

Office of Government Ethics
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Letter to a United States Senator dated March 9, 1988

[The agency which you initially contacted] forwarded to this Office your request for information about regulations regarding public appearances by Federal employees at which an admission fee is charged. This was in response to a letter and article sent to you by [a constituent]. You expressed concern about whether an executive branch employee may make public appearances for a fee, and if so, whether any limitations apply regarding the subject matter and its relation to the employee's job. I assume that by a public appearance what is meant is the type of presentation made by [the employee mentioned] in the attached article.

Because [the employee] used his title in the announcement, and the mid-day time of the meeting, one might assume that he was there officially. In such a case, it is up to the [employee's] agency to determine whether it is in the Government's interest for him to make this presentation, even though there is a charge to others attending. In general, Federal agencies should be very careful when providing a speaker at a for-profit endeavor to be sure that the Government's interest in reaching that audience is substantial and that the same audience could not be reached without supporting the private endeavor. When the endeavor is not for profit, but an entry fee is charged for materials or refreshments, the test is less onerous but still must be satisfied. In any case, the provision of an official speaker is at the discretion of the agency.

Federal employees on official duty may not receive a fee for performing official duties, including a speaking engagement. Furthermore, in general, employees not on official duty may not receive a fee for making presentations they should have made in their official capacities. They may not receive a fee for services to certain prohibited sources (see 5 C.F.R. § 735.204), and may not lend their official position to support private endeavors (§ 735.201a). Enclosed is a copy of an opinion from our Office regarding Government employees speaking in other than an official capacity.

A copy of your letter and the attached report and article will be sent to the office of the Designated Agency Ethics Official at

[the employee's agency] for his inquiry into the status of this employee at the time of his presentation.

Sincerely,

Frank Q. Nebeker
Director