

Ben Rose, Chair
Betty Davis, Vice Chair
Merom Brachman
Michael A. Flack
Maryann B. Gall



OHIO ETHICS COMMISSION
William Green Building
30 West Spring Street, L3
Columbus, Ohio 43215-2256
Telephone: (614) 466-7090
Fax: (614) 466-8368

Paul M. Nick
Executive Director

www.ethics.ohio.gov

INFORMATION SHEET: ADVISORY OPINION NO. 2011-05
COMPENSATION FOR TEACHERS
SERVING AS STUDENT TEACHER MENTORS

What are the questions and answers in the opinion?

1. Can a school district employee accept compensation from a college or university for serving as a mentor for a student teacher?

No, school district employees are prohibited from soliciting or accepting any payment or other benefit, including fee waivers for courses, from a college or university for serving as a mentor for a student teacher.

2. Can colleges and universities provide compensation to a school district employee for serving as a mentor for a student teacher?

No, colleges and universities are prohibited from providing compensation to district employees for serving as mentors for student teacher. However, colleges and universities can provide payments or benefits to a district in return for allowing students to student teach or do field experiences in district schools. Districts can use these funds in any way allowed by law.

To whom do these restrictions apply?

The restrictions in the Ethics Law that are discussed in the opinion apply to all school district employees and all colleges and universities.

What prompted this opinion?

The opinion was prompted by a request for advice.

When will the conclusions in this opinion apply?

Advisory Opinion No. 2011-05 became effective when it was approved by the Commission at its meeting on June 17, 2011. Because the issue had not been previously considered by the Commission, the Commission recommends that the conclusions in the opinion should not apply to any district official or employee for actions that occurred before the opinion was approved.

For More Information, Please Contact:

Paul M. Nick, Executive Director, **or**
Jennifer A. Hardin, Chief Advisory Attorney
(614) 466-7090

THIS COVER SHEET IS PROVIDED FOR INFORMATION PURPOSES.
IT IS NOT AN ETHICS COMMISSION ADVISORY OPINION.
ADVISORY OPINION NO. 2011-05 IS ATTACHED.

Ben Rose, Chair
Betty Davis, Vice Chair
Merom Brachman
Michael A. Flack
Maryann B. Gall



OHIO ETHICS COMMISSION
William Green Building
30 West Spring Street, L3
Columbus, Ohio 43215-2256
Telephone: (614) 466-7090
Fax: (614) 466-8368

www.ethics.ohio.gov

Paul M. Nick
Executive Director

Advisory Opinion
Number 2011-05
June 17, 2011
**Compensation for
Hosting Student Teacher**

Syllabus by the Commission:

- (1) The supplemental compensation law, found in Division (A)(1) of Section 2921.43 of the Ohio Revised Code, prohibits a teacher or other employee of a school district from accepting compensation from a public or private college or university to: (a) serve as a classroom mentor for a student teacher; (b) host a college or university student doing required field experience; or (c) administer the district's student teacher program;
- (2) The supplemental compensation law also prohibits a public or private college or university from compensating a teacher or other employee of a school district for: (a) serving as a classroom mentor for a student teacher; (b) hosting a college or university student doing required field experience; or (c) administering the district's student teacher program.

* * *

The Commission has been asked whether a teacher or other employee of a public school district can accept compensation, from a college or university, for: (1) serving as a classroom mentor for a student teacher; (2) hosting a college or university employee who is doing required field experience; or (3) administering the district's student teacher program.

The statute that is applicable to this situation is the supplemental compensation law, R.C. 2921.43, which applies to public servants. All officials and employees of a school district, including all teachers regardless of their job duties or level of authority, are public servants.¹

Questions and Brief Answers

Question 1: Can a school district employee, including a teacher or administrator, accept compensation from a college or university for: (1) serving as a classroom mentor for a student teacher; (2) hosting a college or university employee who is doing required field experience; or (3) administering the district's student teacher program?

Answer: No, a school district employee cannot accept this compensation.

Question 2: Can a public or private college or university provide compensation to a school district official or employee for serving as a classroom mentor for: (1) serving as a classroom mentor for a student teacher; (2) hosting a college or university employee who is doing required field experience; or (3) administering the district's student teacher program?

