

CAUTION: The following advice may be based on a rule that has been revised since the opinion was first issued. Consequently, the analysis reflected in the opinion may be outdated.

40 IAC 2-1-8

SEC found ISM's Curator of Biological Sciences could receive compensation for writing a chapter in a book on bryology during non-museum time so long as he observed the conditions the SEC set forth.

**90-I-17: Moonlighting
Indiana State Ethics Commission
Official Advisory Opinion
(Decision July 6 and August 10, 1990)**

FACT SITUATION

A Curator of Biological Sciences at the Indiana State Museum was asked to write a chapter on bryology in a book to be published by Indiana University Press for which a flat fee of \$150 upon completion and submission of the chapter was offered. The Curator's duties at the Indiana State Museum are to manage the biological collection, provide exhibits, and disseminate information on biology to the public. The book for which the Curator was asked to write a chapter was to be about the natural features of Indiana. It was to be a non-profit venture with approximately eighteen authors and the publishing would be funded by outside contributors. The book was intended for general consumption and not as a research publication. The Curator said he gained most of his expertise to be able to write the chapter before employment at the Indiana State Museum. The Curator is not expected to publish in order to maintain his job although publishing might be considered a plus for promotion if normal work requirements were met. The writing of this chapter of this book would not be part of the Curator's work assignment, according to his supervisor. However, the supervisor supported the Curator's private participation in writing the chapter of the book on his own time.

QUESTION

Is the Curator of Biological Sciences, Indiana State Museum, permitted to receive \$150 for writing a chapter in a book on bryology during non-museum time?

OPINION

The Commission's opinion was that the Curator of Biological Sciences for the Indiana State Museum may receive compensation for a chapter in a book the employee writes provided that:

- 1) the project is cleared through the employee's supervisor that the supervisor does not want the chapter written on state time,
 - 2) the employee does the writing on non-state time and uses no state equipment or facilities,
 - 3) the employee uses no state files or other state resources beyond that which is available to the public during the hours when such files and resources are made available to the public,
 - 4) the employee does not disclose or use any confidential information or information acquired in the course of official duties which is not available to the public,
 - 5) the employee does not use or attempt to use the employee's position to direct state work to benefit or facilitate the work on the writing of the chapter,
 - 6) the writing of the chapter does not impair independence of judgment as to state responsibilities,
- and

7) the payment is not a disguised gift that could influence the employee.

The relevant rule on moonlighting, 40 IAC 2-1-8, provides, "A state employee must not engage in outside employment or other outside activity not compatible with the full and proper discharge of his public duties and responsibilities. This outside employment or other outside activity must not impair his independence of judgment as to his official responsibilities, pose a likelihood of conflict of interest or require him or persuade him to disclose confidential information acquired by him as a result of his official duties."