



STATE OF CONNECTICUT  
STATE ETHICS COMMISSION

ADVISORY OPINION NUMBER 83-12

Expenditures for the Benefit of a Public Official

A lobbyist has requested the advice of the Ethics Commission concerning the proper method for complying with the reporting requirements, subsection 1-96(b), and the gift provisions, subsection 1-97(a), of the Code of Ethics for Lobbyists, Chapter 10, Part II, General Statutes, when entertaining a public official or a member of his staff or immediate family.

In pertinent part, subsection 1-96(b) requires that every periodic lobbyist financial report "...include an itemized verified statement of each expenditure of fifty dollars or more per occasion made by the registrant for the benefit of a public official in the legislative or executive branch, a member of his staff or immediate family itemized by date, beneficiary, amount and circumstances of the transaction." Subsection 1-97(a) mandates that "No registrant or anyone acting on behalf of a registrant shall give to any state employee, public official, candidate for public office or a member of his staff or immediate family any gift or gifts that amount to fifty dollars or more in value in the aggregate in any calendar year." (The Code of Ethics for Public Officials, Chapter 10, Part I, General Statutes, contains a reciprocal provision which prohibits a member of the above classes of individuals from accepting a gift from a known lobbyist if it would be illegal for that lobbyist to give the gift. Subsection 1-84(j), *id.*) The Code exempts from the definition of gift several things; the most significant for this discussion being "...food or beverage or both consumed on a single occasion, the cost of which is less than fifty dollars per person." Subsection 1-91(g), *id.*

Specifically, the lobbyist has suggested that the Commission adopt the following two interpretations in order to facilitate compliance with the Code: (1) that "occasion", as used in subsections 1-96(b) and 1-91(g), *id.*, be defined as a single calendar day, and (2) that when two or more lobbyists co-host an occasion, each should report the names of all legislators in attendance, the total number of guests, the location, and the percentage of the check paid.

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(1) The proposal to define an occasion as a day for purposes of the Code is not without some appeal. No doubt, it would simplify matters in the case of a lobbyist who hosted a group of public officials for lunch and another somewhat overlapping group for drinks, a show, and a late dinner on the same day, but was uncertain as to whether one or more occasions were involved. However, a detailed analysis of the advantages and disadvantages of this interpretation is unnecessary, for the proposal is not one the Commission can properly endorse. Rather, when issuing an advisory opinion the Commission is bound by the rules of statutory construction and the manifest intent of the General Assembly in drafting the language in question. In the instant situation, both these factors militate strongly against adopting any definition for occasion other than its commonly understood meaning, i.e. "...a particular occurrence; happening, incident...a particular time at which something takes place...." Webster's Third New International Dictionary (1971) at page 1560. To equate occasion, in all instances, with a calendar day, regardless of the circumstances, would violate a cardinal rule of statutory construction that "...words and phrases shall be construed according to the commonly approved usage of the language...." Subsection 1-1(a), General Statutes. Even more compelling, such a rigid definition contradicts the legislative intent regarding this term. The extensive debate on this subject contains repeated references to "dinner and drinks", "dinner and drink events", "wining and dining", "meals", "tab", "bill", etc., but no mention whatsoever of a time-based standard for occasion. See, 20 H.R. Proc., part 16, 1977 Sess., pp. 6699-6704, 6730, 6733-6738, 6775-6782. In short, there is no evidence that the General Assembly intended to adopt a strict calendar day criterion when it chose the term "occasion". Rather, in administering the Code of Ethics the Commission must apply the generally understood, broader concept of occasion which allows for the possibility of more than one occasion on a given day or a particular occasion lasting longer than a day.

While it is a fairly straightforward process to define occasion in the abstract, everyday application of the term is somewhat more difficult. As might be expected based on the rather fluid nature of the concept, it is not possible to establish, in advance, precise rules governing every expenditure for the benefit of a public official. However, general guidelines and examples are a practical alternative. Essentially, what constitutes an occasion must be determined by examining all facets of the events in question, with particular emphasis on the intent of the lobbyist.



The previously stated hypothetical - a lobbyist hosting one group of public officials for lunch and another group, including some of the same officials, for drinks, a show, and a late dinner on the same day - serves as a useful example. If the lunch was neither planned nor conducted as part of a single, day-long program, it would be proper to treat it as an occasion separate from the evening's entertainment. Consequently, even though all the expenditures take place on one day, there would be two reportable occasions (presuming the lunch and the evening activities each cost fifty dollars or more) and two distinct food and drink exceptions of \$49.99 per person for those beneficiaries present at both events. However, carrying the example one step further, if the evening's entertainment was planned or conducted as a unitary event, it would not be proper to claim that drinks at one establishment and dinner, somewhat later, at another constituted two additional occasions, each with a \$49.99 per person food and drink gift exception. Rather, the entire evening, including the show, would be one reportable occasion. It would therefore be necessary for both the lobbyist and those public officials in attendance to make certain that the total value of food and drink consumed during the entire evening was below fifty dollars per person (including any taxes and gratuities attributable to the food and drink, Ethics Commission Advisory Opinion No. 81-12, 43 Conn. L.J. No.13, p. 13 (September 29, 1981)).

