

## HONORARIA AND SPEAKER FEES

### PAYMENT AND ACCEPTANCE

- VA affiliated nonprofits such as SIBCR are often asked to pay honoraria and speaker fees or to accept donations of honoraria. To assist the nonprofits to work through the sometimes complex issues related to compensation for outside speaking, writing and teaching, NAVREF offers the following decision tree in determining when honoraria and speaker fees may be paid to VA employees without putting the employee at risk of violating federal ethics regulations. Following the decision tree is a discussion of issues with nonprofits accepting honoraria as donations.

#### Payment of Honoraria Decision Tree

1. Is the speaker a VA employee?

NO →

Obtain the speaker's Social Security number and mailing address. Issue an IRS Form 1099 Misc. if total payment(s) to the individual in one calendar year are \$600 or more regardless of whether the check will be paid to the individual or to a nonprofit. [See IRS Form 1099 Misc. instructions.](#)

YES



2. Is the subject of the speaker's presentation related to the speaker's official VA duties? [See definition of "related" at [§2635.807\(a\)\(2\).](#)]

NO YES UNCERTAIN →

Have the speaker obtain a written opinion from a VA attorney or ethics official and then follow instructions for "yes" or "no."

↓ Do not pay an honorarium or speaker fee regardless of whether the speaker is on annual leave or administrative leave/ authorized absence/official absence [\[5 CFR §2635.807\]](#) or intends to direct payment to a nonprofit. Exception: teaching certain courses offered by universities or sponsored and funded by the federal government [\[5 CFR 2635.807\(a\)\(3\)\]](#).

3. Is the speaker on off duty status (i.e., on annual leave)?

YES →

Obtain the speaker's Social Security number and mailing address. Issue an IRS 1099 Misc. if total payment(s) to the individual in one calendar year are \$600 or more regardless of whether the check will be paid to the individual or to a nonprofit.

NO



If the speaker is on duty (administrative leave, authorized absence and official absence = "on duty" status), do not pay the speaker an honorarium or speaker fee. Payment would constitute dual compensation [\[§18 USC 209\]](#) regardless of whether the speaker directs payment to a nonprofit organization.

## NPC Acceptance of Donations of Honoraria and Speaker or Writing Fees

VA investigators often choose to have an honorarium or speaker fee directed to an NPC as a donation in lieu of accepting it personally. Some apparently do this in the belief that directing payment of 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 38 CFR §2635.807 allow federal employees to earn fees while on official duty status and/or 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 an 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.

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.

SIBCR is not responsible for monitoring VA employees' ethics except in regard to conflicts of interest. Nor should SIBCR be giving tax advice. However, we can help prevent violations of federal ethics regulations by requiring investigators to complete a simple form regarding donations of honoraria.