

INFORMATIONAL MEMORANDUM
Speaking Fees and Related Travel Expenses

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Applies to: All K-State Employees

This memorandum is for informational purposes. Our office has been asked the questions below, and has given the responses which follow:

Q1: May a K-State faculty member or other employee accept a speaking fee (or “honorarium” as it is generally referred to in academe) from a source outside K-State?

A: YES - faculty and other employees may accept speaking fees, but only if:

(1) the talk is given as an outside activity (*i.e.*, not as part of duties that he or she is obligated to perform as part of his or her official duties as a state employee, and appropriately approved and reported as necessary under the K-State conflict of interest and commitment of time policy); AND

(2) the primary reason the employee is invited to give the speech is not because of the employee’s position in state government.

This question is governed by State of Kansas law, including the rules concerning gifts, meals, entertainment and travel (K.S.A. 46-237a), the rule governing honoraria (K.S.A. 46-237(f)), and the rule restricting compensation (K.S.A. 46-235), and by K-State’s conflict of interest and time commitment policy.

The talk must be given as an outside activity because the State Governmental Ethics Act provides that “[n]o state officer or employee shall accept compensation for performance of official duties, other than that to which such person is entitled for such performance.” K.S.A. 46-235. That has been interpreted to mean that state employees may not receive additional compensation from sources outside their employing agency for performing their official state duties.

In addition, under the Act “[n]o state officer or employee shall accept any payment of honoraria for any speaking engagement,” with certain limited exceptions not applicable to full-time K-State employees. K.S.A. 46-237(f). The Kansas Governmental Ethics Commission has indicated that if the primary reason a state employee is invited to give a speech is because of his or her position in state government, the fee is an “honorarium” under the Act and may not be accepted. Factors to be considered in determining the primary purpose are set forth in Commission Opinion No. 1991-39. On the other hand, if the primary reason an employee is invited to give the speech is not because of the employee’s position in state government, but

rather because of the employee's expertise or knowledge, Commission opinions indicate that the speaking fee is not an "honorarium" under the Act and may be accepted. See, e.g., Opinion Nos. 1991-41 and 1993-2.

K-State employees must bear in mind that performing outside work for compensation is governed by K-State's conflict of interest and time commitment policy, which requires advance approval and/or subsequent reporting of external personal professional activities, with limited exceptions. Employees must obtain prior approval of all such activities.

External personal professional activities of K-State employees are regulated under the Board of Regents and Kansas State University policies on conflict of interest and time commitment, which may be found at: <http://www.k-state.edu/academicpersonnel/fhbook/fhxs.html>

Q2: May a K-State faculty member or employee attend a meeting or conference and accept a complimentary registration fee and travel expenses from the hosting organization or from any other outside entity?

A: YES - but only in limited circumstances.

The State Governmental Ethics Act provides, at K.S.A. 46-237a:

(d) No person subject to the provisions of this section [which includes all K-State employees] shall solicit or accept free or special discount travel or related expenses from a source outside state government, except:

(1) When it is obvious to the person accepting the same that the free or special discount travel and related expenses are not being provided because of the person's official position; OR

(2) when the person's presence at a meeting, seminar or event serves a legitimate state purpose or interest and the person's agency authorizes or would authorize payment for such travel and expenses.

Similarly, the Act provides that a state employee may accept anything of value received by the employee on behalf of the state that inures to the benefit of the state or that becomes the property of the state.

Therefore, if the employee's department would benefit from the employee attending the meeting and wants to send the employee to the meeting on behalf of the department, the hosting organization or other outside entity can pay the employee's **registration fee and travel-related expenses such as airfare and lodging**. This is because the department/state, and not the employee personally, is the one who benefits.

Meals and entertainment are treated differently from other travel-related costs under the statute, and cannot be accepted unless other exceptions apply (see below). If no such exceptions apply, the employee may still participate in the meals and recreation, but must pay for them personally.

The only meals that can be accepted are:

- (1) Meals, the provision of which is motivated by a personal or family relationship or provided at events that are widely attended. An occasion is "widely attended" when it is obvious to the person accepting the meal that the reason for providing the meal is not a pretext for exclusive or nearly exclusive access to the person;
- (2) meals provided at public events in which the person is attending in an official capacity;
- (3) meals provided to a person subject to this act when it is obvious such meals are not being provided because of the person's official position;
- (4) food such as soft drinks, coffee or snack foods not offered as part of a meal;
- (5) any meal the value of which is \$25 or less;
- (6) meals provided to a person when the person's presence at the event or meeting at which the meal is provided serves a legitimate state purpose or interest and the agency of which such person is an officer or employee authorizes such person's attendance at such event or meeting[.]

The rule for entertainment is:

No person subject to the provisions of this section [which includes all K-State employees] shall solicit or accept free or special discount tickets or access to entertainment or sporting events or activities such as plays, concerts, games, golf, exclusive swimming, hunting or fishing or other recreational activities when the free or special discount tickets or access are provided because of the person's official position. The provisions of this subsection shall not apply to persons whose official position requires or obliges them to be present at such events or activities.

This memorandum is for general informational purposes only and does not constitute legal advice. In the event a complaint is filed against a K-State employee under the State Governmental Ethics Act, our office cannot represent the employee in that matter. That is because the complaint is not against the University or someone acting on behalf of the University; rather, it is a personal ethics complaint, with personal liability exposure. Employees

are encouraged to seek legal counsel and representation from a private attorney in the event a complaint is filed against them.

Please feel free to contact my office to speak with an attorney if there are questions about this memorandum or if we can provide any additional information concerning any of the ethics rules applicable to K-State employees. See also <http://www.kansas.gov/ethics/>

To seek a formal opinion from the State Governmental Ethics Commission regarding a specific actual or hypothetical set of circumstances, please contact our office to discuss the appropriate procedure.