

SUBJECT: TRAVEL AND HOSPITALITY ACCEPTANCE BY ETV EMPLOYEES FILING REQUIREMENTS OF ETV EMPLOYEES

SUMMARY:

Employees engaged in covering an event as part of their position responsibilities may accept a meal incidental to their coverage provided all other participants receive the meal. Other reimbursements must be made to the employee by the employing agency in accordance with agency travel procedures. A manager responsible for certain contracts is required to file a Statement of Economic Interests if the employee is the chief purchasing employee or is a deputy or assistant administrative employee of the agency. Regional station managers are not required to file a Statement of Economic Interests.

QUESTION:

The Personnel Director for SC Educational Television questions:

- (1) May employees accept advanced travel money from any entity other than ETV?
- (2) May employees receive travel reimbursement from any entity other than ETV? If yes, under what circumstances could they receive an amount different from state travel regulations?
- (3) May another entity pay lodging expenses provided the hotel is paid directly and no money is given to the employee?
- (4) May another entity pay for one or more meals provided the restaurant is paid directly and no money is given to the employee? (Also, when employees cover events in Columbia and a meal is being served, may they accept the meal? Example, an outside entity is having a dinner meeting in conjunction with the State Development Board and we are taping the program--the meal is served first and then the taping begins.)
- (5) May another entity pay for other expenses such as airfare, telephone calls? And in the cases of extended periods of time, dry cleaning or laundry?
- (6) Do the same travel regulations apply to travel to another country?
- (7) May our employees serve on boards, advisory groups, etc. for national organizations and receive travel and subsistence and per diem. If so, under what conditions would an employee have to be on leave in order to accept such payments?

(8) When we hold official functions to promote underwriting and/or fund raising, may employees accept meals when these functions are paid for by another entity?

(9) Should a top level manager who is intimately involved in negotiating contracts for construction and equipment purchases and/or systems development be required to file a Statement of Economic Interest even though that person cannot specifically sign a contract for the Agency?

(10) Should our five regional station managers be required to file a Statement of Economic Interests? They operate independently on a day to day basis but receive overall management and administrative services from Central level. They may not independently execute contracts.

DISCUSSION:

This opinion is rendered in response to a letter dated January 15, 1992 requesting an opinion from the State Ethics Commission. The Commission's jurisdiction is limited to the applicability of the Ethics, Government Accountability, and Campaign Reform Act of 1991 (Act No. 248 of 1991; Section 8-13-100 et. seq., as amended, 1976 Code of Laws). This opinion does not supersede any other statutory or regulatory restrictions or procedures which may apply to this situation.

As to the first, second, third, and fifth questions, the State Ethics Commission advised in Advisory Opinions SEC AO92-023, SEC AO92-037, and SEC AO92-058 the circumstances under which travel expenses may be reimbursed to the agency or paid directly by an organization other than the employing agency. In those opinions, the Commission advised that such reimbursement or payment be in accordance with the agency travel and expense policies and procedures.

As to the fourth question, the Commission advised in Advisory Opinion SEC AO92-023 that a public employee speaking in an official capacity would not be prohibited from accepting a meal incidental to the speaking engagement where the meal is provided to all other persons participating in the same event. The Commission would advise that employees engaged in covering an event as part of their official responsibilities would not be prohibited from accepting a meal which is incidental to the performance of their coverage of the event and when the meal is provided to all other participants in the event.

As to the sixth question, the State Ethics Commission advises that, absent any specific exception, the provisions concerning travel reimbursement or payment as outlined in the opinions mentioned in response to the first questions would apply to foreign travel.

As to the seventh question, the Commission advised in Advisory Opinions SEC AO92-037 and SEC AO92-061 that employees who serve on national boards or conferences may have travel paid by that organization consistent with state travel policies and procedures.

With regard to the eighth question, the State Ethics Commission addressed hospitality provided by vendors or outside groups in Advisory Opinions SEC AO92-039 and SEC AO92-052.

As to the ninth and tenth questions, Section 8-13-1110(B) provides in part as follows:

(B) Each of the following public officials, public members, and public employees must file a statement of economic interests with the appropriate supervisory office, unless otherwise provided:

* * *

(3) the chief administrative official or employee and the deputy or assistant administrative official or employee or director of a division, institution, or facility of any agency or department of state government;

* * *

(9) the chief finance official or employee and the chief purchasing official or employee of each agency, institution, or facility of state government, and of each county, municipality, or other political subdivision including, but not limited to, those named in item (6);

The manager involved in negotiating contracts for construction, equipment purchases and/or systems development would be required to file if he/she is the chief purchasing official or employee of the agency, regardless of whether he/she has specific signatory authority. That same person would also be required if he/she is, by whatever title, a deputy or assistant administrative employee or director of a division. Regional station managers would not be required to file under this section.