



TEXAS ETHICS COMMISSION



ETHICS ADVISORY OPINION NO. 191

March 25, 1994

Whether a member of the state legislature may accept a loan of computer equipment from a private company. (AOR-215)

A member of the state legislature has asked whether he may accept a loan of two computers and a printer from a private company. The legislator would like to use the equipment to provide computer training to constituents.

A number of laws restrict the acceptance of money and property by a state legislator. Section 36.08(f) of the Penal Code prohibits a member of the legislature from accepting a benefit from any person. Section 36.10 sets out exceptions to this general prohibition. A loan of computer equipment is a benefit. Therefore, a member of the legislature may accept a loan of two computers and a printer only if acceptance is permissible under one of the exceptions listed in section 36.10 of the Penal Code.

A member of the legislature may accept a benefit in the form of "a political contribution as defined by Title 15, Election Code." Penal Code § 36.10(a)(4).¹ We note, however, that a legislator may not accept a political contribution from a corporation. Elec. Code § 253.094. Therefore, even if the loan of the computers met the definition of "political contribution," a legislator could not accept the loan from an incorporated business. *See id.* § 253.093 (prohibition on "corporate" contribution also applies to certain businesses such as banks and insurance companies, whether incorporated or not).

A loan of computer equipment is a political contribution if it meets either the definition of "campaign contribution" or "officeholder contribution." Because the request letter does not suggest that the private business would lend the computer equipment to the legislator for use in connection with a campaign, we assume the loan would not be a *campaign* contribution. *See* Elec. Code § 251.001(3) (defining "campaign contribution").

A loan of computer equipment would be an officeholder contribution if the private business made the loan with the intent the equipment be used to defray expenses in connection with the legislator's duties and activities as a member of the legislature and if the expenses would not be reimbursable with public funds. The legislator requesting the opinion has stated that using the equipment to provide computer training would be "constituent service." We think that would be true only if the training were designed to help constituents in their relationship with the government. For example, training constituents to use computers to obtain information from the Texas Employment Commission or the Texas Ethics Commission would be in connection with a legislator's duties and activities as a member of the legislature, and a legislator could accept a loan of computer equipment for such purposes as an officeholder contribution. On the other hand, computer training unrelated to citizens' relationship with the government would not be in connection with a legislator's duties and activities as a member of the legislature, and a legislator could not accept a loan of computer equipment for such purposes as an officeholder contribution.

If a legislator accepted computer equipment as an officeholder contribution, several restrictions would apply to the use of the equipment. Any use of state employees' time, state facilities, or state equipment in connection with the computer would be restricted to use for state business. *See* [Ethics Advisory Opinion No. 190](#) (1994) (officeholder purposes are not necessarily state business). Also, the member of the legislature accepting the computer equipment could not convert it to personal use. Elec. Code § 253.035.

SUMMARY

A legislator may accept a loan of computer equipment from a private company only if acceptance is permissible under section 36.10 of the Penal Code and section 253.094 of the Election Code.

A legislator may accept as an officeholder contribution a loan of computer equipment to be used to train constituents to obtain government information. A legislator may not, however, accept an officeholder contribution from a corporation. State resources may not be used in connection with computer training unless the training constitutes a state purpose. Equipment accepted as an officeholder contribution may not be converted to personal use.

¹ It seems unlikely that any of the other exceptions in section 36.10 would be applicable to the loan of computer equipment to a member of the legislature in the situation described. We note that certain gifts from lobbyists are excepted. Penal Code § 36.08(a)(5). We also note there is a \$500 annual maximum on gifts from a lobbyist to an individual legislator. Gov't Code § 305.024(a)(5). Another exception is made for "a gift or other benefit conferred on account of kinship or a personal, professional, or business relationship independent of the official status of the recipient." Penal Code § 36.10(a)(2). Whether this exception applies depends on the facts of a particular situation. Although the Ethics Commission cannot make such a fact determination, the statement in the request letter that the legislator would like to use the computer equipment to offer computer training to constituents suggests that the loan of computer equipment would not be independent of the legislator's official status.