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INFORMATION SHEET: ADVISORY OPINION NO. 2020-03
ATTENDING CEREMONIAL EVENTS

What is the question in the opinion?

Can a public official or employee attend a ceremonial event in an official or honorary capacity?

What is the general restriction?

R.C. 102.03(D) and (E) prohibit a public official or employee from soliciting, accepting, or using his or her position to secure an invitation to an event of substantial value from any party that is doing or seeking to do business with, interested in matters before, or regulated by his or her public agency.

R.C. 2921.43(A) prohibits a public servant from soliciting or accepting any compensation, other than as allowed by law, to perform his or her official duties, to perform any other act or service in his or her public capacity, for the general performance of the duties of his or her public office or public employment, or as a supplement to his or her public compensation.

What is the exemption?

Neither R.C. 102.03(D) and (E) nor R.C. 2921.43(A) prohibit a public official or employee from attending a ceremonial event, such as the opening of a new exhibit, ground-breaking or ribbon-cutting, or other similar event, in his or her official capacity, where the official or employee is performing a ceremonial or honorary function appropriate to his or her public position.

To whom do the conclusions in this opinion apply?

The conclusions apply to any similarly situated state or local public officials and employees.

When did the conclusions in this opinion become effective?

The opinion became effective upon acceptance by the Commission.

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Formal Advisory Opinion
Number 2020-03
October 2, 2020
Ceremonial Events

Syllabus by the Commission:

- (1) Divisions (D) and (E) of Section 102.03 of the Revised Code prohibit a public official or employee from soliciting, accepting, or using his or her position to secure an invitation to an event of substantial value, from any party that is interested in matters before, regulated by, or doing or seeking to do business with his or her public agency.
- (2) R.C. 2921.43(A) prohibits a public servant from soliciting or accepting any compensation, other than as allowed by law, to perform his or her official duties, to perform any other act or service in his or her public capacity, for the general performance of the duties of his or her public office or public employment, or as a supplement to his or her public compensation.
- (3) Neither R.C. 102.03(D) and (E) nor R.C. 2921.43(A) prohibit a public official or employee from attending a ceremonial event, such as the opening of a new exhibit, ground-breaking or ribbon-cutting, or other similar event, in his or her official capacity where the official or employee is performing a ceremonial or honorary function appropriate to his or her public position.
- (4) The following criteria will help identify when attendance at a ceremonial event is objectively related to the public official's or employee's public position:
 - a) The event is clearly presented as ceremonial in nature;
 - b) The event is formally scheduled, advertised, and open to the public and media;
 - c) The official or employee is invited to attend the event as a representative of his or her public agency;
 - d) The event is related to the work of the public agency the invited public official or employee serves;
 - e) The attending public official or employee is performing a designated ceremonial or honorary function appropriate to his or her public position; and
 - f) The attending public official or employee stays at the event for the time reasonably necessary to perform his or her official duties.

* * * * *

In Advisory Opinion No. 2019-01, the Ohio Ethics Commission considered whether a public official or employee could accept a ceremonial gift, such as a personalized plaque, picture, framed certificate, or trophy. The Commission has also been asked if a public official or employee is prohibited from accepting an invitation to attend a ceremonial event where the official or employee is performing a ceremonial or honorary function. This opinion is a restatement of several informal advisory opinions previously issued by the Commission. The purpose of this formal opinion is to provide context, further clarification, and guidance to other similarly situated public officials and employees.

Accepting Anything of Value

Persons who are elected, appointed, or employed by a public agency are subject to R.C. 102.03(D) and (E), which state:¹

- (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 term "anything of value" is defined, for purposes of R.C. 102.03, to include money, goods and chattels, and every other thing of value.² Gifts, meals, travel expenses,³ and entertainment are things of value for purposes of R.C. 102.03.⁴

