

**Advisory Opinion 2013-1**  
**Response to a Request for an Advisory Opinion**  
**from Representative Patricia Higgins**  
**(April 1, 2013)**

**Please Note: For clarity, references to and excerpts from provisions of statutes or the Ethics Guidelines have been updated to conform to subsequent changes in numbering and language, where the changes have not affected the substance of the Opinion.**

Pursuant to RSA 14-B:3, I (c), Representative Patricia Higgins has requested an Advisory Opinion whether, consistent with applicable statutes and the Ethics Guidelines, she may accept free or reduced cost attendance at a handgun training course.

According to information provided to the Committee by Rep. Higgins the course would be an

“...NRA Basic Handgun class. This starts out with firearms safety rules and they continue throughout the class. During the class you will learn about different types of handguns and their parts. Different shooting stances. How to shoot and will have a chance to shoot over 25 different handguns. From 22, 38 and 357 revolvers to 22, 9mm and 45 ACP pistols. You will learn the laws on purchasing handguns, storage and transportation of handguns. How to clean and maintain handguns and much more.

“ This class involves both practical and written tests to pass. This is a great class if you are trying to find out what handgun to purchase and its practical uses. This class does have a certification that is accepted is several states for their concealed carry permits.

“ The class price of \$170.00 includes everything except for refreshments, pen and notebook.”

Rep. Higgins has been offered a "guest slot" to attend the course at no cost.

Specifically, Rep.Higgins asks whether, based on the facts she has provided, the "honorarium" exception to the statutory definition of “gift” might apply.

Relevant provisions of applicable law are:

14-C:2 Definitions. In this chapter:

\*\*\*

IV. (a) “Gift” shall mean:

\*\*\*

(2) Any other tangible thing, intangible thing, service, or the use thereof having an individual value of greater than \$50.

(3) Multiple tangible things, intangible things, services, or the use thereof having an individual value \$50 or less with an aggregate value greater than \$250 from any single source during any calendar year.

(b) Notwithstanding subparagraph (a), “gift” shall not include:

\*\*\* (11) An honorarium.

V. “Honorarium” means a payment in any form to a legislator or legislative employee for an appearance, speech, written article or other document, service as a consultant or advisor, or participation in a discussion group or similar activities. Honorarium does not include a payment for such activities for which the person is being compensated by the state, a county, the United States of America, or any other employer or client, where the activity giving rise to the honorarium is not related to or associated with any legislative office or employment.

14-C:3 Prohibition on Gifts; Duty to Report.

\*\*\*

III. It shall be unlawful for any legislator or legislative employee to solicit or to knowingly accept, directly or indirectly, any gift, as defined in this chapter, or to fail to meet the reporting requirements of this chapter.

Ethics Guidelines, Section 4, Permitted Activities; Permitted Gifts. –

I. Nothing in Section 3, Prohibited Activities, shall be construed to prohibit the following:

\*\*\*

(h) Acceptance of anything permitted to be accepted pursuant to RSA 14-C.

We advise as follows:

The "guest slot" to attend the course at no cost, where the regular charge for such attendance is \$170.00, would involve a transaction with an economic value of more than \$50. This would put it into the category of a prohibited gift, unless it would qualify for an exception set forth in RSA 14-C:2. One of these exceptions, in RSA 14-C:2, V, is for an “honorarium.” Whether the "honorarium" exception would apply depends on whether participation in the handgun training course would fall within the statutory prescription of the kind of event that qualifies for an honorarium, *i.e.*, “participation in a discussion group or similar activities.”

The course described by Rep. Higgins does not fit within the statutory language. It doesn't seem to be the kind of event that involves much if any discussion or similar activity about a matter of public interest. Instead, it seems to be a straightforward course in the safe use of handguns. While such courses are worthwhile, the statutory prescription was not intended to cover them, any more than (say) a course in personal development or art appreciation.

Previously, the Committee has issued two Advisory Opinions on the subject of honorariums: (1) An opinion issued in 2007 involving attendance at the Carsey Institute at UNH by the then-House legal counsel, which advised that the honorarium exception would apply to the event described as "a fellowship program that entails attendance at a three day policy leadership Institute conference"; and (2) Advisory Opinion 2011-2 approving a Representative's subsidized participation in the Leadership Greater Nashua Program, described by the Committee as "a series of seminars and informational sessions designed to familiarize participants with local institutions and issues faced by them."

Also in 2011, the Committee issued Interpretive Ruling 2011-#2 regarding honorariums to legislators for participation in activities surrounding a presidential campaign. None of these events was similar to the handgun training course described by Rep. Higgins.

Although Rep. Higgins has not specifically inquired about it, her request also raises the question whether the exception for "Expense Reimbursement" in RSA 14-C:2, III might apply. The exception applies to

"a **bona fide conference, meeting, seminar, or educational, cultural, or informational program, or an event to** which the recipient is invited in his or her official capacity as a representative of the senate or the house of representatives of which the recipient is a member." [Emphasis added]

For the reasons discussed, the handgun course described by Rep. Higgins would not fit within the statutory language.

Accordingly, we advise Rep Higgins that acceptance of a "guest slot" at the handgun course valued at \$170.00 would be a prohibited gift. In response to another of her questions, we also advise her that she might accept a discount of up to \$50 from the course tuition, without violating the statute.

We appreciate the opportunity to be of assistance.

Martin L. Gross, Chairman  
For the Committee

*[Vote 7-0]*