

House Ethics Committee Provides Gift and Travel Advice

March 2007

In February, the House Committee on Standards of Official Conduct issued a memorandum to provide guidance with respect to the new gift and travel rules adopted by the House in January. (See *Election Law News Alert*, January 8, 2007.) The first memorandum addressed gift issues, while the second addressed travel issues.

Gift Guidance

In addition to describing the new House gift rules, the committee's February 6, 2007, memorandum provided several examples of how the gift ban would be implemented. In Example 4, for example, the committee indicated that a member or staffer should not accept a meal from a non-lobbyist employee of a company that employs or retains a lobbyist if the intent of the donor is to evade the gift ban simply by using personal funds to pay for the meal.

The committee also reiterated and described the exceptions to the gift rules that are still available to lobbyists and entities that retain or employ lobbyists. These exceptions include widely attended events, food or refreshment of a nominal value (the "reception" exception), and items of nominal value. Moreover, the Committee described the criteria that a member or staffer must consider in order for someone to provide him or her with a gift under the personal friendship exception. Those criteria are as follows:

- The history of his or her relationship with the donor, including any previous exchange of gifts;
- Whether, to the official's knowledge, the donor personally paid for the gift, or whether the donor sought a tax deduction or business reimbursement for it; and

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- Whether, to the official's knowledge, the donor at the same time gave the same or similar gifts to other members or staff.

In the February 6 memorandum, the committee indicated that an exception for charity events did not apply to charities that retain or employ lobbyists or to events sponsored by other organizations that retain or employ lobbyists. Finally, with respect to the political event exception, the committee stated as follows:

A meal with a lobbyist where the lobbyist provides a campaign contribution is not a "fundraising or campaign event" under this provision of the gift rule unless the meal is sponsored and paid for by a political organization, and the expenditures are reported as required by FEC rules or applicable state or local rules.

Travel Guidance

In a memorandum dated February 20, 2007, the Committee provided guidance and regulations for the new House travel rules, which became effective March 1, 2007.

Among other things, the memorandum described in minute detail what expenditures for transportation, lodging, and food would be "reasonable" and therefore acceptable by members and staffers under the new rules. For example, travel on private aircraft or charter aircraft for fact-finding trips and other officially-connected travel is only reasonable under a very narrow set of circumstances. Also, the reasonableness of lodging depends on whether the event was organized without regard to congressional participation (the latter being an annual board meeting and the like) in addition to the room's location, etc.

The February 20 advice also outlined the factors that determine whether the committee will approve a two-night stay in connection with travel sponsored by an entity that retains or employs a lobbyist. One factor is whether the travel is across two or more time zones.

The committee also released on February 20 forms to be filled out by sponsors of private travel (to be submitted to the traveling member's or staffer's office) and forms to be filled out by the member or staffer and submitted to the committee. Those documents can be found at www.house.gov/ethics/travel_page.htm.