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INFORMATION SHEET: OPINION NO. 2011-07
TRAVEL EXPENSES FOR AN ACCOMPANYING SPOUSE

What is the question in the opinion?

Can a state employee take his spouse to a work-related conference if his travel and hotel fees are paid for by the agency sponsoring the training or by his state agency?

What is the answer in the opinion?

Yes, a state employee's spouse can accompany the employee on work-related travel, provided that there is no additional cost to the state. The employee or his spouse must pay transportation, meal, and personal expenses for the spouse's travel, and any extra costs incurred in connection with the spouse's travel.

To whom do these restrictions apply?

The restrictions in the Ethics Law that are discussed in the opinion apply to all public officials and employees.

What prompted this opinion?

The opinion was prompted by a request for advice.

When did the opinion become effective?

The opinion became effective when it was approved by the Commission.

For More Information, Please Contact:

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IT IS NOT AN ETHICS COMMISSION ADVISORY OPINION.
ADVISORY OPINION NO. 2011-07 IS ATTACHED.**

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Advisory Opinion
Opinion No. 2011-07
July 26, 2011
**TRAVEL EXPENSES FOR
SPOUSE**

Syllabus by the Commission:

- (1) State employees who travel for state business can take along their spouses provided that the state would not incur any additional cost as a result of their spouses' travel;
- (2) If state employees take their spouses along when traveling on state business, the employees or their spouses must pay any transportation, meals, and extra expenses incurred for the spouses' travel.

* * *

The Commission has been asked whether a state employee can take his spouse to a work-related conference if the public employee's travel, meal, and lodging expenses are paid for by the agency sponsoring the conference¹ or by his state agency.

The statute that is applicable to this situation is the conflict of interest law, R.C. 102.03, which applies to all public officials and employees.² Ohio's conflict of interest laws protect the public by prohibiting a public employee from accepting a benefit in situations when the thing of value would make it difficult or impossible for the employee to exercise the authority of his or her position in an unbiased and impartial manner.³

The Ethics Commission has issued several opinions, available on the Commission's Web site, regarding a public employee's acceptance of travel, meal, and lodging expenses when attending conferences and other events.⁴ This opinion addresses whether the public employee's spouse can accompany him on a trip when the employee's expenses are paid by the agency sponsoring the conference or by the state agency. The opinion does not consider situations where a public official's spouse is asked by the agency to accompany the official in some ceremonial capacity.

Question and Brief Answer

Question: Can state employees take their spouses to a work-related conference if the employees' travel and hotel fees are paid for by the agency sponsoring the conference or by their state agency?

Answer: Yes, provided that the state incurs no additional cost. The state employee or his spouse must pay any travel expenses, transportation, meals, personal expenses, and extra costs related to the spouse's travel.

Travel Expenses for a Spouse—R.C. 102.03(D) and (E)

R.C. 102.03(D) and (E), the conflict of interest prohibitions, state:

- (D) No public official or employee shall use or authorize the use of the authority or influence of 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 the public official or employee with respect to that person's 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 the public official or employee with respect to that person's duties.

The Ethics Commission has stated that R.C. 102.03(D) and (E) prohibit a public employee from using his position to secure and from soliciting or accepting things of substantial value for his spouse because the benefit to his spouse will impair the employee's objectivity and independence of judgment.⁵ Travel, meal, and lodging expenses are things of substantial value.⁶

Therefore, a public employee is prohibited from taking his spouse with him to a work conference if her travel and related expenses will be paid by a third-party or by his state agency. If taking his spouse will result in any higher or additional costs for the public agency or the sponsor, the employee is prohibited from taking his spouse to the conference.

For example, if the agency normally sends two workers and expects them to share a room, it would incur expense for an additional room if one of the workers wanted to take a spouse and have a private room. In that situation, the state employee would be prohibited from taking his spouse unless the employee paid the full cost of the additional room.

However, the employee is not prohibited from taking his spouse to the conference if she pays for her own travel expenses and any extra expenses that result from her travel. Also, the accompanying spouse is not prohibited from staying in the same hotel room with the employee if she pays for any extra fees or costs associated with her stay. If the accompanying spouse pays her own way, the state employee is not securing an improper benefit for her.

Examples of the types of expenses the accompanying spouse will be responsible for paying for are:

- Her plane ticket and baggage fees and any extra transportation expenses resulting from her travel;
- Her meals and drinks;⁷

- Hotel room rate increases based on the number of occupants;
- Purchases or additional services she uses, (like room service, telephone calls, and internet access) that are charged to the room; and
- Any personal or extra expenses incurred as a result of her travel

The public employee should not make travel arrangements to accommodate his accompanying spouse if they will result in higher costs for his public agency or the conference sponsor. For example, the employee should not book a more expensive flight to accommodate his spouse's schedule or reserve a more expensive hotel to accommodate his spouse's preference. The employee's spouse's presence should not distract him from his work or detract from the purpose of the trip.

Other Matters

A public employee's agency or the conference sponsor may have additional restrictions that are not within the Ethics Law regarding spouses accompanying conference attendees. A public employee should abide by any such policies and restrictions, and other laws and rules governing travel, as well as the Ethics Law.⁸

In a situation where the public employee attending the conference and his accompanying spouse are both public employees, the conclusions in this opinion still apply. However, the accompanying spouse has the added responsibility of adhering to the Ethics Laws and the policies of her public agency.

Finally, while this advisory opinion specifically involves state employees, the laws, analysis, and conclusions also apply to other public officials and employees in the state at every level of government.

Conclusion

This advisory opinion 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.

Therefore, it is the opinion of the Ohio Ethics Commission, and the Commission advises that: State employees who travel for state business can take along their spouses provided that the state would not incur any additional cost as a result of their spouses' travel. However, if state employees take their spouses along when traveling on state business, the employees or their spouses must pay any transportation, meals, and extra expenses incurred for the spouses' travel.

By my signature below, I certify that Advisory Opinion No. 2011-07 was rendered by the Ohio Ethics Commission at its meeting on July 26, 2011.



Ben Rose, Chair
Ohio Ethics Commission

The Ohio Ethics Commission Advisory Opinions referenced in this opinion are available on the Commission's Web site: www.ethics.ohio.gov

¹ This opinion assumes that the state employee is not prohibited from accepting travel from the agency sponsoring the conference. The Commission has several advisory opinions that explain when an official is prohibited from accepting travel expenses for conferences. See Ohio Ethics Commission Advisory Opinions No. 86-011, 89-014, and 2001-04. Any employee who is offered travel expenses from a private agency should, before traveling, consult with the legal advisor for his or her public agency to determine whether the employee can accept the expenses.

² R.C. 102.01(B) and (C). The term "public official or employee" is defined for purposes of R.C. 102.03 to include any person who is elected or appointed to an office or who is an employee of the general assembly, any court, any department, division institution, board, commission, authority, bureau, or other instrumentality of the state.

³ The application of R.C. 102.03(D) and (E) is dependent upon the facts and circumstances of each individual situation. Adv. Ops. No. 87-008, 89-003, and 89-006.

⁴ See Adv. Ops. No. 86-011, 95-005, 92-018, and 2001-04.

⁵ Adv. Ops. No. 92-010 and 98-002.

⁶ R.C. 102.01(G) and 1.03. Adv. Ops. No. 84-010 and 91-010.

⁷ If the conference sponsor holds a reception or open house, and additional guests are welcome to attend, the employee's spouse could accompany him to the event, and accept an inexpensive meal, within the parameters of Ohio Ethics Commission Advisory Opinion No. 2002-02.

⁸ For example, the state employee should review all relevant IRS Guidelines regarding spousal travel.