



STATE OF CONNECTICUT
STATE ETHICS COMMISSION

ADVISORY OPINION NO. 90-22

Connecticut General Statutes §1-83(b)(2) Disclosure
Of Fees And Honorariums

Michael F. Hogan, Ph.D., the Commissioner of the Department of Mental Health, has asked the Ethics Commission to issue a clarification of Ethics Commission Advisory Opinion No. 90-3.

In Advisory Opinion No. 90-3 the Commission advised the Secretary of State that, pursuant to Connecticut General Statutes §1-83(b)(2), she must disclose as an honorarium any fee or travel expenses paid to her by the National Association of Secretaries of State for speeches given in her role as President of the Association.

Conn. Gen. Stat. §1-83(b)(2) applies to approximately five hundred senior state officials and employees who are required by statute or designated by the Governor to file Annual Statements of Financial Interests with the Ethics Commission. Subdivision 1-83(b)(2) states:

[E]very individual subject to this section shall file a disclosure with the commission of any fee or honorarium in the amount of one hundred dollars or more, which he receives in his capacity as a public official or state employee. Such disclosure shall be made within thirty days after receipt of such fee or honorarium. As used in this subsection, the terms "fee" and "honorarium" mean (A) a payment for an item or service of material value, (B) payment for the travel, accommodations or meal expenses of the individual or the individual's spouse, children or guests or (C) payment for the entertainment of the individual or the individual's spouse, children or guests, which is received

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for (i) attendance at a meeting or at a function of an organization, (ii) the delivery of an address to a meeting or an organization or (iii) the publication of an article.

Commissioner Hogan has asked whether the receipt of travel expenses by a public official, absent a traditional fee or other payment, necessitates the filing of a §1-83 disclosure statement. If so, the Commissioner further asks whether the provision in question distinguishes between travel expenses paid by lobbyists or contractors as opposed to travel expenses paid by another governmental entity or a not-for-profit organization. In posing his second question, Commissioner Hogan notes that expense payments from another governmental entity (e.g., National Institute for Mental Health) or a not-for-profit organization (e.g., National Advisory Council for the Center for Community Change) often allow him to participate, at no cost to the State, in conferences and other events which benefit the Department of Mental Health and the State of Connecticut.

The statutory provision in question is explicit in requiring the disclosure of payment for "...the travel, accomodations or meal expenses of the individual...", even absent any additional remuneration, whenever the total received is one hundred dollars or more. Conn. Gen. Stat. §1-83(b)(2)(B). The rationale behind this requirement being that the payment of expenses to attend a conference or give a speech at, for example, an exclusive resort is, in itself, a benefit which should be disclosed.

In mandating the disclosure of travel expenses as a fee or honorarium, §1-83(b)(2) makes no distinction between public and private or profit and not-for-profit funding sources, and allows no exemption for events which facilitate Departmental business or otherwise benefit the State. The unambiguous statutory language is also supported by the legislative history. Specifically, in the House floor debate, it was made clear that the proposed amendment to §1-83(b)(2) would require the reporting of expense payments received by a legislator for attendance at or participation in various events as President of the National Conference of State Legislators. 32 H.R. Proc., pt. 2, 1989 Sess., pp. 3742-3744.

The Ethics Commission recognizes the validity of the distinction Commissioner Hogan has drawn. In fact, for the vast majority of state employees not subject to the §1-83(b) filing requirements and, therefore, not permitted to accept fees or honorariums, the Commission has established a "gift to the

State" exception. This exception to the Code's general prohibition on use of public position for personal gain, Conn. Gen. Stat. §1-84(c), allows state employees to accept fee waivers and expense payments to attend conferences and other events upon certification from the employee's agency that the event will facilitate state business or otherwise benefit the State. Ethics Commission Advisory Opinion No. 90-19, ____ Conn. L.J. No. ____, p. ____ (____).

The Ethics Commission cannot, however, ignore the explicit statutory language of, or legislative history behind, §1-83(b)(2). Under the circumstances, the Commission does not have the discretionary authority to interpret a "gift to the State" exception into the §1-83(b)(2) definition of "fee" or "honorarium". Any such change must emanate from the General Assembly.

By order of the Commission,

Rabbi Michael Menitoff

Rabbi Michael Menitoff
Chairperson

Dated 7 - 9 - 90

