Limitations on the Receipt of Honoraria And Reimbursement for Travel Expenses

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930.1 Applicability.

This part shall apply to the following:

(a) the four state-wide elected officials; and

(b) State officers or employees.

930.2 Definitions.

(a) Approving authority shall mean the head of a State agency or appointing authority, as appropriate, or his or her designee for State officers or employees, and, in the case of the four statewide elected officials and the heads of State agencies, shall mean the State Ethics Commission, which may delegate the approval authority required by these regulations to its executive director.

(b) Covered individuals shall mean the four statewide elected officials and State officers or employees, as defined in subdivision (f) of this section.

(c) Honorarium shall mean:

(1) a payment, fee or other compensation to a covered individual for services rendered by a covered individual not related to the covered individual's official duties, which payment, fee or other compensation is made as a gratuity, or as an award or honor; e.g., for delivering a speech, writing or authoring an article or publication or attending a meeting or conference; and

(2) a payment, whether to a lodging site or a provider of transportation, for travel expenses made to or on behalf of an individual, or reimbursement made to the covered individual for travel expenses incurred, for such services rendered by a covered individual not related to the covered individual's official duties. (For travel reimbursement related to a covered individual's official duties, see section 930.6 of this Part.)
(3) *Honorarium* shall not mean:

(i) a travel payment in the form of a gift from a relative; or

(ii) a payment in lieu of an honorarium made to the State or a travel payment provided by nongovernmental sources for activities related to a covered individual's official duties; or

(iii) compensation in the nature of salary, wages or fees for services for non-State related work performed or travel payment provided by non-governmental sources for activities related to a covered individual's appropriate or authorized outside employment; or

(iv) a payment, fee, travel payment or other compensation provided to a covered individual who provides services for or acts on behalf of an employee organization certified or recognized under Article 14 of the Civil Service Law to represent such covered individual.

(d) *Ministerial matter* shall mean an administrative act carried out in a prescribed manner not allowing for substantial personal discretion.

(e) *State agency* shall mean any State department, or board, bureau, division, commission, council or State agency, any public benefit corporation, public authority or commission at least one of whose members is appointed by the Governor, or the State University of New York or the City University of New York, including all their constituent units except community colleges and the independent institutions operating statutory or contract colleges on behalf of the State.

(f) *State officer or employee* shall mean:

(1) heads of State departments and their deputies and assistants, other than members of the Board of Regents of the University of the State of New York who receive no compensation or are compensated on a per diem basis;

(2) officers and employees of statewide elected officials;

(3) officers and employees of State departments, boards, bureaus, divisions, commissions, councils or other state agencies other than officers of such boards, commissions or councils who receive no compensation or are compensated on a per diem basis; and

(4) members or directors of public authorities, other than multistate authorities, public benefit corporations and commissions at least one of whose members is appointed by the Governor, who receive compensation on other than a per diem basis, and employees of such authorities, corporations and commissions.

(g) *State Ethics Commission* shall mean the State Ethics Commission created by §94 of the Executive Law.

930.3 Conditions under which an honorarium may be accepted.

(a) A covered individual may accept an honorarium, if:

(1) the honorarium is not to be received for services rendered for or on behalf of an individual who, or on behalf of an organization, or any of its officers or members of the board of directors, which:

(i) is regulated by, or regularly negotiates with, appears before in other than in a ministerial matter, does business with or has contracts with either the State agency employing the covered individual or the covered individual in his or her official capacity on behalf of the agency; or
(ii) attempts to lobby or to influence action or positions on legislation or rules, regulations or rate making before either the State agency employing the covered individual or the covered individual in his or her official capacity on behalf of the State agency; or

(iii) is involved in litigation, adverse to the State, with the State agency with which the covered individual is employed or affiliated, or with the covered individual in his or her official capacity, and no final order has been issued; or

(iv) has received or applied for funds from the State agency employing the covered individual at any time during the previous calendar year, up to and including the date of the proposed receipt of the honorarium; or/and

(2) the service for which an honorarium is offered is not part of the duties of the position in which the covered individual serves; and

(3) State personnel, equipment and time (including that of the covered individual) will not be used to prepare for delivery of a speech or to render a service for which an honorarium is to be received; and

(4) the State agency with which the covered individual is employed or affiliated does not pay the travel expenses of the covered individual, and the sole purpose of the travel was to perform the service for which an honorarium was offered; and

(5) the service for which an honorarium is offered is not performed during the covered individual's State work day or, if the service is to be performed during the covered individual's State work day, he or she must charge accrued leave (other than sick leave) to perform such service.

(b) A covered individual may accept an honorarium if such honorarium is provided by an organization whose sole purpose is religious, social (e.g. athletic groups, alumni or school associations, interest clubs), or self-help, and none of the conditions precluding acceptance, described in subdivision (a) of this section exist.

930.4 Conditions for limited acceptance by the State of a payment in lieu of an honorarium.

An approving authority may approve a payment in lieu of an honorarium, and the use of State equipment, personnel and time to prepare a speech or publication or render a service, provided that the payment in lieu of an honorarium will be made by the granting organization or individual directly to the general fund of the State or to such fund as is appropriate for a public authority, public benefit corporation or commission not funded through State general fund appropriations, and the service for which an honorarium was offered is related to the covered individual's official duties or responsibilities.

