

ADVISORY OPINION

APPROVAL DATE: March 13, 1998

NUMBER: 98-06

STATUS: **Current**

REVIEWED ON: August 4, 2016

NEXT REVIEW: August 2021

REFERENCES: RCW 42.52.140, RCW 42.52.150

SUMMARY OF CHANGES: Updated format only.

Acceptance of Meals by a Regulatory Employee

QUESTIONS

Can meals and refreshments be offered by vendors under the following circumstances:

1. When a vendor sponsors a presentation at an agency and provides breakfast or lunch to agency participants who are not “Section 4” employees?
2. When a vendor sponsors a presentation and pays for a meal for “Section 4” state employees and their spouses?

ANSWERS

1. Yes, RCW 42.52.150(5) allows state officers and state employees who are not “Section 4” employees to accept meals offered on an infrequent basis when attendance is related to the performance of official duties.
2. No, “Section 4” employees may only accept those items listed in RCW 42.52.150(4). These items do not include meals offered on an infrequent basis when attendance is related to official duties. Spouses of “Section 4” employees may also not accept the meal, unless there is an independent business relationship between the vendor and the spouse.

ANALYSIS

At Western State Hospital, (“the hospital”), drug companies may seek to sponsor presentations to provide staff members with information about medications. These presentations fall into two types, and involve the acceptance of food and beverages.

Example 1: The drug company sponsors a presentation at the hospital. The presentation may involve a live speaker or a satellite broadcast. If the presentation occurs in the morning, the company provides doughnuts, fruit, muffins, coffee, and juices. If it occurs in the afternoon, the company provides a luncheon-type meal.

Example 2: The drug company sponsors a live speaker for an evening presentation that includes a meal. Attendees may include physicians from the hospital, their spouses, and physicians from the community.

The primary issue in this analysis is whether or not the employees receiving the meals are “Section 4” employees. “Section 4” employees are employees who participate in regulation or in the acquisition of goods and services. Because of this participation, “Section 4” employees may only accept certain items under RCW 42.52.150(4).

In Question 1, if a drug company sponsored a presentation on an infrequent basis, and provided food and beverages, this presentation would meet the exception under RCW 42.52.150(5) which states that:

A state officer or state employee may accept gifts in the form of food and beverage on infrequent occasions in the ordinary course of meals where attendance by the officer or employee is related to the performance of official duties.

However, this exception applies only to those state employees who do not participate in regulatory or contractual duties for the hospital, e.g., those who do not participate in decisions relating to the use or purchase of medications.

In question 2, the drug company sponsors a presentation and pays for a meal for physicians, some of whom are employed at the hospital, and some of whom are not. Spouses may also be invited. Under RCW 42.52.150, “Section 4” employees may only accept those items under section 4. The only two items related to the acceptance of food and beverages under this section are an exception for hosted receptions in RCW 42.52.150(4)(e), and an exception for events sponsored by or in conjunction with a “civic, charitable, governmental, or community organization” under RCW 42.52.150(4)(f). Because this event is neither a hosted reception, as defined in Advisory Opinion 96-06, nor an event sponsored by a “civic, charitable, governmental, or community organization,” “Section 4” state employees cannot accept a meal paid for by the drug company. In this case, the spouses of hospital employees would also be precluded from accepting the meal, unless an independent business relationship exists between the vendor and the spouse.