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VOLUME 39, ISSUE 22

ISSUE DATE: NOVEMBER 19, 2007

RULE ADOPTIONS

**OTHER AGENCIES
STATE ETHICS COMMISSION**

39 N.J.R. 4951(a)

Adopted Amendments: N.J.A.C. 19:61-6.2, 6.4, 6.5, 6.7 and 6.9

Adopted New Rule: N.J.A.C. 19:61-6.10

State Ethics Commission Rules

Attendance at Events, Acceptance of Honoraria, Acceptance of Compensation for Published Works, and Acceptance of Things of Value

Proposed: August 6, 2007 at 39 N.J.R. 3286(a).

Adopted: October 24, 2007 by the State Ethics Commission, Kathleen C. Wiechnik, Esq., Acting Executive Director.

Filed: October 24, 2007 as R.2007 d.357, **with a substantive change** not requiring additional public notice or comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 52:13D-21(k).

Effective Date: November 19, 2007.

Expiration Date: July 19, 2011.

Summary of Hearing Officer's Recommendations and Agency Responses:

A public hearing on the proposed amendments and new rule was held on August 28, 2007 at the Mary G. Roebing Building, 20 W. State Street, Room 218, Trenton, New Jersey. Kathleen C. Wiechnik, Esq., Legal Specialist, acted as the Hearing Officer. The comment period for the proposed amendments and new rule ended on October 5, 2007. The Hearing Officer recommended that the State Ethics Commission (Commission) adopt the amendments and new rule with a change not requiring additional public notice or comment (see N.J.A.C. 1:30-6.3). The Commission has accepted the Hearing Officer's recommendation. A record of the public hearing is available for inspection in accordance with applicable law by contacting:

State Ethics Commission
P.O. Box 082
Trenton, New Jersey 08625-0082

Summary of Public Comments and Agency Responses:

The Commission received oral and/or written comments on the proposed amendments and new rule from the following persons:

1. Michael Klein, Director of Government and Legal Affairs, New Jersey Association of State Colleges and Universities
2. Jean Feeny, Director, Ethics Program, University of Medicine and Dentistry of New Jersey
3. Michael R. Clarke, Vice President/Chief Ethics and Compliance Officer, University of Medicine and Dentistry of New Jersey
4. Elizabeth Paul, The College of New Jersey
5. Beckman Rich, Rutgers, the State University of New Jersey
6. Carlos Pratt, University of Medicine and Dentistry of New Jersey
7. B. Sachau
8. Steven M. Marcus, MD, New Jersey Medical School, University of Medicine and Dentistry of New Jersey
9. Dennise Krencicki
10. Ad-Hoc Committee on Ethics Regulations, New Jersey Medical School Faculty Organization, University of Medicine and Dentistry of New Jersey
11. Anne MacMorris, Director of Budget/Executive Assistant to the Treasurer, The College of New Jersey
12. Michael Tripodi, Esq., University Counsel and Ethics Liaison Officer, Kean University
13. Alfred E. Ramey, Jr., Esq., Executive Assistant to the President, Legal Affairs, New Jersey City University
14. Holly Stern, Esq., General Counsel, New Jersey Institute of Technology
15. Judith Jeney, Employee Relations and Ethics Officer, Ramapo College of New Jersey
16. Nancy W. Hicks, Special Assistant to the President for Affirmative Action and Ethical Standards, The Richard Stockton College of New Jersey
17. Robert Zazzali, Associate Provost, Rowan University
18. Philip Furmanski, Executive Vice President for Academic Affairs, Rutgers, the State University of New Jersey
19. Esther Paist, Executive Assistant to the President, Secretary to the Board of Trustees, Thomas Edison State College
20. John Polding, Associate Vice President for Human Resources, William Paterson University of New Jersey
21. Marlie Wasserman, Director, Rutgers University Press

A summary of the comments and the Commission's responses follows. The number(s) in parentheses after each comment identifies the commenter(s) listed above.

