



# STATE OF CONNECTICUT

## STATE ETHICS COMMISSION

ADVISORY OPINION NO. 89-4

### Disclosure of Fees and Honorariums

Senators O'Leary, Smith, and Upson have asked the Ethics Commission for an advisory opinion interpreting the requirements of subdivision 1-83(b)(2), General Statutes. The subdivision in question states that "every individual subject to this section shall file a disclosure with the commission of any fees or honorariums received for any appearance or the delivery of an address to any meeting of any organization. Such disclosure shall be made within thirty days after receipt of such fee or honorarium". The individuals subject to the above provision are those senior State and Quasi-Public Agency officials and employees required to file annual Statements of Financial Interests with the Commission pursuant to Section 1-83, id.

Specifically, the Senators have phrased their request as follows:

For purposes of this opinion, we would ask the Commission to assume that a legislator or State department head was invited to appear or deliver an address to a meeting of an organization.

1. If the organizer provides the speaker with his or her transportation costs, food, and lodging, has the legislator received a fee or honorarium?
2. If the legislator is offered a choice of accepting a money honorarium or having his expenses paid, and chooses the latter, must that transaction be reported under this section of the Code of Ethics?
3. If the legislator has his expenses covered by the organizer of the event and in addition receives a money honorarium, must both the expenses and the amount of the honorarium be reported?
4. Is there any difference in the answers to these questions if the organizer is a registered lobbyist or not?

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5. Is there any difference to the answers to the questions if the meeting is a lobbying activity or not?

6. Is the answer to any of the questions above different when the legislator or State official is not on State business when attending any such meeting?

7. Has the Commission formulated a definition of "fees or honorariums" as used in this section of the statutes?

As a preliminary matter, it is important to note that the Ethics Commission has previously decided that only individuals subject to Section 1-83 financial disclosure requirements can accept fees or honorariums offered by virtue of their State positions. In all other cases the Commission views such conduct as an improper use of public position to obtain financial gain in violation of the Code. Ethics Commission Advisory Opinion No. 82-3, 43 Conn. L.J. No. 39, p. 9B (March 30, 1982).

Turning to the Senators questions:

1. If the organizer provides the speaker with his or her transportation costs, food, and lodging, has the legislator received a fee or honorarium?

It is the Commission's position that if the individual receives only his or her necessary expenses (standard transportation to and from the event; standard accommodations, including lodging the night before and/or after the appearance or address; and meals under fifty dollars per person per occasion) no disclosure statement is required pursuant to 1-83(b)(2). This position is in keeping with that of the majority of other jurisdictions which mandate disclosure of fees or honorariums. The fee or honorarium is only that compensation received over and above the necessary (also referred to as "subsistence") costs of attending the event. This analysis is also consistent with the Commission's lobbyist disclosure regulations which distinguish the fee or honorarium from related expense payments. Sec. 1-92-48(b), Regulations of Connecticut State Agencies. The above formulation is, by necessity, somewhat imprecise. Those with specific questions as to what constitutes "standard" expenses should contact the Commission.

Obviously, the "subsistence" expenses of the public official or State employee can be quite significant if the event in question is held at a distant location. Nevertheless, the Commission believes that if recipient disclosure of these expenses is to be required, it is best accomplished by amendment



of 1-83(b)(2). It should, however, be noted that the Commission has never discouraged voluntary disclosure beyond that mandated by the letter of the law.

2. If the legislator is offered a choice of accepting a money honorarium or having his expenses paid, and chooses the latter, must that transaction be reported under this section of the Code of Ethics?

As discussed in no. 1, supra, receipt of only subsistence expenses does not require disclosure under 1-83(b)(2). However, acceptance of expenses over and above those necessary to attend the event in question (e.g., unnecessarily lavish or additional travel, meals, or accommodations; entertainment; etc.) is considered an honorarium, and must be disclosed within thirty days of receipt.

