

LEXSTAT 39 NJR 4951A

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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.

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 nonprofit 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.)

(f) Notwithstanding (a) through (e) above, a 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 or verbally]* sharing his or her intellectual property ***orally or in writing***, acting in an editorial capacity for a journal or other publication or reviewing journal or book manuscripts, or grants or contract proposals, or participating in accreditation or other peer review activities.

19:61-6.10 Annual disclosure

(a) A State official serving in a scholarly capacity shall disclose annually to his or her department head any travel, subsistence or entertainment expenses, honoraria, academic prizes, or other things of value related to activities performed in his or her scholarly capacity received in the prior calendar year. The sources of all such expenses and things of value shall be identified.

(b) A State official serving in a scholarly capacity shall use the following form for his or her annual disclosure. The completed forms shall be submitted to his or her department head, and the form shall be kept on file for a period of five years. Each State college and university shall forward copies of the forms to the Commission annually, at the end of each January.

College and University Disclosure Form

Date of Statement _____ For Calendar Year _____
First Name _____
Last Name _____
Institution _____
Department _____
Position _____
Daytime Telephone _____
Email Address _____

List below any benefit you received, from any source, including, but not limited to, travel, subsistence or entertainment expenses, honoraria, academic prizes, or other things of value related to activities performed in your scholarly capacity. Identify the source of each benefit received.

Type of Benefit	Amount of Benefit	Source
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

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 _____