

Policy Manual

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11. Acceptance of Honorarium Fees

Ethical considerations: VA investigators sometimes wish to have an honorarium, consulting, or speaker fee directed to a VA-affiliated nonprofit corporation such as CARES as a donation in lieu of accepting it personally. Some apparently do this in the belief that donating a fee to a nonprofit relieves them of the need to make sure the subject of their presentation is not related to their official VA duties or the need to take annual leave. However, federal ethics regulations at 5 CFR §2635.807 allow federal employees to earn fees for presentations related to their official duties only if they are teaching a course requiring them to make multiple presentations during a program of education or training sponsored and funded by the federal government or by an institution of higher education, an elementary school, or a secondary school. As far as we have been able to determine, this is the only exception; there is no exception for turning the payment into a donation to a nonprofit.

Tax implications: Investigators sometimes also believe they will not be assessed personal income taxes on a speaker fee if they instruct the payer to send the check to a nonprofit. However, the IRS is likely to view as income amounts earned any time there is a quid pro quo -an exchange of goods or services for payment - or when an individual exercises control over dispensation of payment. Such payments may be taxable to that individual regardless of whether payment goes to a nonprofit or the individual accepts it personally. Acceptance of such funds may be viewed as tax avoidance by the IRS, affecting both the investigator and the nonprofit.

Personal benefit concerns: Finally, investigators often wish to specify - or simply expect -that their donation of speaking fees, writing fees and consulting payments will be available to support their own research. In some cases, investigators may want to direct a personal donation for their own research program.

In IRS terms, their expectation is that use of the gift is "restricted" to their own research. However, the IRS has asserted that such contributions could provide a prohibited actual or perceived benefit to the donor if the donor subsequently controlled or even influences use of the gift. This jeopardizes the nonprofit's exempt status because no nonprofit assets may benefit an individual associated with the organization.

The CARES Board of Directors has formally determined that gifts from CARES Investigators will only be accepted if completely unrestricted or used for a research program other than the Investigator's program.

Investigators may request that CARES send a letter to a sponsor requesting an unrestricted donation to CARES in lieu of an honorarium. Funds received from such solicitations would be deposited into an account under the control of the Board of Directors. Investigators should contact the CARES Executive Director if such a donation request is contemplated.

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