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Articles

The Practitioner's Guide to Amendment 41 and the Colorado Independent Ethics Commission
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About the Authors



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*Secretary of State Mike Coffman in the 2008 complaint filed by Colorado Ethics Watch, and as plaintiffs' counsel in *Developmental Pathways v. Ritter*. Both cases are referenced in this article.*

This article provides Colorado lawyers a general guide to Amendment 41 to the Colorado Constitution, a voter initiative that creates a gift and revolving-door ban and establishes an independent ethics commission to enforce Amendment 41's provisions.

In November 2006, Colorado voters enacted Amendment 41, entitled "Standards of Conduct in Government," which was codified as Article XXIX to the Colorado Constitution as "Ethics in Government."¹ Amendment 41 generally (1) limits or bans gifts to state and local officials and employees, along with their families; (2) places a ban on elected statewide office holders and members of the Colorado General Assembly from lobbying their former colleagues for two years after leaving office; and (3) establishes an independent ethics commission to enforce Amendment 41's provisions.²

The proponents of Amendment 41, Common Cause and Coloradans for Clean Government, promoted the Amendment as a "clean-government" initiative.³ The sponsors argued that (1) gifts from lobbyists to public officials damage the public's perception of the political process and Amendment 41 helps strengthen public confidence; (2) Amendment 41's two-year lobbying ban eliminates the temptation for elected officials to make decisions based on the potential of future employment; and (3) the establishment of an independent ethics commission is necessary, because elected officials may not always objectively judge the ethics of their peers.⁴

This article describes which individuals Amendment 41 covers, as well as major provisions of the Amendment. It discusses in detail the newly established Colorado Independent Ethics Commission (IEC) and its procedures. It also briefly addresses the Colorado Supreme Court's ruling on Amendment 41. It concludes with a discussion of the IEC's actions and related Colorado court decisions through August 31, 2009.

Covered Officials and Employees

Amendment 41 applies broadly to virtually all state and local officials and employees in Colorado and their immediate family members. This includes the following "covered officials and employees": any elected officer, including statewide elected office holders; the head of any department of the Executive Branch of government; elected and appointed salaried members of boards and commissions; members of the General Assembly; any elected or appointed official of any county or municipality (except home-rule counties and home-rule municipalities with adopted ethics codes); and any employee or independent contractor of the state executive branch, the state legislative branch, a state agency, a public institution of higher education, or a county or municipality.⁵

Amendment Prohibitions

Amendment 41 creates two gift bans for covered government officials and employees, as well as their immediate family members.⁶ First, Amendment 41 creates the "fifty-dollar ban," which generally prohibits covered officials or employees—along with their spouses and dependent children—from receiving any money or gift or other thing of value of \$50 or more (adjusted every four years for inflation) from any person in any calendar year.⁷ For example, a state representative could accept free lunches from one individual—up to \$49.99 each calendar year.

Second, Amendment 41 creates a "zero-dollar ban," which prohibits lobbyists from giving anything of value of any kind or nature, including meals or informational material, to covered officials or employees and their immediate family members.⁸ For example, a lobbyist could not buy a statewide elected official or his wife a cup of coffee.

Amendment 41 also has a revolving-door provision that prohibits statewide elected office holders and members of the General Assembly from engaging in paid representation of other persons or entities before their former elected colleagues for two years after leaving office.⁹ In other words, if a state representative or statewide elected official resigns or retires, he or she cannot accept money from a client to lobby the General Assembly or a statewide elected office holder for two years after leaving office.

Overview of the Colorado Independent Ethics Commission

Amendment 41 is enforced by the IEC, a five-member body that has jurisdiction over all covered officials and employees.¹⁰ The IEC hears complaints, issues findings, assesses penalties, and issues advisory opinions on ethics issues arising under Amendment 41 and "under any other standards of conduct and reporting requirements as provided by law."¹¹ Amendment 41 does not define the term "other standards of conduct."¹²

Amendment 41 gives the Colorado legislature the power to pass enabling legislation to facilitate the operation of the Amendment, but this legislation may not in any way limit the scope of the Amendment.¹³ As noted throughout this article, the Colorado legislature enacted legislation pursuant to Amendment 41.¹⁴ Additionally, pursuant to Amendment 41 and confined by Article 4 of the statute, the Colorado legislature delegated to the IEC the requirement to adopt reasonable rules for the purpose of administering and enforcing the provisions of Article XXIX and "any other standards of conduct and reporting requirements as provided by law."¹⁵ The IEC promulgated its rules of procedure (IEC Rules) in September 2008.

