



## STATE ETHICS COMMISSION

POST OFFICE BOX 27685

RALEIGH, NC 27611

<https://ethics.nc.gov>

### CONFIDENTIAL FORMAL ADVISORY OPINION

November 10, 2021

Ms. Meredith Henderson  
Executive Director  
Go Global NC  
68 T.W. Alexander Drive  
Box 13628  
Research Triangle Park, NC 27709

RE: Lobbyist Principals Paying Expenses of Covered Persons to Participate in the 2022 Global Leaders Program to Mexico  
AO-E-21-001

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Dear Ms. Henderson:

This is in response to your October 6, 2021, request for a formal advisory opinion. You have asked whether the State Government Ethics Act (“the Ethics Act”), G.S. Chapter 138A, would allow legislators and public servants to participate in the 2022 Global Leaders Program (“2022 GL Program”) sponsored by Go Global NC (formerly the UNC Center for International Understanding). Participants in the 2022 GL Program would travel to Mexico from March 21-28, 2022. Travel costs of participating legislators and public servants may be paid by donations from lobbyist principals. You have also asked whether registered lobbyist principals may make those donations to Go Global NC in accordance with the gift ban of the Lobbying Law, G.S. Chapter 120C.

This formal advisory opinion is based upon the information you have provided and was adopted by the State Ethics Commission (“Commission”) at its November 10, 2021, meeting.<sup>1</sup>

#### **I. Brief Conclusion.**

The Commission has determined that the 2022 GL Program qualifies as an “educational meeting” related to the public duties of attending legislators and public servants and that the additional meeting requirements of G.S. 138A-32(f)(3)a.-d. will be satisfied. Therefore, lobbyist principals may donate funds

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<sup>1</sup> Please see the enclosure entitled “Formal Advisory Opinions Issued by the State Ethics Commission” for further information regarding the protections offered to individuals receiving those opinions.

to pay for the reasonable actual travel expenses of participating legislators and public servants and the legislators and public servants may accept those expenditures. However, additional expenses related to cultural or social activities must be paid by the participating legislator or public servant.

## **II. The Facts.**

The Center is planning the 2022 GL Program to allow participants to study solutions to improving Latino access to higher education and to align available educational opportunities to the current and future needs of North Carolina industry, with particular emphasis in improving economic mobility in Duplin, Lenoir, Green, Jones, Sampson, and Wayne counties. This is the eighth international study trip which the Commission has considered.

Approximately 25-30 individuals are expected to participate in the fact-finding trip connected to the 2022 GL Program. Many participants will be required to pay at least a portion of the trip's cost. Additional funding will be provided by donations from "Anonymous Trust," John M. Belk Endowment, and the Z. Smith Reynolds Foundation. None of those organizations are registered lobbyist principals. However, Go Global continues to seek additional funding from other organizations to defray the costs of legislative and public servant participants and some may be registered lobbyist principals. However, none of the sponsors, including any lobbyist principals, will be involved in the planning or administration of the 2022 GL Program or the selection of participating legislators and public servants.

Fact-finding trip participants will include one to three members of the North Carolina General Assembly, local elected officials, two Go Global staff members, and representatives from various North Carolina businesses, educational institutions, and State agencies.

The 2022 GL Program will focus on the following goals:

- 1) Strengthen North Carolina's talent pipeline and reduce the gap between the skills of members of the Latino workforce and the needs of North Carolina industry through an enhanced understanding of the North Carolina Latino community;
- 2) Learn about Mexican industry and economic development;
- 3) Develop innovative approaches to economic development that are tailored to the needs of North Carolina;
- 4) Acquire an appreciation of cultural attitudes, values, and behaviors necessary to implementation of workforce development and expanded economic opportunities; and
- 5) Leverage diverse experience, education, and cultural viewpoints amongst participants to develop solutions to improving economic opportunities and workforce development for the North Carolina Latino community.

The tentative travel itinerary you provided for the 2022 GL Program, excluding travel time to and from Mexico City and orientation time on the first day, consists of 8 to 10 hours of scheduled activities a

day beginning on Monday, March 22, 2022, and ending Sunday, March 27, 2022. The itinerary includes meetings, presentations, and site visits in Mexico City, Queretaro, Irapuato, and Guanajuato.

