



## Attending Conferences

[www.ca-ilg.org/conferences](http://www.ca-ilg.org/conferences)

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**Question:** *Let me get directly to the point: are there any ethical issues associated with a local official traveling to a conference and then missing some or nearly all of the educational sessions? If we suspect a colleague is doing this, what should we say or do?*

**Answer:** The issue you raise is a proper-use-of-public resources issue because the public agency presumably is paying for its officials to travel to and register for the conference. Making good use of public resources is one of the key responsibilities of local officials. The threshold question to ponder in any use of-public-resources issue is whether the public agency receives a public benefit from the use of a particular resource.

Public agencies send their elected officials and staff to conferences so that they will learn from the conference sessions and other conference attendees. This information can then help local officials better serve their communities.

Furthermore, many conferences are, in fact, annual membership meetings of the sponsoring organization. Attending the conference lets your agency's perspective be heard and reflected in the organization's policies and positions.

These organizations typically advocate on behalf of local agencies at the state and federal levels; it is therefore critical that these organizations' positions reflect the full perspectives of their memberships. These are all bona fide public benefits for the agency and the community and, hence, an ethical and legal use of public resources.

## Issues to Ponder

The issue to ponder is whether your colleague's attendance at the conference is affording your agency meaningful public benefits. Attending the conference's educational sessions is, of course, a key way to achieve those benefits, but there are other ways to benefit from conference attendance.

For example, is your colleague connecting with fellow agency officials and exchanging substantive information in other ways at the conference? Sometimes these conversations can be just as valuable as the conference sessions,<sup>1</sup> particularly if there is a balance between such networking and attending the more formal sessions. The question to ask is: Are these conversations a meaningful exchange of substantive information or merely "schmoozing"?

## Leadership Considerations

Another factor to consider is whether your colleague holds a leadership role in the organization. Sometimes the business and policy-making aspects of conferences are such that it is not possible to attend all of the educational sessions and faithfully discharge those leadership responsibilities. Yet in helping shape the overall direction and policies of the organization with your agency's interests in mind, your colleague is nonetheless performing a service to both your agency and other members of the organization.

If the conference is in Sacramento or Washington, D.C., your colleague may be meeting with state and federal officials to build relationships and acquaint those officials with your agency's challenges and concerns.

Associations often schedule their conferences in these venues just so this kind of activity can occur. What's more, having local officials show up in force during the same week can be a powerful reminder to state and federal officials of the importance of local issues.

It can be useful for officials attending such conferences to let their colleagues know that this type of lobbying will be one of the aspects of the conference, so the official can make sure he or she is articulating the agency's concerns as a whole. Because these meetings sometimes occur during a meal, it can be important, legally, for the agency to have a policy explaining under what circumstances agency officials may be reimbursed for "hosting" the meal expenses of others.

Perhaps the reason your colleague is missing from a conference session is that he or she simply needed to attend to a work-related telephone call or issue. In that situation, your colleague may be trying to balance work and his or her elected official duties. It does mean, however, that your colleague needs to assess whether they are able to get enough out of the conference to justify the cost to the agency.

Of course, the worst-case scenario – which is very rare – is that your colleague is using the trip mainly or solely as an opportunity to vacation and sightsee. This is both unethical and arguably illegal as a personal use of public resources.

### Related Resources

"Buying Meals for Others on the Public's Dime," available at [www.ca-ilg.org/dime](http://www.ca-ilg.org/dime).

For more information on expense reimbursement FAQs see: [www.ca-ilg.org/ExpenseReimbursementFAQs](http://www.ca-ilg.org/ExpenseReimbursementFAQs)

The Institute's sample expense reimbursement policies are available at [www.ca-ilg.org/SampleReimbursementPolicies](http://www.ca-ilg.org/SampleReimbursementPolicies).

## Conferences as a “Perk”?

If your colleague appears to be “vacationing,” perhaps he or she views agency-paid travel in particular and access to public resources in general as a perk of office. The legal problem with this view is that the law sets specific limits on elected officials’ compensation; these limits do not allow additional perks, even though the level of compensation provided for most public offices is not enough to compensate for the time involved.

