



Sarah Mercer, *Chair*
Daniel Wolf, *Vice-Chair*
Lori Laske, *Commissioner*
Cyril Vidergar, *Commissioner*

Independent Ethics Commission
1300 Broadway, Suite 240
Denver CO 80203
Phone: (303) 223-0110
iec.colorado.gov

Dino Ioannides, *Executive Director*

Advisory Opinion 26-01 (Travel Expenses Paid by Federal Agency)

Summary: Under the facts and circumstances of this request, it would not violate Section 3 of the Colorado Constitution, Article XXIX, or Section 24-18-104(1), C.R.S., for Requestor to accept travel reimbursement from the federal government to attend a meeting with a federal agency.

I. Jurisdiction

Requestor is a state representative in the Colorado House of Representatives (the “House”). State representatives are subject to IEC jurisdiction as members of the general assembly under Article XXIX of the Colorado Constitution.

Any person subject to IEC jurisdiction may submit an advisory opinion request concerning whether any conduct by that person would violate Article XXIX or any other standards of conduct or reporting requirements as provided by law. Colo. Const. art. XXIX, § 5(5). The Commission considers such requests pursuant to IEC Rule 3.

II. Factual Background

Prior to serving in the House, Requestor participated in a pregnancy study through a California state university regarding skin conditions in pregnant women and infants. Recently, a professor in a different branch of the same university system contacted Requestor and asked her to participate in a meeting with the United States Food and Drug Administration (the “FDA”). The meeting’s purpose is to discuss her experience with the pregnancy study and pregnancy registries, whether registries work, how they could be improved, and how to promote more registry participation. Requestor is currently one of two mothers scheduled to meet with the FDA over a two-day period.

The FDA has offered to cover Requestor’s travel expenses, to include only airfare and lodging. The FDA will not cover Requestor’s food costs. Requestor estimates the total value to be approximately \$800.

III. Applicable Law

The Colorado Constitution, Article XXIX, Section 3 (gift ban) prohibits certain gifts to members

of the general assembly:

(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) [now \$75] 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.

Section 3(3) includes exceptions to the gift ban, one of which is applicable 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.

The IEC has noted that Section 3 lacks an exemption for federal government payments:

Article XXIX section 3(3)(f) does not expressly exempt payments by the United States government or foreign national or foreign local governments. Such payments generally are permissible under other analyses The IEC encourages agencies and governmental agencies to require individuals to explain the nature of the state-federal connection in evaluating the permissibility of federally-financed travel.

IEC Position Statement 12-01 at 10. In that same Position Statement, the IEC also noted that event attendance contains a wide spectrum of possible activities, entertainment, education, and benefits. *Id.* Thus, the IEC may examine portions of an event separately—i.e., "a free golf trip" would be evaluated differently from a meal included with conference attendance. *Id.*

In interpreting constitutional provisions, the IEC strives to "ascertain and give effect to the intent of the electorate adopting the amendment." *Bolt v. Arapahoe County Sch. Dist. No. Six*, 898 P.2d 525, 532 (Colo. 1995). If voters' intent is unclear from the plain language, the IEC construes the language in light of the objective sought to be achieved and the "mischief to be avoided by the amendment." *Zaner v. City of Brighton*, 917 P.2d 280, 283 (Colo. 1996). Where, as here, the amendment was voter-initiated, the IEC adopts "an interpretation which harmonizes different constitutional provisions rather than an interpretation which would create a conflict between such provisions." *Id.* at 283. The IEC rejects a "narrow or technical reading of the language contained in the initiated constitutional amendment, if to do so would defeat the intent

of the people.” *Id.* Further, the IEC avoids any interpretation that would be an “absurd result.” *In re Interrogatories on House Bill 99-1325*, 979 P.2d 549, 557 (Colo. 1999).

Colorado statutes also contain a gift ban:

A public officer, a member of the general assembly, a local government official, or an employee shall not:

* * *

(b) Accept a gift of substantial value or a substantial economic benefit tantamount to a gift of substantial value:

(I) Which would tend improperly to influence a reasonable person in his position to depart from the faithful and impartial discharge of his public duties; or

(II) Which he knows or which a reasonable person in his position should know under the circumstances is primarily for the purpose of rewarding him for official action he has taken.

§ 24-18-104(1), C.R.S.

