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ONE HUNDRED TENTH CONGRESS

U.S. House of Representatives

COMMITTEE ON STANDARDS OF
OFFICIAL CONDUCT

Washington, DC 20515-6328

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MEMORANDUM FOR ALL MEMBERS, OFFICERS, AND EMPLOYEES

FROM: Committee on Standards of Official Conduct
Stephanie Tubbs Jones, Chairwoman
Doc Hastings, Ranking Republican Member

SUBJECT: Gift Rule Provisions Applicable to National Political Conventions

This advisory opinion summarizes the key provisions of the House gift rule (House Rule 25, clause 5) that apply in the context of the national political conventions. Any questions on how these provisions apply to a specific proposed event or other gift should be directed to the Committee.

Some of the advice below relates to attendance at events. Such advice must be read in conjunction with the guidance provided in the Committee's advisory memorandum of December 11, 2007, entitled "Member Participation in Certain Events Taking Place During a National Political Convention." That memorandum concerns the new provision, House Rule 25, clause 8, which prohibits a House Member from participating in an event held during the national political conventions honoring that Member, when the event is paid for by a lobbyist or entity that employs or retains a lobbyist. **This new rule prohibits Members from accepting free attendance even at the otherwise permissible events described below if the event is "in honor of" that Member and the other conditions of the new rule apply.**

The gift rule prohibits Members and House staff from accepting any gift – including any meal, entertainment, transportation, services, or anything else having monetary value – except as specifically provided in the rule. Members and staff are also generally prohibited from *soliciting* any gift, whether for themselves or for others. Under the gift rule as applied by the Committee, the following things **may** be acceptable under exceptions to the rule.

1. Things paid for by the *cities of Denver or St. Paul*, or any unit of federal, state, or local government, may be accepted. However, this provision does **not** apply when a governmental entity is being used merely as a conduit for a gift from another person or entity. Thus, for example, if a city were given event tickets that were earmarked, either formally or informally, for distribution to Members or staff, those tickets would be deemed a gift from the original donor and would be subject to the restrictions of the rule that apply to gifts from that source.

2. The gift rule allows the acceptance of a range of gifts – including meals, lodging, entertainment, and transportation – from a ***political organization in connection with a campaign or fundraising event*** that the organization is sponsoring. Under this provision, Members and staff may accept such gifts provided in connection with the convention from the Democratic Congressional Campaign Committee (DCCC) or Republican National Committee (RNC) or the Democratic or Republican Convention Committees, as well as from the Convention Host Committees for Denver and St. Paul.¹ In addition, travel expenses to the convention may be accepted from a state or local party organization, or a Member may use his or her campaign funds to pay travel expenses to the convention.²

3. At times, state or local party organizations, campaign committees, and other political organizations sponsor their own ***campaign or fundraising events*** at the conventions. Under the same gift rule provision that is referred to in item 2, Members and staff may accept an offer of free attendance, and related benefits, at such events from the sponsoring political organization (but not from anyone other than the sponsoring political organization). However, Members and staff should also consult with the Federal Election Commission regarding their attendance at non-federal political fundraising events.

4. Attendance at ***receptions***, at which the food served is limited to hors d'oeuvres, beverages, and similar food of a nominal value and does not include a meal, is permissible under the gift rule.

5. House Members and employees who are ***convention delegates*** may accept invitations to events and other gifts that are offered to all of the convention delegates or to, for example, all of the convention delegates from their state. This authority stems from the gift rule exception that allows House Members and employees to accept benefits resulting from outside business or employment activities provided that the benefits were not offered or enhanced because of the official position of the Member or staff person and the benefits are provided to others in similar circumstances. Accordingly, benefits may be accepted under this provision only when provided to all delegates or to a group of delegates whose membership is unrelated to one's status as a House Member or employee.

6. A Member or staff person, as well as one accompanying individual, may accept an offer of free attendance at a ***"widely attended" event***, if all of the following are

¹ However, the same caveat noted above with regard to gifts earmarked for distribution to Members or staff applies as well with regard to any such gifts received by these committees. Any such gifts would be deemed to be from the original donor, and not from the party, convention, or host committee.

² The Federal Election Commission has issued advisory opinions that address circumstances in which a Member may use campaign funds to pay the convention-related travel expenses of the Member's spouse or children, or those of a congressional staff member (please note, however, that a congressional staff member may attend a convention only on the individual's own time, not on official time). The FEC staff should be consulted directly with regard to use of campaign funds to pay the convention-related travel expenses of these other individuals.

true: (a) the invitation is extended by the event organizer; (b) the event will have at least 25 non-congressional attendees; (c) the event is open to individuals from throughout a given industry or profession, or the non-congressional attendees represent a wide range of individuals interested in a given matter; **and** (d) the Member or employee will have some participatory role in the event, or their attendance is related to the performance of their official duties. This provision generally does not allow free attendance at entertainment or recreational events such as shows or sporting events.

7. A House Member or employee may accept free attendance at a *charity event* provided that: (a) the invitation is extended by the event organizer; and (b) the primary purpose of the event is to raise funds for an organization qualified under § 170(c) of the Internal Revenue Code (including § 501(c)(3) charitable organizations). This latter criterion is generally satisfied when more than half of the cost of the admission fee is deductible as a charitable donation.

8. A Member or staff person may also accept any gift (other than cash or cash equivalent) having a value of *less than \$50*, provided the donor is not a registered federal lobbyist, registered foreign agent, or entity that employs or retains such individuals. Each Member or staff person has a cap of less than \$100 in gifts from any one private source during the calendar year under this exception.

9. At times Members wish to hold a reception or other event of their own at the convention. As a general matter, Members may pay for such events with their campaign funds.

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Again, as noted at the beginning of this memorandum, Member participation in any of the events discussed above is subject to the prohibition on Member participation in events held in honor of that Member when the event is paid for by a lobbyist or entity that employs or retains a lobbyist. See House Rule 25, clause 8, and the Committee's Advisory Memorandum of December 11, 2007.

Further explanation of the gift rule and guidance on the application of its provisions is available from the Committee's Office of Advice and Education at extension 5-7103.