

SUBJECT: RECEIPT OF PER DIEM AND TRAVEL BY TEXTBOOK COMMITTEE MEMBERS

SUMMARY:

School teachers or school district employees who also serve on a textbook evaluating and rating committee may be reimbursed directly by the Department of Education for such service.

QUESTION:

The General Counsel for the Department of Education questions the impact of the new ethics statute on reimbursement of travel expenses and payment to members of the State Board of Education Textbook Evaluating and Rating Committees. He states:

1. Can the Evaluating and Rating Committee members who are school district employees be paid a per diem as authorized in the Textbook Adoption Regulations? Committee members are paid for attending an orientation meeting and during the adoption hearings which last one to five days. If the per diem is not allowable, could school districts receive substitute teacher pay for their teachers who serve as committee members during the orientation and hearings?
2. Does the Department have to reimburse travel expenses through the district for the teachers and school district-level personnel serving on committees or may these members be directly reimbursed?

DISCUSSION:

This opinion is rendered in response to a letter dated May 6, 1992 requesting an opinion from the State Ethics Commission. The Commission's jurisdiction is limited to the applicability of the Ethics, Government Accountability, and Campaign Reform Act of 1991 (Act No. 248 of 1991; Section 8-13-100 et. seq., as amended, 1976 Code of Laws). This opinion does not supersede any other statutory or regulatory restrictions or procedures which may apply to this situation.

In Advisory Opinion SEC AO92-061, the State Ethics Commission advised that employees who provide speeches or services to other organizations should be reimbursed by their employing agency. That agency may seek reimbursement from the other organization for costs associated with the provision of speeches or services.

The State Ethics Commission does not believe that appointment to, attendance at meetings, or participation in a statewide board or commission falls within the restrictions of Section 8-13-715

which provides in part as follows:

A public official, public member, or public employee acting in an official capacity may not receive anything of value for speaking before a public or private group.

In Advisory Opinion SEC AO92-205, the Commission advised that employees who serve on a statewide board or committee may be reimbursed directly by the agency on whose board or committee they serve. Based upon the facts as submitted, the Commission advises that the teachers or school district personnel who serve on the Textbook Evaluating and Rating Committees may be directly reimbursed by the Department of Education.