1. COMMENT: The proposed amendments and new rule demonstrate a comprehensive approach to address the unique role of the State colleges and universities in State government. The commenters expressed appreciation for the diligence and hard work of the Commission members and staff in striking an appropriate balance between the needs of higher education and the public's interest in good government. (1, 2, 3, 4, 5, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20)

RESPONSE: The Commission appreciates the participation of the higher education community in the Commission's fact-finding and research.

2. COMMENT: The commenter addressed N.J.A.C. 19:61-6.7, which allows a faculty member to require use of his or her published work in connection with a course he or she teaches and requires that monies resulting from such use be donated to the college or university or to a non-profit institution. The commenter stated that compliance with this proposed amendment is virtually impossible because of the way royalties on textbooks are computed.

The commenter noted that some students borrow textbooks or buy used books, making it impossible for a faculty member to determine how many of his or her new textbooks are purchased for any given course.

The commenter also stated that the proposed rule seemed misdirected since faculty members are allowed to accept honoraria for speaking. The commenter stated that it was unclear why a faculty member would be penalized for assigning his or her own text to a class he or she teaches, especially since such texts are not, in the commenter's view, written to generate royalties, but rather to create the best current presentation of the material being taught. (6)

3. COMMENT: The commenter noted that the majority of faculty-authored textbooks are money-losing propositions for almost all parties unless they are produced in second and third editions and are adopted in huge classes. The costs for research, travel, and other significant expenses are frequently borne by the author with little or no contribution by the university. Many authors write texts because of their academic expertise and perspective, not to gain profits that would contradict the State's ethics laws. Good public policy would encourage, not discourage the production/publication of textbooks, which enhances the reputation of the individual faculty members, their departments, and their institutions. (21)

4. COMMENT: The commenters stated that a State official working in a scholarly capacity usually assigns his or her own work to his or her own classes because he or she is a recognized expert in the field. The assignment of a text is most often connected to academic, not profit-making, motives. The commenters note that compliance with N.J.A.C. 19:61-6.7(f) is difficult from a practical perspective because faculty members cannot know which students purchase a text in a context that generates a royalty payment. The commenters suggest that the Commission adopt a de minimis amount in the rule that would aid in the rule's administration, citing as a model Indiana's monetary threshold. In Indiana, it is an affirmative defense against a conflict of interest charge if the public servant's interest in the transaction at issue is \$ 250.00 or less. (11, 12, 13, 14, 15, 16, 17, 18, 19, 20)

RESPONSE TO COMMENTS 2, 3 and 4: The Commission addressed the issue of faculty-authored textbooks being assigned to the faculty member's students as the result of a complaint regarding this practice. The issue raises concerns about the use of one's official position to secure an unwarranted advantage (addressed in section 23(e)(3) of the New Jersey Conflicts of Interest Law, N.J.S.A. 52:13D-12 et seq.) and about the appearance of impropriety (section 23(e)(7)). The Commission surveyed other U.S. jurisdictions and New Jersey State colleges and universities to ascertain how this issue is treated, if at all. Some jurisdictions restrict the amount of financial gain that can be realized by a faculty member who assigns his or her textbook to his or her classes or have safeguards in place regarding such assignment. The majority of public institutions surveyed require that the faculty member return monies resulting from the textbook sales to the students, the college/university, or to a non-profit institution. The Commission has been advised that Rutgers, the State University, has a policy that such monies be donated to the University or a non-profit institution.

The Commission is aware that some effort must be expended to ascertain the amount of royalties attributable to sales to students in the author's class; for example, by seeking an accounting from the college/university bookstore. This does not appear to be unduly burdensome. The Commission is not requiring that borrowed texts or secondary sales be tracked.

The Commission does not view the proposed amendment as a penalty for the use of faculty-authored texts. Rather, the Commission is seeking to recognize the unique role of State college and university faculty while also ensuring the public, including the college/university communities, that the spirit and the letter of conflicts standards are observed.

With regard to a de minimis amount, the Commission notes that an accounting of royalties attributable to new book purchases by students in the author's classes may still be necessary in some cases to ascertain if the de minimis amount has been exceeded. In addition, the Commission, in its entire history, has always taken the position that setting monetary limits on the application of conflicts standards is a legislative prerogative.

