

Hi, this is Chris Micheli with the Sacramento Governmental Relations Firm of Aprea & Micheli, and an adjunct professor at McGeorge school of law. Today's podcast is on California's ethics in government act, which is found in the California Government Code at Title IX, which concerns political reform. And in chapter 9.5, which is related to ethics. Section 89.500 specifies that this chapter of the government code is known as the ethics in government act of 1990, and chapter 9.5 contains four different articles. The first is on honoraria. The second is on gifts. The third article concerns travel. And the final article, four, deals with campaign funds. So article one is on honoraria and it basically defines the term to mean any payment made in consideration for a speech that's given, an article that's published or attendance at a public or private conference, convention, meeting, social event, meal, or similar gathering, and in 89.510, it specifically excludes earned income for personal services, which are customarily provided in connection with the practice of a bonafide business trade or profession.

In section 89.502, it prohibits any elected state officer, elected officer of a local government agency, or other specified individuals from accepting any honorarium. In addition, no candidate for elected state office, for judicial office, or for elected office in a local government agency is allowed to accept any honorarium. Article two, basically prohibits similar to article one, any elected state officer, elected officer of a local government agency, or other specified individuals from accepting gifts from any single source in any calendar year with a total value of more than \$250. Now note that this amount is adjusted each year for inflation based upon the California consumer price index, which means this total amount is now over \$500 in 2020. In addition, under article two, no candidate for elected state office, for judicial office, or local office is allowed to accept any gifts in any single calendar year from any single source with a total value of over \$250. But again, that was established in 1990. And so now in 2020, the amount is over \$500.

In addition, no member of a state board or commission, or certain designated employees of state, or local government agencies are allowed to accept gifts in a calendar year from a single source for more than \$250 adjusted annually. And they'll have to file a form 700, a statement of economic interest. If you file a form 700, then you are subject to these gift limitations. This section in article two, doesn't apply to a person in his or her capacity as a judge or someone who's a part-time member of a governing board of a public institution of higher education, unless it's an elected office. Now, lastly, in article two, it doesn't prohibit or limit payments, advances, or reimbursements for travel and lodging, or for wedding gifts, or gifts that are exchanged between individuals on birthdays, holidays, or similar occasions provided that the gifts exchanged are not substantially disproportionate in value. Again, this amount of two \$50 is adjusted annually to reflect changes in the consumer price index. And the FPPC adopts this amount by regulation.

Next, we turn to article three, which is on travel and basically it provides that any payments, advances or reimbursements for travel that are for actual transportation and related lodging and subsistence, must be reasonably related

to a legislative or governmental purpose or to an issue of state, national or international public policy. In which case those payments are not prohibited or limited under this chapter. Now there's an exception for travel that is in connection with a speech in which case the lodging and the subsistence expenses are limited to the day preceding the actual day of the speech, and then the day immediately following the speech, and the travel has to be related. There is also an exception for travel that's provided by a governmental agency, a foreign government, a governmental authority, a bonafide public or private educational institution, a nonprofit that is exempt from federal taxation or by a person domiciled outside the United States, if they satisfy the requirements for tax exempt status.

Now a gift of travel does not include any travel that's paid for by campaign funds or that's provided by a governmental agency of a local elected official, an elected state official, a member of a state border commission, or certain designated employees who file statements of the economic interest. Also, it doesn't include travel that's reasonably necessary in connection with a bonafide business trade or profession and travel that is excluded from the definition of a gift by other provision of law. The last article of this act is article four on campaign funds. And basically it says that candidates for elected state office can only accept contributions within the specified limits of the law. And that campaign contributions in a campaign account are deemed to be held in trust for expenses associated with the election of that candidate or for expenses associated with holding that particular office.

Also, the law specifies that any expenditure by a campaign committee must be reasonably related to a political legislative or governmental purpose and that any expenditure by a campaign committee that confers a substantial personal benefit on an individual or individuals with authority to approve the expenditure of these campaign funds must be directly related to a political legislative or governmental purpose. Now, the rest of this article four basically sets forth the use of campaign funds for specific expenditures. For example, campaign funds may not be used to pay or reimburse the candidate or the elected officer or any individual who has authority to spend the campaign funds for travel expenses, except those that are directly related to a political legislative or governmental purpose. Also, the campaign funds can't be used to pay or reimburse for professional services, unless they're directly related to a political legislative or governmental purpose, they can't be used to pay health-related expenses and they can't be used to pay or reimburse any fines, penalties, or judgements.

Here are some of the other prohibited uses of campaign funds under article four, including clothing generally, the cost of tickets for entertainment or sporting events, personal gifts, unless they're directly related to a political legislative or governmental purpose, loans, other than those which are specifically allowed, any penalties, judgements or settlements for claims of sexual assault, abuse, or harassment. Now, other provisions of article four do allow campaign funds to be used to make donations or loans to bonafide charitable, educational, civic, religious, or other tax exempt non-profit

organizations, where there won't be a material financial effect on the candidate or elected officer, his or her campaign treasurer, or persons who have authority to approve spending campaign funds. There's a whole section that governs the use of campaign funds for vehicle expenses. And generally another section prohibits campaign funds for being used for the lease of real property or for purchasing or leasing appliances or equipment. Also campaign funds are generally prohibited from compensating the candidate or elected officer for performing his or her duties, except for certain out of pocket expenses can be reimbursed as long as they were incurred for a political legislative or governmental purpose.

And then there's a whole section dealing with surplus campaign funds. And under section 89.519, what are the six areas where surplus campaign funds can be used? And generally it's for payment of outstanding campaign debts to repay contributions, donations, to bonafide charitable, educational, civic, religious, or tax exempt organizations, as long as there's no material financial effect for the candidate, contributions to political party committees, as long as those funds are not used to support or oppose candidates for elected office, otherwise they're subject to the campaign contribution limits. They can't be used for contributions to support or oppose federal office candidates or ballot measures, and then no payment for professional services for the campaign committee. So, that's a look at the four articles that are found in California's ethics in government act. Thanks for joining today's podcast.