

April 18, 2006

MEMORANDUM

To: All College Presidents
All Labor Designees

From: Frederick P. Schaffer *FPS*

Re: Honoraria and Travel Reimbursements

CUNY
EXECUTIVE VICE CHANCELLOR
535 EAST 80TH ST
NEW YORK, NY 10021
2006 APR 19 AM 11:57

This concerns all CUNY employees and their obligations for reporting Honoraria and Travel Reimbursements under the State Ethics Law. Please share this memo with all college personnel and staff.

I. Annual Reports

Annual reports of honoraria (all references to honoraria herein include travel reimbursements) for the April 1, 2005 to March 31, 2006 (form attached) must be filed and reviewed by the college president, or labor designee no later than May 15, 2006. The college must then file a compilation directly with the State Ethics Commission by June 1, 2006. Only those employees who actually receive honoraria must file the reports. The regulations on honoraria and travel reimbursements (see Sec. 930, copy attached) apply to all college employees.

II. Prohibited Honoraria

The Regulations of the State Ethics Commission prohibit the receipt of honoraria (including travel reimbursements) from individuals, companies, organizations, unions, vendors and contractors which negotiate with, do business with, or are interested in doing business with the University (or a college). The regulations, for example, prohibit vendor paid travel to view demonstrations of a vendor's products or services. These prohibitions also apply to college employees serving as board members and officers of related entities (e.g. auxiliary enterprise

boards, college associations, foundations, etc.) as part of their official duties or within the scope of their employment with the college. Employee travel reimbursements for such purposes, however, may be made by the University when appropriate. Instructional staff employees with appointments in academic departments, however, are exempt within their discipline from the regulations on honoraria.

III. Prior Approvals

An employee may seek prior approval for the receipt of an honorarium (including travel reimbursements) from the college president. If granted, the request and approval must then also be forwarded to the State Ethics Commission. If an employee has doubts about the propriety of accepting an honorarium, the employee should consult with the college's ethics officer.

IV. Additional Information

A copy of the complete State Ethics Law and Regulations are available upon request from the college's ethics officer (labor designee) or the State Ethics Commission (1-800-87 ETHICS), or online at www.dos.state.ny.us/ethc/ethics.html. Ask for a copy of the "new" white, October 2005, ethics booklet. Attached also find for 2006, "Commonly asked Questions Concerning Honoraria" from the State Ethics Commission. Please note that honoraria must also be reported in question 13 on the annual Financial Disclosure Statement which is also due by May 15, 2006 (for administrative staff).

Enclosures

C: Chancellor Goldstein
Chancellor's Cabinet
Ethics Officers
Jane Sovern
Jeanette O. Woloszyn

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HONORARIA FORM

THE CITY UNIVERSITY OF NEW YORK

Annual Report
of
Receipt of Honoraria

April 1, 2005 - March 31, 2006
Year

Employee's Name

Payroll Title/ Functional Title

College

Sources of
Honorarium

Amount of
Honorarium

Date of
Receipt

Nature of
Service

Place Service
Performed

LIMITATIONS ON THE RECEIPT OF
HONORARIA AND
REIMBURSEMENTS FOR TRAVEL
EXPENSES

New York State Ethics Commission, 39 Columbia Street, Albany, N.Y. 12207

19 NYCRR Part 930

Limitations on the Receipt of Honoraria And Reimbursement for Travel Expenses

LIMITATIONS ON THE RECEIPT OF HONORARIA AND REIMBURSEMENT FOR TRAVEL EXPENSES

Sec.

930.1 Applicability.

930.2 Definitions.

930.3 Conditions under which an honorarium may be accepted.

930.4 Conditions for limited acceptance by the State of a payment in lieu of an honorarium.

930.5 Procedure to seek approval of and report honoraria.

930.6 Conditions under which reimbursement for travel expenses related to the covered individual's official duties may be accepted.

930.7 Exemption.

930.1 Applicability.

This part shall apply to the following:

- (a) the four state-wide elected officials; and
- (b) State officers or employees.

