

State of Colorado



INDEPENDENT ETHICS COMMISSION

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Advisory Opinion 11-07

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

SUMMARY: It would not be a violation of Colorado Constitution Art. XXIX for a member of the General Assembly to accept travel expenses from a nonprofit under the circumstances described in the request.

I. BACKGROUND

Representative Crisanta Duran,¹ a member of the General Assembly, has submitted a request to the Independent Ethics Commission (“IEC” or “Commission”) asking whether she may accept travel and meal expenses from People for the American Way (“PFAW”) to attend the Young Elected Officials Network conference. According to the request, the PFAW” would pay for meals and lodging, as well as up to 75% of airfare. According to information before the Commission, People for the American Way is a nonprofit organization pursuant to section 501(c)(3) of the Internal Revenue Code and receives less than 5% of its funding from for profit sources.

II. JURISDICTION

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

¹ Representative Duran has waived confidentiality relating to this request.

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 three dollars (\$53) in any calendar year², 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 supplied)

IV. DISCUSSION

The Commission finds that Representative Duran by virtue of her position as a member of the General Assembly would be representing the State of Colorado at this conference. According to information before the Commission, the costs of the program appear reasonable. Since PFAW receives less than 5% of its funding from for profit sources, this conference falls within the exception 3(3)(f), and acceptance of these travel and meal expenses is permissible.

² The gift limit was raised effective April 8, 2011, pursuant to Article XXIX section 3(6). See, Position Statement 11-01.

V. CONCLUSION

It would not be a violation of Colorado Constitution Art. XXIX for a member of the General Assembly to accept travel and meal 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 (Did not participate)
Roy V. Wood, Commissioner (Did not participate)*

Dated: April 21, 2011