Office of Government Ethics
91 x 32 -- 08/29/91

Letter to an Employee dated August 29, 1991

This responds to your request for an opinion whether you may continue to accept fees for teaching courses on Economics and Personal Risk Management. You teach the courses on a part-time basis through [two organizations]. You are a Supervisory Examiner for [an agency].

The Ethics Reform Act of 1989, at Section 601(a), states that "[a]n individual may not receive any honorarium while that individual is a Member, officer or employee." 5 U.S.C. app. 501(b). The term "honorarium" is defined for purposes of the law as "a payment of money or anything of value for an appearance, speech, or article by a Member, officer or employee," excluding certain travel expenses. The honoraria ban does not require any nexus between the appearance, speech, or article and the employee's Government employment. The provision became effective on January 1, 1991.

Regulations implementing the law were published by this Office on January 17, 1991. The regulations make clear that employees may not accept compensation for teaching unless the compensation meets one of the exceptions set forth in the rule. For example, an honorarium does not include compensation for teaching a course involving multiple presentations by the employee as part of a program of education and training sponsored and funded by Federal, state or local Government, or part of the regularly established curriculum of an institution of higher education as defined in 20 U.S.C. § 1141(a). See 5 C.F.R. § 2636.203(a)(8) and (9). Since the organizations which sponsor the courses you teach do not appear to meet these criteria and there is no indication that your teaching falls within any other exception, I must conclude that the statute prohibits you from receiving compensation under the circumstances you describe.

There is no doubt that the honoraria ban places a burden on Federal employees. However, both the statutory language and the legislative history of the law make it clear that Congress intended that the ban be interpreted broadly, to avoid circumvention by individuals and organizations. Unless the law is amended, the ban will continue to be implemented for

executive branch employees in accordance with our regulations.

If you have any further questions, please do not hesitate to contact my Office.

Sincerely,

Stephen D. Potts
Director