A thing of value is "of such a character as to manifest a substantial and improper influence" on a public official or employee if it is "of such a quality, nature or kind that it could have a substantial and improper influence on the public official or employee" with respect to that person's duties.⁵ The Commission has explained that it is unnecessary that the thing of value actually influences the official or employee provided that it is of such a character that it could have a substantial and improper influence upon him or her.⁶ The Commission has determined that a "thing of value" will have a substantial and improper influence on a public official or employee if it could impair his or her objectivity and independence of judgment with respect to the person's duties because: (1) it is of a substantial nature or value (including entertainment activities, such as exclusive golf outings and season tickets to the games of a professional sports team);⁷ and (2) it is from a source that is doing or seeking to do business with, regulated by, or interested in matters before the agency the official or employee serves.⁸

In addition to these sections, R.C. 102.03(F) prohibits any person,⁹ from promising or giving to a public official or employee 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 his or her duties.¹⁰

The application of R.C. 102.03 is dependent upon the facts and circumstances of each individual situation.¹¹

For example, in Advisory Opinion No. 2019-01, the Commission determined that an unsolicited, ceremonial gift given to a public official or employee that has little intrinsic, marketable, or utilitarian value and is intended for presentation, such as a personalized plaque, picture, framed certificate, trophy, or similar item is generally not a thing of a substantial value.¹² The Commission noted that while this type of a ceremonial gift can be desirable to a public official or employee for its sentimental value, it is not a valuable thing or benefit that is of such a character as to have a substantial and improper influence on the official or employee in the performance of his or her public duties.¹³ Therefore, a public official is not prohibited from accepting these types of ceremonial gifts. The Commission cautioned, however, that some ceremonial gifts would not come under this exemption even if they are unsolicited and personalized. Examples would include a plaque, picture, or trophy that: has general desirability or marketability as a valuable object of art or a collectible item; has significant utilitarian value; or incorporates materials of significant value, such as precious metals or gems. The Commission stated that under these circumstances, even though the item is intended as a ceremonial gift, it would be a valuable thing or benefit that is of such a character as to improperly influence the official or employee in the performance of his or her public duties.¹⁴

Supplemental Compensation

R.C. 2921.43(A)(1), provides that no public servant shall knowingly solicit or accept, and no person shall give a public servant:

Any compensation, other than as allowed by divisions (G), (H), and (I) of section 102.03 of the Revised Code or other provisions of law, to perform the public servant's official duties, to perform any other act or service in the public servant's public capacity, for the general performance of the duties of the public servant's public office or public employment, or as a supplement to the public servant's public compensation.¹⁵

The term "public servant" is defined to include any elected or appointed officer, employee, or agent of the state or any political subdivision.¹⁶

The word "compensation" is not defined in R.C. 2921.43.¹⁷ The Ethics Commission has explained that "compensation" refers to wages, remuneration, and payment for services provided in exchange for an act that is clearly within the performance of the public servant's official duties.¹⁸ As the Jackson County Court of Common Pleas explained in *State v. Livesay* (1998), 91 Ohio Misc. 2d 208 at 214:

"Compensation" generally means an exchange in return for or to require some obligation, tit for tat, so to speak. The legislature could have used the phrase "anything of value" or "payment," but chose the word "compensation" to require

... that there be an exchange, i.e., one person gets something from another. (Emphasis added).

“Compensation” also includes the payment of a public servant’s expenses incurred in the performance of a public servant’s official duties.¹⁹ For example, the Ethics Commission has explained that a public employee is prohibited from accepting the reimbursement of expenses for travel, meals, and lodging from any entity if the expenses are paid in connection with the performance of his or her official duties.²⁰

The Ethics Commission has explained that a public servant cannot solicit or accept, and persons cannot give to a public servant, “compensation” that is intended to be given in exchange for any of the following purposes: (1) to perform his or her official duties; (2) to perform any other act or service in his or her public capacity; or (3) as a supplement to his or her public compensation.

For example, in Advisory Opinion No. 2019-01, the Commission said that a community association would not be prohibited from honoring a public employee by providing him or her with a personalized framed certificate that would provide only sentimental value to the recipient. Under such circumstances, the ceremonial gift would not be considered “compensation” or payment for his or her services as a public servant.

