



William Leone, *Chair*
Bob Bacon, *Vice-Chair*
April Jones, *Commissioner*
Matt Smith, *Commissioner*

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

Dino Ioannides, *Executive Director*

Letter Ruling 16-03 (Acceptance of Gifts—Judicial)

Summary: It would not be a violation of Colorado Constitution Art. XXIX for a member of the state's judicial branch to accept a gift of appreciation for service on the board of a non-profit entity under the circumstances described in the request.

I. Background

Caring for Colorado Foundation ("CCF") is a grant-making foundation dedicated to improving the health and health care of the people of Colorado. The foundation was created by the General Assembly of Colorado and endowed in 1999 as a non-profit, 501(c)(4) organization. The board of directors is appointed by the Governor of Colorado. CCF submitted a request to the Independent Ethics Commission ("IEC" or "Commission") asking whether a retiring board member of CCF may accept a gift from CCF in appreciation for the board member's years of service on the board. The retiring board member serves as a District Judge in the 12th Judicial District.

II. Jurisdiction

Colo. Const. Art. XXIX gives the Commission jurisdiction over public officers, members of the general assembly, local government officials, government employees, professional lobbyists, and statewide elected officeholders. *See generally* Colo. Const. Art. XXIX §§ 3, 4, and 6.

"Government employee" means any employee, including independent contractors, of the state executive branch, the state legislative branch, a state agency, a public institution of higher education, or any local government, except a member of the general assembly or a public officer. Colo. Const. Art. XXIX § 2(1).

"Local government" means county or municipality. Colo. Const. Art. XXIX § 2(2).

"Local government official" means an elected or appointed official of a local government but does not include an employee of a local government. Colo. Const. Art. XXIX § 2(3).

"Public officer" means any elected officer, including all statewide elected officeholders, the head

of any department of the executive branch, and elected and appointed members of state boards and commissions. "Public officer" does not include a member of the general assembly, *a member of the judiciary*, any local government official, or any member of a board, commission, council or committee who receives no compensation other than a per diem allowance or necessary and reasonable expenses. Colo. Const. Art. XXIX § 2(6). [Emphasis added.]

IV. Discussion

A district judge is a member of the judiciary. By definition, therefore, a district judge is not a public officer (Colo. Const Art. XXIX § 2(6)), a local government official (Colo. Const. Art. XXIX §§ 2(2) & (3)), or a government employee (Colo. Const. Art. XXIX § 2(1)). Because a district court judge is not included in any definition of individuals covered by Article XXIX, the Commission finds it has no jurisdiction over said judge.

V. Conclusion

Because the Commission finds a district court judge is not a covered individual under Article XXIX, the gift ban does not apply.

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.

The Independent Ethics Commission

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