IEC Complaint Process

Amendment 41 allows any person to file a written complaint with the IEC asking whether any covered official or employee has, within the prior twelve months, violated Article XXIX of the Colorado Constitution or any other standards of conduct or reporting requirements as provided by law.¹⁶ Complaints must be submitted in writing and specifically state their factual allegations.¹⁷ Any final action of the IEC concerning a complaint is subject to judicial review by the District Court for the City and County of Denver.¹⁸

Complaint Dismissals

The IEC must dismiss without a hearing any frivolous complaint.¹⁹ A "frivolous complaint" is defined as:

any complaint filed under article XXIX that fails to allege that a [covered official or employee] has accepted or received any gift or other thing of value for *private gain or personal financial gain*.²⁰

"Private gain" or "personal financial gain" is defined as:

any money, forbearance, forgiveness of indebtedness, gift, or other thing of value given or offered by a person seeking to influence an *official act* that is performed in the course and scope of the public duties of a public officer, member of the general assembly, local government official, or government employees.²¹

An "official act" is "any vote, decision, recommendation, approval, disapproval, or other action, including inaction, which involves the use of discretionary authority."²² Whether these legislative definitions limit or restrict Article XXIX has not been addressed.

The IEC Rules also require the IEC to dismiss a complaint if: (1) the IEC has no jurisdiction; (2) the alleged violation would not constitute a violation of Article XXIX or any other standards of conduct or reporting requirements under the jurisdiction of the IEC even if it were true; or (3) the allegations in the complaint fail to state that the conduct occurred within the preceding twelve months.²³ In other words, Amendment 41 essentially establishes a twelve-month statute of limitations.²⁴

The IEC Rules further provide the IEC the discretion to dismiss a complaint if: (1) the IEC determines that it is groundless or brought for the purposes of harassment; (2) another body has already acted on the subject of the complaint and the IEC believes that action was appropriate; or (3) the complaint fails to comply with the IEC Rules.²⁵ The IEC may stay a

complaint if: (1) another body is considering the complaint; or (2) the complaint involves a criminal conduct or a criminal investigation is pending.²⁶

Complaint Hearings

For non-frivolous complaints, the IEC must conduct an investigation, hold a public hearing, and render findings, following its own adopted written rules.²⁷ The IEC must notify the subject of the complaint (the respondent), provide the respondent a copy of the complaint, and advise the respondent of his or her right to respond and to be represented by counsel.²⁸ This notification must be in writing and signed.²⁹ Except for good cause, the respondent has thirty days to respond to the complaint.³⁰

The IEC is required to hold a public hearing on all complaints within its jurisdiction that have not been dismissed as frivolous or on other grounds.³¹ The IEC may delegate to an administrative law judge or hearing officer a particular hearing.³² Hearings must be set "as soon as practicable" and can be continued at the IEC's discretion or for good cause.³³ The IEC must provide the parties written notice of the hearing date.³⁴

Amendment 41 grants any of the five commissioners the power to issue subpoenas for documents and witnesses.³⁵ Colorado statute, however, requires a motion by a commissioner and the approval of no fewer than four commissioners.³⁶ The parties may inspect at the IEC office non-confidential and non-privileged documents pertaining to the complaint.³⁷

Motions are not permitted except with the prior written approval of the IEC, and discovery by a party is permitted only at the discretion of the IEC.³⁸ Within thirty days of the notice of hearing, the parties generally must disclose to the IEC and other parties: (1) a list of potential witnesses, with their contact information and a short summary of what they know; and (2) a list of all potential evidence and copies of all potential evidence, including a description of each piece of potential evidence.³⁹ Parties have an ongoing duty to supplement disclosures.⁴⁰

At least twenty days prior to the hearing, all parties must file with the IEC and serve on all parties a prehearing statement.⁴¹ This statement must contain, *inter alia*: (1) a statement of all claims, allegations, and issues, along with the relevant facts; (2) a list of the names and contact information for all intended witnesses, along with a short statement of the subject of the testimony; and (3) a list and copy of all documents intended to enter into evidence.⁴² The IEC may schedule a pre-hearing conference.⁴³

