

June 8, 1995

Advisory Opinion 1995 - No. 11

QUESTION

Would it be a violation of Chapter 42.52 RCW, for Senator John Moyer, M.D., to accept a temporary teaching position under the following circumstances:

A program to teach up to two legislators from each state about health care issues is being instituted by George Washington University. The program is non-partisan, funded through foundation donations and the senator is not involved in fundraising. Core staff and faculty consist mainly of a bipartisan consortium of current and former state legislators who have demonstrated leadership in health policy issues in their respective states. The senator would be presenting some of the medical profession's perspectives on health care issues, such as rural health care and experimental care. He will be compensated for each day of instruction in addition to travel and lodging.

OPINION

Based on the facts presented above, the Board concludes that Senator Moyer's participation as a paid instructor in this program would not violate the State Ethics Act.

ANALYSIS

1. RCW 42.52.120 provides that no state officer may receive any thing of economic value under any contract or grant outside of his or her official duties. This prohibition does not apply if each of the following conditions are met:

(a) The contract is bona fide and actually performed;

(b) The performance or administration of the contract or grant is not within the course of the officer's or employee's official supervision;

(c) The performance of the contract or grant is not prohibited by RCW 42.52.040 or by applicable laws or rules governing outside employment for the officer or employee;

(d) The contract or grant is neither performed for nor compensated by any person from whom such officer or employee would be prohibited by RCW 42.52.150(4) from receiving a gift;

(e) The contract or grant is not one expressly created or authorized by the officer or employee in his or her official capacity or by his or her agency;

(f) The contract or grant would not require unauthorized disclosure of confidential information.

Each of these conditions is satisfied by the facts as presented in the request. This prohibition of compensation for outside activities is inapplicable.

2. RCW 42.52.110 provides:

No state officer or state employee may, directly or indirectly, ask for or receive or agree to receive any compensation, gift, reward, or gratuity from a source except the state of Washington for performing or omitting or deferring the performance of any official duty, unless otherwise authorized by law.

Senator Moyer is not performing any official duty by engaging in this teaching project. His performance under the contract may not reasonably be viewed as a duty owed by him by virtue of his position as an elected official. This prohibition is also inapplicable to the facts.

3. The conflict of interest statute, RCW 42.52.030, provides:

No state officer or state employee may have an interest, financial or otherwise, direct or indirect, or engage in a business or transaction or professional activity, or incur an obligation of any nature, that is in conflict with the proper discharge of the state officer's or state employee's duties.

The Board has no facts which suggest any conflict between the performance of this contract and the senator's duties as a state legislator.