In the same way, if an outing or program of activities is organized for a group of public officials - for example, a day of golf accompanied by food and drink, an overnight fishing trip including meals, or a day-long tour of a lobbyist's plant facilities at which various refreshments are served - all the expenditures would constitute a single occasion for both reporting purposes and the food and drink gift exception. Allowing only a single \$49.99 food and drink exception in such situations, rather than one for each meal during the event, not only comports with the common understanding of occasion, but also furthers the legislative intent that lavish wining and dining of public officials and State employees by lobbyists be discouraged. Id. When the inevitable situations arise which do not lend themselves to a clear resolution under the foregoing principles, those involved should seek more exact guidance from the Commission.

(2) The recommendation that when lobbyists divide the total cost of an occasion each should report the names of all legislators present, the total number of guests, the percentage of the check paid, and the location of the event is a

substantially correct, although incomplete, interpretation of the reporting requirements of the Code. To be more precise, subsection 1-96(b), General Statutes, mandates that the name of each public official in the legislative or executive branch, member of an official's staff, or immediate family benefitted in any amount be reported if the total cost of the occasion is fifty dollars or more. Ethics Commission Advisory Opinion No. 78-16, 40 Conn. L.J. No. 8, p. 13 (August 22, 1978). Once these beneficiaries have been identified by each lobbyist making an expenditure of fifty dollars or more per occasion for their benefit, subsection 1-96(b) further requires that the date, amount, and circumstances of the transaction be disclosed. Date refers to the day on which the occasion takes place, and needs no explanation. Amount refers to the total expenditure by the reporting lobbyist, including the amount spent on any individuals in attendance who are not required to be specifically listed as beneficiaries. Ordinarily, this figure will equal the total cost of the occasion, but when two or more lobbyists split this cost the dollar figure required to be reported by each lobbyist will equal his percentage contribution.

In defining the remaining broad phrase, "circumstances of the transaction", resort must again be made to the rules of statutory construction and the legislative intent. The word circumstance is commonly understood to mean "...the total complex of essential attributes...of a fact or action; the sum of essential...characteristics; arrangement, situation, composition, or nature of an event...." Webster's Third New International Dictionary (1971) at p. 410. Although legislative history on this specific term is lacking, the extensive debate on, and amendment of, the overall text concerning reporting of expenditures for the benefit of public officials makes clear that the General Assembly adopted the present broad statutory language for the purpose of maximum public disclosure. Ethics Commission Advisory Opinion No. 78-16, 40 Conn. L.J. No. 8, p. 13 (August 22, 1978).

In keeping with this purpose and the generally understood meaning of the phrase "circumstances of the transaction", a lobbyist, in all instances, should report both the location of the event and the total number of people present. This information, along with the disclosure of the statutory beneficiaries, date, and amount spent, will provide the public a meaningful picture of the extent and character of the expenditure. Of equal importance, it will allow the Commission and its staff to calculate the benefit conferred on a given



individual and, thus, determine whether the Code's gift limitation, discussed supra, has been exceeded.

In order to accomplish these objectives and ensure accurate reporting when two or more lobbyists divide the cost of an occasion, each must also disclose the percentage of the total bill represented by his expenditure and the names of his co-contributors. The importance of this additional information can best be illustrated by an example. If lobbyist A reported an occasion at which he expended thirty dollars on food and drink for the benefit of a public official, no gift would have been given because of the food and drink gift exception. However, if this same lobbyist added the information that his expenditure was only one-half of the total bill and that lobbyist B paid the other half, the result under the Code's gift provisions would be quite different. In this instance, the total food and drink consumed on a single occasion by the public official would have a value of sixty dollars. Therefore, it would not qualify for the gift exemption, which applies only when the cost of the food and drink is less than fifty dollars per person per occasion. The entire amount would then be a gift. Ethics Commission Advisory Opinion. No. 81-12, 43 Conn. L.J. No.13, p. 13 (September 29, 1981). Specifically, each individual lobbyist would have given the public official a thirty dollar gift, and all parties would have to count this amount toward the yearly \$49.99 maximum, allowable aggregate gift. (The public official would not have received an illegal sixty dollar gift, since subsection 1-84(j), General Statutes, allows him to accept \$49.99 per year in gifts from each registered lobbyist.)

Finally, it should be noted that the foregoing conclusions regarding reporting of expenditures for the benefit of a public official are applicable to the new reporting requirements (post-termination reporting, subsections 1-95(c), 1-96(a) and (b), General Statutes, and former lobbyist reporting, subsection 1-96(d), id.) that take effect January 1, 1984. However, the gift limitations of the Code continue to apply only while a person is actually registered as a lobbyist with the Commission.

By order of the Commission,

*Lucille E. Brown*  
Lucille E. Brown  
Chairperson

Date 13 December 83

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