

ARKANSAS ETHICS COMMISSION

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ADVISORY OPINION NO. 2005-EC-001 Issued January 21, 2005

The Arkansas Ethics Commission has received a written advisory opinion request from Clayton Blackstock, an attorney whose office is located in Little Rock, Arkansas. The question asked is whether or not Ark. Code Ann. § 21-8-801 prohibits payment by a professional organization in excess of one hundred dollars (\$100) to a public school teacher for serving as a trainer during “in-service”¹ training sessions.

As stated in the opinion request, professional organizations which organize and coordinate the professional development sessions recruit teachers to teach various parts of teacher “in-service” training. According to the request, the professional organizations sometimes pay the teacher a stipend for preparing and serving as a trainer. If the stipend were to exceed \$100, there is a question as to whether or not such payment would be in violation of the statutory “gift” prohibition. Ark. Code Ann. § 21-8-801 prohibits a public servant from receiving a gift or compensation from a third party “for the performance of duties and responsibilities of his or her office or position.”² A public school teacher is a “public servant” as defined in Ark. Code Ann. § 21-8-402(18), which includes all public employees.

When a professional organization pays a teacher to prepare and serve as a trainer for “in-service” training, the stipend is paid for the training provided by the teacher, a service which is not a duty or responsibility of the teacher’s employment as a public school teacher. The stipend is not a reward or gift to the teacher for the “performance of the duties and responsibilities of his or her office or position.” Based upon these specific facts, it is the Commission’s opinion that a stipend in excess of \$100 paid to a public school teacher for preparation and service as an “in-service” trainer is not a prohibited gift within the meaning of Ark. Code Ann. § 21-8-801.

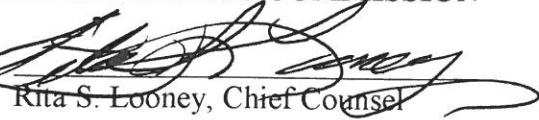
¹ Certified personnel are required to attend “in-service” training, also described as “certified instructional staff development sessions,” which may be conducted by bona fide professional organizations within the State of Arkansas.

² Ark. Code Ann. § 21-8-402(5)(B)(vii)(a) excludes from the term “gift” anything with a value of one hundred dollar (\$100) or less.

This advisory opinion is issued by the Commission pursuant to Ark. Code Ann. § 7-6-217(g)(2) .

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By:


Rita S. Looney, Chief Counsel