3. If the legislator has his expenses covered by the organizer of the event and in addition receives a money honorarium, must both the expenses and the amount of the honorarium be reported?

Only the money honorarium and expenses over and above those necessary to attend the event must be disclosed by the recipient.

4. Is there any difference in the answers to these questions if the organizer is a registered lobbyist or not?

The application of 1-83(b)(2) is not affected by the fact that the organizer is a registered lobbyist. However, the lobbyist must disclose each expenditure of fifteen dollars or more paid to a public official as a fee or honorarium, or related expense payment. These amounts must be disclosed on the first periodic lobbyist financial report due after the expenditures have been made. Section 1-96, General Statutes; Sec. 1-92-48(b), Regulations of Connecticut State Agencies.

5. Is there any difference to the answers to the questions if the meeting is a lobbying activity or not?

The application of 1-83(b)(2) is the same whether or not the event in question is a lobbyist activity. If the organizer is a registered lobbyist, but the event is totally unrelated to lobbying, the lobbyist should report the expenditures in that portion of its financial report designated for disclosure of expenditures for the benefit of a public official unrelated to lobbying. Sec. 1-92-48(b), Regulations of Connecticut State Agencies.

6. Is the answer to any of the questions above different when

the legislator or State official is not on State business when attending any such meeting?

As discussed supra, fees and honorariums are traditionally given to public officials by virtue of their State positions. However, in the Commission's opinion, these individuals are not conducting official State business when they appear before or make an address to an organization in return for a fee or honorarium.

Distinct from fees and honorariums are gifts to the State which facilitate State action or functions and may incidentally benefit a public official or State employee. For example, the General Assembly will often determine that one or more of its members should attend an educational conference. This is officially sanctioned State business, and is normally paid for by the State. However, it is not unusual for a private entity to offer to pay all or part of the costs of an official's attendance at such an event. It is the Commission's position that it is preferable for the State to pay for State activities in order to avoid actual and apparent conflicts of interests. Ethics Commission Advisory Opinion No. 88-3, 49 Conn. L.J. No. 38, p. 5C (March 22, 1988). Nevertheless, such gifts are clearly allowed by law, even if the donor is a lobbyist. Sec. 1-92-51, Regulations of Connecticut State Agencies. In such a situation, the donor should pay no more than State travel rules and regulations would normally allow. Acceptance of a fee or honorarium by an official who is on State business, and is already receiving a State salary, would be a clear violation of the Code.

No reporting of gifts to the State is required by 1-83(b)(2). However, if the donor is a registered lobbyist, the lobbyist must disclose these expenditures to the extent they incidentally benefit a public official. Subsection 1-96(b), General Statutes.

7. Has the Commission formulated a definition of "fees or honorariums" as used in this section of the statutes?

The Commission has previously adopted the generally recognized definition that "[a]n 'honorarium' is a voluntary reward for that for which no remuneration could be collected by law". Ethics Commission Advisory Opinion No. 81-3, 42 Conn. L.J. No. 39, p. 10 (March 24, 1981). As discussed in no. 1, supra, payment of the individual's necessary expenses to attend the event in question is not considered sufficient compensation to trigger the disclosure requirements of 1-83(b)(2). Any remuneration over and above these necessary expenses is

considered to be a reportable fee or honorarium. Specifically included in this definition are: additional, or unnecessarily lavish, travel, meals, or accommodations; entertainment; expenses of a spouse, child, or other guest of the official; a cash payment; or any other item or service of material value.

It has sometimes been the case that an individual will receive a fee or honorarium; and, in turn, donate the reward to charity. This is still a reportable transaction under 1-83(b)(2). When filing the required statement, the individual should disclose any such charitable contribution.

Lastly, although there is no specific statutory limit on fees and honorariums, the Commission continues to believe they should be modest in nature, particularly when a registered lobbyist is the source, in order to avoid any appearance of impropriety.

By order of the Commission,



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William A. Elrick  
Chairperson

Dated 1-9-89

