

Note: The honoraria ban was held unconstitutional by the U.S. Supreme Court in *U.S. v. National Treasury Employees Union*, 513 U.S. 454 (1995).

Office of Government Ethics
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Letter to a Member of Congress dated February 7, 1992

Your letter referring an inquiry by [a constituent] to the Director of the Office of Congressional Relations, Office of Personnel Management, has been forwarded to this Office for a reply.

[The constituent] indicates that he is a full-time Air National Guard technician at [a specific group] headquarters in [your state]. He is also a member of a writer's group which assists its members in publishing their manuscripts. He has written and been paid for several television scripts for a computer show. He wishes to know whether, as a Federal employee, he is prohibited from receiving compensation for these scripts.

The Ethics Reform Act of 1989 ("the Act") [5 U.S.C. App 7, § 501(b)] prohibits a Federal employee from receiving any honorarium. The statute defines the term "honorarium" to mean a payment of money or anything of value for an "appearance," "speech" or "article." [Id. at § 505(3).] This Office has issued regulations which implement the honorarium provisions of the Act and define the key terms "appearance," "speech" and "article." Of particular relevance to [your constituent's] inquiry is [5 C.F.R.] section 2636.203(d) which states that an "article" means "a writing, other than a book or a chapter of a book, which has been or is intended to be published or republished in a journal, newspaper, magazine or similar collection of writings. The term does not include works of fiction, poetry, lyrics, or script."

[The constituent's] inquiry focuses on television scripts for a computer show. As the definition of "article" indicates, a script is specifically excluded and therefore would not be subject to the prohibition on receipt of compensation under the honorarium rule.

[Your constituent] should be aware, however, that other ethics regulations may need to be considered when engaging in any outside activity, including writing. For example, a Federal employee could not receive compensation for writing which focused specifically on the employing agency's responsibilities, policies and programs.

[The constituent] does not describe his duties as a technician in the Guard's [specific] group. Presumably the material in the television scripts does not relate to his work. Finally, a Federal employee could not make use of Government time, resources, or nonpublic information to further a private interest such as outside writing.

I hope that this is responsive to your inquiry and addresses the concerns of your constituent. If you have any questions concerning this letter or the regulations, please feel free to contact my Office.

Sincerely,

Stephen D. Potts
Director