Again the issue gets back to the benefits to the agency and the public of having well-informed elected officials. The agency is spending the money to send its officials to conferences to achieve these benefits. Not attending a conference paid for and traveled to at agency expense deprives the agency and the community of that benefit – certainly an ethical issue. Some have suggested that an official who went to a conference and didn’t meaningfully attend the sessions could have been derelict in his or her duty to the agency.<sup>2</sup>

What if a particular agency official has already announced his or her retirement or resignation? In this case, wouldn’t it be difficult, if not impossible, for the agency official to apply the lessons learned at the conference to the agency’s policy-making process? Again, there may be additional benefits to the agency from the official attending a conference, particularly if the official will be representing the agency’s interests on a committee or other decision making body at the conference. And, if the official will be continuing to represent the agency in another governmental capacity (for example, on the board of supervisors or in the Legislature), there can be sufficient benefits flowing back to the agency from having this official be informed on issues of concern to the agency.

Again, the key issue to analyze is how such conference attendance will benefit the agency. If the agency official is retiring from public service, those benefits may be more difficult to pinpoint.

### AB 1234 Expense Reimbursement Requirements

AB 1234<sup>3</sup> contains certain requirements and restrictions on local agency practices relating to reimbursing local elected and appointed officials’ expenses. AB 1234 requires local agencies to:

- Adopt expense reimbursement policies that specify the *kinds of activities* that will be reimbursable<sup>4</sup>
- Identify a “reasonable time” within which requests for reimbursement must be submitted in those policies<sup>5</sup>
- Use expense report forms
- Require that all expenses must be documented with receipts<sup>6</sup> (these documents are public records subject to disclosure)<sup>7</sup>

AB 1234 says that such a reimbursement policy may specify what constitutes reasonable *rates* for travel, meals, lodging and other expenses. If a local policy does not specify reimbursement rates, then the reimbursable rates default to those in the Internal Revenue Service guidelines.<sup>8</sup>

## The Junket Issue

Public service is a unique undertaking in a democratic society. The public's trust that taxpayer dollars are being put to their best use in service to the community is vitally important, particularly in these times of strained budgets. This issue is a matter of both good ethics and good politics. The public must always be assured that local officials attending conferences are doing so as an extension of their public service to the community – not as a personal benefit.

This is particularly challenging when some elements of the media and public are already inclined to dismiss the value of conference attendance for public officials. If indeed your colleague is treating the opportunity to travel to a conference at public expense as a junket, it gives credence to those in the media who argue that the public receives no benefit from such conference attendance.

So there is both a short-term and long term cost when someone abuses conference privileges. When an official doesn't receive the full benefit of conference attendance, the official misses out on the opportunity to be a more knowledgeable and informed public servant – which ultimately costs the agency in two ways: the loss of knowledge and the cost of attendance. In addition, the AWOL agency official is making it more difficult for his or her colleagues to take advantage of educational opportunities in the future.

Your colleague may also be thinking: Who's going to know? The road to many an ethical embarrassment is paved with just such an attitude.

## What to Do?

First, find out what the situation is from your colleague in a private conversation. There may be a perfectly good – and ethical – explanation for why he or she missed one or more conference sessions.

Note that California law requires members of a local legislative body who attend a meeting at the expense of the local agency to provide a brief report on the meeting at the next regular meeting of the legislative body.<sup>9</sup> However, this law defines “meeting” by reference to the Brown Act.<sup>10</sup> Because the Brown Act excludes from the definition of meeting “the attendance of a majority of the members of a legislative body at a conference,” members technically need not report on attendance at a conference.<sup>11</sup>

### Seek Professional Advice

Although the Institute for Local Government endeavors to help local officials understand laws that apply to public service, its informational materials are not legal advice. In addition, attorneys can and do disagree on the best application of those rules to public meeting practices.

Officials are encouraged to consult an attorney for advice on specific situations.

It may, however, be useful for agencies to adopt a practice or policy encouraging officials to report briefly on conferences attended. This debunks any notion that conference attendance is somehow a junket and also encourages officials to attend the conference sessions. The Institute's sample expense reimbursement policy includes such optional language, and is available at [www.ca-ilg.org/SampleReimbursementPolicies](http://www.ca-ilg.org/SampleReimbursementPolicies).

Such reports have a self-enforcing aspect because the public and fellow council members will notice if a report is vague or not meaningful. A private conversation with the individual may also clarify the agency's expectation that conference attendance will, in fact, involve conference attendance.

This is a more measured and constructive approach than publicly "blowing the whistle" on what you consider to be improper conduct. Such accusations tend to reinforce the media's and the public's perceptions that conferences are really junkets and have no place in the agency budget.

Furthermore, using ethics to publicly embarrass a colleague also undermines the overall goal of fostering a genuine culture of ethics in the agency – a culture that should include the ethical values of respect and civility. A confrontational approach will not foster a positive working relationship with your colleague.