930.2 Definitions.

(a) *Approving authority* shall mean the head of a State agency or appointing authority, as appropriate, or his or her designee for State officers or employees, and, in the case of the four statewide elected officials and the heads of State agencies, shall mean the State Ethics Commission, which may delegate the approval authority required by these regulations to its executive director.

(b) *Covered individuals* shall mean the four statewide elected officials and State officers or employees, as defined in subdivision (f) of this section.

(c) *Honorarium* shall mean:

(1) a payment, fee or other compensation to a covered individual for services rendered by a covered individual not related to the covered individual's official duties, which payment, fee or other compensation is made as a gratuity, or as an award or honor; e.g., for delivering a speech, writing or authoring an article or publication or attending a meeting or conference; and

(2) a payment, whether to a lodging site or a provider of transportation, for travel expenses made to or on behalf of an individual, or reimbursement made to the covered individual for travel expenses incurred, for such services rendered by a covered individual not related to the covered individual's official duties. (For travel reimbursement related to a covered individual's official duties, see section 930.6 of this Part.)

(3) *Honorarium* shall not mean:

- (i) a travel payment in the form of a gift from a relative; or
- (ii) a payment in lieu of an honorarium made to the State or a travel payment provided by nongovernmental sources for activities related to a covered individual's official duties; or
- (iii) compensation in the nature of salary, wages or fees for services for non-State related

work performed or travel payment provided by non-governmental sources for activities related to a covered individual's appropriate or authorized outside employment; or

(iv) a payment, fee, travel payment or other compensation provided to a covered individual who provides services for or acts on behalf of an employee organization certified or recognized under Article 14 of the Civil Service Law to represent such covered individual.

(d) *Ministerial matter* shall mean an administrative act carried out in a prescribed manner not allowing for substantial personal discretion.

(e) *State agency* shall mean any State department, or board, bureau, division, commission, council or State agency, any public benefit corporation, public authority or commission at least one of whose members is appointed by the Governor, or the State University of New York or the City University of New York, including all their constituent units except community colleges and the independent institutions operating statutory or contract colleges on behalf of the State.

(f) *State officer or employee* shall mean:

(1) heads of State departments and their deputies and assistants, other than members of the Board of Regents of the University of the State of New York who receive no compensation or are compensated on a per diem basis;

(2) officers and employees of statewide elected officials;

(3) officers and employees of State departments, boards, bureaus, divisions, commissions, councils or other state agencies other than officers of such boards, commissions or councils who receive no compensation or are compensated on a per diem basis; and

(4) members or directors of public authorities, other than multistate authorities, public benefit corporations and commissions at least one of whose members is appointed by the Governor, who receive compensation on other than a per diem basis, and employees of such authorities, corporations and commissions.

(g) *State Ethics Commission* shall mean the State Ethics Commission created by §94 of the Executive Law.

930.3 Conditions under which an honorarium may be accepted.

(a) A covered individual may accept an honorarium, if:

(1) the honorarium is not to be received for services rendered for or on behalf of an individual who, or on behalf of an organization, or any of its officers or members of the board of directors, which:

(i) is regulated by, or regularly negotiates with, appears before in other than in a ministerial matter, does business with or has contracts with either the State agency employing the covered individual or the covered individual in his or her official capacity on behalf of the agency; or

(ii) attempts to lobby or to influence action or positions on legislation or rules, regulations or rate making before either the State agency employing the covered individual or the covered individual in his or her official capacity on behalf of the State agency; or

(iii) is involved in litigation, adverse to the State, with the State agency with which the covered individual is employed or affiliated, or with the covered individual in his or her official capacity, and no final order has been issued; or

(iv) has received or applied for funds from the State agency employing the covered individual at any time during the previous calendar year, up to and including the date of the proposed receipt of the honorarium; or/and

(2) the service for which an honorarium is offered is not part of the duties of the position in which the covered individual serves; and

(3) State personnel, equipment and time (including that of the covered individual) will not be used to prepare for delivery of a speech or to render a service for which an honorarium is to be received; and

(4) the State agency with which the covered individual is employed or affiliated does not pay

the travel expenses of the covered individual, and the sole purpose of the travel was to perform the service for which an honorarium was offered; and

(5) the service for which an honorarium is offered is not performed during the covered individual's State work day or, if the service is to be performed during the covered individual's State work day, he or she must charge accrued leave (other than sick leave) to perform such service.

