

EXECUTIVE BRANCH ETHICS COMMISSION

**ADVISORY OPINION 95-35**

October 19, 1995

RE: May employee accept meal from representative of entity regulated by employee's agency?

DECISION: No.

This opinion is in response to your August 21, 1995, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the October 19, 1995, meeting of the Commission, and the following opinion is issued.

You state the relevant facts as follows. The Division of Substance Abuse within the Cabinet for Human Resources requests an interpretation by the Commission of Advisory Opinion 93-81 as it relates to the following three situations:

- 1) An employee travels to various statewide locations to chair a monthly task force meeting. The task force is comprised of representatives of entities which are regulated by the agency for which the employee works. Lunch is provided for the entire task force by the entity hosting the meeting. The host entity, which is regulated by the employee's agency, has arranged to have food brought to the meeting room. No one at the meeting is charged or pays for their lunch. An overnight stay is not required.
- 2) An employee travels to various statewide locations to chair a monthly task force meeting. The task force is comprised of representatives of entities which are regulated by the agency for which the employee works. Members of the task force visit a restaurant for lunch, and one member of the task force pays for the lunches of the entire task force. An overnight stay is not required.
- 3) An employee attends a conference away from his work station. In the evening, after conference hours, the employee meets with two directors from entities which are regulated by the agency for which the employee works to discuss business unrelated to the conference. One of the directors pays for the meal of both the employee and the other director. No other individuals are in attendance.

You ask if the employee may accept any of these meals, or if an arrangement should be made by the employee to pay for the meal. You believe, if it is in the public interest and part of the employee's official duty to attend functions sponsored by potential vendors or by entities regulated by the employee's agency, the agency should pay all expenses. Under current state travel regulations, a state employee is not entitled to reimbursement for meals unless an overnight stay is involved. Thus, in situations 1) and 2) above, the employee would not be able to seek reimbursement from the state for his meal expense.

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In Advisory Opinion 93-81 issued by the Commission on December 16, 1993, the Commission concluded that a public servant should not accept meals "from any person or business that does business with or is regulated by the state agency in which the public servant is employed". An exception listed in the opinion allows an employee to accept a meal if he is a speaker or panel participant at a conference, workshop, seminar, school or university program, groundbreaking, public celebration or other such meeting and his attendance at such meeting is to further his official duties as stated in the law regulations. or his job description. Such a meal must be served as a part of the program and available to all those in attendance.

The Commission believes that serving as a chair of a task force meeting does not fall within the definition of speaker or panel participant unless the chair is required to also present a speech or act as a panel participant. Therefore, the employee should not accept a meal from a representative of an entity which is regulated by the agency for which the employee works. In the situations referred to above, the employee should make arrangements to pay for his meal.

The Commission sympathizes with the employee's inability to be reimbursed by the state for such meals and points out that some state agencies have language in their enabling statutes allowing for agency employees to be reimbursed for all reasonable expenses incurred while acting on behalf of the agency. However, the Commission reiterates its belief that a state employee should not accept gifts or gratuities, including a meal, from an entity regulated by the employee's agency. Acceptance of such a gift may damage public confidence in the integrity and impartiality of those who operate state government.

EXECUTIVE BRANCH ETHICS COMMISSION

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BY: Martin J. Huelsmann, Chairman