Scheduled activities include site visits to various educational institutions, manufacturing facilities, governmental agencies, and community service organizations.

A. Educational institutions visited include:

- i. Universidad Iberoamericana, a large private university providing degree programs and vocational courses;
- ii. the Universidad de Queretaro, a public university providing multiple training programs in the areas of polymer development, engineering, and digital manufacturing, and which operates a business incubator;
- iii. IECA Training Center;
- iv. a vocational junior high school in Mexico City;
- v. Juventudes GTO, a technological university;
- vi. CETAC training center, a high school which trains students to start their own businesses, including obtaining funding for those start-ups; and
- vii. ITESI, the Higher Technological Institute of Irapuato, a public technological university

B. Community service organization visited include:

- i. Cafemin Migrant Shelter which provides shelter, immigration support, and vocational training to Central American migrants;
- ii. Centro Meneses Community Center, which focuses on community economic development; and
- iii. Fundacion Comunitario del Bajio, which assists local communities with overcoming economic, social, education, health, and natural resources challenges.

C. Industrial facilities visited include:

- i. Industrial Park Queretaro, an 865-acre industrial park which includes manufacturing and warehousing/distribution facilities;
- ii. Castro Del Rio Industrial Park; and
- iii. FIPASI Industrial Park and its associated training center,

D. Governmental agencies visited include:

- i. officials at the Ministry of Foreign Relations.

There are two entertainment options available during the trip, including a visit to the Ballet Folklórico de México and a program at Plaza Garibaldi. All participants, including legislators and public servants whose trip expenses are being paid by donations, will be required to independently pay all expenses associated with attending these entertainment options.

Prior to the trip, participants will attend training sessions on various topics including United States migration policy, Latino communities in North Carolina, and background information on Mexican culture, social organization, and history. Participants will also conduct a community needs assessment and begin preparing action plans to meet community needs. Upon their return from Mexico, participants participate in four workshops to complete and implement action plans.

### **III. Applicable Statutory Provisions.**

The Lobbying Law prohibits a lobbyist, lobbyist principal, or legislative liaison<sup>2</sup> from giving direct or indirect gifts (“anything of monetary value”), to a designated individual (legislators, legislative employees, and public servants), unless an exception to the gift ban listed in G.S. 138A-32(f) applies. G.S. 120C-303(a). Legislators and public servants are also restricted from accepting those gifts. G.S. 138A-32(c).

One of the gift ban exceptions, G.S. 138A-32(f)(3), allows a lobbyist principal to pay for “reasonable actual expenditures” incurred by a public servant, legislator, or legislative employee in connection with that individual’s attendance at four types of meetings delineated in that exception. In particular, G.S. 138A-32(f)(3)(i) allows the payment of expenses incurred for attending *an educational meeting* “for purposes primarily related to the public duties and responsibilities of the covered person . . . .” Permissible expenses include food, beverages, registration, travel, lodging, incidental items of nominal value, and incidental entertainment.

The Commission has adopted the following non-exclusive factors to be considered when determining what is an “educational meeting” under G.S. 138A-32(f)(3)(i):

- 1) Whether the meeting’s primary purpose is to promote learning for professional improvement or to influence a particular legislative or official action,
- 2) Whether the meeting’s organizer is an independent educational or governmental institution or a Lobbyist Principal,
- 3) The proportion of educational content relative to meals and entertainment provided at the meeting and the proportion of presenters who are outside experts or are independent from the Lobbyist Principal paying for the meeting expenses, and
- 4) The relationship between the meeting’s location and length to its educational purpose.

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<sup>2</sup> State entities, are not restricted from giving gifts to designated individuals.

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In addition to the specific meeting criteria outlined above, G.S. 138A-32(f)(3) sets forth general requirements applicable to those meetings. They include a requirement that any food, beverages, transportation, or entertainment be provided to all attendees or defined groups of 10 or more attendees and that the meeting: (a) be attended by at least 10 or more participants; (b) have a formal agenda; and (c) be noticed at least 10 days in advance. Moreover, any entertainment provided “must be incidental to the principal agenda of the meeting.”