(b) A covered individual may accept an honorarium if such honorarium is provided by an organization whose sole purpose is religious, social (e.g. athletic groups, alumni or school associations, interest clubs), or self-help, and none of the conditions precluding acceptance, described in subdivision (a) of this section exist.

930.4 Conditions for limited acceptance by the State of a payment in lieu of an honorarium.

An approving authority may approve a payment in lieu of an honorarium, and the use of State equipment, personnel and time to prepare a speech or publication or render a service, provided that the payment in lieu of an honorarium will be made by the granting organization or individual directly to the general fund of the State or to such fund as is appropriate for a public authority, public benefit corporation or commission not funded through State general fund appropriations, and the service for which an honorarium was offered is related to the covered individual's official duties or responsibilities.

930.5 Procedure to seek approval of and report honoraria.

(a) State officers and employees may submit a written request for approval by the approving authority for the receipt of an honorarium, and, upon approval of the receipt of an honorarium in accordance with these rules, the approving authority shall file such determination with the State Ethics Commission. The four statewide elected officials and the heads of State agencies shall submit a written request for approval by the State Ethics Commission for the receipt of an honorarium.

(b) In circumstances where the approving authority has approved the receipt of an honorarium, a covered individual may use either State vehicles (or other transportation) or personnel where such have been specifically assigned for use to a covered individual during his or her employment and such use is authorized or provided to such official, officer or employee as part of his or her employment or for his or her security.

(c) (1) On July 1, 1990, and on each succeeding April 1, a covered individual, who received an honorarium of any amount during the year previous to the date of reporting, must file an annual written report with his or her approving authority. The annual written report shall contain a statement of with respect to each honorarium received by the covered individual:

- (i) the source of the honorarium,
- (ii) the date of receipt and the place where the service was performed,
- (iii) the amount of the honorarium and the nature of the service for which the honorarium was received.

(2) A covered individual will not be required to file such an annual written report if he or she received prior written approval from the appropriate approving authority for the receipt of each honorarium received during such year.

(d) Each approving authority shall file a compilation of copies of the written reports submitted by covered individuals pursuant to paragraph (c)(1) of this section, with the State Ethics Commission on or before October 1, 1990, and each succeeding June 1.

(e) Any honorarium or honoraria from each source which totals in excess of \$1,000, received by a covered individual required to file a financial disclosure statement pursuant to §73-a of the Public Officers Law, must be reported in that disclosure statement regardless of whether approval for such receipt is required under these rules.

930.6 Conditions under which reimbursement for travel expenses related to the covered

individual's official duties may be accepted.

(a) Covered individuals may accept reimbursement for travel expenses from the federal government, other State or municipal government entities, non-State agency organizations or individuals for travel related to the covered individual's official duties under the following conditions:

(1) the covered individual files a written request with the appropriate approving authority within a reasonable period of time in advance of the event or activity for approval to receive travel reimbursement in accordance with these rules;

(2) the appearance, presence or participation of the covered individual is for a State agency purpose and would benefit the State agency involved; or the appearance, presence or participation of the covered individual is at a meeting, seminar, or conference of a not-for-profit professional organization and will result in increased knowledge in the covered individual's subject matter area which would benefit the state agency involved;

(3) the approving authority approves such travel reimbursement pursuant to these rules;

(4) the travel expenses, if not reimbursed, could be paid by the State agency according to its travel reimbursement procedure;

(5) the expenses reimbursed on behalf of the covered individual would be at a rate not greater than the State agency would reimburse the covered individual under its travel rules or regulations unless otherwise specifically approved by the approving authority;

(6) the reimbursed expenses for food and lodging at the site to which the travel occurs is provided for no longer than the covered individual is reasonably required to be present at such event and is only for such covered individual; and

(7) the reimbursed expenses are not received from or on behalf an individual who, or on behalf of an organization, or any of its officers or members of the board of directors, other than any governmental entity, which:

