

**INFORMAL OPINION IO-1998-002
ISSUED MARCH 13, 1998**

In the executive portion of its regular meeting held March 12, 1998, the Ethics Commission considered your request for an ethics interpretation. After reviewing the matter, the Commission determined that the question you asked can be answered from a direct reading of the controlling authority. Since ethics interpretations are reserved for issues which must be construed, the Commission voted to convert your request to an informal opinion. You have asked:

Do the Constitutional Ethics Rules [“the Rules”], Section 257:1-1-1 et seq. of the Rules of the Ethics Commission, 74 O.S. Supp. 1997, Ch. 62, App., permit state officers and employees to accept a discount on cellular phone wireless service in the form of a reduced rate?

FACTS

You have advised that a corporation operating a cellular phone wireless service [the “corporation”] would like to offer a commercial discount to state officers and employees in the form of reduced rates on the basis that the State of Oklahoma is a “qualified customer employer”, meaning one with at least 10 accounts. You have also advised that the corporation employs a lobbyist and is doing business with the State.

ANALYSIS

The threshold question is whether the discount being offered constitutes a “thing of value” as defined by the Rules. To answer this, we must first turn to the definitions.

Definitions

* * *

“Anything of value,” “Thing of value” or “Things of value”

(1) These terms, to the extent that consideration of equal or greater value is not received, include the following:

* * *

(M) a rebate or *discount in the price of anything of value* or the sale or trade of something for reasonable compensation that would ordinarily not be available to a member of the public, except as provided in subparagraph (J) in Paragraph (2) of this definition;

257:1-1-2

[emphasis added]

The exception referred to in the definition provides:

(2) These terms do not include:

* * *

(J) opportunities and benefits, *including favorable rates and commercial discounts available to the public or to a class consisting of all state government employees*, whether or not restricted on the basis of geographic consideration;

* * *

257:1-1-2

[emphasis added]

Since the discount being offered extends to all state government employees, the proposed reduced rate fits within an exception to the definition of “anything of value” and, hence, falls outside the purview of the rule on restraints on solicitation or acceptance of anything of value.

Restraints on solicitation or acceptance of anything of value — Disclosure

* * *

(b) **Calendar year limits on things of value.** No state officer, state employee, or an immediate family member of a state officer or state employee shall, directly or indirectly, ask, demand, exact, solicit, seek, accept, assign, receive, or agree to receive things of value in a calendar year which, in the aggregate, are valued at more than three hundred dollars (\$300) 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.

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257:20-1-9

Therefore, the Rules do not prohibit state officers and employees from accepting a commercial discount or reduced rate for cellular phone service under the facts herein described. The foregoing applies irrespective of the above described \$300 per year prohibition on acceptance of anything of value.

CONCLUSION

It is therefore the informal opinion of the Ethics Commission staff that the Rules do not prohibit state officers and employees from accepting a commercial discount or reduced rate on cellular phone wireless service made available to the public or to a class consisting of all state government employees. The foregoing applies irrespective of the \$300 per calendar year prohibition on acceptance of anything of value set forth in Section 257:20-1-9(b).

Please be advised that, like ethics interpretations, informal opinions are fact specific. They answer only the question or questions put forth in the underlying request.

The Commission staff can issue informal opinions, upon approval of the Chair or Vice Chair, provided the matter is reasonably susceptible to a single analysis and is not the subject of litigation, investigation or legislation. We hope they shed light on the issue and provide guidance. They are not, however, official pronouncements.

This letter has been approved by the Chair. Please be advised that, like ethics interpretations, informal opinions are published with sufficient deletions to prevent identification of the person or persons involved.