

**OHIO GENERAL ASSEMBLY**  
**OFFICE OF THE LEGISLATIVE INSPECTOR GENERAL**  
**JOINT LEGISLATIVE ETHICS COMMITTEE**

**HOUSE MEMBERS**

WILLIAM G. BATCHELDER  
CHAIRMAN  
BARBARA PRINGLE      LOUIS BLESSING  
WAYNE JONES        JAMES MASON  
DANIEL TROY



TOM CHARLES  
EXECUTIVE DIRECTOR

**SENATE MEMBERS**

ROBERT R. CUPP  
VICE-CHAIRMAN  
BRUCE E. JOHNSON      JOSEPH J. VUKOVICH  
BEN E. ESPY            JUDY B. SHEERER  
TIM GREENWOOD

**THE JOINT LEGISLATIVE ETHICS COMMITTEE**

Advisory Opinion 95-010  
June 14, 1995

**Syllabus by the Committee:**

- (1) R.C. 102.03(D) and (E) do not prohibit members of the General Assembly from accepting or soliciting theater passes from the National Association of Theater Owners;
- (2) If a member of the General Assembly accepts at least one pass, the National Association of Theater Owners must be disclosed on the member's Financial Disclosure Statement as the source of a gift valued in excess of seventy-five dollars.

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 of the General Assembly on the following question: Whether the Ohio Ethics Law and related statutes prohibit members of the General Assembly from accepting passes from the National Association of Theater Owners (NATO), and if not prohibited, what are the disclosure requirements?

Factually, NATO has distributed movie passes to members of the General Assembly. Each courtesy pass allows the recipient to gain free admission at certain theaters under limited circumstances. It is solely within the discretion of the theater whether to except the pass. In determining the member's ability to accept a pass, a review of R.C. 102.03 is necessary. Divisions (D), (E), and (F) of Section 102.03 of the Revised Code provide:

(D) No public official or employee shall use or authorize the use of authority or influence of his office or employment to secure anything of value or the promise or offer of anything of value that is of such a character as to manifest a substantial and improper influence upon him with respect to his duties.

(E) No public official or employee shall solicit or accept anything of value that is of such a character as to manifest a substantial and improper influence upon him with respect to his duties.

(F) No person shall promise or give to a public official or employee anything of value that is of such a character as to manifest a substantial and improper influence upon him with respect to his duties.

R.C. 102.03(D) and (E) prohibit a public official or employee from accepting, soliciting, or using his position to secure anything of value that is of an improper and substantial character. The term "public official or employee" is defined for purpose of R.C. 102.03 as any person who is elected or appointed to an office of a public agency. "Public agency" includes, among others, the General Assembly. See R.C. 102.01(B) and (C). Therefore, members of the General Assembly are subject to the provisions contained in R.C. 102.03. The phrase "anything of value" is defined for purposes of R.C. 102.03 in R.C. 1.03 to include money and every other thing of value. See R.C. 102.01(G). An entrance fee to a movie theater is a thing of value for purposes of R.C. 102.03(D), (E), and (F). Therefore, theater passes which enable the holder to enter theaters without paying a fee are a thing of value for purposes of R.C. 102.03(D), (E), and (F).

A determination that the passes are a thing of value does not end the inquiry; it is necessary to examine the source and nature of the thing of value in determining whether the passes are substantial and improper. Although not binding, the Committee feels the definitions developed by the Ohio Ethics Commission for the terms "source" and "nature" are persuasive. In Advisory Opinion No. 92-018, the Ohio Ethics Commission held:

With respect to the nature of the thing, the Ethics Commission has consistently held that a definite and particular pecuniary benefit which is not nominal or de minimis is considered to be "substantial" for purposes of R.C. 102.03(D), (E), and (F). The Commission has determined that, for purposes

of R.C. 102.03, the word "substantial" means "of or having substance, real, actual, true; not imaginary; of considerable worth or value; important." However, the Commission has warned that a number of nominal or de minimis items could have a substantial cumulative value.

With respect to the source of the thing of value, the Ethics Commission has consistently held that R.C. 102.03(D) and (E) prohibit a public official or employee from accepting, soliciting, or using the authority or influence of his office or employment to secure anything of value, or the promise or offer of anything of value, from a party that is interested in matters before, doing or seeking to do business with, or regulated by, the agency with which he serves. (citations omitted)

Here, NATO is neither regulated by nor doing or seeking to do business with the General Assembly. The only connection between NATO and the General Assembly is that NATO is an employer of a registered legislative agent. It can be argued that, by definition, NATO is "interested in matters" before the General Assembly because of its employer status. However, the Committee finds this relationship does not create enough of a nexus between NATO and the General Assembly to warrant a finding that gifts from employers of legislative agents are automatically improper. Additionally, the safeguards provided in the disclosure requirements of Chapters 101. and 102. were specifically designed to disclose any potential conflicts. Accordingly, R.C. 102.03(D) and (E) do not prohibit members of the General Assembly from accepting or soliciting passes from the National Association of Theater Owners.

Turning now to the disclosure requirements under R.C. 102.02. R.C. 102.02(A)(7) requires disclosure of the source of each gift of over seventy-five dollars, or of each gift of over twenty-five dollars received from a legislative agent. Therefore, in determining whether or not NATO must be disclosed as a source, the value of each pass must be decided. In determining the value, it is the potential value of the pass, not the actual or average use of the pass that determines its value. See JLEC Advisory Opinion No. 95-007. Since each pass allows unlimited admission to certain theaters for an entire year, the value of each pass exceeds seventy-five dollars. Accordingly, if a member receives at least one pass, the member must disclose NATO as a source in the gift section of the member's Financial Disclosure Statement. Furthermore, each pass must be disclosed whether or not it was used and whether or not it was given away. The Committee also notes the giving of the passes will be a reportable expenditure by NATO on

its Updated Registration Statement; therefore, the member will also be required to disclose the passes under R.C. 102.02(A)(10), the non-disputed information section.

Accordingly, it is the opinion of the Joint Legislative Ethics Committee, and you are so advised that: (1) R.C. 102.03(D) and (E) do not prohibit members of the General Assembly from accepting or soliciting theater passes from NATO and (2) if the member accepts at least one pass, the National Association of Theater Owners must be disclosed on the member's Financial Disclosure Statement as the source of a gift valued in excess of seventy-five dollars.

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.



William G. Batchelder, Chairman  
Joint Legislative Ethics Committee