It also is arguably an instance of vigilante ethics – or the unethical use of ethics that actually damages public confidence and gives ethics a bad name. The perception (and reality) that fellow public officials members are able to work together to address the community's challenges and concerns is a very important part of the public's confidence in the agency and its officials' leadership abilities.

### **Other Political and Ethical Land Mines**

Which conferences can best help elected officials serve their communities? Many organizations offer educational opportunities to local officials on a wide variety of topics. Which topics are most relevant to your community? Which will most improve your leadership skills?

No matter what the conference focus, be sensitive to location. When correctional officers invited state legislators to attend a conference in Hawaii, the media had a field day, making it appear that the wonderful location was one of the primary motivations for legislators to attend the conference.

Although most conference organizers endeavor to choose pleasant locations for their educational sessions, the reality is that some locations are more likely to undermine the public's faith that training is the primary motivation for attending the conference.

## Special Issues: Frequent Flier Miles and Saturday Stay-Over Airline Fares

### Frequent Flier Miles

Who should be the beneficiary of any frequent flier miles earned by traveling on agency business? Strictly speaking, this is not necessarily a use-of-public-resources issue, because such frequent flier awards are a benefit that an airline company confers on its passengers – not to the entity that actually purchases the passenger ticket.

If an official travels only occasionally on agency business and those trips augment the official's personal mileage balance, this is probably an incidental benefit. On the other hand, there may be officials who travel enough to earn free tickets based on their agency travel alone. Some agencies may have policies requiring that these tickets be made available for agency travel. Certainly officials who do make their tickets available for others in the agency demonstrate a very positive commitment to their agency.

Of course, it would be an improper use of public resources for an official to select an airline with a higher fare because the official belongs to that airline's frequent flier program. The higher cost of the fare to the public agency may also violate an agency's travel policy requirements that an official secure the most economical fare.

Note that, in 1997, the Attorney General concluded that acceptance of frequent flier tickets does not violate the Constitution's prohibition against public officials accepting free transportation passes.<sup>12</sup>

### Saturday Stay-Over Airline Rates

In many instances, airlines offer substantially reduced fares to travelers who stay over a Saturday night. For this to be a good financial deal for the public agency, the public official must be able to demonstrate that the extra cost of lodging, ground transportation and meals actually results in an overall net savings to the agency.

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### About the Institute for Local Government

This resource is a service of the Institute for Local Government (ILG) whose mission is to promote good government at the local level with practical, impartial, and easy-to-use resources for California communities. ILG is the nonprofit 501(c)(3) research and education affiliate of the League of California Cities and the California State Association of Counties.

For more information and to access the Institute's resources on ethics visit [www.ca-ilg.org/trust](http://www.ca-ilg.org/trust).

The Institute welcomes feedback on this resource:

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### References and Resources

*Note: Sections in the California Code are accessible at <http://leginfo.legislature.ca.gov/>. Fair Political Practices Commission regulations are accessible at [www.fppc.ca.gov/index.php?id=52](http://www.fppc.ca.gov/index.php?id=52). A source for case law information is [www.findlaw.com/cacases/](http://www.findlaw.com/cacases/) (requires registration).*

<sup>1</sup> Rachel Burstein, *The Case for Strengthening Personal Networks in California Local Government* (New America Found., Cal. Civic Innovation Project), Apr. 2013 at 19.

<sup>2</sup> See Cal. Gov't Code § 3060 (providing grand jury may investigate claims of willful or corrupt misconduct in office, which can lead to removal from office). See also *People v. Tice*, 144 Cal. App. 2d 750, 310 P.2d 588 (4th Dist. 1956) (phrase misconduct in office is broad enough to include willful malfeasance, misfeasance and nonfeasance).

<sup>3</sup> Chapter 700, Statutes of 2005.

<sup>4</sup> Cal. Gov't Code § 53232.2(b).

<sup>5</sup> Cal. Gov't Code § 53232.3(c).

<sup>6</sup> Cal. Gov't Code § 53232.3.

<sup>7</sup> Cal. Gov't Code § 53232.3(e).

<sup>8</sup> Cal. Gov't Code § 53232.2(c).

<sup>9</sup> Cal. Gov't Code 53232.3(d).

<sup>10</sup> Cal. Gov't Code § 53232(d).

<sup>11</sup> Cal. Gov't Code §§ 54952.2(c)(2), 54954.

<sup>12</sup> See generally Cal. Const. art. XII, § 7; 80 Cal. Op. Att'y Gen. 146 (1997) (concluding the prohibition did not apply because such awards are made without regard to an official's status as an officeholder).