Answer: No, colleges and universities cannot provide this compensation to school district officials or employees. The law applies to both public and private institutions of higher education.

Facts:

- In order to become a licensed educator in Ohio, a person must successfully complete a statutorily mandated teacher education program that includes a minimum of one-hundred hours of field experience and more than twelve weeks of full-time student teaching.²
- Many Ohio colleges and universities enter into service or cooperative agreements with school districts that will host college or university students who are completing these field service and student teaching requirements.
- Under a typical agreement, the district will host students from the college or university and will designate particular teaching and administrative staff to act as classroom mentors and program coordinators. In return, the college or university provides the district or cooperating district employees, including teacher classroom mentors and program coordinators, a cash stipend or fee waiver for courses at the university.
- While mentoring student teachers is not part of a school teacher's usual duties as a district employee, these services the employee provides are services connected with a school-supported program and the teacher is functioning within the scope of his or her employment with the district.

Supplemental Compensation—School District Officials and Employees

R.C. 2921.43(A)(1) provides that no public servant shall knowingly solicit or accept and no person shall promise or give a public servant, other than as allowed by law³:

Any compensation . . . to perform the public servant's official duties, to perform any other act or service in the public servant's public capacity, for the general performance of the duties of the public servant's public office or public employment, or as a supplement to the public servant's public compensation.

“Compensation” includes anything of value that is given for services whether it is in the form of cash, tangible goods, or other financial gains or benefits that accrue to the public servant.⁴ Compensation includes money and fee waivers for college or university courses.

Any payment, or other gain or benefit, given by any person to a public school teacher or other school district employee for the performance of their required official duties or as a supplement to their public compensation is prohibited by R.C. 2921.43(A)(1).⁵ The term “person,” includes governmental agencies, individuals, corporations, business trusts, estates, trusts, partnerships, and associations.⁶

Therefore, school district employees are prohibited from soliciting or accepting from any person supplemental compensation, which is any payment:

- For performing any duty, act, or service required in their official capacities as public servants;
- For the general performance of their duties; or
- As a supplement to their public compensation.⁷

R.C. 2921.43(A)(1) also prohibits any person from promising or giving, to public servants, supplemental compensation other than as allowed by law.⁸

Precedent—Advisory Opinion No. 2008-01

In Advisory Opinion No. 2008-01, the Ethics Commission considered whether the Ethics Law prohibits a school district employee from accepting additional compensation from a boosters’ group for coaching sports teams or assisting with school-related activities. This opinion will note the key elements of Advisory Opinion No. 2008-01, but the entire reasoning and conclusions in that opinion are embodied in this response as if fully restated here.

The Commission concluded that R.C. 2921.43(A)(1) prohibits coaches or other district employees who are paid by the district to perform coaching or other duties related to sports or other school-related activities from accepting compensation for performing those duties from a boosters’ group or any other person. The Commission stated: “For the performance of their public duties, school district employees can receive only the compensation that is provided by the district pursuant to the terms of the employment relationship, and any lawful supplemental contract.” (Emphasis in original.)

The Commission also concluded that the law prohibits a boosters’ group, school support organization, or any other source from providing compensation directly to school district employees for the performance of coaching duties. The Commission stated: “[t]he district is the only lawful source of compensation, for coaching duties, to officials and employees engaged to perform those duties.”

The Commission explained that, in enacting R.C. 2921.43(A), “the General Assembly intended to protect the public by ensuring that a public servant would serve only the public, and the performance of his or her job duties would *not* be influenced by the public servant’s obligation to any *other* source of compensation.” (Emphasis in original.) For that reason, R.C. 2921.43(A) prohibits a school district employee from receiving compensation from any source other than the district “for the services he or she performs” in connection with school activities. These payments would be “provided in exchange for the general performance of the duties that the district pays the employee to perform or provided as a supplement to his or her public compensation.”

Application of Precedent

As noted above, serving as a classroom mentor for a student teacher or hosting students engaged in college or university field experiences is not part of a teacher’s usual duties as a district employee. Administering a district’s student teacher program also may not be part of a school district employee’s usual duties for the district. Nonetheless, the employment link between the employee and the district while he or she is engaged in mentoring activities or hosting college or university students doing field experiences, or administering the student teacher program, indicates that the employee is functioning within the scope of his or her employment with the district.

