

**CAUTION:** The following advice may be based on a rule that has been revised since the opinion was first issued. Consequently, the analysis reflected in the opinion may be outdated.

**40 IAC 2-1-7**

SEC found it was permissible for a group of state employees to attend a seminar put on by a consulting group that was paid for by a computer company that did business with the State provided that the State paid travel expense, lodging and food costs.

**90-I-23: Activities**

**Indiana State Ethics Commission**

**Official Advisory Opinion**

**(Decision August 10, 1990)**

**FACT SITUATION**

The Executive Assistant to the Governor for the Department of Administration and eight other agencies, the Executive Director of the Data Processing Oversight Commission (DPOC), and the Director of Information Services Division, Department of Administration, were invited to attend a seminar for key executives put on by a consultant group and funding by a computer company that does business with the state. The invitation had come to the three state employees through a vendor of computing equipment that did business with the state. The Department of Administration is responsible for all state procurement, including procurement of computers. The Information Services Division provides technical services for some state agencies and operates a computer mainframe to serve the State of Indiana. The Data Processing Oversight Commission is a body of four members responsible for setting a technology strategy for the state and approving major acquisition of computers by the state to insure that the purchases conformed with the state strategy.

The seminar to which the three state employees were invited was to include information on open systems technology, one of the major computer technology systems. Because there are many computer systems available, there is a problem of integrating systems so computers can communicate. In the short term, the solution to the problem is to translate to communicate. In the longer term, the solution is to establish protocols that will enable various computer systems to communicate. Open systems technology is addressing this problem of enabling various computer systems to communicate with each other without the need of add-on-software. The computer company that issued the invitation was widely regarded as an expert in this field. Knowledge of open systems technology will improve the effectiveness and efficiency of state government and lower costs of state government. Unix is an operating system that was developed about twenty year ago by one company which is now licensed to most of the computer vendors and is widely regarded as a common computer language. The company that developed the Unix system formerly sponsored these seminars by providing a grant, just as the computer company that issued the invitation is now providing the grant to support the seminars. The benefit to that computer company to sponsor such a seminar is to continue their reputation as a leader in the field and to further general knowledge of open systems technology which is the direction in which people who are trying to solve this problem are moving.

The consultants putting on the seminar do executive courses in applying technology to achieve strategic goals. The consultants were not doing any business with the state of Indiana at the time, although they could. If the consultants were ever to be hired by the state, they would be hired through an RFP or broad agency announcement following normal state procedures. The seminar was a two and one-half day program designed for key executives to present concepts of information technology including open systems alternatives. The seminar did not promote the computer company or its products. Participation in the seminar was by invitation only. Invitees included corporate and government (federal and state) employees. Speakers included faculty from M.I.T. and Harvard. The seminar was held in Cambridge, Massachusetts, at a hotel, at M.I.T., and at Harvard.

Travel expenses, lodging, and subsistence for the state employees was paid with state funds according to state travel policies. The state employees paid the consulting group for their own meals. What the

employees were getting was the information provided by the faculty.

#### QUESTION

Are the three state employees permitted to attend a seminar for key executives put on by a consulting group when the funding and invitation came from a computer company which does business with the state?

#### OPINION

The State Ethics Commission found that it was permissible for the invited state employees to attend a seminar put on by a consulting group with funds provided by a computer company that does business with the state provided that the state pays travel expense, lodging, and subsistence for food.

The relevant rules are as follows:

40 IAC 2-1-7, "(A) There are many coincidental activities which a state officer or employee may or may not perform or participate in which frequently are invitational in nature. Such activities include, but are not limited to, personal appearances, participation in conferences, conventions, seminars and public meetings. Such activities enhance the accessibility by the public to state officers and employees and are therefore, to be encouraged if compatible with the performance of one's official duties.

"(B) However, state officers and employees should exercise due care that such occasions or events are of a nature and in a setting that may not be reasonably construed by the public as improper.

"(C) State employees should utilize the normal state policy and procedures concerning travel expense and allowance provisions when attending events concerning state business. However, there may be instances where state employees may be considered in compliance with the letter and spirit of the Code (40 IAC) even if expenses are directly assumed by a sponsor. The Ethics Commission may review such event for any improprieties. Each case shall be evaluated on its individual merits."