IEC hearings are guided by the Colorado Rules of Evidence, but the IEC is not required to strictly enforce these rules.⁴⁴ The IEC, subject to Colorado law, generally may receive any evidence at a hearing that it deems relevant or helpful.⁴⁵ The IEC receives evidence through witness testimony and the submission of documents and other tangible items.⁴⁶ The IEC permits unavailable witnesses to testify by affidavit and telephone, and witnesses may present statements or arguments at the IEC's discretion.⁴⁷ The IEC may exclude evidence that is not relevant or that is cumulative, or for any other reason.⁴⁸

Issuing Decisions

The IEC must send to all parties and publish on its website a copy of any decision "at the earliest practicable time."⁴⁹ The IEC may assess penalties for violations of Article XXIX and

as "provided by law," generally based on findings by a preponderance of evidence (unless the IEC believes that a heightened standard is more appropriate).⁵⁰

Amendment 41 permits penalties for breaches of the public trust for "private gain."⁵¹ Moreover, Amendment 41 mandates a fine for double the amount of the benefit conferred for any person or entity that induces such breach.⁵² The Amendment also empowers the legislature to proscribe the method of recovery and provide for additional penalties.⁵³

Advisory Opinions and Letter Rulings

Any covered official or employee may ask the IEC for an advisory opinion to determine whether conduct would violate Amendment 41 or any other standards of conduct or reporting requirements as provided by law.⁵⁴ The IEC may also issue letter rulings in which members of the general public may receive similar advice.⁵⁵ Such requests must be in writing, signed, "fact-specific and narrowly framed," and filed with the IEC.⁵⁶ The IEC may request from the person requesting an advisory opinion or letter ruling information and documents.⁵⁷ IEC members may file a dissent to either an advisory opinion or a letter ruling.⁵⁸ Though not provided by Amendment 41 or by Colorado statute, the IEC may issue position statements on issues, and these statements must be published on its website.⁵⁹

Disclosure

Frivolous complaints are not subject to public disclosure; however, non-frivolous complaints, advisory opinions, and letter rulings generally are subject to public disclosure.⁶⁰ The IEC must publish on its website, with appropriate redactions of identifying information, advisory opinions, and letter rulings.⁶¹ Though the IEC initially treats as confidential all filed matters, it may determine under the requirements of Colorado law to make them public.⁶² Complaints, however, must remain confidential until a public hearing is set.⁶³ The Denver District Court's recent decision on the applicability of the Colorado Open Records Act (CORA)⁶⁴ to the IEC may further address and impact the IEC's rules on confidentiality and public participation.⁶⁵

IEC Meetings

The IEC may hold meetings to conduct business. IEC meetings require notice in accordance with Colorado law; however, the IEC maintains that it may, at its discretion, limit public participation at meetings.⁶⁶ The IEC Rules state that all meetings are open to the public, except when the IEC is in executive session.⁶⁷

Constitutional Challenge to Amendment 41

In February 2007, numerous individuals and entities subject to Amendment 41's restrictions brought a First Amendment overbreadth and vagueness challenge in the Denver District Court.⁶⁸ The trial court held that Amendment 41 likely violated the First Amendment because it caused confusion and impermissibly chilled free speech and association.⁶⁹ The court preliminarily enjoined the enforcement of Amendment 41's gift bans.⁷⁰

The Colorado Supreme Court reversed.⁷¹ The Court held that the district court lacked jurisdiction to grant a preliminary injunction, because the as-applied constitutional challenge was not ripe.⁷² This is so, according to the Court, because the IEC was not yet in existence

and no enforcement or threat of enforcement occurred.⁷³ The Court, in *dicta*, noted that "[p]erhaps, in the future, there may be truth to the concerns expressed by Plaintiffs, but that is for the Commission to consider as it enforces the Amendment, not for the court at this time."⁷⁴

The Court remanded the case to the Denver District Court for a trial on the merits.⁷⁵ In accordance with the Court's decision, the plaintiffs submitted requests for advisory opinions and letter rulings. As of August 31, 2009, the case was pending with the trial court while the plaintiffs awaited the issuance of various IEC's advisory opinions, letter rulings, and position statements.

