

8155 Library



HENRY McMASTER
ATTORNEY GENERAL

April 26, 2006

Rodger E. Stroup, Ph.D., Director
SC Department of Archives & History
8301 Parklane Drive
Columbia, South Carolina 29223-4905

Dear Dr. Stroup:

In a letter to this office you stated that you have been approached by the University of South Carolina regarding teaching a course on material culture in the Public History Program. A \$2,500.00 honorarium is being offered. You have questioned whether you may accept the offer in light of the provisions of S.C. Code Ann. § 60-11-60 which states that

The active management and administration of the South Carolina Department of Archives and History shall be committed to the Director...The Director shall not do any additional work for pay. (emphasis added).

A prior opinion of former Attorney General Daniel McLeod dated January 15, 1965, a copy of which is enclosed, dealt with the question of whether a former director of the State Department of Archives and History could accept an honorarium for a public speech during the normal working day, after working hours or during luncheon periods or accept payment for a course of lectures given outside of normal working hours at colleges or universities or in adult education programs. Reference was made to the cited provision that the Director "...shall not do any additional work for pay."

In his opinion, Mr. McLeod stated:

It is my opinion that this phraseology does not mean that you may not undertake functions of the nature referred to above and receive compensation therefor. In my opinion it means that you must devote your full and necessary attention to the duties of your office, and that you are precluded by the statutory provision from engaging in any work which would interfere or restrict your full and necessary attention to your duties. I feel that a proper construction of the statutory language is, that it requires that you perform your duties as Director to the exclusion of any other work for pay

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that would divert your time or attention from your work as Director. Normally, other work engaged in outside regular working hours would most probably not hamper or restrict the performance of your statutory duties, but each case must depend upon your individual judgment and discretion. It is likely that the de minimus principle would be applicable to public speeches and the like for which honorariums are received.

As stated in a prior opinion of this office dated December 10, 2002, it is well established that the General Assembly is presumptively aware of opinions of the Attorney General and, absent changes in the law following the issuance thereof, the legislature is deemed to have acquiesced in the Attorney General's interpretation. See also: Op. Atty. Gen. dated April 22, 1998. I am unaware of any statutory changes to Section 60-11-60 since the issuance of Mr. McLeod's opinion. Consistent with such, in my opinion, you may teach a course on material culture in the Public History Program at U.S.C. and receive the \$2,500.00 honorarium if your teaching the course would fall within the guidelines outlined by Mr. McLeod.

In considering the offer, I would recommend that you also contact the State Ethics Commission for their review of the proposal. Pursuant to S.C. Code Ann. § 8-13-320 (11), the Commission is given the responsibility and duty of issuing advisory opinions construing provisions of the State Ethics Act, S.C. Code Ann. §§ 8-13-100 et seq.

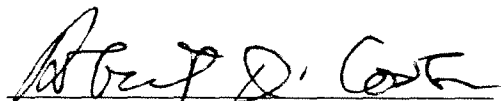
With kind regards, I am,

Sincerely,



Charles H. Richardson
Senior Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook
Assistant Deputy Attorney General