

**PBPA Podcast Transcript**  
**Recognizing Value: Paying and Receiving Honorariums**  
**(19:31 minutes)**



Sireesha ([00:00](#)):

What happens when a member of your organization receives an honorarium? Should the payment go to the individual or to the nonprofit? Well, it depends. While an honorarium serves as recognition to an individual for their time, expertise, and contributions, it's important to be aware of the legal and tax implications that come with honorarium payments. In this episode of the PBPA Podcast, Kathryn Hecker and Felix Swierski will explore these implications and provide guidance on receiving or paying honorarium.

Sireesha ([00:42](#)):

Hello and welcome to the PBPA Podcast. In each episode of the PBPA Podcast, we explore legal questions relevant to Georgia nonprofits. I'm your host Sireesha Ghanta, Counsel and Education Director at the Pro Bono Partnership of Atlanta. PBPA strengthens our community by engaging volunteer attorneys to provide nonprofits with free business legal services. We provide numerous free resources via our website, including articles and webcasts specific to Georgia nonprofits and their business legal concerns. We also provide direct legal services to our clients. For more information on client eligibility requirements, to apply to be a client or to access our vast learning center, visit our website at [pbpatl.org](http://pbpatl.org). Before we jump into this episode's topic, keep in mind that this podcast is general information, not legal counsel, contact your attorney for guidance on your nonprofits' specific situation.

Kathryn ([02:16](#)):

Thank you, Sireesha.

Felix ([02:16](#)):

Thank you.

Sireesha ([02:19](#)):

So I was looking at a nonprofit's annual report last week and saw on their revenue pie chart, they had an entire wedge on their pie chart for honoraria. So to start off, can you clarify, what is an honorarium?

Kathryn ([02:37](#)):

So I think this comes up a lot in the context of what constitutes kind of an honorarium versus a speaking fee. So as you alluded to earlier in your introduction, an honorarium is a payment for a speech, maybe an article or attendance in exchange for someone's expertise. And the key here is that the amount of the honorarium is being determined by the entity that is hosting the individual speaker. And also this payment is voluntary. The amount is not negotiated. This usually comes up in the context of a non-recurring opportunity, such as a one-off speech at an event or a conference. Common amounts for honoraria are usually on the smaller range, so you might see maybe \$500 to a thousand dollars. Uh, for smaller nonprofits, if you're looking at larger entities like um, universities, you know, honoraria may be larger, several thousand of dollars. So in contrast, a speaking fee is something that is set by the proposed speaker. So someone may say, well, I'll come to your conference, but you have to pay me \$10,000 for me to do that. You know, that that amount being set by the speaker would not be considered an honoraria.

Sireesha (03:57):

I see. So you covered a lot of items there. For a nonprofit, should they have a policy regarding honoraria to cover some of those items you mentioned? And if so, what types of policies are there?

Kathryn (04:12):

Absolutely. Well, you know, I, I think the general rule is like, should you have a policy for X? Usually the answer is yes, right? Um, it just makes, it makes things easier when everyone kind of in the organization knows what the expectations are and the rules and having that upfront is important. So I think there's kind of two facets of, two ways a policy could apply here. So one, if you have a nonprofit that might be inviting others to come speak to you, you know, what is our internal policy on offering honoraria? Do you know? Do we have a limit that we're going to, you know, place on what we offer? So that's one thing.

Kathryn (04:51):

And then the one that's probably a lot more applicable to, um, PBPA nonprofits is, you know, how do we handle it if other organizations are asking our executive director or our employees to speak? And I'd say, you know, what makes sense for a policy really depends a lot on the size of the organization and how often, you know, these sorts of things come up. If, you know, an executive director or employee maybe gets asked once in a blue moon, perhaps the policy is that the executive director needs to run it by the board or, you know, let, or a board committee or something like that. If these come up much more frequently, it probably makes more sense to have kind of a general policy of, okay, under these terms, this is when, you know, the executive director can be permitted to accept the honoraria. And we'll get into more detail on this, like under the, these terms, maybe the payment should be made to the organization. But I think, going back to the original question, it is always good to have a policy at the outset so that way everyone knows what the expectations are.

Sireesha (06:05):

Can you gimme some examples? In what scenarios do honoraria arise for nonprofits?

Felix (06:12):

Sure. Uh, so there are two fairly common scenarios where honoraria are used in the context of nonprofits. The first situation would be when an employee of a nonprofit is invited to speak or present somewhere else. So for example, let's say that the executive director of a charitable foundation is invited to attend a conference of similar type foundations to give a speech. Here, the subject matter expertise on which the speaker is speaking is directly related to his or her employment with the nonprofit, you could also have that same executive director of the same nonprofit organization asked to speak at a conference on increasing pickleball participation, for example. After all, it is the fastest growing sport in the country. Uh, in that case, the individual would be most likely speaking in their own individual capacity as opposed to serving as a representative of their nonprofit or employer.