The Commission cautioned, however, that the public employee would be prohibited from accepting a monetary award from the community association for the public work he or she performs because the award would be “compensation” other than as allowed by law for the general performance of his or her public duties and as a general supplement to his or her public compensation.²¹

Attending Ceremonial Events

In its informal precedents, the Commission has said that under certain circumstances the Ethics Law would not prohibit a public official or employee from accepting an invitation, along with complimentary admission tickets that include special access tours, food, and beverages, from an otherwise prohibited source to attend a ceremonial event, such as the opening of a new exhibit, a ground-breaking or ribbon-cutting ceremony, or other public event, where the official or employee is present in a ceremonial role or honorary capacity.²² A ceremonial role means an act performed at an event by the official as a representative of the official’s agency at the request of the holder of the event where, for a period of time, the focus of the event is the act performed by the official.²³

In Informal Opinion No. 2005-INF-1109, the Commission considered whether local officials could accept four regular tickets and special access tours to attend an event at the local zoo. The Commission determined that accepting the tickets would not be of such a character as to manifest a substantial and improper influence upon the performance of their public duties because the value of the tickets (\$6.50 each or a total of \$26.00) was nominal and not substantial in value. The Commission also determined that accepting these tickets would not violate R.C. 2921.43(A) because they were not provided by the zoo as compensation for the performance of the public

officials' public job duties. The Commission stated that generally the Ethics Law does prohibit the zoo from offering or giving large numbers of public officials and employees free admission if the zoo is doing or seeking to do business with, regulated by, or interested in matters pending before the public agencies they serve. However, the Commission said that the Ethics Law does not prohibit the zoo from: (1) inviting a public official or employee to attend the opening of a new exhibit, ground-breaking or ribbon-cutting for new zoo facilities, or other similar event, in his or her official capacity, particularly where the official or employee is performing a ceremonial function; or (2) making free or reduced-cost admission to the zoo available to a large class of public officials or employees, such as all public servants for all public agencies in the county, just as it might for private sector employees.²⁴

In Informal Opinion No. 2007-INF-0914, the Commission considered whether a regional airport authority could provide four tickets to the air show that it was hosting to state and local public officials and employees of agencies that either provide funds to or regulate the airport authority. The total value of the tickets and meals provided to each public official or employee would be over \$250.00. The Commission explained that while, usually, the conflict of interest law would prohibit the airport authority from giving, and the public officials and employees from accepting, the tickets and other benefits totaling over \$250,²⁵ that law does not prohibit an otherwise improper source from providing a public official or employee the opportunity to attend an event in a ceremonial or honorary capacity. The Commission suggested that the airport authority send a letter inviting the officials to attend or be co-hosts of the event in a ceremonial or honorary capacity and explain the functions that the airport authority intends the officials will perform. Under these circumstances, the Commission determined that the tickets and meals, although valued at over \$250, would not be of such a character as to manifest a substantial and improper influence upon the performance of the official's and employee's public duties because they were present in order to perform specific ceremonial or honorary functions at the event.²⁶ The Commission added, however, that if any public official or employee would like to have family members accompany them to the air show, the official or employee would be required to pay fair market value for their family members' admission to the event and any other items of value provided.

To provide further clarity and guidance, the following criteria will help identify when attendance at a ceremonial event is objectively related to the official's or employee's authorized duties:

- a) The event is clearly presented as ceremonial in nature;
- b) The event is formally scheduled, advertised, and open to the public and media;
- c) The official or employee is invited to attend the event as a representative of his or her public agency;
- d) The event is related to the work of the public agency the invited public official or employee serves;
- e) The attending public official or employee is performing a designated ceremonial or honorary function appropriate to his or her public position; and
- f) The attending public official or employee stays at the event for the time reasonably necessary to perform his or her official duties.²⁷

When these circumstances are present, there is no potential conflict of interest because the public official or employee is representing the public agency they serve, and their presence serves a public purpose.

