

**CAUTION:** The following advice may be based on a rule that has been revised since the opinion was first issued. Consequently, the analysis reflected in the opinion may be outdated.

**40 IAC 2-1-6(c) Honoraria**

An FSSA employee was hired to serve as a contract consultant to a federal child welfare program which she initially became involved in by virtue of her employment with the State. SEC found it was permissible for her to accept an honorarium for her involvement in these activities since they were not part of her current official duties, and she was participating in her capacity as an independent contractor, not a state employee.

**No. 03-I-2 Honoria, Compensation for Official Duties, Moonlighting**

Indiana State Ethics Commission

Official Advisory Opinion

May 8, 2003

**Background**

The State Ethics Commission received a request for an advisory opinion from a Director of a County Office, Division of Family and Children, Family and Social Services Administration (FSSA). In the summer of 2001, in addition to her duties as Director of a County Office, the employee was in charge of preparations for Indiana's first federal review to determine Indiana's compliance with federal rules and regulations in child welfare. In preparation for the review, the employee attended a similar review in another state. The State of Indiana paid for her expenses for this review.

The employee was later hired through the federal program as a contract consultant. She participated in other states' reviews on state time with the permission of the Director of the Division of Family and Children. She was paid her state salary and the federal program paid her expenses. She did not accept an honorarium. The employee would like to take leave or lost time to do these reviews and accept the federal honorarium. She would be doing reviews approximately 2-3 weeks per calendar year.

**Question**

May a state employee who participated in an activity that was once considered part of her state employment, engage in the activity using leave or lost time and accept an honorarium rather than her state salary for the work?

**Relevant Law**

**40 IAC 2-1-6(c) Honoraria**

(c) An employee shall not accept an honorarium for anything which may be considered part of the employee's official duties. A state employee may accept an honorarium or fee for activities not done in connection with the employee's official duties which are prepared on the employee's own time and without the use of state resources so long as the employee is not participating by reason of state employment, provided the employee shall not accept an honorarium from any person over whom the employee has decision making authority. A state employee may accept reimbursements for travel expenses incurred

when the employee is not being paid or reimbursed by the state and when an honorarium is not permitted.

**Conclusion**

An employee may accept an honorarium for activities that are not the employee's current official duties when the employee is participating as an independent contractor and not by reason of state employment, provided that the employee complies with all the requirements of 40 IAC 2-1-6(c).

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Timothy J. McClure, Director

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Date Signed