930.5 Procedure to seek approval of and report honoraria.

(a) State officers and employees may submit a written request for approval by the approving authority for the receipt of an honorarium, and, upon approval of the receipt of an honorarium in accordance with these rules, the approving authority shall file such determination with the State Ethics Commission. The four statewide elected officials and the heads of State agencies shall submit a written request for approval by the State Ethics Commission for the receipt of an honorarium.

(b) In circumstances where the approving authority has approved the receipt of an honorarium, a covered individual may use either State vehicles (or other transportation) or personnel where such have been specifically assigned for use to a covered individual during his or her employment and such use is authorized or provided to such official, officer or employee as part of his or her employment or for his or her security.
(c) (1) On July 1, 1990, and on each succeeding April 1, a covered individual, who received an honorarium of any amount during the year previous to the date of reporting, must file an annual written report with his or her approving authority. The annual written report shall contain a statement of with respect to each honorarium received by the covered individual:

(i) the source of the honorarium,

(ii) the date of receipt and the place where the service was performed,

(iii) the amount of the honorarium and the nature of the service for which the honorarium was received.

(2) A covered individual will not be required to file such an annual written report if he or she received prior written approval from the appropriate approving authority for the receipt of each honorarium received during such year.

(d) Each approving authority shall file a compilation of copies of the written reports submitted by covered individuals pursuant to paragraph (c)(1) of this section, with the State Ethics Commission on or before October 1, 1990, and each succeeding June 1.

(e) Any honorarium or honoraria from each source which totals in excess of $1,000, received by a covered individual required to file a financial disclosure statement pursuant to §73-a of the Public Officers Law, must be reported in that disclosure statement regardless of whether approval for such receipt is required under these rules.

930.6 Conditions under which reimbursement for travel expenses related to the covered individual's official duties may be accepted.

(a) Covered individuals may accept reimbursement for travel expenses from the federal government, other State or municipal government entities, non-State agency organizations or individuals for travel related to the covered individual's official duties under the following conditions:

(1) the covered individual files a written request with the appropriate approving authority within a reasonable period of time in advance of the event or activity for approval to receive travel reimbursement in accordance with these rules;

(2) the appearance, presence or participation of the covered individual is for a State agency purpose and would benefit the State agency involved; or the appearance, presence or participation of the covered individual is at a meeting, seminar, or conference of a not-for-profit professional organization and will result in increased knowledge in the covered individual's subject matter area which would benefit the state agency involved;

(3) the approving authority approves such travel reimbursement pursuant to these rules;

(4) the travel expenses, if not reimbursed, could be paid by the State agency according to its travel reimbursement procedure;

(5) the expenses reimbursed on behalf of the covered individual would be at a rate not greater than the State agency would reimburse the covered individual under its travel rules or regulations unless otherwise specifically approved by the approving authority;
(6) the reimbursed expenses for food and lodging at the site to which the travel occurs is provided for no longer than the covered individual is reasonably required to be present at such event and is only for such covered individual; and

(7) the reimbursed expenses are not received from or on behalf an individual who, or on behalf of an organization, or any of its officers or members of the board of directors, other than any governmental entity, which:

(i) is regulated by, regularly negotiates with, appears before on other than a ministerial matter, does business with or has contracts with either the State agency employing the covered individual or the covered individual in his or her official capacity on behalf of the State agency; or

(ii) attempts to lobby or to influence action or positions on legislation or action on rules, regulations or rate making before either the State agency employing the covered individual or the covered individual in his or her official capacity on behalf of the State agency; or

(iii) is involved in litigation, adverse to the State, with the State agency with which the covered individual is employed or affiliated, or the covered individual in his or her official capacity, and no final order has been issued; or

(iv) has received or applied for funds from the state agency employing the covered individual at any time during the previous calendar year, up to and including the date of the proposed receipt of the honorarium.

(b) Any reimbursement for travel expenses from each source which totals in excess of $1,000, received by a covered individual required to file a financial disclosure statement pursuant to §73-a of the Public Officers Law, must be reported in that disclosure statement, regardless of whether approval for such receipt is required under these rules.

(c) Nothing herein shall preclude the use of either state vehicles (or other transportation) or personnel where such have been specifically assigned for use to a covered individual and such use is authorized or provided to such official, officer or employee as part of his or her employment or for his or her security.

930.7 Exemption.

(a) Academic employees of the State University and City University of New York including all their constituent units who are covered by §73 of the Public Officers Law and employees serving in the titles of "Research Scientist", "Cancer Research Scientist", and "Research Physician" who also serve in academic status are exempt from the limitations on the receipt of honoraria and reimbursement for travel expenses to the extent that the publication of books and articles, delivery of speeches or attending meetings or conferences are within the discipline of the individual involved.

(b) Such academic employees who are also employed by a State agency other than the State University of New York or the City University of New York, in a title other than "Research Scientist", "Cancer Research Scientist", and "Research Physician" shall not be exempt from the limitations on the receipt of honoraria and reimbursement for travel expenses in their other capacity as State officers or employees.