5. COMMENT: The commenter expressed concern that monies from pharmaceutical companies influence medical decisions and should be prohibited from being paid to any medical employee of the State.

The commenter urged that all department heads who are notified of any outside activity by any State employee determine if the outside activity results in the neglect of official duties. In addition, the commenter stated that much of the conference and meeting travel by State employees is unnecessary and a burden to the taxpayers; all travel should be examined more completely and rigorously before being approved. More and better use of software for meetings, rather than physical travel, would serve the taxpayers better. (7)

RESPONSE: The Commission has set forth standards in its administrative rules to provide criteria for evaluation of travel and acceptance of any monies, honoraria, and expenses in the context of the Commission's jurisdiction. The Commission is without jurisdiction as to administrative and personnel matters that affect these issues.

6. COMMENT: The commenter states that the annual disclosure requirement proposed in N.J.A.C. 19:61-10 sets up an additional paper trail; the commenter notes that there is already a requirement for each State official to submit a request to attend an event in advance of attendance. The commenter suggests that the rule will require a duplicative chain of reporting that is burdensome.

The commenter noted that the \$ 500.00 limitation per trip on reimbursement for expenses (N.J.A.C. 19:61-6.5) outside the State of New Jersey does not seem justifiable since there is no such limit on activities within the State. (8)

7. COMMENT: The commenter stated that annual disclosure of honoraria, etc. should not be required because it adds paperwork and provides no benefit to anyone. The commenter suggests that the reporting requirement sets up a new level of bureaucracy and more time needed for reporting. (10)

RESPONSE TO COMMENTS 6 AND 7: The Commission has determined that there must be some accountability on the part of the recipients of travel expenses, reimbursements, honoraria, academic prizes, or other things of value. The public and the Commission are entitled to be able to review, at least on an annual basis, the effect of the amendments and new rule. It is not the Commission's intent to create duplicative reporting and recordkeeping. If an institution has a reporting system in place, that existing system can be adapted to satisfy the requirements of N.J.A.C. 19:61-6.10. Participants in the Commission's October 2006 dialogue with the college and university community expressed a willingness to comply with an annual reporting requirement.

The Commission is well aware that the \$ 500.00 per trip cap on out-of-State travel seems inconsistent with the lack of limitations on in-State travel. This limitation was enacted by the State legislature in amendments to N.J.S.A. 52:13D-24. Any modification requires a legislative amendment.

8. COMMENT: Two commenters expressed confusion about acceptable entertainment expenses. If all participants in a seminar end the day by playing golf, the commenters ask whether the New Jersey professor could also participate. The commenters also questioned if an honorarium could be increased to cover the cost of a golf retreat in connection with a seminar and whether that practice would be acceptable. (8, 10)

RESPONSE: The commenters' confusion about acceptance of entertainment or entertainment expenses may be caused by the format of the proposed rules. Already in existence, and unchanged by the proposal, is the following provision: "Under no circumstances shall a State official accept entertainment collateral to the event, such as a golf outing, or meals taken other than in a group setting with all attendees, or reimbursement therefore." This regulation existed as N.J.A.C. 19:61-6.5(e) at the time of the proposal and becomes N.J.A.C. 19:61-6.5(f) upon this adoption.

9. COMMENT: The commenter asked that the Commission consider changing the language of N.J.A.C. 19:61-6.4(d). The language at issue states: "The State official, acting in a scholarly capacity, may accept an honorarium, academic prize or other thing of value if the honorarium, academic prize or other thing of value reflects payment for orally sharing his or her intellectual property." The commenter notes that sharing of intellectual property is not confined to oral presentations but may encompass other presentation modes, such as courses provided in written format or via the Internet, poster presentations, etc. The commenter suggested that the Commission delete the word "orally" so that other legitimate methods of sharing scholarly works will be covered. (9)

10. COMMENT: The commenter requested that the Commission delete "orally" from N.J.A.C. 19:61-6.4(d) and 6.5(b) and delete "orally and verbally" from N.J.A.C. 19:61-6.9(f) so that a State official, acting in a scholarly capacity, is not limited in accepting honoraria, academic prizes, or other things of value as he or she shares his or her intellectual property. The commenter notes that the sharing of intellectual property occurs in various formats. (3)