Felix (07:08):

Now, we will use these examples again when we get to the specifics about the payment of an honorarium and the related terms that usually go along with that payment. Now, a second type of scenario would be similar to our first example, except that the roles of the respective parties are now going to be switched. So the nonprofit would be inviting an outside individual to its own events. So for example, let's say that an organization has a fundraising event and invites a keynote speaker in order to

draw attendance. This speaker may or may not be from another nonprofit. They might also be from a for-profit organization, or they could even be self-employed. If the speaker is from another nonprofit, then some of the rules that we are discussing here will apply. However, if the speaker is not from another nonprofit, then the issues to be concerned about are more related to tax reporting and compliance, which we'll discuss a little bit later, rather than this perspective of the speaker and if they're speaking individually or on behalf of their employer.

Sireesha ([08:07](#)):

So now I have a few questions about paying an honorarium to a speaker. Let's specifically cover what happens if an individual from a nonprofit such as an executive director or staff member or board member receives an honorarium payment. Where does that honorarium payment go, to the nonprofit organization or to the individual who is speaking?

Felix ([08:34](#)):

Well, to use the classic lawyer example, it depends. Generally speaking, an honorarium may be made either to an individual person with professional or expert standing in their particular field or community or to the organization that that person works for or represents. Now, if we think back to our examples from the previous question, if an executive director is invited to speak at a conference attended by people working in a similar industry or field, and the speaker works for a similarly situated organization, then the honorarium would likely be paid to the individual's nonprofit because it is directly related to the speaker's employment. Now, obviously, there are always exceptions. As I mentioned before, if that same executive director also happens to be a pickleball expert in their free time away from work and they speak at a pickleball conference, then the honorarium could likely be paid to them individually.

Felix ([09:28](#)):

Now, if you are a nonprofit and are considering paying someone an honorarium, you should keep in mind that there may be limited situations where an honorarium recipient cannot or should not receive an honorarium. Now, this question becomes not whether the honorarium is paid to the speaker or their organization, but whether the organization has set up guidelines or policies to dictate when an honorarium may be accepted, from whom an honorarium may be accepted, and who ultimately gets to retain the honorarium. So, for example, some public and government organizations have policies restricting when honorariums may be accepted due to inappropriate lobbying of public employees and other related ethical questions. Now, one way to get around these concerns might be to redirect the honorarium with, uh, which Kathryn will be talking about a little bit later.

Sireesha ([10:20](#)):

Would you recommend, or do organizations need to have a written agreement every time they're, um, gonna be speaking and there will be an honorarium payment involved?

Felix ([10:30](#)):

Well, first, let me say that the use of the word agreement here can be somewhat misleading. Now, the payment of an honorarium and a contractual agreement for services are two entirely different things. In fact, the payment of an honorarium, by and large, is often an intentional decision made to avoid the back and forth negotiating that goes along with setting a price for a contract for services. Now, in the context of honoraria, the organization offering the payment is doing so voluntarily, and as a thank you for the participant's time. It is not legally required to pay a speaker or presenter anything. The speaker

or performer on the other hand is, again, generally speaking, undertaking the commitment free of contractual liability or legal obligation. Which means that breach of contract and similar legal remedies that you might see in a contract for services might not be available to the nonprofit in the event of a dispute between the parties.

Felix ([11:30](#)):

Now, I do wanna make one important note here. While an agreement to pay an honorarium generally doesn't contemplate a breach of contract provision that you might see in a traditional contract, it is possible for the nonprofit to withhold the honorarium in certain circumstances. Now, for example, if the speaker agrees to discuss one topic prior to the event, but talks about something completely unrelated on the day of the event, the nonprofit may be able to withhold the honorarium. And that's where a written document or written agreement can be particularly useful. Now, as we discussed a few moments ago, it is critical to determine whether the honorarium is being paid directly to the individual or if it is being paid to that individual's employer or perhaps even another organization. We'll be talking about the tax treatment of honoraria a little bit later. But one of the biggest errors that Kathryn and I see regarding a payment of honoraria happens after the commitment has ended when an individual gets stuck with tax liability for a payment that they didn't receive personally.

Felix ([12:31](#)):

Now having a document that states who the honorarium is being paid to can provide for both parties and reduce any opportunity for conflict after the commitment has ended. It can also serve as useful evidence in the event that your nonprofit gets audited by the IRS, which is certainly never a good thing. Uh, one other reason to produce a written document or written agreement for the honorarium is to define each party's expectations for the event. So, for example, the document could spell out the material to be discussed or presented, the time, the location, the payment amount, and any technology required by each party. The agreement could also address any intellectual property concerns, which we'll address separately as a separate issue, or contemplate situations where the individual is unable to perform and what a backup plan might look.

