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**Dino Ioannides**, *Executive Director*

## **Advisory Opinion 19-01** (Travel Expenses Paid for by a Third Party)

**Summary:** It would not be a violation of Article XXIX for State Representative Brianna Titone to accept payment of airfare expenses from a foreign organization to attend the LGBTI Political Leaders of the Americas Conference.

### **I. Background**

Requester is a state representative in the Colorado House of Representatives, and currently represents House District 27 in Jefferson County. She received an invitation from a Colombian nonprofit organization, Corporación Caribe Afirmativo (“CCA”), to attend the LGBTI Political Leaders of the Americas Conference in Bogotá, Colombia. CCA offered to pay for Requester’s airfare so that she may participate in a panel at the conference. Requester paid for her own lodging and for meals that were not provided as part of the conference, and she was not required to pay to attend the conference. The cost for the general public to attend the conference was \$50.00 (USD). The cost of airfare was approximately \$674.00 USD.<sup>1</sup>

The conference was jointly sponsored by CCA and the LGBTQ Victory Institute, a U.S.-based non-profit. The conference materials describe the conference theme as “democracy demands equality”, and included panel topics ranging from “[w]orking with allied politicians in Central America” to “[t]he democratic crisis in Venezuela”. Requester was been invited to speak on a panel entitled “[r]ight to live a full life: economic and social rights for trans communities”. The conference was primarily focused on Central America, although there were several panels that address issues in “the Americas”, generally. Respondent represented that, for her, the conference provided a valuable opportunity to exchange ideas and participate in discussions regarding issues that she faces as a legislator in Colorado.

Requester provided documentation demonstrating that CCA is a non-profit organization that receives less than 5 percent of its funding from for-profit organizations or entities. The majority of its funding comes from foreign embassies.

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<sup>1</sup> This Opinion uses the past tense to discuss the conference because it occurred prior to the IEC’s consideration of the request. The issue now is whether Requester may accept CCA’s payment of her airfare.

## **II. Jurisdiction**

As a member of the General Assembly, Requester is a “public officer” subject to the Commission’s jurisdiction. Colo. Const. Art. XXIX, § 2(6).

The Independent Ethics Commission has authority to issue advisory opinions on ethics issues arising under Article XXIX or any other standards of conduct or reporting requirements as provided by law. *See* Colo. Const. art. XXIX, § 5(5).

## **III. Applicable Law**

Section 3(2) of Article XXIX of the Colorado Constitution provides,

No ... government employee, either directly or indirectly as the beneficiary of a gift or thing of value ... 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 [currently adjusted to \$65] in any calendar year, including but not limited to, ... travel ... without the person receiving lawful consideration of equal or greater value in return from the ... government employee who solicited, accepted, or received the gift or other thing of value.

Section 3(3)(f) of Article XXIX provides an exception to Section 3(2)’s gift ban for:

Reasonable expenses paid for 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**

The purpose of Article XXIX of the Colorado Constitution is to restrict gifts to public employees and officials acting in their official capacities. Section 3(2) of Article XXIX (“the gift ban”) prohibits gifts to covered individuals, with enumerated exceptions. The exception set forth in section 3(3)(f) contemplates that, under certain circumstances, covered individuals may receive payment of “reasonable expenses” for attendance at a convention if they are scheduled to participate on a panel. Colo. Const. art. XXIX, § 3(3)(f).

CCA is a nonprofit entity that receives less than 5 percent of its funding from for-profit sources. CCA has received a nonprofit tax identification number from Colombia that is analogous to the United States’ designation of 501(c)(3) status. Additionally, the director of CCA has certified that its funding comes primarily from state embassies, and that its for-profit funding sources do not exceed 2 percent.

Requester was scheduled to, and did, participate in two panels at the Conference. Furthermore, the expenses paid for by CCA were reasonable. Requester's airfare costs were not exorbitant, and she paid for her own lodging and all meals not provided by the conference. The costs to attend the conference for the general public were minimal. The Commission finds that Requester's attendance at the Conference falls within the exception set forth in section 3(3)(f).

## **V. Conclusion**

It was not a violation of Article XXIX for CCA to pay Requester's airfare expenses to attend the conference under the section 3(3)(f) exception to Article XXIX.

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 encourages individuals with particular questions to request more fact-specific advice through requests for advisory opinions and letter rulings related to their individual circumstances.

## **The Independent Ethics Commission**

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Dated: June 24, 2019