(i) is regulated by, regularly negotiates with, appears before on other than a ministerial matter, does business with or has contracts with either the State agency employing the covered individual or the covered individual in his or her official capacity on behalf of the State agency; or

(ii) attempts to lobby or to influence action or positions on legislation or action on rules, regulations or rate making before either the State agency employing the covered individual or the covered individual in his or her official capacity on behalf of the State agency; or

(iii) is involved in litigation, adverse to the State, with the State agency with which the covered individual is employed or affiliated, or the covered individual in his or her official capacity, and no final order has been issued; or

(iv) has received or applied for funds from the state agency employing the covered individual at any time during the previous calendar year, up to and including the date of the proposed receipt of the honorarium.

(b) Any reimbursement for travel expenses from each source which totals in excess of \$1,000, received by a covered individual required to file a financial disclosure statement pursuant to §73-a of the Public Officers Law, must be reported in that disclosure statement, regardless of whether approval for such receipt is required under these rules.

(c) Nothing herein shall preclude the use of either state vehicles (or other transportation) or personnel where such have been specifically assigned for use to a covered individual and such use is authorized or provided to such official, officer or employee as part of his or her employment or for his or her security.

930.7 Exemption.

(a) Academic employees of the State University and City University of New York including all their constituent units who are covered by §73 of the Public Officers Law and employees serving in the titles of "Research Scientist", "Cancer Research Scientist", and "Research Physician" who also serve in academic status are exempt from the limitations on the receipt of honoraria and

reimbursement for travel expenses to the extent that the publication of books and articles, delivery of speeches or attending meetings or conferences are within the discipline of the individual involved.

(b) Such academic employees who are also employed by a State agency other than the State University of New York or the City University of New York, in a title other than "Research Scientist", "Cancer Research Scientist", and "Research Physician" shall not be exempt from the limitations on the receipt of honoraria and reimbursement for travel expenses in their other capacity as State officers or employees.

COMMONLY ASKED
QUESTIONS CONCERNING
HONORARIA

New for 2006: Commonly Asked Questions Concerning Honoraria

1. Which of your employees are covered by the regulations?

All of your employees are covered irrespective of whether they have been designated as policymakers for the purpose of financial disclosure. See 930.2 (f). Even employees who are exempted from restrictions on honoraria (certain employees who also held academic positions) must still nonetheless report their honoraria.

2. How are employees to know about the honoraria reporting requirements?

Many State agencies send an annual notice to all employees reminding them of their obligation to seek approval of honoraria.

3. What is an honorarium?

An honorarium is generally a speaking fee or compensation received from writing an article, or reimbursement for travel expenses not related to official duties. [See 930.2 (c).] The key is that the service provided is not job related. In making this determination, the agency must consider whether it would make the employee available on State time to provide the service.

4. Who has the responsibility for approving honoraria?

Agency heads or their designees are authorized by the Commission's regulations to approve an employee's request to receive an honorarium. Agency heads must go to the Commission for honoraria approval.

5. What are the criteria for an agency to approve an employee's request to receive an honorarium?

- A. The honorarium must not be job related. For example, an employee who is responsible for responding to the public about certain aspects of the agency's regulations cannot accept an honorarium for giving a speech about the regulations.

- B. The source of an honorarium cannot be a disqualified source; these are entities or individuals who are regulated by, negotiate with, do business or have contracts with, appear before, lobby, in litigation with or applied for funds from your agency. [See 930.3 (a)(1)(i)-(iv).] Moreover, a disqualified source can not direct a third party to provide an employee an honorarium.

6. What should you do if you are unsure of whether to approve an honorarium?

You should feel free to contact the Commission for assistance.

7. What is the reporting year?

April 1, 2005 - April 1, 2006.

8. What happens if you have disapproved an employee's request to receive honoraria?

The report submitted to the Commission captures both honoraria approved and disapproved by the agency.

9. Are there any other reporting requirements?

For those employees who have been designated as policy-makers or who earn in excess of the income threshold and are required to complete the financial disclosure statement, an honorarium received in excess of \$1,000 must be reported on Question 13.