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November 1, 2019

Jason H. Beehler  
Kegler Brown Hill + Ritter Co. LPA



Dear Mr. Beehler:

On October 30, 2019, the Ohio Ethics Commission received your letter requesting an advisory opinion.

In your letter, you state that you examined a formal and an informal advisory opinion that address private parties hosting open houses and receptions at conferences.<sup>1</sup> You also referred to general informational material that is provided on the Ethics Commission's website.<sup>2</sup> You state that your firm finds some aspects of the Commission's precedent on this general issue to be unclear and have asked for an advisory opinion seeking clarification.

**Key Facts**

In your request letter, you explained:

***The OSBA Capital Conference & Trade Show***

- Clients and client representatives of your law firm attend the annual Capital Conference & Trade Show (conference) which is hosted by the Ohio School Boards Association (OSBA).
- The conference features an onsite educational trade show and enables school board members and public education stakeholders to learn, share ideas, network, and engage in professional development.
- The conference also features an onsite student achievement fair, which includes a Student Achievement Fair Art Show that is sponsored by your law firm.
- In recent years, the site of the conference has been the Greater Columbus Convention Center. (Convention Center).

***Proposed Off-site Event***

- Your law firm has proposed hosting an off-site event, during the time period that the conference occurs, that you describe as being “in connection with” the conference.
- Your firm will invite all the conference attendees to the event by placing advertisements in the conference program and on electronic signs at the Convention Center.
- Your law firm will hold the event at the Columbus Museum of Art. The event will celebrate the Student Achievement Fair Art Show.
- The Columbus Museum of Art is not physically located at or within the Convention Center and is not being used for any official OSBA conference events.
- Your law firm’s attorneys will present a 30-minute school law workshop.
- Your law firm will cover all the costs of the event, which you have estimated to be approximately \$23,000.00 and that 600-700 conference attendees are expected to be present.
- The event will include appetizers and both alcoholic and non-alcoholic drinks.

**Questions and Brief Answers**

You have asked if your law firm may host the proposed off-site event.

As explained below, your law firm is prohibited from hosting an event for conference attendees at an off-site venue where no official conference events are scheduled.

You have also asked if your law firm could host the event if it charged admission.

Your law firm is not prohibited from hosting an off-site event provided that your firm charges, and all attendees pay, an admission fee that accurately reflects an amount that covers the actual per-person cost of the event. The firm is prohibited from promising or giving public officials and employees a substantial discount off the cost of the event.

**Precedent—Advisory Opinion No. 2002-02**

Advisory Opinion No. 2002-02 was written in response to a letter requesting an advisory opinion from G. Frederick Compton, Jr. on behalf of Whalen & Compton Co., L.P.A. Mr. Compton explained a customary practice at OSBA conferences was for professional service providers to host or sponsor functions for conference attendees, such as a reception or an open house, that were not associated with the OSBA.

At these functions, food and beverages would be available without charge and service provider representatives could greet and speak with the conference attendees. In other instances, the service providers sponsored lunches, seminars, and dances that were open to all of the attendees.

This opinion will note the key elements of Advisory Opinion No. 2002-02, but the entire reasoning and conclusions of that opinion is embodied in this response as if fully restated here. I have attached a copy of Advisory Opinion No. 2002-02 for your reference.

In Advisory Opinion No. 2002-02 the Ethics Commission determined that a firm that is doing or seeking to do business with public agencies represented at a conference was not prohibited, under specific facts and circumstances, from underwriting the cost of a meal, reception, or open house at the conference.

The first two syllabus paragraphs of Advisory Opinion No. 2002-02, read:

- (1) A person is not prohibited, within the parameters discussed in this opinion, from providing the cost of a meal, reception, or open house at an educational or informational conference held by an association of public officials and employees;
- (2) A person that is providing a meal, reception, or open house at a conference of an association of public officials and employees must ensure that the meal, reception, or open house is: (a) of an ordinary, routine character; (b) at an educational or informational event; (c) open to all of the public officials and employees attending the event; and (d) within the parameters discussed in this opinion. (Emphasis added).

Therefore, the Syllabus of Advisory Opinion No. 2002-02 unambiguously states that the meal, reception, or open house provided by a firm must be offered "at" the conference.

### **Precedent—Off-site Events**

The issue of a service provider hosting a reception or open house at an off-site venue where no official conference events are scheduled was addressed in Informal Opinion 2003-INF-0805, which was written to Alan I. Shorr and in Informal Opinion No. 2006-INF-1101-1, which was written to Albert S. Neubert. This opinion will note the key elements of these opinions, but their entire reasoning and conclusions are embodied in this response as if fully restated here. I have attached copies of these opinions for your reference.

