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THE JOINT LEGISLATIVE ETHICS COMMITTEE

Advisory Opinion 95-011
June 20, 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 fair passes from the Ohio Fair Managers Association and
- (2) If a member of the General Assembly accepts at least one fair pass, the Ohio Fair Managers Association 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: What is the value of one Ohio Fair Managers 1995 Admission Pass?

The Ohio Fair Managers Association is a non-profit organization which is comprised of select persons from all county, state and independent fairs. In the past, the Association has distributed free passes to certain individuals. Each pass enables free admission for two adults and all children under the age of 12 to all 95 fairs held in the state. Additionally, each pass allows free admission to any general admission seats for Grand Stand events. The fairs run intermittently from June 16 until October 14 and the admission price for each fair is between \$2.00 and \$5.00.

Prior to a determination of value, the potential acceptance of a pass must be reviewed within the confines of Chapter 102. 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 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 fair is a thing of value for purposes of R.C. 102.03(D), (E), and (F). Therefore, fair passes which enable the holder to enter fairs 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. See JLEC Advisory Opinion 95-010. Regarding the *nature* of the thing, a definite and particular pecuniary benefit which is not nominal or de minimis is considered "substantial" for purposes of R.C. 102.03(D), (E), and (F). "Substantial" means of or having substance, real, actual, true; not imaginary; of considerable worth or value; important. Regarding the *source* of the thing of value, acceptance or solicitation of a thing of value is prohibited from a party that is interested in matters before, doing or seeking to do business with, or regulated by, the General Assembly.

Here, the Ohio Fair Managers Association is neither regulated by nor doing or seeking to do business with the General Assembly. Additionally, the Association receives no state funds; it is funded exclusively through membership dues. It must also be noted that it appears the passes are made available to public officials to help facilitate the public's access to its elected officials. Generally, a member of the General Assembly uses the pass to gain admittance into the fair(s) within the member's district. Accordingly, R.C. 102.03(D) and (E) do not prohibit members of the General Assembly from accepting or soliciting passes from the Ohio Fair Managers Association.

Turning now to the value of each pass. This Committee has consistently held it is the potential value of a pass, not the actual or average use of the pass that determines its value. See JLEC Advisory Opinions 95-004 and 95-010. As noted above, each pass allows two adults and any children under 12 years of age free admission to all 95 fairs for an unlimited amount of times. Based upon this, the value of each pass exceeds seventy-five dollars. Accordingly, if a member receives at least one pass, the member must disclose the Ohio Fair Managers Association 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.

Accordingly, it is the opinion of the Joint Legislative Ethics Committee, and the member is so advised that: (1) R.C. 102.03(D) and (E) do not prohibit members of the General Assembly from accepting or soliciting fair passes from the Ohio Fair Managers Association and (2) if the member accepts at least one pass, the Ohio Fair Managers Association 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