Conclusion

Limited to questions arising under Chapter 102 and Sections 2921.42 and 2921.43 of the Revised Code, it is the opinion of the Commission and the Commission advises that both R.C. 102.03(D) and (E) and R.C. 2921.43(A) prohibit a public official or employee from soliciting, accepting, or using his or her position to secure an invitation to an event of substantial value, from any party that is interested in matters before, regulated by, or doing or seeking to do business with his or her public agency. However, neither R.C. 102.03(D) and (E) nor R.C. 2921.43(A) prohibit a public official or employee from attending the opening of a new exhibit, ground-breaking or ribbon-cutting, or other similar event, in his or her official capacity where the official or employee is performing a ceremonial or honorary function appropriate to his or her public position. The following criteria will help identify when attendance at a ceremonial event is objectively related to the public official's or employee's public position: (a) The event is clearly presented as ceremonial in nature; (b) The event is formally scheduled, advertised, and open to the public and media; (c) The official or employee is invited to attend the event as a representative of his or her public agency; (d) The event is related to the work of the public agency the invited public official or employee serves; (e) The attending public official or employee is performing a designated ceremonial or honorary function appropriate to his or her public position; and (f) The attending public official or employee stays at the event for the time reasonably necessary to perform his or her official duties.



Merom Brachman, Chairman
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 See R.C. 102.01(B) and (C).

² R.C. 1.03; 102.01(G).

³ *But see* R.C. 102.03(I) and OAC 102-03-08, which apply to travel connected with a conference, seminar, or similar event that is related to the public official's or employee's official duties.

⁴ Ohio Ethics Commission Advisory Opinions No. 95-001, 2001-03, 2001-04, and 2009-01.

⁵ Adv. Op. No. 76-005 (emphasis in original).

⁶ *Id.*

⁷ Adv. Ops. No. 95-001 and 2001-03.

⁸ Adv. Ops. No. 2001-03 and 2004-03. *See also* Ohio Sup.Ct. Bd of Professional Conduct, CPR Op. 98-10 (1998) (acceptance of a thing of value by a judge is improper "in the presence of all three variables: (1) a thing of value, (2) substantial influence, and (3) improper influence").

⁹ A “person” includes any individual, corporation, partnership, association, or other similar entity. R.C. 1.59.

¹⁰ See Adv. Op. No. 90-001.

¹¹ Adv. Ops. No. 87-008, 89-003, 90-004, and 91-002.

¹² See also 5 C.F.R 2635.203(b)(2).

¹³ See Adv. Op. No. 76-005.

¹⁴ See R.C. 102.03(F) (prohibiting a prohibited source from promising or giving anything of substantial value to a public official or employee). See also Adv. Op. No. 90-001.

¹⁵ There are three specific exceptions to this provision, set forth in R.C. 102.03(G), (H), and (I). The exceptions apply to campaign contributions, honoraria, and travel expenses and are not relevant to the issue of ceremonial gifts.

¹⁶ R.C. 2921.01(A) and (B).

¹⁷ See R.C. 102.01(A) (for purposes of Chapter 102, compensation is defined as “money, thing of value, or financial benefit”). See also Adv. Ops. No. 92-014 and 2007-03.

¹⁸ See Adv. Op. No. 2008-01. See also R.C. 1.42 (words and phrases shall be read in context and construed according to the rules of grammar and common usage).

¹⁹ Adv. Op. No. 92-018.

²⁰ *Id.*

²¹ See Adv. Op. No. 92-015.

²² Informal Adv. Ops. No. [2005-INF-1109](#) and [2007-INF-0914](#).

²³ <https://www.lawinsider.com/dictionary/ceremonial-role>

²⁴ Adv. Ops. No. 2001-08 and 2011-08.

²⁵ See R.C. 102.03(E) and (F).

²⁶ *But see* Adv. Op. No. 95-001 (a public official or employee would be prohibited from accepting free season tickets from a professional athletic team that plays its games in a stadium located within the city).

²⁷ R.C. 102.02(A)(2)(g); R.C. 102.022(B) (if the official stays beyond the time reasonably necessary to perform his or her duties, then the law requires the disclosure of the source of the gift(s) if its value exceeds the threshold amount for disclosure).