A school district employee provides mentoring services for student teachers or hosts student engaged in field experiences under an agreement or partnership between the district and the university. The university relies on district personnel who administer the program to identify teachers who are best suited to be classroom mentors and to assist with troubleshooting field-related concerns. Most of the field experience and the mentoring activities occur during the school day, using school facilities and resources.

Even if mentoring or hosting students is not a part of the district employee’s “regular duties,” the services that he or she provides are services connected with a school-supported program and the teacher is acting within his or her official capacity as a school district employee. Therefore, R.C. 2921.43(A)(1), the supplemental compensation law, prohibits a college or university from providing directly to any school district employee, and prohibits a school district employee from accepting from a college or university, compensation for mentoring student teachers, hosting students engaged in field experiences, or administering the district’s student teacher program.

R.C. 2921.43(A)(1) does not prohibit a college or university from providing payments, fee waivers, or other benefits to the district in return for allowing students from the educational institution to student teach or do field experiences in district schools. The school district can use the funds provided in any way it chooses as discussed in Advisory Opinion No. 2008-01.

Finally, it should also be noted that whether mentoring student teachers or students in field experiences or administering the district’s student teacher program is governed or permitted by collective bargaining agreements, requires a supplemental contract, or is required to be part of

a school employee's position or job description are issues that are not within the Ethics Commission's jurisdiction.

Public and Private Colleges and Universities

As explained above, the law prohibits any "person" from giving, and a public servant from accepting, supplemental compensation. A university or college, regardless of whether it is supported by the state, is a "person" for purposes of R.C. 2921.43(A)(1). Therefore, whether a college or university is "state-supported" makes no difference in the application of the supplemental compensation law.

Prospective Application

Because this issue had not been previously considered, the Commission recommends that the conclusions in this opinion should not apply to any district official or employee for actions that occurred before the opinion was approved.

Conclusion

This advisory opinion is limited to questions arising under Chapter 102. and Sections 2921.42 and 2921.43 of the Revised Code, and does not purport to interpret other laws or rules.

Therefore, it is the opinion of the Ohio Ethics Commission, and the Commission advises that: The supplemental compensation law, found in Division (A)(1) of Section 2921.43 of the Ohio Revised Code, prohibits a teacher or other employee of a school district from accepting compensation from a public or private college or university to: (a) serve as a classroom mentor for a student teacher; (b) host a college or university student doing required field experience; or (c) administer the district's student teacher program. The supplemental compensation law also prohibits a public or private college or university from compensating a teacher or other employee of a school district for: (a) serving as a classroom mentor for a student teacher; (b) hosting a college or university student doing required field experience; or (c) administering the district's student teacher program.

By my signature below, I certify that Advisory Opinion No. 2011-05 was rendered by the Ohio Ethics Commission at its meeting on June 17, 2011.



Ben Rose, Chair
Ohio Ethics Commission

¹ R.C. 2921.01(A) and (B); Ohio Ethics Commission Advisory Opinions No. 93-017, 2001-04, and 2008-01.

² R.C. 3319.22 and O.A.C. 3301-24-03.

³ There are exceptions to R.C. 2921.43(A)(1) for campaign contributions, honoraria, and travel expenses under certain circumstances but the exceptions are irrelevant to this question. R.C. 102.03(G), (H), and (I).

⁴ Adv. Op. No. 2008-01.

⁵ Adv. Op. No. 2000-04.

⁶ R.C. 1.59(C); See also Adv. Ops. No. 82-002, 89-003, and 2004-04.

⁷ Adv. Op. 92-014 and 92-015.

⁸ Adv. Op. No. 90-001. See Adv. Ops. No. 89-012 (payment for legal services required to be performed by a law director), 89-013 (travel, meal, and lodging expenses for travel on state business) and 91-010 (“frequent flyer” benefits earned through travel on state business). See also Adv. Op. No. 92-014 (public servants are not prohibited from accepting rideshare incentives purchased with grant money provided by a regional planning commission to their public employers since the incentives are provided for their commute to and from work and are *not* given for: (1) the performance of their official duties, (2) the performance of any act or service within their public capacity, or (3) for the general performance of the duties of their public employment).