IEC Actions Relating to Amendment 41

As of August 31, 2009, thirteen complaints have been filed with the IEC.⁷⁶ In addition, the IEC has issued a number of position statements, letter rulings, and advisory opinions.⁷⁷ In these actions, the IEC has attempted to clarify the scope and interpret certain provisions of Amendment 41.

Complaints

Of the thirteen complaints filed with the IEC, twelve were dismissed.⁷⁸ Among the IEC's reasons for dismissing the complaints were: (1) they were frivolous; (2) they were untimely filed; (3) the IEC lacked jurisdiction; and (4) there was insufficient evidence to proceed and an insufficient statement of facts.⁷⁹

The IEC conducted a hearing on an ethics complaint filed by Colorado Ethics Watch against former Colorado Secretary of State Mike Coffman.⁸⁰ The Coffman complaint focused on alleged conflicts of interest and violations of Colorado criminal misdemeanors.⁸¹ Following a hearing and argument, the IEC found Coffman had not committed any violations.⁸²

Position Statements

The IEC has issued five position statements.⁸³ A summary of each of these statements is included below.

1. Amendment 41's gift ban does not apply to scholarships, honoraria, insurance proceeds, prizes, raffles, lotteries, silent auctions, inheritances, or special-occasion gifts from relatives or personal friends.⁸⁴
2. Non-government individuals or entities providing certain travel expenses to public employees, after complying with the IEC's new five-condition test to ensure the travel's *bona fide* public purpose, is generally permissible.⁸⁵
3. Government officials can take advantage of discounts that are available to the general public.⁸⁶
4. Lobbyists generally are banned from giving gifts to public employees, but lobbyists may give gifts to their immediate family members and campaign contributors.⁸⁷ This position statement generally defines "professional lobbyist." It also rules that the zero-dollar lobbyist ban does not apply to organizations represented by lobbyists, that lobbyists may not make

contributions to groups with members covered by Amendment 41's gift ban, and that non-lobbyists cannot make contributions of \$50 or more to groups with members covered by Amendment 41's gift ban.⁸⁸

5. Elected statewide office holders and members of the General Assembly are banned for two years after leaving office from "personally represent[ing]" another person or entity before their former peers.⁸⁹ This means that they cannot serve as a paid professional lobbyist or as a legislative representative for a government entity, such as a state agency.⁹⁰ This does not mean that covered officials or employees cannot serve in the governor's cabinet or other public positions in which regular interaction with elected officials is necessary.⁹¹ Generally speaking, any former elected statewide officer holder or member of the General Assembly generally cannot accept employment that will require their registration as a professional lobbyist.⁹²

Requests for Letter Rulings

The IEC responded to three requests for letter rulings. The IEC ruled that:

1. A professional lobbyist may not have lunch with a member of the General Assembly or other public official or employee at a venue where the public official or employee is not allowed to pay for his or her own meal.⁹³
2. Although Amendment 41 does not prohibit a nonprofit, non-lobbyist entity from hosting covered officials and employees at an annual luncheon, except where a specific exception applies, a covered official or employee is prohibited from accepting gifts, including meals and beverages, valued at more than \$50 from that entity per calendar year.⁹⁴
3. Amendment 41 does not prohibit a nonprofit, non-lobbyist entity from providing a meal to one of its board members who also is a government employee or official, or to his or her spouse or dependent child, provided that the meal is reasonably priced and is served to all board members during a meeting.⁹⁵

Advisory Opinions

The IEC has issued eight advisory opinions. A sample of these opinions is provided below.

1. Amendment 41 does not prohibit an administrative law judge from accepting free membership in the Colorado Bar Association from his or her employer. However, accepting a free membership directly from the Denver Bar Association is a violation of Amendment 41.⁹⁶2. It is not a violation of Amendment 41 for Colorado state patrol members assigned to the security detail of the governor, the lieutenant governor, or any governor-elect to accept free admission to events with an admission price in excess of \$50, provided they are attending such events with any of those officials as part of their official duties.⁹⁷
3. It is not a violation of Amendment 41 for a member of the General Assembly and his or her spouse to accept travel-related expenses, where certain conditions are met, making these travel-related expenses a gift to the government, rather than to the individual state legislator and his or her spouse.⁹⁸

