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Advisory Opinion 19-04 (Acceptance of Travel Expenses Paid for by a Third Party)

Summary: It would not be a violation of Article XXIX for the Outreach and Education Coordinator of the Colorado Civil Rights Division to accept travel, lodging, and meal expenses from Indiana University to participate on a panel discussing state civil rights enforcement.

I. Background

A state employee (“Requester”) of the Colorado Civil Rights Division (“CCRD”) submitted a request for an advisory opinion concerning the propriety of accepting travel expenses from a third party. Requester serves as CCRD’s Outreach and Education Coordinator.

CCRD received an email invitation from the Indiana University Robert H. McKinney School of Law to attend a symposium on September 20, 2019. The theme of the 2019 symposium is “The Laws of Attraction: State Government Strategies to Influence Interstate Migration.” Specifically, the symposium involves, in part,

...a panel of state civil rights commission members speak[ing] about their enforcement of civil rights law, in particular focusing on: the commission’s structure, what protected classes and enforcement areas are covered, how the commission handles issues of hate crimes and other related issues.

The agenda for the symposium has not been finalized; a draft agenda includes Requester, together with representatives from two other states, serving on a moderated panel. The panel’s topic for discussion is “Current Issues & Trends in Enforcing Civil Rights Laws”.

The invitation to the symposium includes a payment of Requester’s costs for travel, lodging, and a meal. Requester estimates that airfare will cost between \$147 and \$374, and lodging will cost between \$99 and \$399.¹

II. Jurisdiction

The IEC has jurisdiction over government employees, including employees of the state executive

¹ Requester did not provide information about the estimated cost of the meal.

branch. Colo. Const. art. XXIX § 2(1). Requester is a government employee within the meaning of Article XXIX.

III. Applicable Law

Section 3(2) of Article XXIX of the Colorado Constitution provides,

No ... government employee, either directly or indirectly as the beneficiary of a gift or thing of value ... 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 [currently adjusted to \$65] in any calendar year, including but not limited to, gifts, loans, rewards, promises or negotiations of future employment, favors or services, honoraria, travel, entertainment, or special discounts, from a person, without the person receiving lawful consideration of equal or greater value in return from the ... government employee who solicited, accepted, or received the gift or other thing of value.

Section 3(3)(f) of Article XXIX provides an exception to the gift ban in section 3(2) for:

Reasonable expenses paid for 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[.]

IV. Discussion

The Commission previously considered a similar request in Advisory Opinion 17-11. In that opinion, the Commission found that a member of the Colorado House of Representatives could accept travel and lodging expenses for travel to Alamosa, Colorado, to deliver the commencement address at Adams State University. As in Advisory Opinion 17-11, where the Commission determined that Adams State University is a part of Colorado state government, so, too, is Indiana University a part of Indiana's state government. *See generally* Article 20 of Title 21, State of Indiana Code (IC, 2018).

Under the exception provided in § 3(3)(f), the prohibition in § 3(2) of Article XXIX does not apply. The expenses paid by the university for travel, lodging, and a meal constitute reasonable expenses paid by state government—the university—for Requester's attendance at a meeting at which Requester will participate in a panel and represent state government in his role as CCRD's Outreach and Education Coordinator.²

² *See* Position Statement 10-01 (in addressing exception 3(3)(f) in the context of government exchange organizations, the Commission determined that a covered individual's expenses paid by the governmental entity for which they work or by another state or local government are not a violation of the gift ban). *See also* Position Statement 12-01 ("Section 3(3)(f) of Article XXIX explicitly exempts reimbursement of travel expenses by other

There is no indication that the acceptance of travel-related expenses in this case will create a conflict of interest or the appearance of impropriety. There is no relationship between Indiana University and Requester; Indiana University is not subject to the jurisdiction of CCRD; and Requester has no decision-making authority in relation to CCRD's enforcement of the Colorado Anti-Discrimination Act.

Moreover, the request in this case is distinguishable from the request in Advisory Opinion 17-11 in a way that heightens the protections against potential violations of Article XXIX. In Advisory Opinion 17-11, the invitation was made directly to the traveling member of the Colorado House of Representatives. In this case, however, the invitation was sent to a general mailbox for CCRD, not directly to Requester. The invitation specifically named the Director of CCRD as a potential panel participant, but the Director of CCRD instead delegated panel participation to Requester. Every indication is that Indiana University's invitation was general in nature and not specifically directed for the benefit of Requester.

As such, the Commission finds that there are no factors present that would create a conflict of interest or the appearance of impropriety in accepting the university's offer to pay reasonable travel, lodging, and meal expenses.

V. Conclusion

Under the § 3(3)(f) exception to Article XXIX's gift ban, it is not a violation of Article XXIX for Requester to accept travel, lodging, and meal expenses from Indiana University to participate on a panel discussing state civil rights enforcement.

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 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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state and local governments. Therefore, if the travel is paid for by local government or by the state of Colorado, (or another state), travel is permissible.”).