

SUBJECT: OFF-DUTY EMPLOYMENT OF SCHOOL DISTRICT EMPLOYEE

SUMMARY:

A school district employee would not be prohibited from off-duty employment with the Inter-Industry Conference on Auto Collision Repair (I-CAR), provided such work is consistent with the off-duty employment guidelines.

QUESTION:

An auto collision repair technology instructor for Lexington School District Number 1 requests an advisory opinion concerning his off-duty employment as an instructor for the Inter-Industry Conference on Auto Collision Repair. I-CAR is a not-for-profit educational organization dedicated to improving the quality and efficiency of auto collision repair. Volunteer I-CAR committees annually schedule classes throughout the state. These classes are usually conducted at either the auto collision repair facility where the respective instructors are employed or at a technical education facility, with the approval of the appropriate school district. The I-CAR instructors are paid \$7.50 per student attending a 4-hour session. When required to teach out of town, the instructors are also reimbursed for travel, room and board.

DISCUSSION:

This opinion is rendered in response to a letter dated August 4, 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.

Section 8-13-700(A) provides in part as follows:

(A) No public official, public member, or public employee may knowingly use his official office, membership, or employment to obtain an economic interest for himself, a member of his immediate family, an individual with whom he is associated, or a business with which he is associated. This prohibition does not extend to the incidental use of public materials, personnel, or equipment, subject to or available for a public official's, public member's, or public employee's use which does not result in additional public expense.

In prior advisory opinions, the State Ethics Commission has advised that a public employee may engage in outside employment consistent with established guidelines:

(1)that no public materials or equipment are utilized, except as provided by Section

8-13-700(A), (2) such work is engaged in on the employee's own time, (3) the work does not interfere with the needs of the agency, and (4) the public position is not utilized to obtain or continue the employment.

In addition, the employee is reminded that, if required to take action as a public employee which will affect the economic interests of the Inter-Industry Conference on Auto Collision Repair, he must follow the procedures of Section 8-13-700(B) which provides in part as follows:

(B) No public official, public member, or public employee may make, participate in making, or in any way attempt to use his office, membership, or employment to influence a governmental decision in which he, a member of his immediate family, an individual with whom he is associated, or a business with which he is associated has an economic interest. A public official, public member, or public employee who, in the discharge of his official responsibilities, is required to take an action or make a decision which affects an economic interest of himself, a member of his immediate family, an individual with whom he is associated, or a business with which he is associated shall:

(1) prepare a written statement describing the matter requiring action or decisions and the nature of his potential conflict of interest with respect to the action or decision;

* * *

(3) if he is a public employee, he shall furnish a copy of the statement to his superior, if any, who shall assign the matter to another employee who does not have a potential conflict of interest. If he has no immediate superior, he shall take the action prescribed by the State Ethics Commission.

Based on the facts submitted, it appears that the public employee's off-duty employment activities are consistent with the above-quoted guidelines, and therefore, are not prohibited by the Ethics Reform Act.