RESPONSE TO COMMENTS 9 AND 10: The Commission, in drafting the language of N.J.A.C. 19:61-6.4(d) and 6.5(b), which contains the same sentence, was aware that an oral presentation is not the only method for sharing scholarly works. The amendments were crafted with the goal of balancing consideration for the context of scholarly activities and the language of N.J.S.A. 52:13D-24, which prohibits a State official from accepting, from a party other than the State, an honorarium or other thing of value for activities connected with his or her official duties. N.J.A.C. 19:61-6.4 and 6.5 deal with attendance at events; the "oral" requirement in the amendments parallels the exception language applicable to all State officials in N.J.A.C. 19:61-6.4(c), which was not changed and, thus, not printed in the proposal. That language permits a State official to accept direct and indirect benefits when attending an event sponsored by an interested party if the State official is making a speech, participating in a panel or serving as a resource person to a speaker and/or participant, subject to certain approvals and procedures.

The Commission notes that N.J.A.C. 19:61-6.7(e) permits a State official acting in a scholarly capacity to accept compensation for published works created as part of his or her official duties on State time using State resources. N.J.A.C. 19:61-6.9(f) permits acceptance of honoraria, academic prizes, and other things of value for sharing his or her intellectual property orally or in writing and for several other similar scholarly activities. These provisions would encompass compensation for sharing scholarly works as noted by the commenters, for example, courses provided in written format or via the Internet or poster presentations. In addition, the Commission is aware that some activities that involve sharing scholarly work fall within the concept of outside employment, a topic not addressed by N.J.A.C. 19:61-6.4 and 6.5.

The Commission has decided that deleting the word "orally" from N.J.A.C. 19:61-6.4(d) would expand the scope of the amendment beyond its appropriate context, which is a State official's attendance at, participation in, or presentations at colloquia, seminars, conferences or other similar scholarly gatherings. The scope of N.J.A.C. 19:61-6.9(f) is broader than the context of N.J.A.C. 19:61-6.4(d) and permits the acceptance of honoraria, academic prizes and other things of value under additional circumstances. The Commission recognizes that intellectual property is shared in many formats and clarified the language of N.J.A.C. 19:61-6.9(f) by changing the phrase "for orally or verbally sharing his or her intellectual property. . ." to "for sharing his or her intellectual property orally or in writing. . ."

11. COMMENT: The commenter noted that the American Association of University Professors was not mentioned in the Summary in the reference to the contract between the State and the Council of New Jersey State Colleges Locals, AFT, AFL-CIO and should be included. (10)

RESPONSE: Although the Summary printed with the Commission's proposal is not part of the text of the proposed amendments and new rule or the adopted amendments or new rule, the Commission appreciates receiving the information.

12. COMMENT: The commenter expressed confusion over the language in the Summary noting that the Commission intended to amend the definition of "interested party" in N.J.A.C. 19:61-6.2 to include any grantee or grantor of a State official's agency or any employee, representative or agent thereof. The commenter noted faculty members commonly have grants from various sources, all of which can be considered interested parties that have their own standards of ethical conduct and compliance issues. (10)

RESPONSE: Although the Summary printed with the Commission's proposal is not part of the text of the proposed amendments and new rule and is not part of the adopted amendments or new rule, the Commission notes that any grantee or grantor of a State official's agency or any employee, representative or agent thereof has been added to the definition of "interested party" at N.J.A.C. 19:61-6.2. The standards and/or compliance issues of those grantees or grantors are separate from the standards imposed by the Commission's rules.

13. COMMENT: The commenter asked if all State employees are also considered "State officials" instead of State employees or just faculty. (10)

RESPONSE: The commenter's confusion about "State officials" may be caused by the format of the proposed rules. Already in existence, and unchanged by the proposal, is the definition of "State official" at N.J.A.C. 19:61-1.10: "State official means any State officer or employee or special State officer or employee as defined in the Conflicts of Interest Law, N.J.S.A. 52:13D-13(b) and (c)."

