GOVERNMENT ETHICS GUIDELINES

The Association, which is a client of a lobbyist, is required to be registered with the Public Integrity Commission. Article 1-A of Legislative law (commonly known as the "Lobbying Act") provides that registered organizations such as the Association are subject to the restrictions contained in that law and enforced by the Commission.

The restriction that most impacts the work of the Association is the prohibition on any registered organization providing a gift to a public official. A gift is defined as "anything of more than nominal value given to a public official in any form, including, but not limited to money, service, loan, travel, lodging, meals refreshments, entertainment, discount, forbearance, or promise, having a monetary value." The Commission has said that nominal value is basically limited to a cup of coffee. If alcohol is part of a drink, it is not of nominal value.

A public official is fundamentally an officer or employee, whether paid or unpaid, of the State, but excludes members of the judiciary. Teachers employed by school districts are also excluded. Officers and employees of municipal governments are not public officials for our purposes unless the Association lobbies the municipal government for which they work. At the moment, we do not lobby, and are not registered to lobby, any municipal government. However, this could change in the future. For this reason, it is critical that no section engage in any lobbying activity before any municipality without notifying the Association's Government Relations Department. The Association risks multiple violations of the Lobbying Act should such activity take place.

What all of this means to the Association is that we cannot pay for the travel of any public official or provide food or drink to any such official. However, there are certain exceptions in the statute that permit us to provide food and drink, including meals, in certain situations. There are, however, no exceptions recognized by the Commission that would permit us to pay expenses for travel or lodging under any circumstances or to offer free or discounted CLE credits.

We need to keep this in mind in planning events and programs. Basically, if a public official is going to be invited to an event or attend an event where any food or drink is offered, we need to make sure that the event falls within an exception to the gift prohibition.

In past years, two exceptions to the foregoing rule have been useful in planning programs where public officials were to be served food or drink. These are the "widely attended gathering" exception and the "professional or educational program" exception. Everyone planning an event where any public official is to attend needs to understand both of these.

WIDELY ATTENDED GATHERING

A widely attended gathering is one where government officials would be expected to join those in the private sector in an informal setting. The attendance of the public official

must be related to his or her public responsibilities. At such a gathering, food and beverage, but not a meal, can be served. Fundamentally, this has authorized us in prior years to invite public officials to receptions.

However, in December 2009, the Public Integrity Commission issued new guidelines with respect to this exception. Under these guidelines, at least 25 non-members of the sponsoring organization must attend, meaning, for us, at least 25 non-members of the Association. Attendance records must be kept to show the Commission on an audit that there were, in fact, at least 25 non-members present. In addition, these guidelines provide that the event must "promote the exchange of information", which means that an event that is "primarily social" does not fall within the exception. These are major changes to the historical widely attended gathering exception, and, for practical purposes, preclude having any government officer or employee attend an event that is purely a reception.

PROFESSIONAL OR EDUCATIONAL PROGRAMS

The other exception that we have often used is the one that authorizes us to serve food and drink, including a meal, at a professional or educational meeting as long as the public official receives exactly what the others in attendance receive. The food and drink, or the meal, must be part of the meeting. This has permitted us to serve meals to government officials at a CLE program or to committee members at a committee meeting. If a meal is served, it must be in a common setting. For example, Section leaders cannot take the public official to a private setting for the meal. This exception remains available to us.

Because of the 2009 changes in the widely attended gathering rule, we need to carefully think of how to plan receptions where public officials are in attendance. One possibility is to make the reception part of an educational or professional program. That requires a real educational component as part of the program. For example, the invitation must make it clear that it is a program and reception, and not just a reception with a five minute educational piece added. If we are to invite government officials to our traditional receptions, we need to carefully structure these events. Given the now applicable guidelines, we cannot operate in the same manner in which we operated in prior years.

ANNUAL MEETING

Finally, the better news is that that Commission has ruled that the Annual Meeting is one event and is, in fact, a widely attended gathering. Thus, as long as a single event is held at the Hilton as part of the official Annual Meeting program, the Commission will consider it part of a widely attended gathering, and it will fall within this exception.. However, if the event is at a location other than the Hilton, the above analysis of the rules is applicable.

THE FUTURE

At the moment, the Commission has issued new proposed regulations that could change some of the rules described above. We are following these proposals. We will inform you

if they are adopted, and, if they are, whether they require us to further change our policies.