

State of Colorado



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Letter Ruling 24-02 (Gifts)

Summary: Under the facts and circumstances of this request, it would not be a violation of Article XXIX for Requestor to provide a legislator with an award and food, drink, and admission to an awards event where that legislator appears to give a speech. It would not be a violation for Requestor to provide a legislator receiving an award with a trophy, plaque, or other token of appreciation. It *would* be a violation of Article XXIX for Requestor to provide other covered individuals with complimentary tickets, for Requestor’s registered lobbyist to give gifts to legislators even if he considers them personal friends, and for Requestor to provide legislators with extra tickets for their partners or spouses.

I. Jurisdiction

Requestor is a registered professional lobbyist and the executive director for an animal advocacy organization. The subjects of the request are state legislators, who are covered individuals subject to the provisions of Article XXIX of the Colorado Constitution pursuant to Section 2(6) of that article.

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 IEC for a letter ruling concerning whether potential conduct of the person making the request satisfies the requirements of Article XXIX. *See* § 24-18.5-101(4)(b)(III), C.R.S. Because Article XXIX authorizes the IEC to impose penalties against both covered individuals and “any person or entity inducing such breach,” Colo. Const. art. XXIX § 6, the legislature has created a mechanism for third parties to request opinions from the IEC. The Commission considers such requests pursuant to IEC Rule 3.

II. Factual Background

Requestor’s organization is a 501(c)(4) that advocates on behalf of animal welfare and seeks to “protect animals through public policy.” Requestor is a registered professional lobbyist as that term is defined in Section 24-6-301(6), C.R.S. Requestor’s organization receives more than 5 percent of its funding from for-profit sources.

Alongside a sister organization, Requestor's organization co-hosts an annual awards dinner and fundraiser to honor one or more lawmakers "whose efforts during the most recent legislative session helped to pass legislation that advanced the cause of animal welfare." The honored legislators receive a trophy or similar award, and give an acceptance speech. The honored legislators are given a free ticket to the event.

Tickets to the event include dinner and drinks at a cost of \$150.00, of which \$50.00 goes to the organization's actual costs and \$100.00 of which constitutes a donation to the organization. Sponsors can purchase tables at a cost of \$5,000. Each table includes eight tickets. Some sponsors do not fill all seats at their tables, and return unused tickets to the organization to distribute randomly at the organization's discretion. Requestor filed a letter ruling request to ensure his organization's compliance with Article XXIX and other standards of conduct.

The letter ruling request presents the following questions:

- 1) Can the organization provide a trophy or award costing approximately \$75.00 to the legislator honored at the fundraiser?
- 2) Can the organization provide the legislator honored at the fundraiser free admission, dinner, and drinks?
 - a. Can the organization provide the legislator honored at the fundraiser an additional ticket for a spouse, partner, or immediate family member?
 - b. If so, can the legislator gift that additional ticket to a third party not related to the legislator?
- 3) Can the organization provide legislators not honored at the fundraiser with complimentary unused tickets previously purchased by sponsors?
 - a. If the legislator in question helped pass or work on the legislation for which the legislator honored at the fundraiser is recognized, is he or she permitted to accept a complimentary unused ticket?
- 4) Can Requester, as a registered lobbyist, gift tickets to legislators if Requester considers the legislator a personal friend?

III. Applicable Law

Section 3(2) of Article XXIX of the Colorado Constitution (the "gift ban") provides in relevant part:

No ... member of the general assembly... 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 ... a fair market value... greater than [\$75.00]¹ in any calendar year..."

The gift ban applies not only to tangible gifts but also to "favors or services, honoraria, travel, entertainment, or special discounts." *Id.*

¹ The gift ban limit is periodically adjusted for inflation and is currently set at \$75.00. *See* Position Statement 23-01.

Section 3(3)(c) provides an exception for an “unsolicited token or award of appreciation in the form of a plaque, trophy, desk item, wall memento, or similar item.”

Section 3(3)(e) provides an exception for “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.”

Section 3(3)(f) provides an exception for 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 in 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.”

Section 3(3)(g) provides an exception for gifts given by an individual who is a relative or personal friend of the recipient on a special occasion.

Section 24-18-104 of the Colorado Revised Statutes contains a prohibition on receiving gifts of “substantial value” that “would tend improperly to influence a reasonable person in his [or her] position to depart from the faithful and impartial discharge of his [or her] public duties” or which “he [or she] knows or which a reasonable person in his [or her] position should know under the circumstances is primarily for the purpose of rewarding him [or her] for official action he [or she] has taken.” The statutory gift ban contains exceptions similar to those in Article XXIX, incorporates 3(3)(c) and (e) by reference, and tracks the amount of the gift limit in Article XXIX, as periodically adjusted for inflation. § 24-18-104(5), C.R.S.

