



TEXAS ETHICS COMMISSION



ETHICS ADVISORY OPINION NO. 150

June 24, 1993

Whether an educational institution may make a donation to a charity in honor of a state senator who is invited to give an address on education issues. (AOR-168)

The Texas Ethics Commission has been asked to consider whether a public educational institution may make a donation to a charity in honor of a state legislator who is invited to give an address on education issues.¹ No advance notice would be given that there would be a charitable donation made in honor of the appearance, and the legislator would not choose the charity that would receive the donation.

Section 36.07 of the Penal Code prohibits a state senator from accepting an honorarium:

A public servant commits an offense if the public servant solicits, accepts, or agrees to accept an honorarium in consideration for services that the public servant would not have been requested to provide but for the public servant's official position or duties.

Because of this prohibition, a state legislator may not request that a payment be made to a third party in consideration for a speech by the legislator. [Ethics Advisory Opinion No. 19](#) (1992). Nor may a state legislator agree that a payment will be made to a third party in consideration for a speech by the legislator. *Id.* In other words, a state legislator may not exercise control over such a payment. A third party, however, is free to make a charitable donation in a state legislator's name, as long as the payment is not the result of an express or implied agreement with the legislator. Therefore, the payment in the circumstances described is permissible.

SUMMARY

A state senator may not request that a payment be made to a third party in consideration for a speech by the senator. Nor may a state senator agree that a payment will be made to a third party in consideration for a speech by the senator. A third party may make a charitable donation in a state senator's name in appreciation for a speech by the state legislator as long as the payment is not the result of an express or implied agreement with the legislator.

¹ This draft does not consider the circumstances under which a public educational institution is authorized to make a charitable contribution.