



House Committee on Standards of Official Conduct Issues Guidance on National Political Convention Events

On Tuesday, the House Committee on Standards of Official Conduct (the Committee) issued guidance to Members, staff and the private sector on the implications of Member participation in events taking place during the national political conventions. The guidance was necessary in response to a provision added to the new Honest Leadership and Open Government Act of 2007 (HLOGA) which provides as follows:

During the dates on which the national political party to which a Member (including a Delegate or Resident Commissioner) belongs holds its convention to nominate a candidate for the office of President or Vice President, the Member may not participate in an event honoring that Member, other than in his or her capacity as a candidate for such office, if such event is directly paid for by a registered lobbyist under the Lobbying Disclosure Act of 1995 or a private entity that retains or employs such a registered lobbyist.

At first blush, the guidance offered by the Committee would appear to offer welcome clarification of the implications of this new law. Caution must be exercised, however, to ensure that organizations intending to host such events at the party conventions do not attempt to use the "safe harbors" provided by Tuesday's guidance in such a way as to be deemed to have "circumvented" the original intent (or spirit) of the law.

Guidance As To The Scope Of The New Law

In certain respects, the Committee makes clear that it will adopt a relatively strict interpretation of the language of the new law and that it will do so in a way that will expand the scope of the conduct affected. The December 11th guidance makes clear that the Committee will deem prohibited Member "participation" in an offending event to include mere attendance at the event. The guidance further makes clear that the Committee will deem an event as "honoring" a Member if that Member is to receive a special benefit or opportunity not available to some or all of the other participants, such as "an exclusive speaking role" or a "very prominent ceremonial role" in the event or otherwise enjoys a "very prominent ceremonial role" in the event.

Potential Safe Harbors Under The New Guidance

The Committee's new guidance also makes clear, however, that it will deem certain types of events as not offending the new law. For example, the Committee makes clear that an event that is organized to honor an entire delegation or caucus, without naming a specific Member or otherwise providing the special benefits described above, will not be deemed to be an event honoring a *specific* Member. The guidance further advises that a Member *may* be listed among the names of honorary host committee members so long as that list of honorary host committee members also includes the names of non-congressional host committee members.

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Interestingly, the guidance offered by the Committee appears to signal that it is willing to take a very restrictive reading of the language “directly paid for” by a lobbyist or private entity that retains or employs lobbyists. The guidance provides that “[t]he fact that a private organization received *some* (*emphasis added*) of its funding for an event taking place during a national convention from a lobbyist or private entity that retains or employs lobbyists, by itself, would not disqualify a Member from participating in the organization’s event.”

The guidance also makes clear that the Committee intends to provide a very restrictive reading of the new prohibition to apply the law only to events taking place “[d]uring the dates’ on which a national convention is held. Accordingly, the rule does not prohibit Member participation in an event that takes place on a date other than the dates on which the national convention is held.”

Exercise Caution When Putting On Events Under This New Guidance

Private sector entities putting on events during a convention must exercise restraint and not succumb to the temptation to use blindly the new safe harbors opened by the December 11th guidance. One must also be mindful that the Committee has the power to “giveth” and also “taketh away” if it deems that one’s activities violate the “spirit” of the law. For example, one may be tempted to take advantage of the apparent new lenience with regard to the funding of “some” of the expenses of an event by lobbyists or entities that retain or employ lobbyists. No further guidance is provided with regard to where the line is but clearly there is some line at which the Committee will deem a private organization to simply be a shell or pass through organization for hosting offending events at national conventions. Furthermore, one can certainly envision a scenario in which the Committee deems an event occurring just outside the events of the national conventional to be an effort to circumvent the law if held out as such.

These new restrictions on events honoring Members of Congress during National Conventions, do not alter the existing exceptions to the House and Senate gift rules under which Members and staff may participate in widely attended events, charity events or fund raising events. The rules for those type events remain the same and can be relied upon to organize and host an appropriate event during a party Convention as long as the event does not run afoul of the new HLOGA prohibition on honoring a Member of Congress during the Convention.

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