



TEXAS ETHICS COMMISSION



ETHICS ADVISORY OPINION NO. 57

September 10, 1992

Whether a public servant may accept a free membership in a lobby organization. (AOR-75)

The Texas Ethics Commission has been asked to consider whether an organization that is not required to register as a lobbyist under chapter 305 of the Government Code may present a free membership in the organization to a state or local government officer or employee in appreciation of a speech made before the organization. The membership is worth between \$28 and \$93 dollars, depending on the time of year it is received. A member is entitled to attend future meetings and to receive a membership directory.

Section 36.07 of the Penal Code provides as follows:

- (a) A public servant commits an offense if the public servant solicits, accepts, or agrees to accept an honorarium in consideration for services that the public servant would not have been requested to provide but for the public servant's official position or duties.
- (b) This section does not prohibit a public servant from accepting transportation and lodging expenses permitted under Section [305.025(4)], Government Code, in connection with a conference or similar event or from accepting meals in connection with such an event.
- (c) An offense under this section is a Class A misdemeanor.

Under this provision, if a public servant is speaking in his official capacity, he is prohibited from accepting money or any other thing of value in consideration for the speech. *See generally Ethics Advisory Opinions Nos. 18, 17* (1992); *State Ethics Advisory Commission Opinion No.13* (1984). Because membership in the organization would not otherwise be available at no charge, membership in the organization would be a thing of value and a public servant may not solicit, accept, or agree to accept it in consideration for a speech.¹ *See generally Ethics Advisory Opinion No. 54* (1992) (regarding acceptance of lunch in connection with speech).

SUMMARY

A public servant may not accept free membership in an organization as consideration for a speech.

¹ Even if the donor organization is required to register as lobbyist, the prohibition set out in section 36.07 is applicable.