

State of Colorado



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Advisory Opinion 12-11

(Acceptance of Travel Expenses from a Nonprofit Organization)

SUMMARY: It would not be a violation of Colorado Constitution Art. XXIX for the Executive Director of a state agency to accept travel expenses to participate in a mission to Israel under the circumstances described in the request.

I. BACKGROUND

The Executive Director of a state agency has submitted a request to the Independent Ethics Commission (“IEC” or “Commission”) asking whether he may accept payment of expenses in excess of \$53, to participate in the “2012 Homeland Security Mission to Israel.” The tour is sponsored by the American Israel Education Foundation (AIEF), a nonprofit organization affiliated with the American Israel Public Affairs Committee (“AIPAC”). The approximate cost of the trip is \$7000.

According to the request, this mission will focus on security issues and will include “presentations by Israeli first responders, including police, rescue, bomb disposal” as well as “preparedness and response activities.” These issues are relevant to the requestor’s duties and responsibilities and other attendees will include public officers from across the United States and Israel with similar backgrounds and areas of expertise as the requestor’s background and expertise. The request also states that the

participants will meet “with Israeli government officials, military officers, and leading academics and journalists.”

In addition, the materials submitted with the request provide that the trip will also include experiences involving Israel’s political and cultural vibrancy, its regional diversity and its historic and religious sites. The trip is scheduled for October 27 to November 4, 2012.

II. JURISDICTION

The IEC finds that the Executive Director of a state agency is a public officer and is subject to the jurisdiction of the Commission. See CO Const. Art. XXIX, sec. 2(6) and sec. 3.

III. APPLICABLE LAW

Section 3 of Article XXIX (Gift ban) reads in relevant part:

(2) 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, 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.

(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.** (Emphasis added).

IV. DISCUSSION

The Commission believes that the travel described in the request is the sort of travel which was contemplated by the drafters of Article XXIX by creating exception 3(3)(f). Under the facts presented in this request, the Commission finds that the requestor would be attending a fact finding mission or trip, within his area of expertise and responsibility and directly related to his duties. The Commission has confirmed with AIEF that the organization is a nonprofit which receives less than 5% of its funding from for profit sources. This trip is therefore within the scope of the exception, and the trip is permissible.

IV. CONCLUSION

It would not be a violation of Colorado Constitution Art. XXIX for the Executive Director of a state agency to accept a gift of travel under the circumstances of this request. The Commission cautions public officials and employees that this opinion is based on the specific facts presented in this request, and that different facts could produce a different result. The IEC therefore encourages individuals with particular questions to request more fact-specific advice through requests for advisory opinions and letter rulings.

The Independent Ethics Commission

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Dated: August 24, 2012