



MISSOURI ETHICS COMMISSION
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Elizabeth L. Ziegler
Executive Director

February 22, 2019

Re: Advisory Opinion No. 2019.02.L.001

Dear

At the February 22, 2019 meeting of the Missouri Ethics Commission, your request for an opinion was discussed.

Opinion

Pursuant to § 105.955.16, RSMo, the Missouri Ethics Commission may issue a written opinion regarding any issue on which the Commission may receive a complaint as identified in § 105.957, RSMo. The Commission has the authority to receive complaints concerning lobbyist reporting under Chapter 105 as well as codes of conduct set forth by Executive Order. This opinion is issued within the context of Missouri's statutes governing such issues and assumes the facts presented by you in your letter.

The question presented and response for that question is as follows:

A 501c3 nonprofit public interest law firm wishes to distribute books, studies, and reports to Missouri executive-branch employees in furtherance of the firm's lobbying activities. These materials cost less than \$100 retail but far more than \$100 to produce. Would these books, studies, and reports qualify as "gifts" under Executive Order 18-10?

In MEC Advisory Opinion No. 2018.01.L.002, the Commission determined that publications, such as books, studies, or reports, constitute "gifts" as that term was defined by Executive Order 17-02. That Executive Order defined "gift" as follows:

"Gift" means anything of value, including, but not limited to, food, lodging, transportation, personal services, gratuities, subscriptions, memberships, trips, loans, extensions of credit, forgiveness of debts, or advances or deposits of money. "Gift" does not include (i) unsolicited tokens or awards of appreciation, honorary degrees, or bona fide awards in recognition of public service in the form of a plaque, trophy, desk item, wall memento, and similar items, provided that any such item shall not be in a form which can be readily converted to cash; (ii) sample merchandise, promotional items, and appreciation tokens, if they are routinely given to customers, suppliers, or potential customers or suppliers in the ordinary course of business; (iii) gifts, devises, or

inheritances from family members; (iv) gifts from other state employees; (v) gifts from personal friends where it is clear that the gift is motivated by personal friendship and not by the employee's position; or (vi) meals, lodging, transportation or other benefits resulting from the business or employment activities of an employee's spouse when it is clear that such benefits have not been offered or enhanced because of the employee's position.

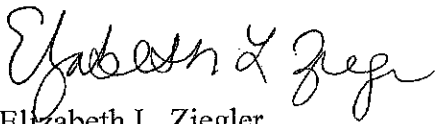
On November 20, 2018, Executive Order 18-10 was issued to revise and improve upon Executive Order 17-2. Specifically, Executive Order 18-10 declares that the term "gift" should have the same meaning as the term "expenditure" in Section 105.470(3), RSMo.

MEC Advisory Opinion 2018.01.L.002 provided the statutory definition for expenditure from § 105.470(3), RSMo, including the following exception:

(b) Informational material such as books, reports, pamphlets, calendars or periodicals informing a public official regarding such person's official duties, or souvenirs or mementos valued at less than ten dollars;

Based on the definition of "gift" that was included with Executive Order 17-02, the Commission opined that such publications would fall within the definition of gift.¹ In light of the clarification of the meaning of the term "gift," as provided in Executive Order 18-10, it appears that these publications would not fall within the definition of gift because they are "informational material[s] such as books, reports, pamphlets, calendars or periodicals informing a public official regarding such person's official duties." As such, these publications fall outside the definition of "expenditure" as provided in § 105.470(3), RSMo.

Sincerely,



Elizabeth L. Ziegler
Executive Director

¹ On January 16, 2019, the Commission voted to place a Notice with Advisory Opinion 2018.01.L.002, alerting the public to the limited application of that Opinion.