likelihood, be related to the staff member's position and therefore count towards the \$100 amount reportable by the staff member and would be reportable by the spouse in the total expenditure section and potentially itemized if the total amount for the year exceeded the \$50 threshold. Of course if this was an employer expense, the employer would report the expenditure, not the spouse.

In the situation where both the staff member and the spouse have a meal with a member of the General Assembly, or any other public official or employee that falls within the purview of Chapter 101 or 121; if the staff member and his spouse pay for their own meals from their joint account and the public official or employee pays for his or her own meal, there would be no reporting requirements for anyone, nor would the meal count toward any aggregation. However,

if the spouse on behalf of a client or employer pays for the meal of the public official or employee and the staff member, the cost of the meal for the public official or employee and for the staff member is reportable by the spouse. Also, the staff member would count the meal toward the \$100 aggregate received from that source. There is no reporting by either the spouse or the staff member if the staff member pays for his own meal. Lastly, since the staff member is not a member of the General Assembly, he does not have a specific dollar limit for meals that he may not exceed. The staff member is of course limited by R.C. 102.03(D) and (E) which prohibit him from securing anything of value that is of such a character as to manifest a substantial an improper influence upon him with respect to his duties.

TRAVEL

R.C. 102.02(A)(8) requires an employee to identify the source and amount of every payment of expenses or reimbursement incurred for travel incurred in connection with his official duties. With the exception of the \$100 threshold, the reporting requirements for travel are the same as that for meals. If the travel is paid for out of the staff member and spouse's joint account and is not incurred in connection with the staff member's official duties, it is not reportable by either the staff member or the spouse. However, if the spouse pays on behalf of a client or her consulting firm, the staff member must disclose the payment on his Financial Disclosure Statement and the spouse must report the expenditure on her Updated Registration Statement or the employer statement.

INVESTMENTS

R.C. 102.02(A)(3) requires identification of the name of every corporation in which the person filing the statement or any other person for his use and benefit had during the preceding year an investment of over \$1000 at fair market value. Specifically, the spouse has stated she is a co-owner of a consulting firm. If the staff member and spouse have jointly invested in the corporation, the investment must be disclosed by the staff member if the investment is in excess of \$1,000.

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.

Accordingly, the Committee finds and the staff member is so advised: (1) A staff member of the General Assembly who is required to file a Financial Disclosure Statement pursuant to R.C. 102.02 and is married to a legislative agent is not required to disclose any gifts from his spouse on his Financial Disclosure Statement; (2) The spouse of a staff member who is required to file a Financial Disclosure Statement is not required to disclose on the Legislative Agent Updated Registration Statement gifts given to the staff member; (3) Meals consumed in the home or at a restaurant by the staff member and spouse only and paid for by their joint account are not "related to" the staff member's position as a public employee and therefore do not count towards the \$100 threshold found in R.C. 102.02(A)(9); (4) Meals for the staff member paid for by the legislative agent spouse on behalf of a client are attributable to the staff member's \$100 aggregation; (5) A meal at which a member or employee of the General Assembly or any other public official or employee that falls within Chapter 101, or 121, are present and is paid for by the legislative agent spouse on behalf of a client is attributable to the staff member's \$100 aggregation; (6) A staff member must report expenses incurred for travel in connection with the person's official duties. The reporting guidelines for travel are the same as for meals and other food and beverages except travel expenses are reported from the first dollar, there is no \$100 threshold; and (7) R.C. 102.02(A)(3) requires identification of the name of every corporation in which the person filing the statement or any other person for his use or benefit had during the preceding year an investment of over \$1000 at fair market value.



William G. Batchelder, Chairman
Joint Legislative Ethics Committee