Withdrawn Effective January 15, 2026 to the extent the opinion prohibits public employees from accepting direct expense reimbursement for speaking engagements under Section 8-13-715

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SEC AO92-100 February 26, 1992

SUBJECT: UNIVERSITY PRESIDENT SERVING ON CORPORATE BOARDS

FACULTY MEMBERS SPEAKING TO PROFESSIONAL GROUPS

SUMMARY:

A public employee is not prohibited from serving on the board of directors of a private corporation, however, certain information is required to be disclosed on the employee's Statement of Economic Interests. Faculty members are prohibited from accepting anything of value other than a meal incidental to giving a speech or presentation given "in an official capacity", where the meal is provided to all other persons participating in the same event. The sponsoring group may reimburse the employee's agency for associated costs and the agency may reimburse the employee in accordance with agency travel reimbursement policies.

QUESTION:

The President of the Medical University of South Carolina questions whether he can continue to serve on private sector corporate boards and whether he can continue to accept director's fees from these corporations, some of whom may be lobbyists principals. He also questions guidance concerning faculty presenting speeches to professional organizations.

DISCUSSION:

This opinion is rendered in response to a letter dated January

22, 1992 requesting an opinion from the State Ethics Commission. The Commission's jurisdiction is limited to the applicability of the Ethics, Government Accountability, and Campaign Reform Act of 1991 (Act No. 248 of 1991; Section 8-13-100 et. seq., as amended, 1976 Code of Laws). This opinion does not supersede any other statutory or regulatory restrictions or procedures which may apply to this situation.

In Advisory Opinion SEC AO92-049, the State Ethics Commission advised:

There is no outright prohibition against a public official serving on the Board of Directors of a publicly held company or corporation. The public official, on his Statement of Economic Interests, is required to disclose anything of value received from a lobbyist's principal in accordance with Section 8-13-710 which provides:

> (A) Unless provided by subsection (B) and in addition to the requirements of Chapter 17 of Title 2, a public official or public employee required to file a statement of economic interests under Section 8-13-1110 who accepts anything of value from a lobbyist's principal must report the value of anything received on his statement of economic interests pursuant to Section 8-13-1120(a)(9).

Further, the filer must disclose on the Statement of Economic Interests in accordance with Section 8-13-1120(A)(8) any compensation received from a business which also has a contract with the governmental entity with which the public official serves.

> (A) A statement of economic interests filed pursuant to Section 8-13-1110 must be on forms prescribed by the State Ethics Commission and must contain full and complete information concerning:
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> (8) if a public official, public member, or public employee receives compensation from an individual or business which contracts with the governmental entity with which the public official, public member, or public employee serves or is employed, the public official, public member, or public employee must report the name and address of that individual or business and the amount of compensation paid to the public official, public member, or public employee by that individual or business;

As to acceptance of meals, travel, and lodging from a lobbyist's principal while attending director's meetings, the Commission advises that the Secretary of State's Office be contacted.

As to the second question, the State Ethics Commission advised in Advisory Opinion SEC AO92-057:

Section 8-13-715 provides in part as follows:

> A public official, public member, or public employee acting in an official capacity may not receive anything of value for speaking before the public or private group. Notwithstanding the limitations of Section 2-17-90, a public official or public member may receive payment or reimbursement for actual expenses incurred for a speaking engagement. The expenses must be reasonable and must be incurred in a reasonable time and manner in which to accomplish the purpose of the engagement. If the expenses are incurred out of state, the public official or public member incurring the expenses must receive prior written approval for the payment or reimbursement.

The Commission notes that the definition of "anything of value" includes an "honorarium or compensation for services". See Section 8-13-100(1)(a)(xii). The Commission does not believe acceptance of a meal received by a public employee, public official, or public member who is participating in an event where the same meal is served to all other persons attending or participating in the same event to be compensation for services or for speaking. Accordingly, a meal accepted under the above restrictions would not be violative of the Ethics Reform Act.

The Commission notes that "official capacity" is not defined in the Ethics Reform Act. For purposes of this Act, the Commission defines speaking engagements by public employees "in an official capacity" as those which (1) arise because of the position held by the employee, (2) involve matters which fall within the responsibility of the agency or employee, and (3) are services the agency would normally provide and for which the employee would be subject to expense reimbursement by the public employee's agency. Official capacity also means those duties that are attached to a public office or employment by the Constitution, statutes, executive order, promulgated rules and regulations, published job description or agency directive.

The State Ethics Commission notes for clarification that "speaking before a public or private group" encompasses not only a traditional breakfast or luncheon speech but also more extended participation as speaker at a workshop, seminar, or training session or as a panel participant.

Nothing in this opinion precludes a public employee from making presentations or speeches and receiving an honorarium on matters outside the employee's official capacity when (1) such are accomplished on the employee's own time, (2) no public materials or equipment are utilized, (3) it is not a part of the employee's position responsibilities, and (4) it does not interfere with the needs of the agency.

The Commission further advised that the group inviting the public employee could contract with the employee's agency to reimburse the employee's agency for the travel expenses. The employee could then be reimbursed by the agency in accordance with agency travel reimbursement policies and procedures.