In interpreting and applying Section 24-18-104(1), the Commission must “discern and effectuate the General Assembly’s intent . . . [by] apply[ing] words and phrases in accordance with their plain and ordinary meanings[.]” *Miller v. Crested Butte, LLC*, 2024 CO 30, ¶ 23 (internal citations omitted). Statutes must also be interpreted by looking “to the entire statutory scheme to give consistent, harmonious, and sensible effect to all of its parts . . . [and to] avoid constructions that would render any words or phrases superfluous or that would lead to illogical or absurd results.” *Id.* When “construing a statute, we must respect the General Assembly’s choice of language . . . [and] not add words to a statute or subtract words from it.” *Id.*

IV. Discussion

Requestor presents a situation readily distinguishable from that in Advisory Opinion 10-06 and other similar circumstances involving conference attendance.

Requestor will speak with the FDA regarding her experiences in a pregnancy study that occurred prior to her status as a member of the general assembly. The FDA invited her to this meeting because of her participation in the prior study and not because of her public office. The FDA’s invitation will not involve opportunities to influence Requestor in her official role.

Requestor will not receive anything of value that inures to her personal benefit. According to Requestor, she will not receive networking opportunities, lobbyist contact, self-promotion opportunities, or other similar benefits typically afforded to those who attend conferences, industry events, etc. Also, Requestor is not planning on introducing legislation in Colorado regarding these pregnancy topics, nor speaking with elected federal officials beyond the FDA meeting.

Additionally, the fact that Requestor is only one of two people who agreed to attend this meeting suggests that, unlike conferences or industry events, it provides little personal benefit. Rather, Requestor seeks to attend because she values the importance of research, data, and science, and wants to do what she can to assist other mothers and infants.

The FDA's offer to cover travel in this instance constitutes a benefit primarily to the FDA's programming and research functions, rather than a gift to Requestor. Again, this situation is different from that of a conference attendee, where industry participants may seek contact with public officials, organizers may advertise the public official's attendance or participation to attract additional attendees, etc. Requestor will only provide information to the FDA. Therefore, the proposed reimbursement falls outside the "mischief to be avoided by [Article XXIX]." *Zaner*, 917 P.2d at 283.

In this case, in which the FDA seeks to reimburse for travel and lodging expenses only, the amount of the reimbursement is reasonable and does not constitute a gift inuring to Requestor's benefit. Even to the extent the FDA's offer of reimbursement could be considered a gift to Requestor, the IEC finds that Requestor would be providing "lawful consideration of equal or greater value" in the form of her testimony and advice to the FDA. Requestor would receive little or nothing in return beyond reimbursement for the costs she necessarily incurs to provide that testimony and advice.

V. Conclusion

Under the facts and circumstances of this request, it would not violate Section 3 of the Colorado Constitution, Article XXIX, or Section 24-18-104(1), C.R.S., for Requestor to accept travel reimbursement from the FDA to attend an FDA meeting.

The IEC cautions that this opinion is based on the specific facts presented herein, and that different facts could produce a different result. The IEC 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

Sarah Mercer, *Chair*
Daniel Wolf, *Vice-Chair*, dissenting in part
Lori Laske, *Commissioner*
Cyril Vidergar, *Commissioner*

Dated: February 27, 2026

Daniel Wolf, dissenting in part

While I concur with the majority that there would be no violation of the statutory gift ban in Section 24-18-104(1), C.R.S., I respectfully dissent from the majority's finding that there is no

gift or that Requestor will provide “lawful consideration of equal or greater value” under Article XXIX.

A covered individual is subject to Article XXIX, regardless of whether a gift is made in connection with Requestor’s official capacity or personal capacity. *Cf.*, Advisory Opinion 15-12 (“Article XXIX applies at all times to the state government employee in question” even when acting in another capacity.). Therefore, applying the Colorado Constitution’s plain language, Section 3 lacks an exception for gifts or reimbursement from the federal government. IEC Position Statement 12-01 at 10. Additionally, the IEC has held previously that a requestor needing to “give up several days away from [their] family and work and spend[ing] considerable time preparing for the conference” falls short “of the standard set forth in Section 3 of Article XXIX” for there to be “lawful consideration of equal or greater value.” IEC Advisory Opinion 10-06 at 3–4. There is nothing in the request detailing the value of the information Requestor is providing to the FDA.

In my view, it cannot be shown that Requestor is providing “lawful consideration of equal or greater value,” nor that any exception to the constitutional gift ban applies. Thus, Requestor’s acceptance of travel reimbursement from the FDA would violate the plain language of Section 3. The majority’s analysis of the “mischief to be avoided” is inapposite where, as here, the plain language of Article XXIX controls.