

State of Colorado



INDEPENDENT ETHICS COMMISSION

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Advisory Opinion 11-02

(Acceptance of Expenses for Travel paid for by a Nonprofit Organization)

SUMMARY: It would not be a violation of Colorado Constitution Art. XXIX for members of the General Assembly to accept travel expenses to participate in an international legislative fellows program under the circumstances described in the request.

I. BACKGROUND

Representative Su Ryden and Representative Janak Joshi, members of the Colorado General Assembly, submitted requests to the Independent Ethics Commission ("IEC" or "Commission") asking whether they may accept expenses from American Councils for International Education, a non-profit organization which gets less than 5% of its funding from for profit sources, to participate in the Legislative Fellows Program ("Program").¹ According to the request, the requestors will host government officials from Georgia, Russia, or the Ukraine for nearly a month. This foreign official or employee ("fellow") will work in the requestors' offices and observe the workings of the Colorado General Assembly in April, 2011. In return, the representatives may receive

¹ Representatives Ryden and Joshi have waived confidentiality relating to this request.

travel expenses for a one to three week reciprocal trip in the future.² All of their travel expenses, including air fare, meals, health insurance, and visa costs would be paid for by American Councils, which administers the program on behalf of the United States Department of State. The Representatives would be staying with a host family, so no hotel expenses are provided. According to information from American Councils, the requestors would be required to “develop and submit an outbound project.” In the past, outbound projects have included a forum on Black Sea energy challenges and on democracy in the Ukraine and in Russia.

II. JURISDICTION

The IEC finds that a member of the General Assembly is subject to the jurisdiction of the Commission. CO Const. Art. XXIX (3)(2).

III. APPLICABLE LAW AND PRECEDENT

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**

² According to the information in the request, a reciprocal trip is not guaranteed, but “the odds are very good” that the requestors will have that opportunity. The travel would occur sometime during the summer or fall of 2011.

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 supplied)

IV. DISCUSSION

Section 3 (3)(f) provides that a covered individual may accept travel expenses for a “convention, fact finding mission or trip” provided that the funding is from a state or local government or a nonprofit which receives less than 5% of its funding from a for profit entity. According to information before the Commission, American Councils receives less than 5% of its funding from for profit sources. All of the money American Councils receives to administer this program comes from the United States Department of State. American Councils also receives grants from private foundations. It does not receive funding from for profit entities³. Under these circumstances, acceptance of this travel would therefore be permissible.

V. CONCLUSION

It would not be a violation of Colorado Constitution Art. XXIX for a member of the General Assembly to accept travel expenses under the circumstances presented in this request.

The Independent Ethics Commission

*Matt Smith, Chairperson,
Dan Grossman, Vice Chairperson
Sally H. Hopper, Commissioner
Larry R. Lasha, Commissioner
Roy Wood, Commissioner*

³ American Councils has provided the Commission with an income statement.

Dated: February 23, 2011