Additional Litigation Concerning the IEC

In a lawsuit initiated by the IEC asking the Denver District Court to determine that requests for advisory opinions and letter rulings could be held confidential under CORA, the court held that the IEC could not keep the requests for advisory opinions and letter rulings confidential under the Act.⁹⁹ Accordingly, the court stated that the IEC should produce requests for advisory opinions and letter rulings, responses, and correspondence with third parties regarding the same, pursuant to a CORA request.¹⁰⁰

On May 18, 2009, Colorado Ethics Watch filed a lawsuit in the Denver District Court, asking the court to void an IEC advisory opinion that found that a legislator's accepting partial funding for a trip to Turkey did not violate Article XXIX.¹⁰¹ The complaint requested that the court reverse the IEC's determination and alleged that the decision should be rendered moot because the meeting where the advisory opinion was adopted violated the Colorado Open Meetings Law.¹⁰²

On May 20, 2009, the Center for Independent Media filed a lawsuit against the IEC in Denver District Court.¹⁰³ The organization sought, *inter alia*, injunctive relief to remedy an alleged ongoing pattern of illegal closed-door meetings by the IEC, in alleged violation of the Colorado Open Meetings Law.¹⁰⁴

Conclusion

This article provides Colorado lawyers a general guide to Amendment 41 and the IEC. Because these are both relatively new to the legal arena, the exact meaning of legal phrases and the details of procedures are not always clear. As such, the Colorado practitioner must continue to look to the IEC, the Colorado courts, and the Colorado legislature for ongoing guidance.

Notes

1. Colo. Const. art. XXIX. See also CRS § 24-18.5-101(1)(a); *Developmental Pathways v. Ritter*, 178 P.3d 524, 526 (Colo. 2008).
2. Colo. Const. art. XXIX.
3. 2006 Gen. Election Ballot Initiative and Referenda, Amend. 41, available at www.elections.colorado.gov/WWW/default/Initiatives/2006%20Ballot%20Initiative%20Contact%20List.pdf.
4. "Blue Book," Amendment 41, available at [www.leg.state.co.us/lcs/0506initrefr.nsf/0/c1b04aaab700f2b987257188007a733e/\\$FILE/2005-2006%20118%20bb.pdf](http://www.leg.state.co.us/lcs/0506initrefr.nsf/0/c1b04aaab700f2b987257188007a733e/$FILE/2005-2006%20118%20bb.pdf).
5. Colo. Const. art. XXIX(2); Colo. Const. art. XXIX(3); Colo. Const. art. XXIX(7).
6. *Developmental Pathways*, *supra* note 1 at 527, citing Colo. Const. art. XXIX(3).
7. Colo. Const. art. XXIX(3)(2); Colo. Const. art. XXIX(3)(6).
8. Colo. Const. art. XXIX(3)(4). See also *Developmental Pathways*, *supra* note 1 at 527.

9. Colo. Const. art. XXIX(4). See also IEC Letter Ruling 09-02 (restrictions on representation after leaving office), available at www.colorado.gov/cs/Satellite/DPA-IEC/IEC/1251122072498 (generally banning covered persons from serving as paid professional lobbyists and legislative liaisons for two years after leaving office).
10. Colo. Const. art. XXIX(5)(2). See also CRS § 24-18.5-101(2)(a). See generally *Developmental Pathways*, *supra* note 1 at 527.
11. Colo. Const. art. XXIX(5)(1). See also CRS § 24-18.5-101(4); *Developmental Pathways*, *supra* note 1 at 527; Independent Ethics Commission Rules of Procedure (IEC Rules), available at www.colorado.gov/cs/Satellite/DPA-IEC/IEC/1223375602913. See generally *In the Matter of the Application of Colo. Indep. Ethics Comm'n*, No. 2008CV7995, slip op. at 5 (Den. Dist. Ct. May 14, 2009).
12. The Colorado Revised Statutes, the IEC Rules, and the Colorado appellate courts do not define this phrase. Article 18 of Title 24, however, is entitled "Standards of Conduct."
13. Colo. Const. art. XXIX(9). See also *Colo. Indep. Ethics Comm'n*, *supra* note 11 at 5.
14. CRS § 24-18.5-101. See also *Developmental Pathways*, *supra* note 1 at 528; *Colo. Indep. Ethics Comm'n*, *supra* note 11 at 5.
15. CRS § 24-18.5-101(6). See also *Developmental Pathways*, *supra* note 1 at 528.
16. Colo. Const. art. XXIX(3)(a). See also IEC Rule 7(A); *Developmental Pathways*, *supra* note 1 at 527.
17. IEC Rules 7(B) and (C).
18. CRS § 24-18.5-101(9). See generally *Developmental Pathways*, *supra* note 1 at 535.
19. Colo. Const. art. XXIX(3)(b). See also IEC Rule 7(D)(2); *Developmental Pathways*, *supra* note 1 at 528.
20. *Developmental Pathways*, *supra* note 1 at 528, quoting CRS § 24-18.5-101(5)(a) (emphasis in original).
21. *Id.*, quoting CRS § 24-18.5-101(5)(b)(II) (emphasis added).
22. IEC Rule 3(A)(11).
23. IEC Rule 7(D). See also *Developmental Pathways*, *supra* note 1 at 534-35 n.8.
24. *Developmental Pathways*, *supra* note 1 at 534-35 n.8.
25. IEC Rule 7(E).
26. IEC Rule 7(F).

