

EXECUTIVE BRANCH ETHICS COMMITTEE



33 Capitol Street
Concord, New Hampshire 03301-6397

David L. Nixon, Chairman
Dale S. Kuehne, Vice Chairman
John E. Blair
Deborah J. Schachter

Patricia B. Quigley
L. Douglas O'Brien
John J. Barthelmes

Advisory Opinion

2007-003

Question Presented

May a state employee who has earned frequent flyer mileage as a result of state reimbursed travel use the benefit for personal purposes?

Summary Answer

Yes. State employees who pay for travel for state purposes and are then reimbursed for the travel costs by the state may use frequent flyer benefits for their personal use provided the benefits were obtained under the same conditions as those offered the general public and at no additional costs to the state.

Legal Authority

RSA 21-G:23; RSA 15-B

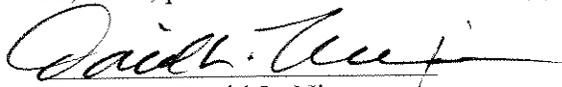
Analysis

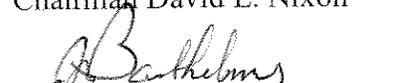
Promotional benefits or materials received from a travel service provider in connection with official travel, paid for by a state employee who is subsequently reimbursed by the state that are received under the same conditions as those offered to the general public and which do not affect the price paid for the travel services do not constitute a gift. This is because these benefits or materials are part of the contract for services between the employee and the travel provider. RSA 21-G:23, misuse of position, prohibits using a position with the state to secure privileges or advantages for oneself or another that are not generally available to governmental employees. Frequent flyer benefits, which do not increase the cost of the travel, do not provide a state employee with privileges or advantages that are not generally available to the general public. Therefore, personal use of such a benefit does not constitute misuse of position.

Conclusion

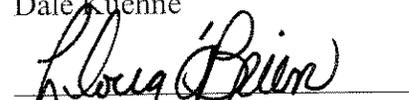
A state employee who receives frequent flyer benefits for official travel for the state, when that travel is paid for by the employee and reimbursed by the state, may use the frequent flyer benefits for personal purposes, provided the frequent flyer benefits do not increase the cost of the travel to the state.

This Advisory Opinion is issued by the Executive Branch Ethics Committee on February 21, 2007, pursuant to RSA 21-G:30, I(c).


Chairman David L. Nixon

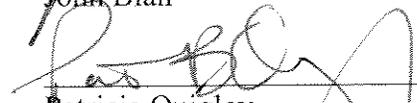

John Barthelmes


Dale Kuehne


L. Douglas O'Brien


Deborah Schachter


John Blair


Patricia Quigley