

OHIO ETHICS COMMISSION

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INFORMATION SHEET: ADVISORY OPINION NO. 2004-01 **DISCLOSURE OF TRAVEL EXPENSES**

What are the questions addressed in the opinion?

Does the Ethics Law require a public official or employee to disclose specific travel expenses including: (1) expenses incurred in connection with travel to a conference or convention (such as airfare, meals, car rental, hotel, and registration fees); (2) expenses incurred by the public agency the official or employee serves when he uses a vehicle owned or leased by the agency; and (3) expenses incurred by another public agency when the official or employee travels in a vehicle owned or leased by the agency?

What are the answers in the opinion?

A public official or employee who is required to disclose travel expenses must disclose the source and amount of every payment of travel expenses, whether the expenses are paid directly by a public agency or private entity on behalf of the public official or employee, or reimbursed to the public official or employee.

The public official or employee must disclose travel expenses for transportation, meals, and lodging, in connection with the conference that he attended, but is not required to disclose the conference registration fee paid by his public agency.

A public official or employee is not required to disclose the costs associated with the use of a vehicle owned or leased by the public agency he serves as a travel expense. A public official or employee is required to disclose any travel in a vehicle owned or leased by a private corporation or another government agency.

To whom does this opinion apply?

This opinion applies to any official or employee who is required to disclose travel expenses pursuant to R.C. 102.02(A)(8).

How and when did the opinion become effective?

The opinion became effective upon acceptance by the Commission.

For More Information, Please Contact:

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IT IS NOT AN ETHICS COMMISSION ADVISORY OPINION.
ADVISORY OPINION NO. 2004-01 IS ATTACHED.**

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Advisory Opinion
Number 2004-01
January 23, 2004

Syllabus by the Commission:

- (1) A public official or employee subject to the Financial Disclosure provisions contained in Division (A)(8) of Section 102.02 of the Ohio Revised Code must disclose the source and amount of every payment of travel expenses (subject to the exception listed), whether the expenses are paid by a public agency or private entity on behalf of the public official or employee, or reimbursed to the public official or employee;
- (2) Examples of items required to be disclosed include payments, reimbursements, or expenditures for: (a) lodging; (b) any type of public transportation, including airplanes, trains, buses, and taxis; (c) transportation on a private aircraft or other vehicle owned or leased by a private corporation; (d) transportation in a vehicle that is owned or leased by a public agency other than the one the official or employee serves; (e) food and beverages consumed during travel; and (f) car rental fees;
- (3) Examples of items not required to be disclosed include: (a) the payment of registration fees for a conference or convention by the public agency; and (b) the costs associated with the use of a vehicle that is owned or leased by the public agency the official or employee serves and is operated for the ordinary use of the officials and employees of that agency.

* * *

You have explained that you are a state official who is required to file a financial disclosure statement with the Ohio Ethics Commission. You have asked a number of questions about the specific types of payments and whether they are included within the requirement to disclose travel expenses on your financial disclosure statement.

Specifically, you have explained that your public agency paid for your airfare, meals, car rental, hotel expenses, and registration fees in order for you to attend a conference. You now ask whether you are required to report the source and amount of each or all of these payments on the financial disclosure statement that you file with the Commission.

You have also explained that the state agency you serve owns a car that you occasionally drive in the performance of your public duties. You ask whether you are required to disclose the agency's expenses in connection with providing that car for your use.

Finally, you have explained that you have had need to occasionally travel to meetings in an aircraft owned or leased by another state agency. You have asked whether you are required to disclose the expense incurred in connection with these trips.

Requirement to Disclose Payments of Travel Expenses—R.C. 102.02(A)(8)

R.C. 102.02(A)(8) provides that most financial disclosure statement filers¹ must disclose the following:

Except as otherwise provided in section 102.022 of the Revised Code, identification of the source and amount of every payment of expenses incurred for travel to destinations inside or outside this state that is received by the person in the person's own name or by any other person for the person's use or benefit and that is incurred in connection with the person's official duties, except for expenses for travel to meetings or conventions of a national or state organization to which any state agency, including, but not limited to, any legislative agency or state institution of higher education as defined in section 3345.011 of the Revised Code, pays membership dues, or any political subdivision or any office or agency of a political subdivision pays membership dues.

The requirement to disclose sources and amounts of travel expenses, contained in R.C. 102.02(A)(8), was enacted by the 120th General Assembly in Am. Sub. H.B. 492 (eff. May 12, 1994). The enactment was one of a number of changes to the financial disclosure requirement, which expanded both the number of public servants required to file disclosure statements and the types of information most of those individuals would be required to disclose. By its expansion of the financial disclosure requirement, the General Assembly recognized the importance of financial disclosure in reminding public officials and employees of their responsibility to avoid conflicts of interest. The object sought by amending R.C. 102.02(A) was a more comprehensive disclosure of personal financial information by a greater number of public officials and employees.