**IV. Analysis.**

Based upon a review of the itinerary for the 2022 GL Program, it appears that the Program’s content is related to the public duties of invited legislators and may be related to the duties of attending public servants, depending upon their job responsibilities.

Moreover, the Program fits the educational meeting criteria of G.S. 138A-32(f)(3)(i). Factors that support the educational purpose of the Program include the fact that the agenda includes a wide variety of presentations and site visits to governmental, manufacturing, and educational institutions, the Program is not related to or seek to influence a particular legislative or official action, the Program is scheduled with educational content throughout each day and includes minimal entertainment activities, and the Program’s location and length is closely related to its education goals.


You have also stated that there will be at least 10 participants in the Program. In addition, it has a formal agenda, will have been noticed at least 10 days in advance, and incidental entertainment, if any, is being provided to all participants. Thus, the meeting also complies with the general meeting requirements imposed by G.S. 138A-32(f)(3)a.-d.

Therefore, it is permissible for registered lobbyist principals to donate funds for food, beverages, registration, travel, lodging (including airfare and ground transportation), incidental items of nominal value, and incidental entertainment to attending legislators; and public servants if job-related; and for those individuals to accept those expenditures.

**V. Closing.**

Thank you for contacting the State Ethics Commission. Please do not hesitate to call the Commission’s staff if you have any questions about the foregoing formal advisory opinion. Pursuant to G.S. 120C-102(e1), an unedited copy of this formal advisory opinion will be forwarded to the Secretary of State. The Secretary of State is statutorily obligated to treat the opinion as confidential and not a public record.

State Ethics Commission

By:   
William H. Freeman  
Chairman

## **Formal Advisory Opinions Issued by the State Ethics Commission**

Upon the written request of a public servant or legislative employee, G.S. 138A-13(a) of the State Government Ethics Act (“the Ethics Act”) authorizes the State Ethics Commission (“Commission”) to issue formal advisory opinions on the “meaning and application” of the Ethics Act “and the public servant’s or legislative employee’s compliance therewith.” All opinions have prospective application only, are limited to the particular facts presented, and confer limited civil immunity upon a requester who follows the advice given. G.S. 138A-13(a).

Reliance upon a formal advisory opinion immunizes the public servant or legislative employee making the request from (1) investigation by the Commission, except the alleged violation of criminal law while performing his or her official duties, (2) adverse action by his or her employing entity, or (3) investigation by the Secretary of State. G.S. 138A-13(c).

Once issued by the Commission, formal advisory opinions are published in a redacted format on the Commission’s website within 30 days of issuance. G.S. 138A-13(h). Otherwise, requests for advisory opinions, the opinions themselves, and all materials related to the opinions are confidential and are not public records. G.S. 138A-13(i).

Upon the written request of any person, State agency, or governmental unit affected by G.S. Chapter 120C (“the Lobbying Law”), G.S. 120C-102(a) authorizes the State Ethics Commission (“Commission”) to issue formal advisory opinions “on the meaning and application” of the Lobbying Law and “that person’s, State agency’s or any other governmental unit’s compliance therewith.” All opinions have prospective application only and must relate to real or reasonably anticipated fact settings or circumstances. G.S. 120C-102(a). Formal advisory opinions confer limited civil immunity upon a requester who follows the advice given. G.S. 120C-102(b).

Once issued by the Commission, formal advisory opinions are published in an edited format on the Commission’s website within 30 days of issuance. G.S. 120C-102(d). Requests for advisory opinions, the opinions themselves, and all materials related to the opinions are confidential and are not public records. G.S. 120C-102(e). However, the Commission is required to send an unedited copy of each formal advisory opinion to the Secretary of State’s Office at the time the formal advisory opinion is issued to the requester, and the Secretary of State is required to treat the formal advisory opinion as confidential and not a matter of public record. G.S. 120C-102(e1). In addition, Commission staff is specifically authorized to share all information and documents related to requests for formal advisory opinions with the Secretary of State’s Office. The Secretary of State’s Office is required to treat any such information and documents in its possession as confidential and not a matter of public record G.S. 120C-102(e1).