27. Colo. Const. art. XXIX(3)(c). *See also* IEC Rule 8(A); *Developmental Pathways, supra* note 1 at 527; *Colo. Indep. Ethics Comm'n, supra* note 11 at 5.

28. IEC Rule 7(I)(1).

29. IEC Rule 7(I)(2).

30. *Id.*

31. IEC Rule 8(A).

32. IEC Rule 8(B).

33. IEC Rule 8(C)(1).

34. IEC Rule 8(C)(2).

35. Colo. Const. art. XXIX(4).

36. CRS § 24-18.5-101(8).

37. IEC Rule 8(C)(3).

38. IEC Rules 8(D)(1) and (2).

39. IEC Rule 8(D)(3).

40. *Id.*

41. IEC Rule 8(D)(4).

42. *Id.*

43. IEC Rule 8(D)(5).

44. IEC Rule 8(E).

45. IEC Rule 8(F).

46. *Id.*

47. *Id.*

48. *Id.*

49. IEC Rule 8(G).

50. Colo. Const. art. XXIX(3)(d) and (e). *See also* IEC Rule 8(D)(5). *See generally Developmental Pathways, supra* note 1 at 527-28.

51. Colo. Const. art. XXIX(6).
52. *Id.* See also *Developmental Pathways*, *supra* note 1 at 527.
53. *Developmental Pathways*, *supra* note 1 at 527-28, quoting Colo. Const. art. XXIX(6).
54. IEC Rule 5(A).
55. "Exercising this authority, the legislature enacted the IEC's facilitating statute, CRS § 24-18.5-101. The statute adds a new vehicle through which the IEC may interpret ethical standards—the letter ruling—which may be requested by any person who is not entitled to request an advisory opinion to determine 'whether potential conduct of the person making the request satisfies the requirements of article XXIX.'" *Colo. Indep. Ethics Comm'n*, *supra* note 11 at 5-6, quoting CRS § 24-18.5-101(3)(b)(III); IEC Rule 5(B).
56. IEC Rule 5.
57. IEC Rule 5(D).
58. IEC Rule 5(G).
59. IEC Rule 6(A).
60. *Colo. Indep. Ethics Comm'n*, *supra* note 11 at 5-9, quoting CRS § 24-18.5-101(3)(b)(IV); IEC Rule 5(F).
61. IEC Rule 5(F).
62. IEC Rule 10(C).
63. IEC Rule 7(H).
64. CRS §§ 24-72-201 *et seq.*
65. *Colo. Indep. Ethics Comm'n*, *supra* note 11.
66. IEC Rule 4.
67. *Id.*
68. *Developmental Pathways*, *supra* note 1 at 528.
69. *Id.*
70. *Id.*
71. *Id.* at 535.
72. *Id.* at 533.

73. *Id.* at 534.

74. *Id.* at 535.

75. *Id.*

76. IEC Complaints, available at www.colorado.gov/cs/Satellite/DPA-IEC/IEC/1225190784719 .

77. IEC Opinions, available at www.colorado.gov/cs/Satellite/DPA-IEC/IEC/1225277043918.

78. IEC Complaints, *supra* note 76.

79. *Id.*

80. IEC Coffman Decision, available at www.colorado.gov/cs/Satellite?blobcol=urldata&blobheader=application%2Fpdf&blobkey=id&blobtable=MungoBlobs&blobwhere=1239428434596&ssbinary=true.

