

# State of Colorado



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## INDEPENDENT ETHICS COMMISSION

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## ***Advisory Opinion 13-08***

(Acceptance of Travel Expenses to a Workshop)

**SUMMARY:** It would not be a violation of Colorado Constitution Art. XXIX for employees of the Colorado Department of Law to accept funds to offset the costs of travel from two nonprofits under the circumstances described in the request.

### **I. BACKGROUND**

The Colorado Department of Law (“DOL”) has submitted a request to the Independent Ethics Commission (“IEC” or “Commission”) asking whether several employees of the Department may accept reimbursement in excess of \$53 to attend a workshop in Washington, D.C. on the implementation of marijuana legalization. According to the request, the conference will be hosted by National Families in Action (“NFIA”), and funded by the Annie E. Casey Foundation (“AECF”). DOL has provided information demonstrating that both organizations are nonprofit entities which receive less than 5% of their funding from for profit sources. The invitation to attend provided with the request was directed to Attorney General John Suthers. According to the request, he has selected members of his staff who are working on the relevant issues to attend in his stead. The state will receive \$810 per attendee to offset travel expenses incurred by the state. The other invitees to the workshop are elected officials from

Colorado as well as representatives from the other states which have or which may legalize marijuana in the near future.<sup>1</sup>

## II. JURISDICTION

The IEC finds that employees of the Colorado Department of Law are government employees and subject to the jurisdiction of the Commission. See CO Const. Art. XXIX, sec. 2(1) 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.

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(3) The prohibitions in subsections (1) and (2) of this section do not apply if the gift or thing of value is:

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(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.

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<sup>1</sup> According to information provided to the Commission, other Colorado invitees include the Governor, the Speaker of the House of Representatives, the President of the Senate, and the Executive Directors of the Colorado Departments of Revenue, Public Health and Environment, Office of Behavioral Health, and Public Safety. If those individuals have been invited in their official capacities because of their involvement in policy and enforcement matters, then the analysis in this Opinion would apply to those officials and employees as well.

#### **IV. DISCUSSION**

Based on the information provided in the request, the Commission believes that the travel described in the request is the sort of travel which is permissible under Article XXIX. Under the guidelines set forth in Position Statement 12-01, the payment of travel expenses in this instance are not gifts to covered individuals. The invitation originally went to the Attorney General *ex officio*, but he has selected the actual attendees based on his knowledge of who would be the most appropriate attendees given their expertise and current assignments. Their selection underscores that these attendees are going because it is within their duties and responsibilities. There is no apparent conflict of interest or appearance that these invitations were made to curry favor with particular individuals.

The Commission also believes that this request fits squarely within the exception provided in Article XXIX section 3(3)(f). The DOL employees who participate in this workshop will be representing the state at a conference or meeting paid for by a nonprofit which receives less than 5% of its funding from for profit sources

#### **IV. CONCLUSION**

It would not be a violation of Colorado Constitution Art. XXIX for employees of the Colorado Department of Law to accept reimbursement of travel expenses to offset travel expenses 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**

Dan Grossman, *Chair*  
Sally H. Hopper, *Vice Chairperson*  
Rosemary Marshall, *Commissioner*  
Bill Pinkham, *Commissioner (Did not participate)*  
Matt Smith, *Commissioner*

Dated: April 08, 2013