



STATE ETHICS COMMISSION

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FORMAL ADVISORY OPINION **UNEDITED WITH APPROVAL OF REQUESTER**

August 12, 2011

Ms. Jo Ann Norris
Executive Director
Public School Forum of North Carolina
3739 National Drive, Suite 100
Raleigh, NC 27612

Ms. Millie Ravenel
Executive Director
NC Center for International Understanding
412 North Wilmington Street
Raleigh, NC 27601

RE: Paying Expenses of Legislators and Public Servants to Participate in International Trip - "Learning From Finland"
AO-L-11-002

Dear Ms. Norris and Ms. Ravenel:

This is in response to your June 28, 2011, request for a formal advisory opinion regarding the permissibility of the Public School Forum of NC, Inc. ("the Forum") and the NC Center for International Understanding ("the Center") paying travel expenses for certain legislators and public servants participating in the "Learning from Finland" international trip planned for September 23, 2011-October 2, 2011 ("Finland Trip"). This formal advisory opinion was adopted by the State Ethics Commission ("Commission") at its August 12, 2011, meeting.¹

I. Brief Conclusion.

The Commission has determined that the Finland Trip qualifies as an "educational meeting" and that the additional requirements of G.S. 138A-32(e)(3)a.-d. will also be satisfied. Therefore, the Forum may pay for the reasonable actual travel expenses of those participating legislators and

¹ 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.

public servants. The Forum must report all expenditures made on behalf of the attending legislators and public servants in accordance with the reporting requirements of G.S. 120C-403(b).

II. The Facts.

The Forum is a registered lobbyist principal. The Center operates within the University of North Carolina's ("UNC's") General Administration. The Forum and the Center are planning the Finland Trip in order to allow participants to learn more about the Finnish education system with the expectation that knowledge gained can be applied in North Carolina. This is the eleventh international study trip coordinated by the Center and the Forum.

The Burroughs Welcome Fund ("BWF"), a private philanthropic foundation, is the source of all funds for the travel expenses of the invited legislators and public servants. BWF is not a lobbyist principal and has no involvement in the selection of the participants or administration of the trip.

Approximately 30 individuals are expected to participate in the Finland Trip. The Forum will pay for the travel-related costs of certain participating staff members. In addition, the Forum plans to pay for the travel-related costs of participating legislators and public servants. Other participants, including educators and representatives of various educational foundations, will be charged a "registration fee" of \$5,000.00 for all travel costs.

Finland was chosen as the subject of the trip because it has been an international leader in education over the last decade. Student success has been achieved regardless of family background or socio-economic status. Educational goals of the trip are:

- To introduce North Carolina policymakers and educators to education policies and tools not routinely used in the United States, including educational approaches that merge education and economic development planning;
- To enable participants to consider best practices that could be modified or adapted to North Carolina in an effort to strengthen education programs across the State; and
- To establish relationships between North Carolina and other countries that may result in educational exchanges and economic development opportunities.

The Finland Trip, excluding travel time to and from Finland, is an eight-day trip consisting of 8 to 10 hours per day of scheduled activities during a five-day period beginning on Monday, September 26th, including meetings, presentations, and site visits. Breakfast and lunch meetings are scheduled on most days. Entertainment includes optional cultural visits to Helsinki or St. Petersburg on October 1, 2011.² There is also leisure time scheduled during the first two days in Finland to allow participants to adjust to the time difference and their surroundings.

Scheduled activities include presentations at the Ministry of Education, the Trade Union of Education, the Teacher Education Department at the University of Helsinki, and the National Board

² Legislators and public servants who stay in Finland until Sunday, October 2nd, are required to pay for their lodging, meal, ground travel and entertainment expenses for that day.

of Education. Topics include education policy, teacher training, and yearly student progress on the PISA assessment. Additionally, there will be site visits to the Finnish Parliament and to various schools. School visits will include classroom observations and conversations with students and faculty.

Prior to the trip, participants will be required to read background materials and attend two days of briefings on Finland and its education system. Upon their return, participants will attend a full-day debriefing session. In addition, participants will contribute to a final report that includes their findings and their implications for North Carolina.

III. Applicable Statutory Provisions.

The Lobbying Law, G.S. Chapter 120C, prohibits a lobbyist, lobbyist principal, or legislative liaison³ from knowingly giving gifts (“anything of monetary value”) to a designated individual (legislators, legislative employees, and public servants), unless an exception to the gift ban applies. G.S. 120C-303(a). One of those exceptions, G.S. 138A-32(e)(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 the various types of meetings delineated.

G.S. 138A-32(e)(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 several non-exclusive factors that will be considered when determining what is an “educational meeting” under G.S. 138A-32(e)(3)(i). Those factors are codified in the N.C. Administrative Code under 30 NCAC 07C.0101.

In addition to the specific meeting criteria outlined above, G.S. 138A-32(e)(3)a.-d. 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.”

G.S. 120C-403(b)(5) requires each lobbyist principal to report all reportable expenditures for gifts given under any of the meeting exceptions if the value of those expenditures is greater than \$10 per day per individual legislator, legislative employee, or public servant, or immediate family.

IV. Analysis.

Based upon a review of the itinerary for the Finland Trip and information provided about the invitees, it appears that the trip’s content is related to the public duties of invited legislators and public servants.

³ State entities, such as the Center, are not restricted from giving gifts to designated individuals.

Moreover, the Finland Trip fits the educational meeting criteria of G.S. 138A-32(e)(3)(i). Although the Public School Forum, a lobbyist principal, organized the trip, other factors support the educational purpose of the trip, including the fact that the trip itinerary includes scheduled educational activities throughout each day, including during meals; is located in Finland, the location of the governmental and educational institutions examined; and includes a wide variety of presentations from topic experts and related educational site visits. Moreover, the topics addressed are not related to a particular legislative or executive action. Finally, none of the presenters are representatives of the Forum.

You have stated that there will be at least 10 participants in the Finland Trip. In addition, the trip has a formal itinerary, has been noticed at least 10 days in advance, and any incidental entertainment is being provided to all participants. Although the cultural visits on Saturday, October 1st do not fit within the "incidental entertainment" limitations of the meeting exception, you are requiring that each legislator and public servant pay for the expenses of those cultural visits, including meals and lodging for Saturday evening. Thus, the trip also complies with the general meeting requirements imposed by G.S. 138A-32(e)(3)a.-d.

Therefore, it is permissible for the Public School Forum to provide food, beverages, registration, travel, lodging, and incidental items of nominal value and incidental entertainment to attending legislators and public servants.

The Forum and other sponsoring lobbyist principals must report those expenditures it pays on behalf of the attending legislators and public servants to participate in the Finland Trip on the Principal Expense Report filed with the Secretary of State listing October 2011 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(d1), 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: _____

Robert L. Farmer
Chairman

Formal Advisory Opinions Issued by the State Ethics Commission

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(a1) 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, are limited to the particular facts presented, and confer limited civil immunity upon a requester who follows the advice given. G.S. 120C-102(a) and (a1).

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(c). Otherwise, 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(d). However, the Commission is required to send an unedited copy of each formal advisory opinion issued under the Lobbying Law 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(d1). 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(d1).