81. *Id.*

82. *Id.*

83. IEC Opinions, *supra* note 77.

84. IEC Position Statement 08-01 (gifts), available at www.colorado.gov/cs/Satellite/DPA-IEC/IEC/1232462528246.

85. IEC Position Statement 08-02 (travel), available at www.colorado.gov/cs/Satellite/DPA-IEC/IEC/1232462528506.

86. IEC Position Statement 08-03 (special discounts), available at www.colorado.gov/cs/Satellite/DPA-IEC/IEC/1232546192571.

87. IEC Position Statement 09-01 (gifts from lobbyists), available at www.colorado.gov/cs/Satellite/DPA-IEC/IEC/1232982603065.

88. *Id.*

89. IEC Letter Ruling 09-02 (restrictions on representation after leaving office), available at www.colorado.gov/cs/Satellite/DPA-IEC/IEC/1251122072498.

90. *Id.*

91. *Id.*

92. *Id.*

93. IEC Letter Ruling 09-01 (lunch with a lobbyist), available at www.colorado.gov/cs/Satellite/DPA-IEC/IEC/1233759740955.

94. IEC Letter Ruling 09-02 (luncheons), available at www.colorado.gov/cs/Satellite/DPA-IEC/IEC/1233759742220.

95. IEC Letter Ruling 09-03 (meals to board members of nonprofits), available at www.colorado.gov/cs/Satellite/DPA-IEC/IEC/1237816371527.

96. IEC Adv. Op. 09-02 (ALJs), available at www.colorado.gov/cs/Satellite/DPA-IEC/IEC/1239194035684.

97. IEC Adv. Op. 09-03 (state patrol), available at www.colorado.gov/cs/Satellite/DPA-IEC/IEC/1239194035913.

98. IEC Adv. Op. 09-04 (travel expenses from a nonprofit entity), available at www.colorado.gov/cs/Satellite/DPA-IEC/IEC/1239977072946. Colorado Ethics Watch has challenged this ruling in the Denver District Court on the ground that the IEC misinterpreted Amendment 41 and violated the Colorado Open Meetings Law. *Colo. Ethics Watch v. Colo. Indep. Ethics Comm'n*, No. 2009CV4989 (Den. Dist. Ct. filed May 18, 2009).

99. *Colo. Indep. Ethics Comm'n*, *supra* note 11 at 9.

100. *Id.*

101. *Colo. Ethics Watch*, *supra* note 98.

102. *Id.*

103. *Center for Indep. Media v. Colo. Indep. Ethics Comm'n*, No. 2009CV5109 (Den. Dist. Ct. filed May 20, 2009).

104. *Id.*

QUESTIONS

1. Amendment 41's gift bans generally prohibit covered officials and employees from receiving the following:

- a. any money or gift or other thing of value of \$50 or more from any person in any calendar year
- b. any thing of value of any kind or nature from a lobbyist
- c. both a and b

2. Amendment 41 prohibits statewide elected office holders and members of the General Assembly from engaging in representation of other persons or entities before certain public bodies for the following time period after leaving office:

- a. two years

b. three years

c. lifetime

d. Amendment 41 contains no such prohibition

3. The following persons may file a written complaint with the Colorado Independent Ethics Commission (IEC) asking whether a covered official or employee has failed, within the preceding twelve months, to comply with the requirements of Amendment 41 or any other standards of conduct or reporting requirements:

a. state or local prosecutors only

b. state or local government employees only

c. Colorado residents only

d. any person

4. Pursuant to the Colorado Constitution, Colorado statute, and the IEC Rules of Procedure (IEC Rules), the IEC must dismiss the following complaints:

a. any complaint that alleges a criminal violation or in which a criminal investigation is pending

b. any complaint that fails to allege that a public officer, member of the General Assembly, local government official, or government employee has accepted or received any gift or other thing of value for private gain or personal financial gain

c. any complaint that is groundless or brought for the purposes of harassment

d. any complaint that is the same subject of another action pending before another body with concurrent jurisdiction

5. The IEC automatically provides the following procedural rights to respondents to ethics complaints:

a. the right to file a motion

b. the right to discovery

c. all protections of the Colorado Rules of Evidence

d. none of the above

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