14. COMMENT: The commenter states that the Summary explains that the amendments to N.J.A.C. 19:61-6.4 and 6.5 permit State officials acting in a scholarly capacity to receive direct or indirect benefits from an event sponsor when attending, participating in, or making presentations at colloquia, seminars, conferences or other similar scholarly gatherings. The commenter notes, however, that some faculty members have voluntary roles in professional organizations and may act in administrative roles beyond the traditional academic role. The commenter suggests that language be added to permit receiving direct or indirect benefits from a sponsor when "performing closely related administrative or educational functions that have derived from" the State official's role as a State official. (10)

RESPONSE: As stated in the Summary accompanying the proposed amendments and new rule, the Commission formulated the amendments and new rule to recognize the unique nature of the academic setting. Thus, the Commission has accommodated the situation of a State official acting in a scholarly capacity. The situation of a State official acting in an administrative or educational, rather than scholarly, capacity, which derives from his or her role as a State official, is accommodated in all other portions of the Commission's administrative rules.

15. COMMENT: The commenter asked that the language defining when a State official acting in a scholarly capacity is permitted to accept an honorarium, academic prize or other thing of value be expanded. In addition to the language specifying the oral presentation of the State official's own intellectual property, the commenter asked that honoraria, academic prizes or other things of value be permitted for the State official's oral presentation of his or her personal expertise, which may include, for example, a review of existing literature not necessarily his or her own. (10)

RESPONSE: As stated in the Summary accompanying the proposed amendments and new rule, the amendments regarding acceptance of honoraria, academic prizes and other things of value for a State official's own intellectual property are based on the contractual arrangement under which the State and the college/university assert no claim of ownership of copyright in scholarly or aesthetic works, with certain exceptions. Therefore, the Commission has taken the position that receipt of such honoraria, academic prizes or other things of value do not fall within the ambit of N.J.S.A. 52:13D-24, which prohibits a State official from accepting, from a party other than the State, an honorarium or other thing of value for activities connected with his or her official duties. The application of N.J.S.A. 52:13D-24 does not permit a State official to accept an honorarium, academic prize or thing of value except under the narrowly crafted language relating to a State official's own intellectual property.

16. COMMENT: The commenter suggested that monies resulting from a State official requiring the use of his or her own textbook in a course that he or she teaches be placed in an account for academic use by the faculty member or be donated to a charitable organization of his or her choice. (10)

RESPONSE: The Commission's survey of other U.S. jurisdictions and New Jersey State colleges and universities revealed that some jurisdictions restrict the amount of financial gain that can be realized by a faculty member who assigns his or her textbook to his or her classes or have safeguards in place regarding such assignment. The majority of public institutions surveyed require that the faculty member return monies resulting from the textbook sales to the students, the college/university, or to a non-profit institution. Rutgers, the State University, has a policy that such monies must be donated to the University or a non-profit institution. The Commission has determined that requiring that such monies be donated to the college or university or a non-profit institution is reasonable and equitable.

17. COMMENT: The commenter asked for clarification with respect to N.J.A.C. 19:61-6.10 for those State officials "who split between federal agencies and UMDNJ, such as those with VA appointments concomitant with VA awards." (10)

RESPONSE: The commenter did not provide sufficient details for the Commission to provide meaningful clarification. It is clear, however, that N.J.A.C. 19:61-6.10 requires that State officials serving in a scholarly capacity must provide the specified disclosure. The same individual, serving in a non-State related capacity, would not necessarily be required to disclose expenses, honoraria, etc. received in his or her non-State capacity.

18. COMMENT: The commenter asked that the Federal Standards Statement be clarified as many Federal requirements would possibly override any State rule. (10)

RESPONSE: The Commission is unaware of any Federal requirements that affect the proposed amendments and new rule.

19. COMMENT: With respect to N.J.A.C. 19:61-6.5(c), the commenter noted that there will be a negative effect if faculty at all State colleges and universities flood the ethics offices with pens, calendars, paperwork and so forth; there will be a negative impact in the ability to recruit new faculty and retain existing staff. (10)

RESPONSE: The commenter appears to be referring to the \$ 500.00 limitation on reimbursement or payment of expenditures for travel or subsistence outside New Jersey. The commenter did not provide sufficient detail for the Commission to determine the effect of the \$ 500.00 statutory limit on the pens, calendars, etc. that may be forwarded to ethics offices. With respect to the effect of the \$ 500.00 limit on recruitment and retention of staff the limitation was enacted by the State Legislature in amendments to N.J.S.A. 52:13D-24. Any modification requires a legislative amendment.

