

ADVISORY OPINION 97-9

February 4, 1997

RE: May state employees sell advertisements for state golf league score cards?

DECISION: Yes, within limitations.

This opinion is in response to your January 22, 1997, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the February 4, 1997, meeting of the Commission, and the following opinion is issued.

You state the relevant facts as follows. Individuals who have worked, at some time, for city, state or federal government, may participate in the state golf league. You ask whether members of this league, who are currently executive branch employees, may sell advertisements for the league score cards.

In Advisory Opinion 96-12 (a copy of which is enclosed), issued on May 14, 1996, the Commission advised employees not to solicit or accept donations from persons or businesses regulated by or doing business with the state agency for which the employees worked. Such solicitation of potential vendors or entities regulated by the employees' agency creates a conflict of interest in appearance, if not in fact, for those employees.

However, the Commission further stated in Advisory Opinion 96-12, that employees not involved in vendor selection or regulation of an outside entity could solicit advertisements from persons or entities from which they would otherwise be prohibited, through mailings only. In order to avoid a conflict of interest, personal contacts should not be made to entities which are potential vendors of the agency for which an employee works. The Commission believes that solicitation by such employees is allowable because the vendor receives a benefit for the fee paid. Consequently, neither the employee nor the agency is considered to have received a gratuity which would otherwise be prohibited.

Similarly, the Commission advises that an employee, who is a state golf league member, should not solicit advertisements from persons or entities which are regulated by or doing business with the agency for which the employee works if the employee is involved in the vendor selection or regulation of the outside person or entity. If an employee, who is a state golf league member, is not involved in the vendor selection or regulation of a person or entity, then he may, through mailings only, solicit a person or entity for advertisements for the league score cards. However, he should not make any personal contacts, regarding the advertisements, to a person or entity regulated by, or a potential vendor to, the state agency for which he works. A reasonable fee may be charged for the advertisements, and such funds should be used only for the state golf league expenses.

Additionally, former employees are not prohibited from soliciting for such advertisements, as they are only subject to the post-employment provisions of the ethics code.

Enclosure: AO 96-12

