

Advisory Opinion 2018-3
Response to a Request for an Advisory Opinion
from Representative David M. Bates
(November 14, 2018)

Representative David M. Bates has submitted a request for an Advisory Opinion about whether, consistent with applicable statutes and the Ethics Guidelines, he may accept payment for certain costs related to participation in a documentary on the issue of minors getting married. The participation would involve a trip to New York for an interview with the A & E Network on Tuesday, November 20, 2018. Representative Bates has been offered free transportation, compensation for meals, and one night of lodging.

Relevant Provisions of Law

RSA 14-C:2, IV(a)"Gift" means: ***

"Gift" means:

(1) Money in any amount, whether in the form of cash, check, or any other negotiable or non-negotiable instrumentality for the transfer of money.

(2) Any other tangible thing, intangible thing, service, or the use thereof having an individual value of greater than \$50. For purposes of this section, "service" shall not include acceptance of legal services on an individual basis when the legislator enters into an attorney-client relationship with the attorney for the purposes of addressing a complaint or petition if the attorney is not a registered lobbyist.

(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.

RSA 14-C:2, IV(b)

(b) Notwithstanding subparagraph (a), "gift" shall not include:***

(11) An honorarium.

RSA 14-C:2, V

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.

Committee Analysis

The Committee's review of the information provided by Representative Bates indicates that he would be interviewed for a documentary about a legitimate public policy topic – legislation enacted in New Hampshire concerning the age of marriageability. "Honorarium" is defined as "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." (Emphasis supplied.)

Conclusion

Based on the information provided by Representative Bates about his activities, the Committee advises that his acceptance of the costs of travel, meals, and lodging, as payment for his participation in the documentary would fall within the exemption established for “honorarium” set forth in RSA 14-C:2, IV(b)(11).

Representative Bates must report his acceptance of the complimentary travel, meals, and lodging as an honorarium in accordance with RSA 14-C:4.

We appreciate the opportunity to be of assistance.

Honorable Donna Sytek, Chairman
Senator Sharon M. Carson, Vice Chairman
Representative Janet G. Wall (Did not participate.)
Senator Martha Fuller Clark
Representative David A. Welch
Attorney David H. Bradley
Honorable David W. Hess

For the Committee,
Donna Sytek
Chairman

[Vote: 6-0]