

**Formal Advisory Opinion
No. 3 of 2011**

May 17, 2011

Honorable Amy H. Handlin
890 Main St.
Belford, NJ 07718

Dear Assemblywoman:

You have asked whether a book you are writing and intend to have published, entitled “Government Grief” is “within the . . . member’s official duties” and thus subject to the provisions of N.J.S.A. 52:13D-24b.1.* You have represented to counsel that you wrote the book entirely with personal resources. Neither District Office resources nor equipment have been used, nor have State employees assisted with this book. In the promotion of this book, you will not be using your District Office or other State resources, including your General Assembly letterhead. The fact that you are a member of the General Assembly will appear in biographical information on yourself related to the book and the marketing of the book.

It is further noted that you have advised counsel that the book will have national applicability and is not limited to New Jersey in its scope.

N.J.S.A. 52:13D-24 reads:

13.a. No State officer or employee, special State officer or employee, or member of the Legislature shall solicit, receive or agree to receive, whether directly or indirectly, any compensation, reward, employment, gift, honorarium, out-of-State travel or subsistence expense or other thing of value from any source other than the State of New Jersey, for any service, advice, assistance, appearance, speech or other matter related

* Legislative Code of Ethics § 2:10 is identical to N.J.S.A. 52:13D-24 in all relevant aspects. Accordingly, the Joint Committee’s decision under the statute would be the same under Code § 2:10.

to the officer, employee, or member's official duties, except as authorized in this section.

b. A State officer or employee, special State officer or employee, or member of the Legislature may, in connection with any service, advice, assistance, appearance, speech or other matter related to the officer, employee, or member's official duties, solicit, receive or agree to receive, whether directly or indirectly, from sources other than the State, the following:

(1) reasonable fees for published books on matters within the officer, employee, or member's official duties;

(2) reimbursement or payment of actual and reasonable expenditures for travel or subsistence and allowable entertainment expenses associated with attending an event in New Jersey if expenditures for travel or subsistence and entertainment expenses are not paid for by the State of New Jersey;

(3) reimbursement or payment of actual and reasonable expenditures for travel or subsistence outside New Jersey, not to exceed \$500.00 per trip, if expenditures for travel or subsistence and entertainment expenses are not paid for by the State of New Jersey. The \$500 per trip limitation shall not apply if the reimbursement or payment is made by (a) a nonprofit organization of which the officer, employee, or member is, at the time of reimbursement or payment, an active member as a result of the payment of a fee or charge for membership to the organization by the State or the Legislature in the case of a member of the Legislature; (b) a nonprofit organization that does not contract with the State to provide goods, materials, equipment, or services; or (c) any agency of the federal government, any agency of another state or of two or more states, or any political subdivision of another state.

Members of the Legislature shall obtain the approval of the presiding officer of the member's House before accepting any reimbursement or payment of expenditures for travel or subsistence outside New Jersey.

As used in this subsection, "reasonable expenditures for travel or subsistence" means commercial travel rates directly to and from an event and food and lodging expenses which are moderate and neither elaborate nor excessive; and "allowable

entertainment expenses" means the costs for a guest speaker, incidental music and other ancillary entertainment at any meal at an event, provided they are moderate and not elaborate or excessive, but does not include the costs of personal recreation, such as being a spectator at or engaging in a sporting or athletic activity which may occur as part of that event.

c. This section shall not apply to the solicitation or acceptance of contributions to the campaign of an announced candidate for elective public office, except that campaign contributions may not be accepted if they are known to be given in lieu of a payment prohibited pursuant to this section.

d. (1) Notwithstanding any other provision of law, a designated State officer as defined in paragraph (2) of this subsection shall not solicit, receive or agree to receive, whether directly or indirectly, any compensation, salary, honorarium, fee, or other form of income from any source, other than the compensation paid or reimbursed to him or her by the State for the performance of official duties, for any service, advice, assistance, appearance, speech or other matter, except for investment income from stocks, mutual funds, bonds, bank accounts, notes, a beneficial interest in a trust, financial compensation received as a result of prior employment or contractual relationships, and income from the disposition or rental of real property, or any other similar financial instrument and except for reimbursement for travel as authorized in subsections (2) and (3) of paragraph b. of this section. To receive such income, a designated State officer shall first seek review and approval by the State Ethics Commission to ensure that the receipt of such income does not violate the "New Jersey Conflicts of Interest Law," P.L.1971, c.182 (C.52:13D-12 et seq.) or any applicable code of ethics, and does not undermine the full and diligent performance of the designated State officer's duties.

(2) For the purposes of this subsection, "designated State officer" shall include: the Governor, the Adjutant General, the Secretary of Agriculture, the Attorney General, the Commissioner of Banking and Insurance, the Secretary and Chief Executive Officer of the Commerce and Economic Growth Commission, the Commissioner of Community

Affairs, the Commissioner of Corrections, the Commissioner of Education, the Commissioner of Environmental Protection, the Commissioner of Health and Senior Services, the Commissioner of Human Services, the Commissioner of Children and Families, the Commissioner of Labor and Workforce Development, the President of the State Board of Public Utilities, the Secretary of State, the Superintendent of State Police, the Commissioner of Transportation, the State Treasurer, the head of any other department in the Executive Branch, and the following members of the staff of the Office of the Governor: Chief of Staff, Chief of Management and Operations, Chief of Policy and Communications, Chief Counsel to the Governor, Director of Communications, Policy Counselor to the Governor, and any deputy or principal administrative assistant to any of the aforementioned members of the staff of the Office of the Governor listed in this subsection.

e. A violation of this section shall not constitute a crime or offense under the laws of this State.
L.1971,c.182,s.13 amended 2003, c.255, s.1; 2005, c.382, s.11; 2006, c.47, s.188; 2008, c.29, s.105.

Members of the New Jersey Legislature are considered part time, meaning that they are expected to have other, outside employment, unrelated to their duties as members. We note that the *Legislator Picture Book* for the 214th Legislature, lists your occupation as “Associate Professor of Marketing, Monmouth University.” Monmouth University is a private university. You have advised counsel that the Office of Communications at Monmouth University sometimes engages in publicity for faculty members publishing books and articles as this is positive publicity for the University. The Office of Communications may do the same when your book is published.

Under N.J.S.A. 52:13D-24b., the question is whether the book was written in connection with “. . . any service, advice, assistance, appearance, speech or other matter related to the . . . member’s official duties. . . .” If the answer is “yes,” the member may still accept reasonable fees for the published book. N.J.S.A. 52:13D-24b.(1). However, if the book is published within your official duties as a member of the General Assembly, you may be subject to other restrictions such as, but not limited to, the acceptance of travel expenses. For example, if the publisher were to send you on a trip, paid for by the publisher to promote the book, you would be subject to the travel provisions of N.J.S.A. 52:13D-24.

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Because the book was created by you, on your own time and without the use of State resources, is national in scope and is in no way connected with your official duties as a member of the General Assembly, the receipt of fees for the book does not fall within the reach of N.J.S.A. 52:13D-24. Accordingly, you may proceed with the publishing and sale of the book without being subject to N.J.S.A. 52:13D-24 in that regard. You should continue to keep the book as a private endeavor and not use any State resources in that regard. You may use the fact that you are a member of the New Jersey General Assembly in your biographical information used in publicity for the book.

Very truly yours,

JOINT COMMITTEE ON ETHICAL STANDARDS

Albert Porroni
Counsel

By:

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JGW/pca
c Members of the Joint Committee