Article XXIX also contains a lobbyist gift ban, which provides:

No professional lobbyist, personally or on behalf of any other person or entity, shall knowingly offer, give, or arrange to give, to any public officer, member of the general assembly, local government official, or government employee, or to a member of such person's immediate family, any gift or thing of value, of any kind or nature, nor knowingly pay for any meal, beverage, or other item to be consumed by such public officer, member of the general assembly, local government official or government employee, whether or not such gift or meal, beverage or other item to be consumed is offered, given or paid for in the course of such lobbyist's business or in connection with a personal or social event ...

Colo. Const. art. XXIX, § 3(4). The only exception to the lobbyist gift ban is for individuals who are a “member of [the lobbyist's] immediate family.” *Id.*

IV. Discussion

With regards to legislators who are slated to receive an award, Section 3(3)(c) permits receipt of a trophy, plaque, or other token of appreciation, and such awards are not prohibited by the gift ban. With regards to complimentary tickets for legislators who are receiving an award, the IEC

finds that the complimentary ticket falls within the gift ban exception in Section 3(3)(e), so long as the legislators receiving awards give speeches as part of the scheduled program. *See* Advisory Opinion 13-11. The language in 3(3)(e) requiring a speech or remarks to be “part of a scheduled program” indicates that such speech or remarks must be substantive in nature. *See Letter Ruling 09-06 (Merely allowing a legislator to say a few words or answer a question is insufficient to fall within the exception).*

The exception in Section 3(3)(e) is also narrow as to whom it applies: It allows only admission and the cost of food and beverages for the recipient. And because the gift ban prevents gifts to a covered individual’s spouse or children, Requestor’s organization cannot provide additional tickets free of charge to the legislator’s spouse or children, nor can the legislator receive additional tickets to distribute to third parties. Legislators must purchase additional tickets to the event if they wish to bring guests.

Similarly, legislators who helped work on or pass legislation consistent with the organization’s goals do not fall within the gift ban exception of Section 3(3)(e).

The cost covered individuals must pay to attend ticketed events is the lowest price at which those tickets are offered to members of the public. *See Letter Ruling 12-01; Complaint 17-28.* For the fundraiser, that price would be \$150.00. Legislators who accept extra tickets at sponsor tables are not required to pay a higher amount unless those tickets include additional perks.

As to whether Requestor’s organization can provide other legislators with complimentary tickets, the answer depends on whether the broader exception in Section 3(3)(f) applies. Requestor provided donor information showing that it receives more than 5 percent of its funding from for-profit sources. Accordingly, legislators cannot avail themselves of that exception.

Finally, the organization cannot gift tickets to legislators under the “family and friends” exception in Section 3(3)(g). The application of that exception would rely on Requestor’s relationship with the legislator—the *organization* clearly cannot claim a personal relationship with the subject legislator—and Requestor is a registered lobbyist. Lobbyists are subject to stricter gift ban limits than other third parties. Under Section 3(4) of Article XXIX, lobbyists may only gift items to covered individuals who are members of their immediate family. Further, the IEC is unconvinced that the “special occasion” language in Section 3(3)(g) would apply to a fundraiser.

The analysis under the statutory gift ban is similar to that under Article XXIX. That gift ban only applies to conduct “which a reasonable person in his [or her] position should know under the circumstances is primarily for the purpose of rewarding him [or her] for official action he [or she] has taken.” § 24-18-104, C.R.S. Indeed, the purpose of the award and of providing complimentary tickets to legislators *would be* to reward them for official action taken, specifically, working to pass laws consistent with the organization’s policy goals. However, the statute sets forth the same exceptions as Article XXIX regarding both: (1) unsolicited tokens or awards of appreciation; and (2) admission to, and the costs of food or beverages consumed at, events. § 12-18-104(3)(c), (e), C.R.S. Therefore, legislators receiving awards and scheduled to speak at the organization’s fundraiser may accept the trophy and complimentary ticket. Other

legislators must purchase tickets to the event.

V. Conclusion

Under the facts and circumstances of this request, it would not be a violation of Article XXIX for Requestor's organization to provide award recipients with a trophy and free admission to the organization's fundraising event, so long as the recipient is scheduled to speak as part of the program. However, the recipient may receive only one complimentary ticket, and their guests or other legislators who attend must purchase tickets at the price those tickets are offered to the public.

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

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Dated: February 18, 2025