

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 Consequently, the analysis reflected in the opinion may be outdated.

IC 4-2-6-5 State officers and employees; compensation for official duties

The Director of FWDC was permitted to accept an award that was sponsored by an outside entity with no business relationship with the State and which was not given in return for anything specifically done or to be done by the employee for the benefit of the awarding entity.

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No. 99-I-2

BACKGROUND INFORMATION

The State Ethics Commission received a request for an advisory opinion from state employee who serves as director of the Biochemistry Department and Clinical Laboratory at the Fort Wayne Developmental Center. In April, that director is to receive a monetary award and plaque from the American Society for Nutritional Sciences. He notified Commission staff of the award and asked whether under state ethics law he would be able to accept it. Given the absence of a Commission opinion directly addressing the issue of acceptance of non-agency sponsored monetary awards and the amount of the award, Commission staff recommended that he seek an official advisory opinion from the Commission through the inquiry process.

QUESTION

Does the state ethics code permit a state employee to receive a monetary award, in recognition of his professional accomplishment, from an outside not-for-profit entity that does not have a business relationship with the agency?

FACTS

Since 1963, the director has been a state employee involved in the Fort Wayne Developmental Center, Department of Biochemistry, research programs. At present, the research program has a staff of three. The Center's research program receives funding through the USDA competitive grant program. His program research in various areas has been published in at least 75 scientific journals.

The director is slated to receive the Osborne Mendel Award on April 18, 1999, in Washington, DC. The award is given by the American Society for Nutritional Sciences (ASNS). The award is not based upon anything specifically done or to be done for the ASNS; rather, it recognizes outstanding basic research accomplishments in nutrition sciences. ASNS in no way directs his work or research at the Center.

The monetary award of \$2500 and an engraved plaque is funded by ILSI North America. ILSI, the International Life Sciences Institute, is a not-for profit research foundation that has no business relationship with the Fort Wayne Developmental Center. While ILSI provides the funding of the award, it has nothing to do with administration of the award. In addition, the director is not subject to the direction or influence of ILSI in any subsequent research because of his acceptance of the award.

RELEVANT LAW

IC 4-2-6-1(6): Definition of "Compensation"

(6) "Compensation" means any money, thing of value, or financial benefit conferred on, or received by, any person in return for services rendered, or for services to be rendered, whether by that person or another.

IC 4-2-6-5: State officers and employees; compensation for official duties

Sec. 5. No state officer or employee shall solicit or accept compensation, other than that provided for by law for such office or employment for the performance of his duties; it shall be unlawful for any person, other than state officers or employees performing their duties in making payments to state officers or employees as provided by law, to pay, or offer to pay, any state officer or employee any compensation for the performance of his official duties.

Also see:

40 IAC 2-1-4(k) Definition of "Gift"

40 IAC 2-1-6 Acceptable gifts...

31 IAC 2-4-2(f) Minimum salary...

CONCLUSION

The Commission found that the director's acceptance of the award does not violate state ethics code rules concerning compensation or gifts to state employees. The award he is to receive is not agency sponsored; rather, it is sponsored by an outside entity that has no business relationship with the state. Further, the award is not given in return for anything specifically done or to be done by the employee for the ASNS or ILSI.