Sireesha ([13:20](#)):

I see. And you reference a few other issues in your, in your previous answer. So tell me what are some of those other issues that nonprofits should be aware of regarding honoraria?

Kathryn ([13:33](#)):

So I think the biggest one that comes up is the income tax implications, because sometimes nonprofits, particularly if they're not super experienced in this area, don't focus on the fact that this is income. So for anyone who's ever had to take, uh, you know, an income tax class, one of the first things you learn is, I think it's section 61, which is, you know, all income basically is income, unless otherwise, you know, defined as not income. So if you, if you're getting, you know, money paid to you to come speak as an honoraria, that is income to the speaker. And the other kind of reporting side is that the nonprofit who is pay making that payment needs to actually issue a form if the amount is \$600 or more. So this form is a 1099NEC, you if, if you haven't done one in a couple years, you may be more familiar with the 1099MISC, but it was changed a couple years ago.

Kathryn ([14:35](#)):

So I think that's the biggest thing for both potential speakers and nonprofits to be aware of, is that if the payment is made directly to an individual, it will be income and there will be reporting requirements on either side. So going back to what Felix mentioned, you know, the way to avoid, um, the payment being income is if the speaker declines and says, you know, I don't accept this, you're welcome to make a donation to my organization. Instead, the key there is it needs to be early enough in time so that there isn't what's called an "assignment of income" issue, where, you know, if the speaker has already delivered the speech and then says, oh no, I'm not gonna take it, you know, please give it to my organization. You know, at that, at that point you've already taken the steps needed to have it be income to the speaker.

Kathryn ([15:27](#)):

Another thing just to be aware of for nonprofits is a, you know, we're talking about federal tax implications, but if this speaker is in a state with particular state income tax laws, there may be implications there. And if you have a speaker who is a non-US citizen, there may be other issues. And I don't, I think that those are a little bit too complicated to get in today, but just wanted to mention that in case that arises for any of nonprofits who may be listening to this.

Kathryn ([15:57](#)):

Another issue that comes up a lot relates to intellectual property. So this, there's kind of two sides of this as well. So first, the speaker needs to be very careful about using nonprofit resources if the speaker is being individually compensated as opposed to the honorarium being paid to the nonprofit. So, going back to Felix's earlier example of, you know, you've got a speaker who may be speaking on foundation topics, and let's just say maybe in this instance, for some reason everyone's agreed that the speaker should be individually compensated and that not the nonprofit, but the speaker decides to use a bunch of resources and their PowerPoint has, um, their own nonprofits, you know, header, things like that, that that seems then that the speaker's really being an agent on the nonprofit and, the compensation should be directed there.

Kathryn ([16:53](#)):

Then the kind of flip side, to think about for IP issues is that if you're organizing event and you have a speaker come in, you would wanna address concerns about recording promotional materials, et cetera, um, with the speaker in advance. And so this is particularly true in the age of Zoom where there may be a virtual component that gets recorded. You wanna make sure that your speaker, um, is, has agreed to that. And I'll just say, uh, I, I'll commend PBPA for having their own agreements. So Felix and I agreed to have this be recorded and, uh, and we put in asked attestations about, you know, we didn't take materials from anywhere else. So PBPA has a great form for this already. But wanna make sure others are aware of that. And then the, the last thing we just wanted to touch on briefly is private environment issues.

Kathryn ([17:47](#)):

So if you have someone who's, say the executive director or on the board of a nonprofit, um, they, they need to be very careful about using organizational resources if they're being paid individually. So for example, you know, if you are an executive director of a nonprofit and you have an your assistant work on your PowerPoint or speech, but it's something that you're getting individually paid on, there's potential private inurement issues. So I know that was very kind of high level, but just wanted to, to flag those for, um, the nonprofit organizations that may be listening.

Sireesha ([18:22](#)):

That was great information. I learned so much today and I appreciate you both, um, answering all my questions. I know this information will be very helpful to nonprofits as they address both receiving and paying honoraria. Thank you, Felix and Kathryn, for sharing your time and expertise with us today.

Kathryn ([18:46](#)):

Thank you.

Felix ([18:47](#)):

Thank you.

Sireesha ([18:48](#)):

We hope that you found this episode of the PBPA Podcast to be informative and helpful. We add new episodes every month with short conversations about general, yet important legal information for Georgia nonprofits. Remember that this is not legal counsel. Talk to your attorney about your organization's specific concerns. Thanks for tuning into the PBPA Podcast. And to all nonprofits listening out there, thank you for all the good work you continue to do in our community.