The opinion to Shorr explained that Advisory Opinion No. 2002-02 did not apply to a law firm's proposal to spend an average of \$35 per person for a social dinner at a restaurant that was located off-site of the annual OSBA conference for conference attendees. The Ethics Commission determined that Advisory Opinion No. 2002-02 was inapplicable because the dinner was "incidental to the conference, and will be held away from the conference site."<sup>3</sup> (Emphasis added).

The same conclusion was unambiguously explained in the opinion to Neubert:

It is especially important that the item or event is offered "at" the conference. In other words, the meal or reception cannot be at a restaurant or other site. However, R.C. 102.03(E) would prohibit an official or employee from accepting, and R.C. 102.03(F) would prohibit any person from promising or giving a public official or employee, any meal or entertainment of a lavish nature, even if the item is offered to all officials and employees attending the conference. Id.

The same conclusions would apply in this instance as long as the event is of a genuine educational or informational character. If, in that case, the sponsorships paid to the conference organizer are used to cover costs associated directly with the conference, would benefit all attendees at the conference in the same way, and are not used to provide meals or entertainment of a substantial character to attendees (such as off-site expensive meals or tickets to off-site events such as plays and golf outings), the Ethics Law does not prohibit them.<sup>4</sup> (Emphasis in original).

Therefore, according to the precedent established by Advisory Opinion No. 2002-02 and applied in the Informal Opinions issued to Albert S. Neubert and Alan I. Shorr,<sup>5</sup> your law firm cannot host an event for conference attendees at an off-site venue where no official conference events are scheduled.

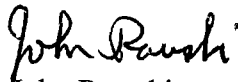
### **Payment of Admission**

You have asked if your law firm could host the off-site event if it charged an admission to attend.

Your law firm would not be prohibited from hosting the off-site event provided that your firm charges, and all attendees pay, an admission fee that accurately reflects an amount that covers the actual per-person cost of the event. Because the attendees at your firm's event would be comprised only of school board members and public education stakeholders who are attending the OSBA conference, the firm is prohibited from promising or giving public officials and employees a substantial discount off the cost of the event.<sup>6</sup> However, the Commission has recognized that the Ethics Law does not preclude a *minimal* discount of five to ten percent for an educational event being offered to a government employee.<sup>7</sup>

This staff advisory opinion represents the views of the undersigned, based on the facts presented and the precedent of the Commission. It is limited to questions arising under Chapter 102. and Sections 2921.42 and 2921.43 of the Revised Code, and does not purport to interpret other laws or rules. Please contact this office again if you have any other questions or if you wish to request reconsideration of this opinion under OAC 102-3-07.

Sincerely,



John Rawski  
Staff Advisory Attorney

Enclosures: Informal Opinion 2003-INF-0805  
Informal Opinion 2006-INF-1101-1  
Advisory Opinion No. 2002-02

The Ohio Ethics Commission Formal and Informal Advisory Opinions referenced in this opinion are available on the Commission's Web site: [www.ethics.ohio.gov](http://www.ethics.ohio.gov).

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<sup>1</sup> Ohio Ethics Commission Advisory Opinion No. 2002-02 and Informal Advisory Opinion 2003-INF-0805.

<sup>2</sup> <https://ethics.ohio.gov/education/factsheets/ConferencesandtheOhioEthicsLaw.pdf>

<sup>3</sup> See Informal Opinion 2003-INF-0805, pages 6 and 7.

<sup>4</sup> See Informal Opinion 2006-INF-1101-1, page 5.

<sup>5</sup> See R.C. 102.08 (when the Ethics Commission renders a written advisory opinion relating to a special set of circumstances, a similarly situated person may reasonably rely upon the opinion and shall be immune from criminal prosecutions, civil suits, or actions for removal from his office or position of employment for a violation of the Ethics Laws based on facts and circumstances covered by the opinion, if the opinion states there is no violation of the Ethics Laws).

<sup>6</sup> See Adv. Op. No. 92-015 (discounts that are offered only to a selective group of public officials and employees are prohibited). Compare Adv. Op. No. 2001-08 (a company is not prohibited from promising or giving a uniform discount on its services to a large class of public employees, even though some members of the class serve public agencies that do business with or regulate the company).

<sup>7</sup> See Informal Opinion 2006-INF-1101-1, page 6.