

**ETHICS INTERPRETATION EI-1995-003
ISSUED APRIL 13, 1995**

The Ethics Commission [the "Commission"], in regular meeting, addressed your request for an ethics interpretation. You have asked:

What, if any, reporting requirements arise when a group of legislator spouses put on a style show for which contributions from lobbyists are solicited and received? If the event gives rise to a reporting obligation, who reports? Also, can the donations from lobbyists or lobbyist principals be attributed among reporters, such that none of them exceeds the \$300 per year limit on receipt of anything of value?

FACTS

You have related the following facts with respect to this matter:

1. OHOYAHOMA CLUB ["Club"] is made up of female spouses of state legislators and governors both past and present.
2. The Club has seven officers: a president, first vice president, second vice president, secretary, social chairman, treasurer and parliamentarian.
3. The Club has an annual luncheon style show to raise money which is then donated to a charitable organization, i.e. the Hospital Hospitality House in Oklahoma City.
4. Lobbyists or lobbyist principals are asked to donate either prizes or money toward the expenses of the style show.

ANALYSIS

These questions involve interpretation of the Constitutional Ethics Rules [Section 257:1-1-1 et seq. of the Rules of the Ethics Commission, 74 O.S. 1994 Supp., Ch. 62, App.], specifically the provision titled "restraint on solicitation or acceptance of anything of value -- disclosure". It provides:

**Restraints on solicitation or acceptance of
anything of value--Disclosure**

* * *

(c) State officers and state employees who determine state policy or who make final spending decisions for the state or any governmental entity shall report monthly the source, recipient, type, date, and exact amount or retail value of things of value received in a calendar year valued from \$50 to \$300 in the aggregate *for the private benefit of the officer or employee or his or her immediate family or an organization with which the officer or employee is associated* from a person who the state officer or state employee knows or should know:

(1) is a lobbyist or lobbyist principal, provided that the following shall not be subject to this subsection:

(A) things of value received as a result of or arising out of employment by, or doing business with, a lobbyist or lobbyist principal; and

(B) things of value received from any director, stockholder, partner, agent, affiliate, member, employee or officer of a lobbyist principal as a result of a personal or casual relationship with the recipient;

(2) is seeking to do business or doing business with the governmental entity of which the state officer's or state employee's office or employment is a part; or

(3) has a substantial financial interest in actions or matters before or affecting the governmental entity of which the state officer's or state employee's office or employment is a part.

When exact values are not known and not ascertainable, a good faith estimate of the fair market value shall be reported. Reports shall be due by the tenth day of each month for the period covered by the previous month. No report shall be due for periods during which things of value under this subsection were not received. The report shall be signed by the state officer or state employee who shall attest to the report's accuracy and veracity, and the signature shall be notarized.

* * *

Section 257:20-1-9(c) of the Rules of the Ethics Commission, 74 O.S. Supp.1994, Ch. 62, App.

[emphasis added]

The rule was enacted in response to testimony the Commission heard on the issue of state officers or employees soliciting or receiving gifts which might influence public decisions. Rather than ban the giving and receiving of "anything of value", the Commission crafted a rule which set both a \$50 de minimis rule and an annual limit of \$300 on things of value received from lobbyists, lobbyist principals, those doing or seeking to do business with the state and those with a matter pending before the state officer's or employee's regulatory agency. The rule also requires disclosure by the tenth day of the following month on things of value solicited or received. Items are reported by means of a Report Of Anything Of Value Received ["Form G-1"], available through the Commission. The rule governs state officers or employees. But, in certain instances, it reaches the conduct of the state officer's or employee's spouse and/or immediate family members.

The Commission recognized that a benefit to a state officer's or employee's immediate family member, or an organization with which they are associated, also constitutes a benefit -- albeit an indirect one -- to the officer or employee. It thus drafted the rule in such a way as to require the officer or employee to report things of value received by an organization with which an immediate family member is associated. The latter is a defined term under the constitutional rules. It means:

Definitions

* * *

"**Associated**", when used with reference to an entity, includes an entity in which an individual *or a member of his or her immediate family is a director, officer, fiduciary, trustee, agent, or partner, or owns or controls, in the aggregate, at least two percent (2%) or a value of five thousand dollars (\$5,000) of the outstanding equity.*

* * *

257:1-1-2

[emphasis added]

Thus, state officers or employees are required to report things of value solicited or received by an organization which has officers who are members of his or her immediate family. The latter is also a defined term.

Definitions

* * *

"**Immediate family**" means a child under the age of eighteen (18) years residing in a state officer's or state employees' household, *a spouse of a state officer or state employee, and an individual claimed by the state officer or employee or the state officer's or employee's spouse as a dependent for tax purposes.*

* * *

257:1-1-2

[emphasis added]

The rules provide for no attribution between filers. Hence, each filer must report the full amount of the thing of value he or she solicits or receives under conditions specified in 257:20-1-9.

The event, toward which lobbyist or lobbyist principals contribute funds or gifts, raises a reporting obligation under 257:20-1-9. Since the constitutional rules govern state officers and employees, it is they who file the gift reports. However, it is only those state officers or employees whose spouses are officers in the Club which incur the duty to file. This obligation is not transferable and cannot be met by any other person or group. Since the rules do not provide for attributing things of value between filers, each must report the full amount of things of value received from each source. Filers must not exceed the \$300 per year limit on things of value received from an individual source. The fact that the proceeds from the style show ultimately go to a charity is of no consequence with respect to the application of this rule.

All of these considerations indicate that a legislator whose spouse is an officer--as opposed to member--would report under the above cited authority. However, the Commission notes that this analysis fails to consider the definition of "organization" which appears in Section 9(c) of Chapter 20. It is defined in Chapter 1, Section 2 as follows:

Definitions

"Organization" means a:

- (1) *labor* organization;
- (2) *collective bargaining* organization;
- (3) *local, state, or national* organization to which a labor organization pays membership or per capita fees, based upon its *affiliation* and membership; or
- (4) *trade or professional association* that receives its funds exclusively from membership dues or service fees, whether organized inside or outside the state.

257:1-1-2

[emphasis added]

While use of the word in the context of Section 9(c) may have been erroneous, the rule was adopted and has been widely published using a clearly defined term. Were it not for this definition, Section 9(c) would require disclosure under the above reasoning. However, your club does not fall within the definition of "organization" which includes only labor or collective bargaining organizations, local chapters of such organizations or trade or professional organizations. It is important to note that the Commission may consider amending this provision in the future to clarify its intent.

CONCLUSION

It is, therefore, the ethics interpretation of the Ethics Commission, as voted on at its meeting on April 13, 1995, that, since "organization" is defined as a labor or collective bargaining organization, a local unit of such, or a trade or professional organization, the Club does not fit within the definition; therefore, legislators who have spouses serving as officers of the [OHOYAHOMA] Club are not required to file reports under Section 257:20-1-9(c) of the Rules of the Ethics Commission, 74 O.S.Supp.1994, Ch. 62, App. of donations by lobbyists or lobbyist principals to the Club for assistance with an annual style show, the proceeds of which are donated to a charitable organization. It is unnecessary then to answer your reporting questions. You should be aware that the Commission may consider amending this subsection in the future to clarify its intent.

Please be advised that ethics interpretations by law will be published by this Commission without identifying petitioners.