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**THE JOINT LEGISLATIVE ETHICS COMMITTEE**

Advisory Opinion 97-006  
October 16, 1997

**Syllabus by the Committee:**

- (1) For purposes of R.C. 102.031.(C)(1), travel is defined as transportation, which includes, but is not limited to, airplane, train, common carrier, and automobile travel;
- (2) For purposes of R.C. 102.031.(C)(1), travel does not include trips by automobile where the distance traveled is less than 50 miles, one way;
- (3) For purposes of R.C. 102.031.(C)(1), lodging is defined as a stay of one or more nights in either a commercial establishment or a noncommercial private dwelling;
- (4) For purposes of R.C. 102.031.(C)(1), it is not considered acceptance of travel or lodging if a member or employee of the General Assembly reimburses the Legislative Agent within seven days of the Legislative Agent making the expenditure for the transportation or lodging.

**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 question: What constitutes travel and lodging for the purposes of R.C. 102.031(C)(1) and Section 5(B) of the Legislative Code of Ethics?

Background

Division (C) of section 102.031 and Section 5(B) of the Legislative Code of Ethics place three restrictions on members and employees<sup>1</sup> of the General Assembly. R.C. 102.031(C) provides:

- (C) No member of the general assembly shall knowingly accept any of the following from a legislative agent:
  - (1) *The payment of any expenses for travel or lodging except as otherwise authorized by division (H) of section 102.03 of the Revised Code;*
  - (2) More than seventy-five dollars aggregated per calendar year as payment for meals and other food and beverages, other than for those meals and other food and beverages provided to the member at a meeting at which the member participates in a panel, seminar, or speaking engagement, at a meeting or convention of a national organization to which either house of the general assembly, any legislative agency, or any other state agency pays membership dues, or at a dinner, party, or function to which all members of the general assembly or all members of either house of the general assembly are invited;
  - (3) A gift of any amount in the form of cash or the equivalent of cash, or a gift of any other thing of value whose value exceeds seventy-five dollars. As used in division (C)(3) of this section, "gift" does not include any contribution or any gifts of meals and other food and beverages or the payment of expenses incurred for travel to destinations either inside or outside this state that is received by the member of the general assembly and that is incurred in connection with the member's official duties. (Emphasis added.)

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<sup>1</sup> For purposes of this opinion, *employees* are those persons who file Financial Disclosure Statements under section 102.02 of the Revised Code.

R.C. 102.031(C) is essentially identical to the provision found in Section 5(B) of the Legislative Code of Ethics except that under the Code of Ethics, the prohibitions also apply to employees of the General Assembly and employees of the Legislative Service Commission who are required to file a Financial Disclosure Statement under section 102.02 of the Revised. Therefore, for purposes of this opinion, all references to R.C. 102.031(C) apply equally to Section 5(B) of the Legislative Code of Ethics. Furthermore, this opinion addresses only division (C)(1) of section 102.031.

### Consideration of the Issues

#### Definition of Travel

The term *travel* is not specifically defined for purposes of R.C. 102.031(C). Generally, travel is considered to incorporate transportation, lodging and meals. However, lodging and meals are already listed individually in Division (C): Division (C)(2) sets forth the \$75 prohibition for meals and other food and beverages, and Division (C)(1) lists lodging separately from travel. Therefore, the Committee finds that for purposes of R.C. 102.031(C)(1), the term *travel* is limited to transportation. Modes of transportation include, but are not limited to, airplane, train, common carrier, and automobile travel. Where the mode of transportation is by automobile, only those trips which exceed 50 miles, one way, will be considered to be travel. Any transportation by airplane, train, or common carrier is considered travel, regardless of the distance.

#### Definition of Lodging

As with the term *travel*, the term *lodging* is not defined for purposes of R.C. 102.031(C). The Committee finds that the term *lodging* encompasses the following: (1) A stay of one or more nights in a commercial establishment and (2) A stay of one or more nights in a noncommercial private dwelling. As to noncommercial private dwellings, this includes residences owned in whole or in part by the Legislative Agent.

#### Reimbursement

If a member or employee accepts transportation or lodging from a Legislative Agent but reimburses the Legislative Agent within seven days of the Legislative Agent making the

expenditure for the transportation or lodging, the member or employee will not be considered to have accepted travel or lodging as those terms are used in R.C. 102.031(C)(1). The seven days begins at the time the Legislative Agent makes the expenditure. In other words, where the Legislative Agent pays for the transportation or lodging by credit card, the seven days begins to accrue at the point of sale, not when the Legislative Agent receives a billing statement.

Furthermore, where reimbursement is being made for lodging in a noncommercial private dwelling, the valuation for the reimbursement should be based on what it would cost for comparable lodging in a commercial establishment in that area.

Where a member or employee has reimbursed the Legislative Agent with cash, the Legislative Agent should supply the member or employee with a receipt for the reimbursement. However, the Committee encourages the member or employee to reimburse by check or other negotiable instrument.

Exceptions to R.C. 102.031(C)(1)

As noted above, R.C. 102.031(C)(1) states, a member or employee is prohibited from accepting travel or lodging, *except as otherwise authorized by division (H) of section 102.03 of the Revised Code*. R.C. 102.03(H) provides:

- (H) No public official or employee...who is required to file a financial disclosure statement under section 102.02 of the Revised Code shall solicit or accept, and no person shall give to that public official or employee, an honorarium. This division and divisions (D), (E), and (F) of this section do not prohibit a public official or employee who is required to file a financial disclosure statement under section 102.02 of the Revised Code from accepting and do not prohibit a person from giving to that public official or employee the payment of actual travel expenses, including any expenses incurred in connection with the travel for lodging, and meals, food, and beverages *provided to the public official or employee at a meeting at which the public official or employee participates in a panel, seminar, or speaking engagement or provided to the public official or employee at a meeting or convention of a national organization to which either house of the general assembly, any legislative agency...pays membership dues*. (Emphasis added.)

Thus, there are two exceptions which allow a member or employee to accept payment or reimbursement for travel and lodging from a Legislative Agent. A member or employee is not prohibited from accepting payment of *actual* transportation and lodging expenses provided by a Legislative Agent to the member or employee (1) at a meeting at which the member or employee participated in a panel, seminar, or speaking engagement; or (2) at a meeting or convention of a national organization to which the General Assembly pays dues.

Conclusion

Accordingly, the Committee finds and the members and employee of the General Assembly are so advised that, for purposes of R.C. 102.031.(C)(1), (1) travel is defined as transportation, which includes, but is not limited to, airplane, train, common carrier, and automobile travel; (2) travel does not include trips by automobile where the distance traveled is less than 50 miles, one way; (3) lodging is defined as a stay of one or more nights in either a commercial establishment or a noncommercial private dwelling; and (4) it is not considered acceptance of travel or lodging if a member or employee of the General Assembly reimburses the Legislative Agent within seven days of the Legislative Agent making the expenditure for the transportation or lodging.

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