20. COMMENT: The commenter asked for a definition of thing of value. (10)

RESPONSE: Already in existence, and unchanged, is the definition of "thing of value" at N.J.A.C. 19:61-1.10: "'Thing of value' includes, but is not limited to, compensation; money; a stock, bond, note or other investment in an entity; employment, offer of employment; gift; reward; honorarium; favor; goods; service; loan; forgiveness of indebtedness; gratuity; property or real property; labor; fee; commission; contribution; rebate or discount in the price of any

thing of value; an automobile or other means of personal transportation; entertainment; meal; or any other thing of value offered to or solicited or accepted by a State official in connection with his or her official position."

21. COMMENT: With respect to N.J.A.C. 19:61-6.10, the commenter asked to whom does the department head disclose. (10)

RESPONSE: The Commission notes that the organizational hierarchy of each State college and university should be well known to each department head at each institution.

22. COMMENT: The commenter suggested that an already in-place disclosure form for continuing medical education is more appropriate than the form incorporated in N.J.A.C. 19:61-6.10.

The commenter noted that a form such as the continuing medical education form should be required for every State employee, including senators, assemblymen, mayors and municipal workers, and for administrators who have access or control of budgets for their institutions, such as boards of trustees and officers of institutions. (10)

RESPONSE: The form forwarded by the commenter does not require the information sought by the Commission.

The jurisdiction of the Commission is limited to the executive branch of State government and does not extend to State legislators or municipal officials or employees. Various legislative and gubernatorial executive order standards require disclosures by various classes of State officials, including boards of trustees of State colleges and universities.

Federal Standards Statement

The adopted amendments and new rule do not exceed any Federal standards as there are no Federal laws or requirements applicable to the adopted amendment and new rule.

Full text of the adoption follows (additions to proposal indicated in boldface with asterisks ***thus***; deletions from proposal indicated in brackets with asterisks *[thus]*):

19:61-6.2 Definitions

The following words and terms, as used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

...

"Interested party" means:

1. (No change.)
2. Any grantee or grantor of the State official's agency, or employee, representative or agent thereof;

Recodify existing 2.-4. as 3.-5. (No change in text.)

...

"Scholarly capacity" means any pedagogical, academic, artistic, educational or scholarly activity performed by a State official for the institution of higher education that employs or has appointed such State official.

...

19:61-6.4 Attendance at an event sponsored by an interested party

(a) (No change.)

(b) Except as provided in (c) or (d) below:

1.-2. (No change.)

(c) (No change.)

(d) The requirements and prohibitions in (a) and (b) above shall not apply to a State official, acting in a scholarly capacity, attending, participating in, or making presentations at colloquia, seminars, conferences, or similar scholarly gatherings, so long as the State official notifies his or her department head of his or her attendance, participation or presentation. The direct or indirect benefit provided to the State official, acting in a scholarly capacity, may include the acceptance of reasonable travel and subsistence expenses and allowable entertainment expenses. The State official, acting in a scholarly capacity, may accept an honorarium, academic prize or other thing of value if the honorarium, academic prize or other thing of value reflects payment for orally sharing his or her intellectual property.

(e) If an actual conflict or the appearance of a conflict could arise under the application of (c) or (d) above, (b) above shall govern.

Recodify existing (e) and (f) as (f) and (g) (No change in text.)

(h) Except as provided in (d) above, the State official shall not accept an honorarium or fee for a speech or presentation at an event covered by this section.

Examples

...

