

# Commonwealth of Virginia

Patricia L. West, Chair  
Chris Piper, Executive Director



General Assembly Building  
201 North 9th Street, Second Floor  
Richmond, Virginia 23219

(PHONE) 804-786-3591  
(FAX) 804-371-8705  
ethics@dls.virginia.gov

## 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-007 § 2.2-3103.1 & 30-103.1 Widely attended events

---

**QUESTION:** May an entertainment event such as a sporting event, concert, or musical qualify as a widely attended event as defined in §§ 2.2-3103.1 and 30-103.1?

**ANSWER:** If the event is open to individuals who share a common interest in the entertainment being offered, the event qualifies as a widely attended event and a filer may accept tickets to the event with a value in excess of \$100 without violating § 2.2-3103.1 or 30-103.1. The filer must report the value of the tickets on his Statement of Economic Interests.

**APPLICABLE CODE:**

**§ 2.2-3103.1. Certain gifts prohibited.**

A. For purposes of this section:

...

“Widely attended event” means an event at which at least 25 persons have been invited to attend or there is a reasonable expectation that at least 25 persons will attend the event and the event is open to individuals (i) who share a common interest, (ii) who are members of a public, civic, charitable, or professional organization, (iii) who are from a particular industry or profession, or (iv) who represent persons interested in a particular issue.

...

D. Notwithstanding the provisions of subsections B and C, such officer, employee, or candidate or a member of his immediate family may accept or receive a gift of food and beverages, entertainment, or the cost of admission with a value in excess of \$100 when such gift is accepted or received while in attendance at a widely attended event and is associated with the event. Such gifts shall be reported on the disclosure form prescribed in § 2.2-3117.

...

### **§ 30-103.1. Certain gifts prohibited.**

A. For purposes of this section:

“Widely attended event” means an event at which at least 25 persons have been invited to attend or there is a reasonable expectation that at least 25 persons will attend the event and the event is open to individuals (i) who share a common interest, (ii) who are members of a public, civic, charitable, or professional organization, (iii) who are from a particular industry or profession, or (iv) who represent persons interested in a particular issue.

...

C. Notwithstanding the provisions of subsection B, a legislator or candidate or a member of his immediate family may accept or receive a gift of food and beverages, entertainment, or the cost of admission with a value in excess in \$100 when such gift is accepted or received while in attendance at a widely attended event and is associated with the event. Such gifts shall be reported on the disclosure form prescribed in § 30-111.

...

### **DISCUSSION:**

In order to qualify as a widely attended event, an event must meet two requirements: First, the event must be “open to individuals (i) who share a common interest, (ii) who are members of a public, civic, charitable, or professional organization, (iii) who are from a particular industry or profession, or (iv) who represent persons interested in a particular issue.”<sup>1</sup> Second, at least 25 persons must have been invited to or be expected to attend the event.<sup>2</sup>

In order for an entertainment event such as a sporting event, concert, or musical to qualify as a widely attended event, it likewise must meet both requirements. For the purposes of this opinion, it is assumed that the attendance requirement has been satisfied. The purpose of the event must then fit at least one of the four categories listed in clauses (i) through (iv). Considering the nature of most entertainment events, the last three categories listed in the definition most likely do not apply. Therefore, it must be determined if an entertainment event is one that is “open to individuals who share a common interest.”<sup>3</sup>

---

<sup>1</sup> §§ 2.2-3103.1 & 30-103.1

<sup>2</sup> §§ 2.2-3103.1 & 30-103.1

<sup>3</sup> §§ 2.2-3103.1 & 30-103.1

One of the basic rules of statutory interpretation is applying the plain meaning to the text of a statute. Virginia courts have held numerous times that the reader should not stray from the plain meaning of a statute unless such an interpretation would lead to an absurd result or there is ambiguity in the wording.<sup>4</sup> Additionally, the court “will not look for ambiguities to resolve” when the language of a statute is plain and clear.<sup>5</sup> The language of a statute is only ambiguous “if the text can be understood in more than one way or refers to two or more things simultaneously or when the language is difficult to comprehend, is of doubtful import, or lacks clearness or definiteness.”<sup>6</sup>

The phrase “share a common interest” is not ambiguous and therefore should be given its plain meaning. It can be assumed that individuals at a sporting event all share a common interest in that sport, that individuals at a concert all share a common interest in the performer or his performance, and that individuals at a musical all share a common interest in musical theater. Therefore, if an entertainment event meets the attendance requirements and is open to individuals who share a common interest in the type of entertainment being offered, it qualifies as a widely attended event.<sup>7</sup> In such a case, a filer may accept food, beverages, entertainment, and the cost of admission accepted or received while in attendance at the event and associated with the event with a value in excess of \$100 without violating § 2.2-103.1 or 30-103.1.<sup>8</sup> The filer must report the value of the food, beverages, entertainment, and cost of admission on his Statement of Economic Interests.

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

---

<sup>4</sup> *Winston v. City of Richmond*, 196 Va. 403, 407 (1954); *Covel v. Town of Vienna*, 280 Va. 151, 158 (2010); *Bd. of Supervisors of Fauquier Cnty. v. Machnick*, 242 Va. 452, 456 (1991); *Lovisi v. Commonwealth of Virginia*, 212 Va. 848, 850 (1972); *Wright v. Commonwealth of Virginia*, 278 VA. 754, 759 (2009).

<sup>5</sup> *Lovisi*, 212 Va. at 850.

<sup>6</sup> *Covel*, 280 Va. at 158, quoting *Boynton v. Kilgore*, 271 Va. 220, 227 (2006).

<sup>7</sup> §§ 2.2-130.1 and 30-103.1

<sup>8</sup> This exception to the \$100 gift cap is only necessary when such gifts are accepted by legislators from lobbyists and lobbyist’s principals, and by state and local filers from lobbyists, lobbyist’s principals, and entities that are a party to or are seeking to become a party to a contract with the filer’s agency.