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LOS ANGELES UNIFIED SCHOOL DISTRICT
Office of the General Counsel

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SUBJECT: BULLETIN NO. L-15
PROVIDE DISTRICT STAFF WITH INFORMATION
CONCERNING RECEIVING HONORARIA

DATE: August 1, 2001

OFFICE: Office of the General Counsel

APPROVED: HAROLD J. KWALWASSER, General Counsel

For further assistance, call Peter S. Bowen, Ethics Officer, at (213) 928-0858.

I. PURPOSE

This memorandum provides staff with basic information about state laws and regulations concerning honoraria. The regulations can be complex and there are exceptions to some of the items below. Please consult the ethics officer for additional information or advice concerning specific situations.

II. BACKGROUND

The Political Reform Act and the Fair Political Practices Commission regulations prohibit elected officials from receiving honoraria payments. District employees designated in the LAUSD conflict of interest code are prohibited from receiving honoraria from any source if they are required to report that source of income on their statement of economic interest.

Honoraria include payments or consideration for any speech given (including public addresses, orations, oral presentations, panel participation, seminars and debates), articles published or attendance at a private conference, convention, meeting, social event, meal or gathering.

There are a number of exceptions to the general prohibition on honoraria. The following are not prohibited and do not have to be reported:

- Payments from sources that, according to the individual's reporting categories in the LAUS conflict of interest code, the individual is not required to report.
- Honorarium delivered to the district's general fund within 30 days and for which no income tax deduction was claimed.

- A payment made directly to a tax-exempt non-profit organization. The donation cannot be made a condition of the event or article; the individual may not be identified to the tax-exempt organization; the donation cannot be claimed as a tax deduction; and it cannot financially benefit the individual or his/her family.
- A payment received from a close relative as long as they are not acting as an intermediary for others.
- Informational material that assists the individual in their professional duties including books, reports, pamphlets, calendars, scale models, videotapes, tours, inspections, etc.
- Campaign contributions.
- Personalized plaques or trophies with an individual value less than \$100 (State regulations permit values to \$250, but the LAUSD code of ethics limit is \$100).
- Free admission, refreshment and meals directly associated with the event
- Lodging and subsistence directly associated with the event (usually only for the day of the event).
- Travel payments for transportation within California directly associated with the event.
- Travel payments for transportation within the United States provided by any federal, state or local government agency.
- Some travel payments outside the United States (contact the ethics officer).

Other payments are not considered honoraria but may be reportable as earned income including:

- Payments for artistic performances or the publication of books, plays or screenplays.
- Earned income for personal services if those services are customarily provided as part of a bona-fide business, trade or profession. The business must meet certain criteria (i.e., business records, licensure, teaching certificate) to qualify and speaking cannot be the predominant activity of the business.

How does one distinguish between accepting honoraria, which is prohibited, and accepting fees for personal or professional services, which is permitted? An example may help.

Many senior staff members are required by their conflict of interest category to report income from all sources. These senior staff members, therefore, are prohibited from accepting payments from a company, organization or private university for giving a speech, or participating on a panel or in a seminar. On the other hand, these same staff members would be permitted (assuming certification or the existence of a bona-fide business) to accept payments from those same organizations for providing bona-fide business services like teaching a course. In other words, a senior staff member may be allowed to receive payments for teaching a course, but may be prohibited from receiving payments for giving a speech or participating on a panel that talks about teaching.

How many seminars must be presented to an audience to change the status of the event from a speaking engagement (honoraria prohibited) to a course (payments acceptable)? The Fair Political Practices Commission advises that the question must be considered on a case-by-case basis. Please contact the ethics officer for more information.

III. GENERAL EXAMPLES

Example 1. The food services branch director is offered \$500 to speak to a conference of bus transportation executives. Can the branch director accept the honoraria?

Yes. The branch directors are listed in category four of the LAUSD conflict of interest code. They are only required to report income from business entities that sell the kinds of products or services typically used by LAUSD and associated with their job assignment. The food services branch director is required to report income from any business providing food services. Because this is a bus transportation conference (not food services), it does not fall in the food services director's reporting category. The food services branch director is not required to report income from this source and, therefore, may accept the honoraria.

Example 2. A local superintendent is offered \$750 to speak to a nurses' association. Can the superintendent accept the honoraria?

No. Local superintendents are listed in categories one, two and three of the LAUSD conflict of interest code. The local superintendent is required to report income from all sources--including nurses' associations--and, therefore, may not accept the honoraria.

Example 3. A local superintendent is offered \$5,000 to teach a course at a local state college. Can the local superintendent accept the offer?

Yes, for two reasons either of which is sufficient. First, the local superintendent is not required to report income from federal, state or local government agencies. Second, assuming that the local superintendent is certificated, the course is considered business services as part of a bona-fide profession--teaching. Even if it was a private college, the local superintendent would be allowed to accept the payment as long as it was clear that it was for an actual course and not for a single speaking engagement, seminar, panel, etc.

Example 4. A facilities branch director is asked to travel to San Francisco on a Monday to speak to a building contractors' conference on Tuesday with a return to Los Angeles Wednesday morning. The conference will pay \$500 for the speech and pick-up the cost of the hotel room and flight. They also want to give the director a personalized plaque and a bag of golf clubs. What can the facilities branch director accept?

The facilities branch director can let the conference pay for the flight and hotel room. The director can accept refreshments and meals for the day of the conference. The director may accept the plaque (assuming the value is less than \$100) but may not accept the golf clubs (assuming the value is greater than \$100). Personalized plaques under \$250 in value are exempt from the state gifts regulation, but the LAUSD code of ethics prohibits accepting gifts cumulatively valued at \$100 or more from any single source in a year.

Finally, the director may not accept the \$500 for speaking. Under the LAUSD conflict of interest code, the facilities branch director (category four) is required to report income from business entities that provide products or services of a type utilized by LAUSD and related to their job assignment--facilities. Building contractor services fall into that category; the income would have to be reported and, therefore, the facilities branch director is prohibited from accepting the honoraria.

Contact. For additional information, contact the ethics officer at 213-625-6703. The Political Reform Act and Fair Political Practices Commission regulations can be found at www.fppc.ca.gov.

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