

**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 Consequently, the analysis reflected in the opinion may be outdated.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 2-1-7 Appearances, activities and expenses**

SEC found that it was permissible for the BMV Commissioner to receive reimbursement for actual travel expenses incurred while participating as a member of an AAAM committee. In addition, the Commissioner was allowed to accept the "per diem," provided it was intended as subsistence for food, but could not otherwise accept payment of a fee beyond actual travel expenses

**91-I-3: Activities and Travel  
Indiana State Ethics Commission  
Official Advisory Opinion  
(Decision March 14, 1991)**

**FACT SITUATION**

The Commissioner of the Bureau of Motor Vehicles, which is responsible for issuing commercial driver's licenses, serves as a member of the international board of the American Association of Motor Vehicles Administrators. In that role, the Commissioner was asked to serve on a committee of the Association for the Advancement of Automotive Medicine (AAAM), an international multi-disciplinary organization for crash injury control. The meetings were expected to take a day and a half, perhaps every two or three months.

The AAAM had a contract with the Federal Highway Administration to develop a program directed towards ensuring the medical qualifications of commercial drivers as part of the Commercial Driver's License Licensing process. The AAAM offered to reimburse the Commissioner for travel expenses and offered a per diem for attending meetings of the committee. The expenses would be reimbursed to the state of Indiana from the Federal Highway Administration contract funds. The per diem that was offered was felt to be an amount sufficient for meals and not compensation for a day of being there (like what the state calls subsistence).

**QUESTIONS**

- 1) May the Commissioner of the Bureau of Motor Vehicles receive reimbursement for actual travel expenses incurred while participating as a member of the Committee of States of the Association for the Advancement of Automotive Medicine which has a contract with the Federal Highway Commission to develop a program directed toward ensuring the medical qualifications of commercial drivers as part of the Commercial Driver's Licensing process?
- 2) May the Commissioner of the Bureau of Motor Vehicles in the same circumstance accept payment of a fee beyond actual travel expenses?

**OPINION**

The Commission found that it was permissible for the Commissioner of the Bureau of Motor Vehicles to receive reimbursement for actual travel expenses incurred while participating as a member of the Committee of States of the Association for the Advancement of Automotive Medicine. The "per diem" may be accepted provided the amount is intended as subsistence for food. The Commissioner of the Bureau of Motor Vehicles is not permitted to accept payment of a fee beyond actual travel expenses.

The relevant rules are as follows:

40 IAC 2-1-7, on Appearances, activities and expenses provides, "(A) There are many coincidental activities which a state officer or employee may or may not perform or participate in which frequently are invitational in nature. Such activities include, but are not limited to, personal appearances, participation in conferences, conventions, seminars and public meetings. Such activities enhance the accessibility by the public to state officers and employees and are therefore, to be encouraged if compatible with the performance of one's official duties.

(B) However, state officers and employees should exercise due care that such occasions or events are of a nature and in a setting that may not be reasonably construed by the public as improper.

(C) State employee should utilize the normal state policy and procedures concerning travel expense and allowance provisions when attending events concerning state business. However, there may be instances where state employees may be considered in compliance with the letter and spirit of the Code (40 IAC) even if expenses are directly assumed by a sponsor. The Ethics Commission may review such event for any improprieties. Each case shall be evaluated on its individual merits.

(D) Amounts assumed by a sponsor for a state officer or an employee for reasonable expenses in attendance at a sponsored activity shall not be deemed as compensation, a gift or a gratuity.

(E) If a sponsor is desirous of reimbursing the State for any part or all of the expenses incurred by the State on behalf of its state officer, employee or their official representatives, such sponsor should remit to the Treasurer of the State any such amounts. The Treasurer of the State shall quietus such funds into the general fund."

The Commission discussed that if the amount of the per diem was small and intended to cover food that was not furnished, it felt the amount could be accepted. However, if the amount was larger than the cost of food, or meals were provided, then it could not be considered part of actual travel expenses.