

State of Colorado



Matt Smith, *Chair*
April Jones, *Vice-Chair*
William Leone, *Commissioner*
Gary Reiff, *Commissioner*
Jo Ann Sorensen, *Commissioner*

Independent Ethics Commission
1300 Broadway, Suite 240
Denver CO 80203
Phone: (720) 625-5697
www.colorado.gov/iec

Dino Ioannides, *Executive Director*

Advisory Opinion 17-11 (Acceptance of Travel and Lodging Expenses)

Summary: Under the facts and circumstances presented in the request, it would not be a violation of Article XXIX for the Requester, a member of the Colorado General Assembly, to accept the payment of travel and lodging expenses by Adams State University in connection with an invitation asking the Requester to deliver a commencement address for the university.

I. Background

The Requester is a member of the Colorado General Assembly in the House of Representatives. The Requester has been invited to deliver the commencement address at Adams State University at the December 27, 2017, commencement ceremony. Adams State University is a state-supported institution of higher education in Alamosa, Colorado. *See generally* Article 51 of Title 23, C.R.S.

Due to the lengthy travel distance and the potential for inclement weather, representatives of Adams State University have offered to have the university pay for the Requester's roundtrip airfare and overnight lodging to insure a safe and reliable travel. Based on the Requester's research, the estimated value of airfare is approximately \$107, depending on the airline chosen by the university; the estimated value of lodging is between \$175 and \$272.

II. Jurisdiction

The requester is a member of the general assembly subject to the Commission's jurisdiction. *See generally* Colo. Const. Art. XXIX, §§ 1, 3, 4, and 5.

III. Applicable Law

Section 3(2) of Colo. Const. Art. XXIX states:

No public officer, member of the general assembly, local government official, or government employee, either directly or indirectly as the beneficiary of a gift or thing of value given to such person's spouse or dependent child, shall solicit, accept or receive any gift or other thing of value having either a fair market value or aggregate actual cost greater than fifty dollars (\$50) in any calendar year, including but not limited to, gifts,

loans, rewards, promises or negotiations of future employment, favors or services, honoraria, travel, entertainment, or special discounts, from a person, without the person receiving lawful consideration of equal or greater value in return from the public officer, member of the general assembly, local government official, or government employee who solicited, accepted or received the gift or other thing of value.

Section 3(3)(f) of Colo. Const. Art. XXIX states:

(3) The prohibitions in subsections (1) and (2) of this section do not apply if the gift or thing of value is:

* * *

(f) Reasonable expenses paid by a nonprofit organization or other state or local government for attendance at a convention, fact-finding mission or trip, or other meeting if the person is scheduled to deliver a speech, make a presentation, participate on a panel, or represent the state or local government, provided that the non-profit organization receives less than five percent (5%) of its funding from for-profit organizations or entities[.]

IV. Discussion

Delivery of Speech and Representing State Government

The university is a part of state government.¹ Under the exception provided in § 3(3)(f), the prohibition in § 3(2) of Article XXIX does not apply. The expenses paid by the university for travel and lodging constitute reasonable expenses paid by state government—the university—for the Requester’s attendance at a meeting at which the Requester will deliver a commencement speech and represent state government in her role as a state representative.²

No Conflict of Interest or Appearance of Impropriety

The Requester states that, other than the invitation to deliver the commencement address, she has not had nor expects to have any direct dealings with the university in her official capacity. There is no pending legislation pertaining to the university. The Requester has not sponsored or voted in support of any legislation that would benefit the university specifically; though Requester will vote on the annual state budget will which will include funding for all state agencies, including institutions of higher education.

Considering the above, the Commission finds that there are no factors present that would create a conflict of interest or the appearance of impropriety in accepting the university’s offer to pay travel and lodging expenses.

¹ Article 51 of Title 23, C.R.S.

² See Position Statement 10-01 (in addressing exception 3(3)(f) in the context of government exchange organizations, the Commission determined that a covered individual’s expenses paid by the governmental entity for which they work or by another state or local government are not a violation of the gift ban). See also Position Statement 12-01 (“Section 3(3)(f) of Article XXIX explicitly exempts reimbursement of travel expenses by other state and local governments. Therefore, if the travel is paid for by local government or by the state of Colorado, (or another state), travel is permissible.”).

V. Conclusion

It would not be a violation of Article XXIX for Requester to accept the payment of travel and lodging expenses under the facts and circumstances presented in the request.

The Commission cautions that this opinion is based on the specific facts presented herein, and that different facts could produce a different result. The Commission therefore encourages individuals with particular questions to request more fact-specific advice through requests for advisory opinions and letter rulings related to their individual circumstances.

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Dated: September 28, 2017