

From: Pisarik, Holly <HollyPisarik@gov.sc.gov>
To: Schimsa, RebeccaRebeccaSchimsa@gov.sc.gov
Date: 9/15/2015 4:55:40 PM
Subject: Re: Ethics Commission question

Ok, thanks. Did you provide this guidance to Halti?

Sent from my iPhone

On Sep 15, 2015, at 4:45 PM, "Schimsa, Rebecca" <RebeccaSchimsa@gov.sc.gov> wrote:

From: Burchstead, Michael
Sent: Tuesday, September 15, 2015 3:45 PM
To: Schimsa, Rebecca
Subject: Ethics Commission question

Rebecca,

Good meeting you over the phone yesterday. This is to follow up on your question about Governor Haley's invitation to be the keynote speaker at an out-of-state event hosted by a lobbyist's principal. You ask about the general parameters of the Ethics Act that need to be heeded in attending such trips.

As you are aware, Section 2-17-100 prohibits a public official from receiving anything of value for speaking in her official capacity. However, this section also provides that "a public official or public employee may receive payment or reimbursement for actual expenses incurred for a speaking engagement" and "[t]he expenses must be reasonable and must be incurred in a reasonable time and manner in which to accomplish the purpose of the engagement." Pursuant to Section 2-17-100, the lobbyist's principal may pay Governor Haley's reasonable expenses that are needed to accomplish the mission of her speaking engagement. It may pay for meals, airfare, and lodging connected with her speaking at this event. It may pay for her attendance at a reception, so long as it's held a reasonable time before or after the speaking event (If she speaks on Monday night and the reception is on Tuesday, it's probably not reasonable). As for your question about whether one or two nights lodging is appropriate, it depends on the overall circumstances. If she is speaking in the evening, then more than likely lodging the night after would be appropriate. But we understand there may be travel logistics or other circumstances to where two nights is seen as necessary to "accomplish the mission" of the speech. That has to be determined on a case-by-case basis.

In addition to covering the costs directly connected with the speaking engagement, the lobbyist's principal may provide meals, lodging, or pay for a reception, provided it stays within the limitations of Section 2-17-90(B). This limits gifts from lobbyist's principal to public official to \$60 a day and \$480 per calendar year. So for example, if the Governor's speech was one night and she stayed an extra night, the lobbyist's principal could pay for the total cost the night of the speech and \$60 towards the cost the following night.

Based on the Commission's interpretation of Section 2-17-100, we do not interpret expenses for the travel aide as being reasonable to accomplish the purposes of the Governor speaking at this event. Therefore, we do not believe it is appropriate for the lobbyist's principal to pay for these expenses, unless his or her presence fits within the economic development exception to Section 2-17-90(A)(6). That being said, if the staffer's presence is viewed as important to help the Governor with her official job duties while travelling, then the staffer's trip can be paid for with state funds.

As for the Governor's family, the lobbyist's principal may not pay for her children's travel or lodging, as this

would be seen as an extra benefit to the Governor and not reasonably connected to the speech. Nothing would prohibit them from staying in the same hotel room which was paid for by the lobbyist's principal in connection with the Governor's speaking engagement. The same would be true for the Governor's husband. Technically, a gift from a lobbyist's principal to the Governor's husband would be outside the scope of the Ethics Act because he is not a public official or public employee under the Ethics Act (My understanding is that he is a federal employee). Out of an interest of avoiding even the appearance of impropriety, we would suggest that if the Governor's husband accompanies her on the trip, the related expenses be paid for with personal funds.

Please let me know if you have any questions or need any further clarification.

Very best regards,

Michael
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