Furthermore, Am. Sub. H.B. 492 was enacted due to concerns that arose regarding the propriety of members of the General Assembly accepting honoraria that they were not required to disclose on their financial disclosure statements. Thus, a more comprehensive disclosure of personal financial information by public officials and employees was enacted as a means to promote public confidence in the integrity of government. See also R.C. 102.03 (H) (prohibiting the receipt of an honorarium).

¹ R.C. 102.022 exempts certain financial disclosure filers from the requirement to disclose payments of travel expenses. The individuals who are exempted include any officer or employee of a political subdivision who receives less than \$16,000 a year for serving in that position and members of the board of trustees of state colleges and universities.

With one exception, you are required to disclose payments of all travel expenses made to you, and payments of travel expenses made to any other person for your use. Pursuant to the exception described in R.C. 102.02(A)(8), you are not required to disclose expenses for travel to meetings or conventions of national or state organizations if your own state agency, or any other state agency, including a state college or university, or any political subdivision, pays membership dues to the national or state organization. You have explained that the conference you attended was not sponsored by the type of national or state organization described in the statutory exception.

Therefore, you are required to disclose payments and reimbursements of expenses in connection with travel to the conference. You must disclose the source and amount of each payment made to you or on your behalf, or reimbursed to you, by the state agency or any other person. This would also include payments made directly by the state agency, if the payments were for your use or benefit. Finally, it would include payments made by any other party, including a private corporation or public agency, if the payments were for your use or benefit.

Expenses Related to Attending a Conference or Convention

R.C. 102.02(A)(8) requires that a public official or employee disclose “the source and amount of every payment of” travel expenses if the expenses are “incurred for travel . . . in connection with the [official’s or employee’s] official duties.” Therefore, there must be a direct correlation among the expense, the travel conducted, and the filer’s official duties.

When an official or employee travels on public time, or to perform some act or service on behalf of his public employer, or to exercise the scope of his authority, the travel is in connection with his official duties. In the situation you have described, you are attending a conference as assigned by your state agency. Therefore, the travel is in connection with your official duties.

The expense must also be directly related to the travel. An example of an expense that is directly related to travel includes an expense incurred for travel by airplane, train, or bus, to a convention site. Other examples would include expenses incurred for taxis, buses, transportation to and from the airport, mileage reimbursements, baggage and shipping, and lodging and meals. Id.

You explained that your public agency paid for your airfare, meals, car rental, hotel expenses, and conference registration fees. Airfare, meals, car rental, and hotel expenses are directly related to travel. You are required, therefore, to disclose the amount of such expenses as a payment of travel expenses on your financial disclosure statement. If more than one payment is made for these travel expenses, R.C. 102.02(A)(8) requires that you separately disclose each individual payment of expenses. You must disclose these payments whether they are made or reimbursed to you, or paid by the agency directly to the provider.

For example, if the state agency paid \$350.00 for your airfare directly to the airline, you must disclose the state agency as the source, and \$350.00 as the amount, of that travel expense. If you incurred \$400.00 in hotel, meal, car rental and other expenses, and then submit a travel reimbursement form, and received a lump sum reimbursement, you must also disclose the state agency as the source, and \$400.00 as the amount, of that reimbursement. If you travel to two conferences in the same month, submit a travel reimbursement form reflecting expenses for both conferences, and receive a lump sum reimbursement, you need only disclose the source and amount of that one reimbursement, even though it includes expenses for two conferences.

By contrast, the cost of the conference or convention registration is not an expense that is directly related to travel. While the conference or convention may be the purpose of the travel, the registration for that conference is not part of the travel itself. A public official or employee can incur conference or convention registration costs without traveling. A conference or convention held in the area where the official or employee ordinarily works would be an example. Therefore, R.C. 102.02(A)(8) does not require you to disclose the cost of the conference or convention registration, paid by your public agency, as a travel expense on your financial disclosure statement.² Of course, while the Law does not require you to disclose the registration as a travel expense, you are free to disclose that expense if you chose to do so.

Expenses Related to a Vehicle Owned by a Public Agency

You have explained that the state agency you serve has a motor pool of vehicles for the use of its employees to drive among the agency's offices. You have also explained that you occasionally travel to meetings in other parts of the state in aircraft operated by another state agency.