A professor from a State law school, who has published extensively in the field of Constitutional Law, has been invited, by the publisher of legal textbooks, to attend a symposium and make a presentation on current trends in Constitutional Law. The publisher has offered to waive the costs of the symposium and pay for the professor's transportation, hotel, and meals during the symposium. In addition, each speaker will receive a \$ 1,000 honorarium. At the conclusion of the symposium, the publisher has offered to send the professor on a golf retreat to thank the professor for her participation in the symposium. Because the symposium is part of the professor's scholarly activities, she would be attending in her scholarly capacity and the honorarium reflects a payment for an oral presentation of her own intellectual property, the professor may accept the reasonable travel and subsistence expenses and the honorarium. However, the professor may not accept the golf retreat because the retreat is not an allowable entertainment expense.

19:61-6.5 Attendance at an event sponsored by an entity other than an interested party

(a) (No change.)

(b) The State official, acting in a scholarly capacity, may attend, participate in, or make presentations at colloquia, seminars, conferences, or similar scholarly gatherings, so long as the State official notifies his or her department head of his or her attendance, participation or presentation, in which case (a) above need not apply. The direct or indirect benefit provided to the State official, acting in a scholarly capacity, may include the acceptance of reasonable travel and subsistence expenses and allowable entertainment expenses. The State official, acting in a scholarly capacity, may accept an honorarium, academic prize or other thing of value if the honorarium, academic prize or other thing of value reflects payment for orally sharing his or her intellectual property.

(c) The State may pay the reasonable expenses of the State official associated with attending the event or may permit the State official to accept direct or indirect benefits. Direct or indirect benefits may include the following:

1. (No change.)

2. Reimbursement or payment of actual and reasonable expenditures for travel or subsistence outside New Jersey, not to exceed \$ 500.00 per trip, if expenditures for travel or subsistence and entertainment expenses are not paid for by the State of New Jersey. The \$ 500.00 per trip limitation shall not apply to State officials acting in a scholarly capacity or if the reimbursement or payment is made by:

i.-iii. (No change.)

(d) An interested party shall not provide a direct or indirect benefit to the State official in order to facilitate his or her attendance unless in accordance with (b) above.

(e) A State official making a speech or presentation at the event shall not accept an honorarium or fee from the sponsor unless in accordance with (b) above.

(f) (No change in text.)

Examples

...

A history professor at a State college has been asked by his department head to attend the dedication of a restored historic house museum and speak about the importance of maintaining New Jersey's historic resources. The professor has produced several films about New Jersey historic houses. The historic association has offered to provide the professor with a \$ 300.00 honorarium for his attendance and speech. The professor may attend the event and accept the honorarium since the professor is attending in his scholarly capacity, the event relates to his scholarly activities and the honorarium is essentially a payment for his oral presentation of his own intellectual property.

19:61-6.7 Compensation for published work(s)

(a) Except as provided in (e) below, a State official shall not accept compensation for published work(s) created as part of his or her official duties on State time utilizing State resources, but may accept compensation for published works not created as part of his or her official duties.

(b)-(c) (No change.)

(d) Except as provided in (e) below, the State official shall not use his or her official title in any way in soliciting compensation.

(e) A State official acting in a scholarly capacity may accept compensation for published works created as part of his or her official duties on State time utilizing State resources.

(f) A State official acting in a scholarly capacity may require the use of his or her own published work in a course that he or she teaches. However, monies resulting from such use must be donated to the college or university or other non-profit institution.

(g) A State official acting in a scholarly capacity may accept compensation for the use of his or her published work in a course that he or she does not teach, provided that he or she was not involved in the selection of the published work for use in that course.

Examples

(No change.)

19:61-6.9 Solicitation or acceptance of a thing of value

(a) Except in accordance with the Commission's rules on attendance at events, N.J.A.C. 19:61-6.4 and 6.5 and compensation for published works, N.J.A.C. 19:61-6.7, no State official, whether by himself or herself or through his or her spouse, or member of his or her family or through any partner or associate shall solicit or accept, directly or indirectly, any thing of value that is related in any way to the State official's public duties.

(b)-(e) (No change.)

List below all compensation excluding salary from your employing institution, you received, from any source, in connection with work performed in your scholarly capacity. Identify each source.

Do you assign educational materials authored by you as a course requirement?

Yes ___ No ___

Do you receive royalties from those educational materials?

Yes _____ No _____