

# State of Colorado



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**Dino Ioannides**, *Executive Director*

## **Letter Ruling 21-03** (Travel Expenses Paid for by a Third Party)

**Summary:** Under the facts and circumstances of this case, and consistent with the discussion herein, it would not be a violation of Article XXIX for the Requester to reimburse the Secretary of State for her actual travel expenses, and provide admission to and meals at two policy conferences, related to the Secretary of State's duties representing the [REDACTED] [REDACTED] ("[REDACTED]").

### **I. Background**

Requester, [REDACTED], is a 527 nonprofit political organization.<sup>1</sup> The purpose of [REDACTED] is to help elect Democratic Secretaries of State "who are committed to protecting and preserving voting rights and ballot access for all Americans through fair, honest, secure, and accurate elections." To further that mission, [REDACTED] hosts policy conferences and fundraising events.

The Colorado Secretary of State was recently elected as [REDACTED]'s chair. Her involvement in [REDACTED] generally includes assisting with the administration, strategy, and fundraising for the association. Her involvement in [REDACTED]'s policy events specifically includes planning and attending the conferences, selecting and inviting speakers, selecting policy issues and sub-topics for discussion, serving as host of the events, participating in panels, and providing [REDACTED]-specific updates. Two such events are planned for 2021: one in Aspen, and one in Washington, D.C. [REDACTED] seeks to pay for the Secretary of State's lodging, admission, and meals at the Aspen event, and for her travel, lodging, admission, and meals at the Washington, D.C., event.

The Secretary of State's involvement in fundraising events includes meeting with potential [REDACTED] supporters in a variety of cities across the United States, including one larger gathering with supporters where the Secretary of State is a featured speaker. Currently, no such fundraising events are planned for 2021-22, and Requester was unable to provide specifics regarding attendees, locations, and expected expenses.

[REDACTED]'s policy on travel is strict, and requires individuals requesting reimbursement to utilize the

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<sup>1</sup> [REDACTED] does not receive less than 5% of its funding from for-profit sources. The IEC thus does not consider the exception for non-profit organizations set forth in § 3(3)(f). *See* Colo. Const. art. XXIX, § 3(3)(f).

lowest-cost options for air travel and ground transportation. All expenses are reviewed for reasonableness and necessity. Any expenses that “could be perceived as lavish or excessive” are prohibited, including, for example, first class tickets and upgrades. For purposes of this request, the IEC assumes that all of the Secretary of State’s travel will comply with [REDACTED] policy.

## **II. Jurisdiction**

Any person who is not a public officer, member of the general assembly, local government official, or government employee may submit a request to the commission for a letter ruling concerning whether potential conduct of the person making the request satisfies the requirements of article XXIX. § 24-18.5-101(4)(b)(III), C.R.S.

The Commission has jurisdiction over public officers, “including all statewide elected officeholders,” pursuant to § 2(6) of Article XXIX.

## **III. Applicable Law**

Section 3(2) of Article XXIX provides, in pertinent part:

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, 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 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)(e) of Article XXIX exempts from Section 3(2)’s gift prohibition “Admission to, and the cost of food or beverages consumed at, a reception, meal, or meeting by an organization before whom the recipient appears to speak or to answer questions as part of a scheduled program.”

## **IV. Discussion**

Because both the nature and extent of the Secretary of State’s anticipated travel for fundraising events is unknown, the IEC addresses only [REDACTED]’s request to reimburse the Secretary of State for the two scheduled policy conferences in Aspen and Washington, D.C. The IEC encourages [REDACTED] to submit a letter ruling request if and when further travel is scheduled. In particular, the IEC does not have enough information regarding the attendees at the fundraising events or the Secretary of State’s role at such events to issue a blanket letter ruling covering such trips.

As pertaining to the policy conferences, the IEC finds that the Secretary of State’s role in such

conferences is sufficiently significant as to constitute “lawful consideration of equal or greater value” for ██████’s reimbursement of her actual expenses, including travel, hotels, admission to the conferences, and food and drink. *See* Art. XXIX, § 3(2); Complaint 13-11. The Secretary of State not only acts as the host for such events, but also contributes significant time and energy in working with ██████’s executive director to plan such events, including working on discussion topics, speakers, and materials provided to attendees. ██████ believes the Secretary of State’s involvement in these activities “far exceeds the value of the incidental travel and lodging expenses associated with her fulfillment of these duties.” The IEC agrees that the Secretary of State’s involvement in the organization constitutes consideration of equal or greater value for the expenses ██████ intends to cover or reimburse.

Additionally, to the extent ██████ will cover the cost of both admission to and meals at ██████’s policy conferences, ██████ represents that the Secretary of State is scheduled to speak at both the Aspen and Washington, D.C., events and participate in multiple panels. She will also act as the event host, both opening and closing the events and introducing speakers. Therefore, ██████ is also permitted to pay for the Secretary of State’s admission to and food and drinks at the policy conferences under the §3(3)(e) exception to the gift ban. *See* Colo. Const. art. XXIX, § 3(3)(e).

## **V. Conclusion**

Under the facts and circumstances of this case, and consistent with the discussion above, it would not constitute a violation of Article XXIX for Requester to pay for the Secretary of State’s travel, attendance, and meals at ██████’s policy conferences in Aspen and Washington, D.C.

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**

Elizabeth Espinosa Krupa, *Chair*

William Leone, *Vice-Chair*

Selina Baschiera, *Commissioner*

Debra Johnson, *Commissioner*

Dated: June 29, 2021