Many public agencies have found that it is cost-effective to pool vehicles for use by the employees of the agency. These vehicles are used for a variety of purposes. In some cases, vehicles are assigned on an as-needed basis to agency officials who are engaged in the ordinary work of the agency. In some cases, the agency may offer to transport officials and employees of other public agencies, for a joint public purpose, in a vehicle it owns. Vehicle fleets are themselves subject to required record keeping.

Where a vehicle is owned or leased by a state agency, and is used by the officials or employees of that agency for the ordinary work of the agency, the expenses related to the operation, maintenance, and insurance of the vehicle cannot be solely described as "expenses incurred for travel." Therefore, a public official or employee is not required attempt to discover and then disclose the expenses incurred by his public agency for the continuing operation, maintenance, and insurance of a vehicle owned or leased by the agency, even if the official or

² If the conference registration fee were paid by anyone other than the official's or employee's public agency, the payment may be a gift, and the official or employee would be required to disclose the gift. In such a situation, the filer should contact the Commission for further guidance.

employee occasionally or routinely travels in the vehicle.³ R.C. 102.02(A)(8) does not require you to disclose the agency's expenses in connection with providing a vehicle owned or leased by the agency for your use for the performance of your public duties. This would be true whether you travel in the car occasionally or the car is assigned to you for you to use more routinely for travel related to your public duties. R.C. 102.02(A)(8) also does not require you to disclose the agency's expenses in connection with leasing a pool car from the Department of Administrative Services motor pool.

You have explained that, as distinguished from your routine operation of a vehicle or leased by your own public agency, you are sometimes offered the opportunity to travel in a vehicle owned by another public agency for specific reasons. Where a public official or employee travels for a specified reason in a vehicle owned by another public agency, expenses for the operation of the vehicle in connection with the trip would be considered expenses "incurred for travel" for purposes of the disclosure requirement. The Commission has stated that a public official or employee who benefits from the use of a vehicle in such a situation must disclose the expense on his financial disclosure statement. See, generally, Adv. Op. No. 96-003 (acceptance of travel for personal use must be disclosed as a gift). The filer must disclose either the actual cost of transportation incurred by the public agency that owns the vehicle or the minimum fair market value of the transportation. Id. The filer can contact the public agency involved in order to obtain the actual cost incurred by the agency for his use of the vehicle. The minimum fair market value of the travel is the lowest price at which the public official or employee could have purchased a comparable benefit in the same geographical area within the same general period of time. Id.

Therefore, when a public official or employee is transported for a specific purpose in a vehicle owned or leased by another state agency, the official or employee is required to disclose the expense of that travel. When you travel in a vehicle owned or leased by another state agency, R.C. 102.02(A)(8) requires that you disclose either the actual cost incurred by the public agency that owns or leases the vehicle for that trip, or the minimum fair market value of a comparable ticket on a public conveyance.

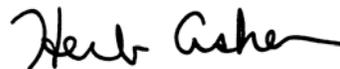
Conclusion

As explained above, you are required to disclose, on your financial disclosure statement, each payment of expenses for airfare, meals, lodging, and car rental made by your public agency in connection with the conference that you attended. You are not required to disclose the payment of conference registration fees by your public agency. You are not required to disclose your occasional or routine use of a vehicle owned or leased by the public agency you serve as a travel expense. You are required to disclose any travel in a vehicle owned or leased by a private corporation or another state agency.

³ Of course, all expenses incurred by a public agency for the operation of a vehicle owned or leased by the agency are public records, and should be available from the agency, even though an individual official or employee is not required to disclose those expenses on his financial disclosure statement.

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.

Therefore, it is the opinion of the Ohio Ethics Commission, and you are so advised, that: (1) A public official or employee subject to the Financial Disclosure provisions contained in Division (A)(8) of Section 102.02 of the Ohio Revised Code must disclose the source and amount of every payment of travel expenses (subject to the exception listed), whether the expenses are paid by a public agency or private entity on behalf of the public official or employee, or reimbursed to the public official or employee; (2) Examples of items required to be disclosed include payments, reimbursements, or expenditures for: (a) lodging; (b) any type of public transportation, including airplanes, trains, buses, and taxis; (c) transportation on a private aircraft or other vehicle owned or leased by a private corporation; (d) transportation in a vehicle that is owned or leased by a public agency other than the one the official or employee serves; (e) food and beverages consumed during travel; and (f) car rental fees; and (3) Examples of items not required to be disclosed include: (a) the payment of registration fees for a conference or convention by the public agency; and (b) the costs associated with the use of a vehicle that is owned or leased by the public agency the official or employee serves and is operated for the ordinary use of the officials and employees of that agency.



Dr. Herb Asher, Chairman
Ohio Ethics Commission