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ADVISORY OPINION NO. 2011-04

The Honorable Vivian Davis Figures
State Senator, 33rd District
11 South Union Street, Suite 736
Montgomery, Alabama 36130-4600

Members Of The Alabama Legislature
Receiving Invitation To Travel To Turkey
For Cultural And Educational Excursions

Members of the Alabama Legislature may accept a paid invitation to travel to Turkey for cultural and educational excursions that promote dialogue between Turkey and the United States, as the event would be both an educational function and a widely attended event, as defined by the Alabama Ethics Law.

Dear Senator Figures:

The Alabama Ethics Commission is in receipt of your request for an Advisory Opinion of this Commission, and this opinion is issued pursuant to that request.

QUESTION PRESENTED

May members of the Alabama Legislature accept an all expense paid trip to Turkey offered by the Peace Valley Foundation and the Istanbul Center to travel to Turkey for cultural and educational excursions that would promote dialogue between Turkey and the United States?

FACTS AND ANALYSIS

The facts as have been presented to this Commission are as follows:

The Honorable Vivian Davis Figures is a member of the Alabama State Senate. She, as well as other individuals, has been invited by the Peace Valley Foundation and the Istanbul Center to participate in a trip to Turkey for the purpose of promoting dialogue through educational, cultural and humanitarian works between Turkey and the United States.

Both the Peace Valley Foundation and the Istanbul Center are 501(c)(3) non-profit, non-partisan and non-governmental organizations. Their purpose is to promote dialogue through education, culture and humanitarian works. Their main purpose is to forge and strengthen bonds of lasting friendship between Turks and Americans by identifying what it is we have in common.

Every year these groups identify distinguished leaders in areas including academia, business, government and the non-profit sector to travel with them to Turkey during the months of May through July for the above-mentioned purposes.

The Peace Valley Foundation and the Istanbul Center invite a variety of individuals to travel to Turkey by invitation only for ten day trips each summer. Their groups are composed of six to 15 people in order for guests to achieve a sincere and personal experience of the culture and people of Turkey. A cross-section of a typical group could include a mixture of people from academia, civic organizations, government, journalism, artistry and more.

During their time in Turkey, the individuals attending will experience the culture of Turkey and will interact with several of history's major civilizations. They will meet people of one of the most unique countries in the world today. Each group's make-up will determine its specific program in Turkey. For example, a group of professors and university administrators would visit their counterparts at Turkish universities, whereas a group of politicians would meet Turkish Mayors, Parliamentarians and local leaders, etc. The goals with these trips are to:

- 1) promote mutual understanding between American participants and Turkish society through dialogue;
- 2) introduce and provide broad exposure to and education of Turkish cultural, economic, and social issues; and,
- 3) allow participants to gain an understanding of topics, including but not limited to, national security, foreign policy, trade, health, economic development & finance, the media, government affairs, religious diversity, minority rights, and any other achievements of contemporary Turkish civil society.

The guests of the Peace Valley Foundation and the Istanbul Center will receive payment of their food, accommodation and transportation. Guests are responsible for their visa, travel insurance, personal spending money and all personal items.

The trips are offered seven times each year; this year between May 12, 2011 and July 14, 2011.

After receiving the invitation, Senator Figures contacted the Ethics Commission regarding the possibility of her accepting this trip.

There are several definitions which come into play with this request.

“Section 36-25-1(26) **Public official.** Any person elected to public office, whether or not that person has taken office, by the vote of the people at state, county, or municipal level of government or their instrumentalities, including governmental corporations, and any person appointed to a position at the state, county, or municipal level of government or their instrumentalities, including governmental corporations. For purposes of this chapter, a public official includes the chairs and vice-chairs or the equivalent offices of each state political party as defined in Section 17-16-2.”

“Section 36-25-1(12) **Educational Function.** A meeting, event, or activity held within the State of Alabama, or if the function is predominantly attended by participants from other states, held within the continental United States, which is organized around a formal program or agenda of educational or informational speeches, debates, panel discussions, or other presentations concerning matters within the scope of the participants’ official duties or other matters of public policy, (including social services and community development policies) economic development or trade, ethics, government services or programs, or government operations, and which, taking into account the totality of the program or agenda, could not reasonably be perceived as a subterfuge for a purely social, recreational, or entertainment function.”

“Section 36-25-1(35) **Widely Attended Event.** A gathering, dinner, reception, or other event of mutual interest to a number of parties at which it is reasonably expected that more than 12 individuals will attend and that individuals with a diversity of views or interest will be present.”

“Section 36-25-1(11) **Economic Development Function.** Any function reasonably and directly related to the advancement of a specific, good-faith economic development or trade promotion project or objective.”

The definitions of an educational function, as well as a widely attended event, have an effective date of March 20, 2011 and, therefore, are applicable to this scenario.

Section 36-25-1(33)(b)(12) states as follows:

“**b.** The term, thing of value, does not include any of the following, provided that no particular course of action is required as a condition to the receipt thereof:

12. Payment of or reimbursement for actual and necessary transportation and lodging expenses, as well as waiver of registration fees and similar costs, to facilitate the attendance of a public official or public employee, and the spouse of the public official or public employee, at an educational function or widely attended event of which the person is a primary sponsor. This exclusion applies only if the public official or public employee meaningfully participates in the event as a speaker or a panel participant, by presenting information related to his or her agency or matters pending before his or her agency, or by performing a ceremonial function appropriate to his or her official position; or if the public official's or public employee's attendance at the event is appropriate to the performance of his or her official duties or representative function.”

It is permissible under the revised Ethics Law to have actual and necessary transportation and lodging expenses, as well as similar costs, paid for, for a public official or public employee attending an educational function or a widely attended event.

While a purely educational function is limited to the State of Alabama, and to the continental United States if the participants are predominately from areas other than Alabama, a widely attended event has no limitations as to locale.

Based on the above, it is permissible for Legislators to take advantage of this opportunity under the definition of a widely attended event.

While each group will consist of somewhere between six and 15 people for each of the seven sessions, it is reasonable to expect that more than 12 individuals will attend one of the seven sessions held annually, and that there will be a diversity of views and interests among the participants.

In addition, it is possible this function could be used as an economic development opportunity. Under an economic development function, the following sections are applicable:

Sections 36-25-1(33)(b)(13) & (14) state:

“b. The term, thing of value, does not include any of the following, provided that no particular course of action is required as a condition to the receipt thereof:

13. Payment of or reimbursement for actual and necessary transportation and lodging expenses to facilitate a public official’s or public employee’s participation in an economic development function.

14. Hospitality, meals, and other food and beverages provided to a public official or public employee, and the spouse of the public official or public employee, as an integral part of an educational function, economic development function, work session, or widely attended event, such as a luncheon, banquet, or reception hosted by a civic club, chamber of commerce, charitable or educational organization, or trade or professional association.”

Based on the facts as provided and the above law, it is permissible for members of the Alabama Legislature to participate in a trip to Turkey under the facts as set out in the invitation and under the definitions of a widely attended event and an educational function.

CONCLUSION

Members of the Alabama Legislature may accept a paid invitation to travel to Turkey for cultural and educational excursions that promote dialogue between Turkey and the United States, as the event would be both an educational function and a widely attended event, as defined by the Alabama Ethics Law.

AUTHORITY

By 4-0 vote of the Alabama Ethics Commission on April 6, 2011.



Braxton L. Kittrell, Jr., Esq.
Chair
Alabama Ethics Commission