

Commonwealth of Virginia

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Virginia Conflict of Interest and Ethics Advisory Council

MEMORANDUM

TO: Virginia Conflict of Interest and Ethics Advisory Council

FROM: Rebekah Stefanski, Attorney

DATE: April 26, 2016

RE: Formal Advisory Opinion 2016-F-006 § 30-111 Legislator reporting of an event

QUESTION: How should a legislator report attendance at an event for each of the following scenarios?

1. The host of the event invites the legislator to attend.
2. An individual or entity gives the legislator a ticket to the event.
3. An individual or entity pays for or sponsors a table at the event and gives a seat at the table to the legislator. The individual or entity receives additional benefits with the sponsorship, such as advertising at the event.

ANSWER:

1. The legislator should report the cost-per-person value, calculated as the host's total cost for the event divided by the number of attendees.
2. The legislator should report the value of the ticket.
3. The legislator should report the value of the seat, calculated as the total cost of the table divided by the number of seats at the table.

APPLICABLE CODE:

§ 30-101. Definitions.

As used in this chapter, unless the context requires a different meaning:

...

“Gift” means any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value. It includes services as well as gifts of transportation, lodgings and meals, whether provided in-kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred. “Gift” does not include (i) any offer of a ticket, coupon, or other admission or pass unless the ticket, coupon, admission, or pass is used; (ii) honorary degrees; (iii) any athletic, merit, or need-based scholarship or any other financial aid awarded by a public or private school, institution of higher education, or other educational program pursuant to such school, institution, or program's financial aid standards and procedures applicable to the general public; (iv) a campaign contribution properly received and reported pursuant to Chapter 9.3 (§ 24.2-945 et seq.) of Title 24.2; (v) any gift related to the private profession or occupation of a legislator or of a member of his immediate family; (vi) food or beverages consumed while attending an event at which the filer is performing official duties related to his public service; (vii) food and beverages received at or registration or attendance fees waived for any event at which the filer is a featured speaker, presenter, or lecturer; (viii) unsolicited awards of appreciation or recognition in the form of a plaque, trophy, wall memento, or similar item that is given in recognition of public, civic, charitable, or professional service; (ix) a devise or inheritance; (x) travel disclosed pursuant to the Campaign Finance Disclosure Act (§ 24.2-945 et seq.); (xi) travel paid for or provided by the government of the United States, any of its territories, or any state or any political subdivision of such state; (xii) travel provided to facilitate attendance by a legislator at a regular or special session of the General Assembly, a meeting of a legislative committee or commission, or a national conference where attendance is approved by the House or Senate Committee on Rules; (xiii) travel related to an official meeting of the Commonwealth, its political subdivisions, or any board, commission, authority, or other entity, or any charitable organization established pursuant to § 501(c)(3) of the Internal Revenue Code affiliated with such entity, to which such person has been appointed or elected or is a member by virtue of his office or employment; or (xiv) gifts from relatives or personal friends. For the purpose of this definition, “relative” means the donee’s spouse, child, uncle, aunt, niece, nephew, or first cousin; a person to whom the donee is engaged to be married; the donee's or his spouse's parent, grandparent, grandchild, brother, sister, step-parent, step-grandparent, step-grandchild, step-brother, or step-sister; or the donee’s brother's or sister's spouse. For the purpose of this definition, “personal friend” does not include any person that the filer knows or has reason to know is (a) a lobbyist registered pursuant to Article 3 (§ 2.2-418 et seq.) of Chapter 4 of Title 2.2 or (b) a lobbyist’s principal as defined in § 2.2-419.

...

§ 30-111. Disclosure form.

...
STATEMENT OF ECONOMIC INTERESTS.

...
SCHEDULE E - GIFTS.

List each business, governmental entity, or individual that, during the past six months, (i) furnished you or a member of your immediate family with any gift or entertainment at a single event, and the value received exceeded \$50 or (ii) furnished you or a member of your immediate family with gifts or entertainment in any combination and the total value received exceeded \$50, and for which you or the member of your immediate family neither paid nor rendered services in exchange. List each such gift or event. Do not list entertainment events unless the average value per person attending the event exceeded \$50. Do not list business entertainment related to the private profession or occupation of you or the member of your immediate family who received such business entertainment. Do not list gifts or other things of value given by a relative or personal friend for reasons clearly unrelated to your public position. Do not list campaign contributions publicly reported as required by Chapter 9.3 (§ 24.2-945 et seq.) of Title 24.2 of the Code of Virginia.

...

DISCUSSION:

The definition of a gift specifically includes entertainment, hospitality, meals, and tickets.¹ Therefore, unless it falls under one of the exceptions to the definition of a gift, attendance at an event such as a banquet, gala, dinner, etc., is a gift. To determine the value of the gift the legislator accepts, it is the responsibility of the legislator to determine how much was spent on him and by whom.

Question 1

If a legislator is invited to attend an event for no charge by the host of the event, the legislator must determine how much his attendance cost the host. In such a situation, the cost of attendance should be reported as the cost-per-person value. To determine the cost-per-person value, or average cost per person, the event host's total cost for the event is divided by the total number of persons attending the event.² The cost-per-person value is the amount spent on the legislator by the host and it is this amount that is accepted by the legislator. Therefore, the cost-per-person value is the amount the legislator should report on his Statement of Economic Interests as received from the event host.

Question 2

If a legislator is given a ticket to an event, the value of the ticket is the amount accepted by the legislator. The legislator should report on his Statement of Economic Interests the value of the ticket as received from the entity that gave him the ticket.

¹ § 30-101

² 2015-F-004 2.2-426 Lobbyist reporting of a banquet, Virginia Conflict of Interest and Ethics Advisory Council

Question 3

If a legislator is given a seat at a table sponsored by or purchased by an entity, the legislator must determine the value of a seat at that table. In such a situation, the value of his seat can be determined by dividing the total amount paid by the entity by the number of seats at the table. The cost of the table remains the same regardless of any additional benefits included in the purchase of the table package. The legislator should report the value of the seat on his Statement of Economic Interests as received from the entity that paid for his seat.

This analysis applies only to the stated facts. If the facts differ, the analysis will change.