

AAUP Ethics Update
Scholarly Capacity Exception Regulations Adopted
Honoraria, Travel Expenses, Academic Prizes & Other Compensation Allowed
When Acting in a Scholarly Capacity

On November 19, 2007, the State Ethics Commission adopted a “Scholarly Capacity Exception” to the State Ethics Code in recognition of the “unique nature of the academic setting and the difficulty inherent in defining “official duties” for faculty and researchers at New Jersey’s State Colleges and Universities.” We wanted to let you know about these important changes for which AAUP worked hard to achieve.

The Ethics Commission acknowledged the need for and agreed to a number of exemptions to the usual conflict-of-interest rules to recognize the academic environment, expectations and mission of those engaged in scholarly activity at colleges and universities. They therefore amended the current regulations through a "Scholarly Capacity Rule". You can view the full-text of the regulations at <http://www.state.nj.us/ethics/publications/news/approved/07dec04.html>

It is our hope that you will soon receive official notice from the UMDNJ’s compliance office regarding the implementation process of these rules.

To following summarizes the scholarly capacity exception:

1. Scholarly Capacity Definition

The exceptions created by the new regulations apply only to when you are acting in a scholarly capacity, This is limited to any pedagogical, academic, artistic, educational or scholarly activity you perform as a faculty member of UMDNJ.

2. Attending, Participating, or Making Presentations at Colloquia, Seminars, Conferences, or Similar Scholarly Gatherings:

Upon notification to your department chair of your attendance, participation, or presentation, you may accept:

- (a) reasonable travel and subsistence expenses;
- (b) allowable entertainment expenses;
- (c) honoraria;
- (d) academic prizes; and
- (e) other things of value that reflects payment for sharing, orally or in writing, your intellectual property.

3. **Published Works**

You may accept compensation for published works you wrote as part of your official faculty duties, on state time, and utilizing state resources subject to the following rules:

- a. You may require students to purchase your published works, e.g., texts. However, the monies resulting from your own classes' use must be donated to the college, university or to another non-profit organization.
- b. You may accept compensation for materials used by students at other institutions or courses other than your own, if you weren't involved in selecting the materials.

4. **Working in Editorial Capacity, Grant or Manuscript Review, or Participating in Accreditation Peer Review Activities**

You may accept an honorarium, prize or other things of value for working in an editorial capacity, grant or manuscript review, or participating in accreditation peer review activities as payment for orally or verbally sharing your intellectual property.

5. **Annual Disclosure Requirement**

You must annually disclose to your department chair any travel, subsistence or entertainment expenses, academic prizes or other things of value related to activities performed in your "scholarly capacity" you are now allowed to accept under 2 through 4 above. Although prior UMDNJ approval is no longer required for accepting things of value related to scholarly capacity activities, the University has communicated that you should continue to use the current Attendance at Events form until a replacement mechanism is in place.

Attached for your reference is an Annual Reporting Form, we recommend you use to track all things of value you received for permitted scholarly capacity activities to submit to your Chair prior to December 31 of each year. It is crucial that faculty follow the reporting and record-keeping procedures for permitted activities.

6. **"Junkets" are not permissible and simply accepting gifts is not permissible.**

The new regulations cite an example of a professor who makes a presentation at a symposium. The professor can accept reimbursement or waiving of expenses, and can accept an honorarium. However, the offer of a post-conference trip to a golf resort as a "thank-you" cannot be accepted.

The following is another example to help guide you:

A history professor at a State college has been asked by his department head to attend the dedication of a restored historic house museum and speak about the importance of maintaining New Jersey's historic resources. The professor has produced several films about New Jersey historic houses. The historic association has offered to provide the professor with a \$ 300.00 honorarium for his attendance and speech. The professor may attend the event and accept the honorarium since the professor is attending in his scholarly capacity, the event relates to his scholarly activities and the honorarium is essentially a payment for his oral presentation of his own intellectual property.

The AAUP and Faculty welcome these long-sought revisions. While there remain a number of issues relating to conflict-of-interest that are not included in these revisions (e.g., outside activities), AAUP will continue to work with other professional organizations, the Universities and the appropriate State bodies to modify these regulations to be consonant with the roles of University faculty and scholarly employees.

List below all compensation excluding salary from your employing institution, you received, from any source, in connection with work performed in your scholarly capacity (i.e. sharing of intellectual property orally or in writing, acting in an editorial capacity for journal or other publication, reviewing journal or book manuscripts, grants or contract proposals, or participating in other peer review activities). Please Identify each source.

Type of Scholarly Activity	Amount of Benefit	Source
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Do you assign educational materials authored by you as a course requirement?

Yes___ No___

Do you receive royalties from those educational materials?

Yes _____ No _____

ETHICS AND FOOD AT STUDENT EVENTS

To clarify any confusion on the provision of food at student events, the following is an excerpt from the University's Chief Ethics and Compliance Officer, Michael E. Clarke's September 27, 2007 Memorandum:

1. State funds may be spent on entertainment benefiting all UMDNJ students, as long as such entertainment is consistent with UMDNJ's mission.
2. Entertainment includes activities, events and functions provided or held for the benefit of students, in which meals, refreshments and other expenses directly related to such entertainment are provided. These activities may include faculty members or school administrators inviting groups of students to a campus, departmental or divisional educational forum or presentation; student groups conducting internal business meetings on campus; or other similar events.
3. Expenditures on these activities are, of course, subject to requisite budgetary and departmental approvals.

If you plan an event with food, and funding is denied, you should inquire as to the specific reason and by whose authority to ensure the reason(s) are consistent with the above criteria.