



# STATE OF CONNECTICUT

## OFFICE OF STATE ETHICS

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### Advisory Opinion No. 2012-9

August 16, 2012

**Question Presented:**

**Petitioner asks whether “necessary expenses” under General Statutes § 1-84 (k) may be paid or reimbursed by an entity other than a sponsor of an event to which a public official or state employee is invited?**

**Brief Answer:**

**No. “Necessary expenses” under General Statutes § 1-84 (k) may not be paid or reimbursed by an entity other than a sponsor of an event to which a public official or state employee is invited.**

At its July 2012 regular meeting, the Citizen’s Ethics Advisory Board (“Board”) granted the petition for an advisory opinion submitted by Brian J. O’Dowd, Assistant General Counsel at the Office of State Ethics (“petitioner”). The Board issues this advisory opinion on the date shown below in accordance with General Statutes § 1-81 (a) (3). The opinion interprets the Code of Ethics for Public Officials (“Ethics Code”)<sup>1</sup> and its regulations, is binding on the Board concerning the person who requested it and who acted in good-faith reliance thereon, and is based solely on the facts provided by the petitioner.

### **Facts**

Generally, a petitioner’s facts are set forth in this section, but because the question presented is one of legal interpretation and there

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<sup>1</sup>Chapter 10, part I, of the General Statutes.

are no specific facts involved, the petitioner's question is presented instead:

Pursuant to General Statutes § 1-81 (a) (3) and Regs., Conn. State Agencies § 1-92-38, I hereby request an Advisory Opinion responsive to the following question: whether necessary expenses under General Statutes § 1-84 (k) may be paid or reimbursed by an entity other than the sponsor of an event to which a public official or state employee is invited.

### Analysis

General Statutes § 1-84 (k) states, in pertinent part, as follows:

No public official, spouse of the Governor or state employee shall accept a fee or honorarium for an article, appearance or speech, or for participation at an event, in the public official's, spouse's or state employee's official capacity, provided a public official, Governor's spouse or state employee may receive payment or reimbursement for necessary expenses for any such activity in his or her official capacity. If a public official, Governor's spouse or state employee receives such a payment or reimbursement for lodging or out-of-state travel, or both, the public official, Governor's spouse or state employee shall, not later than thirty days thereafter, file a report of the payment or reimbursement with the Office of State Ethics, unless the payment or reimbursement is provided by the federal government or another state government. ...When a public official, Governor's spouse or state employee attends an event in this state in the public official's, Governor's spouse's or state employee's official capacity and as a principal speaker at such event and receives admission to or food or beverage at such event from the sponsor of the event, such admission or food or beverage shall not be considered a gift and no report shall be required from such public official, spouse or state employee or from the sponsor of the event.

“Necessary expenses” is defined, in General Statutes § 1-79 (q), as “a public official's or state employee's expenses for an article,

appearance or speech or for participation at an event, in his official capacity, which shall be limited to necessary travel expenses, lodging for the nights before, of and after the appearance, speech or event, meals and any related conference or seminar registration fees.”

Although the above-cited statutory provisions set the scope of permissible expenses and the circumstances under which such expenses may be accepted by a public official or state employee, it is not readily apparent whether payment or reimbursement of “necessary expenses” is strictly limited to the sponsor(s) of an event at which the invited public official or state employee actively participates in his or her official capacity within the meaning of § 1-79 (q). Only the final sentence of § 1-84 (k), which addresses an exception to § 1-84 (k)’s reporting requirements, explicitly limits the provision of such expenses to the sponsor of the event.<sup>2</sup> However, despite sparse reference to the source of payment or reimbursement of “necessary expenses” in § 1-84 (k), it is clear that, because a public official or state employee may no longer receive a fee or honorarium for his or her active participation in official capacity, payment or reimbursement of “necessary expenses” to a public official or state employee will be allowed by the recipient of such official’s or employee’s active and official participation.<sup>3</sup> In fact, the former State Ethics Commission (“Ethics Commission”) noted in a formal advisory opinion that, “[i]n essence, the necessary expense provisions of § 1-84 (k) were established *to allow the sponsor of an event* to pay a public official’s expenses when, in the past (i.e., prior to October 1, 1991) a fee or honorarium would have been permitted.”<sup>4</sup>

In addition to the Ethics Commission’s precedent, there are a number of informal opinions issued by this office and its predecessor confirming that the payment or reimbursement of “necessary expenses” is made by a sponsor of an event who is the recipient of services provided by a public official or state employee in his or her official

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<sup>2</sup>Public Acts, Spec. Sess., June, 1997, No. 97-6, amended subsection (k) of § 1-84 by adding the sentence that provides for the “principal speaker” exception.

<sup>3</sup>Pursuant to Public Acts, Spec. Sess., June, 1991, No. 91-1, “necessary expenses” replaced fees and honoraria as a permissible form of payment for costs associated with a public official’s or state employee’s provision of statutorily designated service in his or her official capacity.

<sup>4</sup>(Emphasis added.) Advisory Opinion No. 1995-18, Connecticut Law Journal, Vol. 57, No. 19, p. 7E (November 7, 1995).

capacity. Those opinions address the payment of “necessary expenses” for a legislator’s foreign trip sponsored by a state university to assist the university in establishing an exchange program with a foreign counterpart<sup>5</sup>; the payment of “necessary expenses” to a public official for her active participation in her official capacity by an organizer of a policymaker forum<sup>6</sup>; the payment of expenses by a sponsor of a conference in consideration of a public official’s active participation in his official capacity<sup>7</sup>; and the payment of expenses by an agency vendor who co-sponsors an industry conference.<sup>8</sup>

Accordingly, and in keeping with those opinions, we conclude that only a sponsor of an event to which a public official or state employee is invited in his or her official capacity may pay or reimburse “necessary expenses” under § 1-84 (k).

By order of the Board,

Dated: 8/16/12

/s/ David W. Gay  
Chairperson

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<sup>5</sup>Request for Advisory Opinion No. 5270 (2007).

<sup>6</sup>Request for Advisory Opinion No. 9865 (2012).

<sup>7</sup>Request for Advisory Opinion No. 2115 (1998).

<sup>8</sup>Request for Advisory Opinion No. 4216 (2006).