



TEXAS ETHICS COMMISSION



ETHICS ADVISORY OPINION NO. 370

May 9, 1997

Whether Government Code section 572.023(11) requires that certain meals be reported on Part XI of the personal financial disclosure statement form. (SP-7)

Several individuals who are required to file personal financial disclosure statements under Government Code chapter 572 have asked about the scope of the provision that requires a personal financial statement to include:

identification of any person providing transportation, meals, or lodging expenses permitted under Section 36.07(b), Penal Code, and the amount of those expenses, other than expenditures required to be reported under Chapter 305.

Gov't Code § 572.023(b)(11). The specific question is whether a filer who speaks at an event that includes a meal is required to report the meal.¹

The reporting requirement applies to meals "permitted under Section 36.07(b), Penal Code." Subsection (a) of section 36.07 prohibits a public servant from accepting 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." Subsection (b) qualifies subsection (a) by providing:

This section does not prohibit a public servant from accepting transportation and lodging expenses in connection with a conference or similar event in which the public servant renders services, such as addressing an audience or engaging in a seminar, to the extent that those services are more than merely perfunctory, or from accepting meals in connection with such an event.

In our view, transportation, meals, and lodging are "permitted" under subsection (b) of section 36.07 if the transportation, meals, or lodging would constitute a prohibited honorarium under subsection (a) and would therefore be impermissible were it not for subsection (b). In other words, a person filing a personal financial disclosure statement is required to report a meal under Part XI of the financial disclosure statement only if the meal constitutes an "honorarium" for purposes of Penal Code section 36.07(a). The issue before us, then, is whether a meal served to both a speaker and an audience at an event constitutes an "honorarium" to the speaker.

The term "honorarium" is not defined in Penal Code section 36.07. The existence of an exception from the honorarium prohibition for transportation, meals, and lodging provided in certain circumstances indicates that the provision of transportation, meals, or lodging may sometimes be considered to be the provision of an honorarium. It does not follow, though, that any meal provided to a speaker is an honorarium. In our view, the provision of a meal to a speaker and the speaker's audience does not constitute the provision of an honorarium to the speaker. Therefore, a person who is required to file a personal financial disclosure statement under chapter 572 of the Government Code is not required to report such meals on Part XI of the financial disclosure statement.

SUMMARY

A person who is required to file a personal financial disclosure statement under chapter 572 of the Government Code and who speaks at an event that includes a meal for the speaker and the audience is not required to report the meal on Part XI of the financial disclosure statement form.

¹ Information required by section 572.023(b)(11) is reported on Part XI of the Ethics Commission form used to file a personal financial statement.