

Commonwealth of Virginia

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Virginia Conflict of Interest and Ethics Advisory Council

MEMORANDUM

TO: Virginia Conflict of Interest and Ethics Advisory Council

FROM: Rebekah Stefanski, Staff Attorney

DATE: December 10, 2015

RE: Travel Approval Procedures and Request Form

Suggested Motion for Council: I move that we accept staff recommendation pertaining to travel request and approval procedures, including travel request and assessment forms.

Travel Requests

Subject to the provisions in subsection G of § 2.2-3103.1 and subsection F of § 30-103.1, travel requests are required by any state or local official subject to the disclosure requirements of § 2.2-3117 (the filing of the Statement of Economic Interests) and members of the General Assembly who accept any travel-related transportation, lodging, hospitality, food or beverage, or other thing of value over \$100 from a registered lobbyist or a lobbyist's principal. State and local officials must also submit a request for travel for amounts over \$100 received from a person, organization, or business who is or is seeking to become a party to a contract with the entity of which the state or local official is an officer or employee or over which the state or local official has authority.

Travel requests are *not* required for travel that is:

1. Disclosed pursuant to the Campaign Finance Disclosure Act;
 2. Provided or paid by the government of the United States, any of its territories, or any state or any political subdivision of such state;
 3. Provided to facilitate attendance by a legislator at a regular or special session of the General Assembly, a meeting of a legislative committee or commission, or a national conference where attendance is approved by the House or Senate Committee on Rules;
- or

4. Related to an official meeting of the Commonwealth, its political subdivisions, or any board, commission, authority, or other entity, or any charitable organization established pursuant to § 501 (c)(3) of the Internal Revenue Code affiliated with such entity, to which such person has been appointed or elected or is a member by virtue of his office or employment.

Travel Approval Procedures

1. The Council shall create a travel request form that shall be made available on its website. Travel requests can be submitted (i) by electronic means through the Council website or facsimile transmission, (ii) in person, or (iii) by United States mail or commercial delivery service. The Council shall receive and review all travel requests.
2. Each travel request form shall be date-stamped by a member of the Council's staff. Forms submitted by means other than electronic transmission will not be stamped until physically received by a Council staff member. The Council shall email confirmation of receipt of travel request forms to all requesters within one business day of receipt.
3. If the Council requires additional information to approve or deny a request, the Council will request such information by email. The additional information must be provided to the Council by email transmission or United States mail or commercial delivery service. Assessment of the travel request shall cease until the additional information is received by the Council, unless the delay is deemed imprudent by the Council or Council staff. The Council shall email confirmation of receipt of the additional information within one business day of receipt.
4. The Council shall approve any request for travel that bears a reasonable relationship between the purpose of the travel and the official duties of the requester. This includes any meeting, conference, or other event that is:
 - Composed primarily of public officials;
 - Related to the duties of the requester at which public policy will be discussed in a substantial manner;
 - Expected to reasonably educate the requester on issues relevant to his official duties or to enhance his knowledge and skills relative to his official duties; or
 - Reasonably related to the requester's official duties for which the requester has been invited to speak.

The Council shall not approve travel requests that bear no reasonable relationship between the purpose of the proposed travel and the official duties of the requester. In denying a travel request, the Council will consider:

- Duration of travel;
- Destination of the travel;
- Estimation of travel value; and
- Any previous or recurring travel of the requester.

5. The Council will create and utilize an assessment form with regard to the considerations listed above in subdivision 4. An assessment form will be completed for each travel request and kept in a Council database with the request, for internal use only.

6. The Council shall grant or deny all travel requests within five business days of receipt. If the Council requests additional information prior to the expiration of the five business days, the Council shall grant or deny the travel request within five business days of receiving the additional information. If the Council does not grant or deny a travel request or request additional information within these timeframes, the request shall be considered approved by the Council.

7. Requesters are allowed to amend or resubmit a travel request at any time. Requesters may do so by contacting the Council by telephone or email.

8. Approved travel requests that are accepted by the filer must still be disclosed by the applicable disclosure reporting deadline.

Applicable Law (effective January 1, 2016):

§ 30-356.1. Request for approval for certain travel.

A. The Council shall receive and review a request for the approval of travel submitted by a person required to file the disclosure form prescribed in § 2.2-3117 or 30-111 to accept any travel-related transportation, lodging, hospitality, food or beverage, or other thing of value that has a value exceeding \$100 where such approval is required pursuant to subsection G of § 2.2-3103.1 or subsection F of § 30-103.1. A request for the approval of travel shall not be required for the following, but such travel shall be disclosed as may be required by the Acts:

1. Travel disclosed pursuant to the Campaign Finance Disclosure Act (§ 24.2-945 et seq.);

2. Travel paid for or provided by the government of the United States, any of its territories, or any state or any political subdivision of such state;

3. Travel provided to facilitate attendance by a legislator at a regular or special session of the General Assembly, a meeting of a legislative committee or commission, or a national conference where attendance is approved by the House or Senate Committee on Rules; or

4. Travel related to an official meeting of the Commonwealth, its political subdivisions, or any board, commission, authority, or other entity, or any charitable organization established pursuant to § 501(c)(3) of the Internal Revenue Code affiliated with such entity, to which such person has been appointed or elected or is a member by virtue of his office or employment.

B. When reviewing a request for the approval of travel, the Council shall consider the purpose of the travel as it relates to the official duties of the requester. The Council shall approve any request for travel that bears a reasonable relationship between the purpose of the travel and the official duties of the requester. Such travel shall include any meeting, conference, or other event (i) composed primarily of public officials, (ii) at which public policy related to the duties of the requester will be discussed in a substantial manner, (iii) reasonably expected to educate the requester on issues relevant to his official duties or to enhance the requester's knowledge and skills relative to his official duties, or (iv) at which the requester has been invited to speak regarding matters reasonably related to the requester's official duties.

C. The Council shall not approve any travel requests that bear no reasonable relationship between the purpose of the proposed travel and the official duties of the requester. In making such determination, the Council shall consider the duration of travel, the destination of travel, the estimated value of travel, and any previous or recurring travel.

D. Within five business days of receipt of a request for the approval of travel, the Council shall grant or deny the request, unless additional information has been requested. If additional information has been requested, the Council shall grant or deny the request for the approval within five business days of receipt of such information. If the Council has not granted or denied the request for approval of travel or requested additional information within such five-day period, such travel shall be deemed to have been approved by the Council. Nothing in this subsection shall preclude a person from amending or resubmitting a request for the approval of travel. The Council may authorize a designee to review and grant or deny requests for the approval of travel.

E. A request for the approval of travel shall be on a form prescribed by the Council and made available on its website. Such form may be submitted by electronic means, facsimile, in-person submission, or mail or commercial mail delivery.

F. No person shall be prosecuted, assessed a civil penalty, or otherwise disciplined for acceptance of a travel-related thing of value if he accepted the travel-related thing of value after receiving approval under this section, regardless of whether such approval is later withdrawn, provided the travel occurred prior to the withdrawal of the approval.