

May 16, 2014

Nwadiuto (“DT”) Amajoyi –Fellow
Office of Senator Holly J. Mitchell
26th Senate District
700 State Drive, Suite 105
Los Angeles, CA 90037

Re: Your Request for Advice
Our File No. A-14-069

Dear Mr. Amajoyi:

This letter responds to your request for advice regarding the honorarium and gift provisions of the Political Reform Act (the “Act”).¹ Please note that our advice is based solely on the provisions of the Act.

QUESTIONS

1. Are payments made by UC Santa Cruz to you for speaking at a workshop for admitted students prohibited honoraria?
2. Are reimbursements for travel, necessary lodging and other expenses in connection with your presentation at UC Santa Cruz considered honoraria, and if not, are they subject to reporting on the Form 700?

CONCLUSIONS

1. Yes. You are prohibited by the Act from accepting payment from UC Santa Cruz of \$1,000 for your participation as a speaker in a workshop sponsored by the university. Because your position as a Senate Fellow is designated under “full disclosure” in your agency’s conflict of interest code, this payment would be considered a prohibited gift or honorarium under the Act.

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

2. No. Necessary payments for lodging and travel in connection with a speech are not “a payment made in consideration for any speech given, article published, or attendance at any public or private conference, convention, meeting, social event, or meal or like gathering.” These payments are either gifts or income. Based on your facts, your travel expenses are in connection with a speech that is reasonably related to a legislative or governmental purpose, or to an issue of state, national, or international public policy, and it is being paid for by UC Santa Cruz, a bona fide public educational institution. Therefore, payments, advances, or reimbursements for travel connected to your speech, “including actual transportation and related lodging and subsistence” may be reported as gifts not subject to gift limits under Section 89506 or, in the alternative, reported as income as you are providing consideration for the expenses.

FACTS

You are a Senate Fellow. Your position is included in your agency’s conflict of interest code. You are required to file under the category of “full disclosure” on your Statement of Economic Interests (Form 700).

You are taking part in a program at UC Santa Cruz called the “Student Initiated Outreach weekend.” The program focuses on high school students of color who have been admitted into the University and provide them an inside look into what it would be like to be a student at UC Santa Cruz. The students meet current students, staff, and professors who share their experiences and advise them on what to expect. The students attend various workshops and events focused on retention of students, resources for retention, and information about the campus and community culture.

You have been invited to be a part of the program this year as a work shop facilitator and as a speaker. You will be hosting a couple of workshops and addressing the program attendees. You will be talking about your experience at the University, any struggles or obstacles you faced at UCSC as a student of color, what resources you utilized, and your involvement in the community. The University intends to pay you \$1,000 for this service.

ANALYSIS

Honoraria Ban:

Section 89502(c) specifies that “no designated employee of a state or local government agency shall accept an honorarium from any source if the member or employee would be required to report the receipt of income or gifts from that source on his or her statement of economic interests.”

An “honorarium” is defined as “any payment made in consideration for any speech given, article published, or attendance at any public or private conference, convention, meeting, social event, meal, or like gathering.” (Section 89501(a).)

For purposes of the honorarium ban, Regulation 18931.1 defines a “speech given” as “a public address, oration, or other form of oral presentation, and includes participation in a panel, seminar, or debate.” A payment for speaking at conventions, events, and educational settings is a payment for a “speech given.”

Under the facts you have provided, your activity as a paid speaker is covered by the Act’s honoraria prohibitions because you are a designated employee and you have “full disclosure” under your agency’s conflict of interest code. Therefore, payments you would receive from speaking at the university are honoraria and are prohibited by the Act.

Honoraria and Gifts of Travel:

Section 89506 provides exceptions to the Act’s prohibitions or limitations on honorarium or gifts for payments, advances, or reimbursements for travel “including actual transportation and related lodging and subsistence” if the travel is in connection with a speech that is reasonably related to a legislative or governmental purpose, or to an issue of state, national, or international public policy.

The exception applies if the travel is (1) in connection with a speech given by the official and (2) paid for by a governmental entity, a bona fide public or private educational institution, or certain nonprofit organizations.

Based on the facts you have provided, your travel is reasonably related to a governmental purpose (to provide information for entering state university students) and is paid for by UC Santa Cruz, a bona fide public educational institution. UC Santa Cruz has offered to reimburse travel expenses related to your participation in the workshop. Thus, the payments are not prohibited honoraria.

Reporting: Income Rules and Exceptions:

The travel payments may be reportable income or gifts. Both the receipt of income and the receipt of gifts may result in a potential conflict of interest. (Section 87100.)

To the extent that you provided consideration of equal or greater value to UC Santa Cruz, the source of the payment may be considered income rather than a gift. “Income” is broadly defined at Section 82030(a) to include all forms of payment received by a public official, including reimbursement of expenses and per diem payments. Income must be reported on an official’s Form 700 at \$500 or more but is not limited.

Additionally, these reimbursements from UC Santa Cruz for travel and other expenses related to your participation as a speaker in the university’s workshop, fall under an exception to the Act’s honorarium ban and gift limits, which allows the payments to be reported as gifts (at \$50 or more). (See Section 89506.)

If you have other questions on this matter, please contact me at (916) 322-5660.

Sincerely,

Zackery P. Morazzini
General Counsel

By: Emelyn Rodriguez
Counsel, Legal Division

ER:jgl