



# California Fair Political Practices Commission

June 11, 1993

Tricia Hunter, R.N., M.N.  
43-155 Portola, Sp. 50  
P. O. Box 10353  
Palm Desert, CA 92255

Re: Your request for Advice  
Our File No. A-93-203

Dear Ms. Hunter:

This letter is in response to your request for advice concerning your duties under the provisions of the Political Reform Act (the "Act").<sup>1</sup>

#### QUESTION

Are funds that you receive for teaching continuing education courses to registered nurses and other health care providers prohibited honoraria under the Act?

#### CONCLUSION

The funds you receive for teaching nursing courses, which are related to your field of specialty and practice, are not prohibited honoraria under the Act.

#### FACTS

You are currently an appointed public official in the Office of Statewide Health Planning and Development. Independent of your position with the Office of Statewide Health Planning and Development, you have been asked to provide continuing education for registered nurses and other health care providers. The compensation you would receive for providing this service would be paid by the various entities requesting your services.

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<sup>1</sup> Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 18000 et seq. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

ANALYSIS

Under Section 89503(a):

[N]o designated employee of a state agency, shall accept an honorarium from any source, if the . . . employee would be required to report the receipt of income or gifts from that source on his or her statement of economic interest.

Because you are in a position where you make or participate in making governmental decisions for the Office of Statewide Health Planning and Development, you are a designated employee of that agency and, therefore, all income you receive is to be reported on your statement of economic interests. (Section 87302(b).) In addition, since you are a designated employee, you are also subject to the honoraria ban of Section 89503.

The question is whether the money you receive for providing continuing education to registered nurses and other health providers constitutes prohibited "honorarium." As defined by the Act,

"Honorarium" means . . . 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 89502(b).

However "honorarium" does not include:

. . . [E]arned income for personal services which are customarily provided in connection with the individual's business or practice of a bona fide business, trade, or profession, such as teaching, practicing law, medicine, insurance, real estate, banking, or building contracting, unless the sole or predominant activity of the business, trade, or profession is making speeches. . . .

Section 89502(c), emphasis added.

Regulation 18932.2 defines the term "bona fide business" for purposes of Sections 89502, 89503(b), and 89506(c)(3) in pertinent part as follows:

. . . [A]n individual is presumed to be engaged in the bona fide profession of teaching in any of the following circumstances:

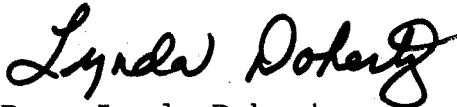
The individual receives payment for teaching a course, presented to assist in maintenance or improvement of professional skills or knowledge where the course provides credit toward continuing education requirements of the pertinent profession.

Under this definition, the teaching of continuing education courses would be considered a bona fide business, trade or profession specifically exempted from the scope of the honoraria prohibitions. (Section 89502(c).) Under the facts you have presented, it appears that your teaching would fall within this exception. Under these circumstances the money you receive for your teaching these continuing education courses to registered nurses and other health care professionals falls within the exception of Section 89502(c) and is not a prohibited honorarium.<sup>2</sup>

If you have any further questions regarding this matter please contact me at (916) 322-5901.

Sincerely,

Jeff Marschner  
General Counsel



By: Lynda Doherty  
Staff Services Analyst  
Legal Division

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Enclosures

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<sup>2</sup> Please note, however, that the various entities that pay you for your teaching services are potentially sources of income to you. As such, you may have a conflict of interest if you make, participate in making or otherwise use your official position to influence a governmental decision that will foreseeably and materially affect those agencies. (Section 87100, 87103.)