



United States Senate

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SELECT COMMITTEE ON ETHICS
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April 13, 2011

The Honorable Marco Rubio
United States Senate
Washington, D.C. 20510

Dear Senator Rubio:

This is in response to your recent correspondence seeking the approval of the Committee to accept an appointment as a Senior Fellow to co-teach four courses at the School of International and Public Affairs at Florida International University. Based on your correspondence to the Committee and the additional information your counsel provided to Committee staff, the background in this matter appears to be as follows.

You have been invited to accept a temporary, part-time, non-tenure earning appointment to teach during the academic terms of summer 2011, fall 2011, spring 2012 and summer 2012. Each of the courses is offered for three-credit hours as part of the academic curriculum for students at the advanced undergraduate level. You will receive an annual salary of \$24,000. Compensation for your appointment is within the mid-range of the normal and customary amount set forth in the schedule of compensation for Senior Fellows and for similar appointments at the university. Further, the university has represented that your compensation will be paid from the general funds of Florida International University and not from earmarked grants, appropriations, or dedicated contributions from other entities. Your teaching responsibilities will include class preparation, lecture presentation, developing reading lists, assigning and grading homework, preparation and grading of tests, meeting with students, and providing grades to students in accordance with the academic standards of the university. You assure the Committee that no Senate resources or time will be used in connection with your teaching. Finally, if you later decide to extend your appointment, with additional teaching responsibilities and additional compensation, you will seek the review and approval of the Committee.

The Ethics in Government Act provides, in part, that Senators (and certain Senate staff) may not receive compensation for teaching without the prior notification and approval of the Senate Select Committee on Ethics. *See* 5 U.S.C. App. 4 § 502(a)(5). Under this provision, the Committee has previously approved outside teaching activities at an accredited university by a Senator, where the students received credits for the course. In that case, the Senator's responsibilities included preparing lectures and discussions, grading papers and exams, and other collateral work that would be performed by any other teacher. Moreover, the Senator's pay was to come from the university's general funds and his pay was an amount consistent with the

school's guidelines for the services that he provided. In addition, the Senator stated that no Senate resources would be used for teaching and that his preparation and teaching would be done on his own time.

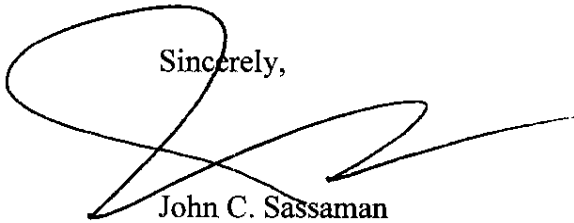
It appears that this case provides sufficient precedent for approval of your teaching position at Florida International University, *provided that* no Senate resources are used, and that your preparation and teaching assignments are done on your own time. In addition, this approval is contingent upon the requirements that the funds for your compensation come from the general funds of the university and that your level of compensation is consistent with the university's pay for other teachers similarly situated.

Furthermore, Senators may not have "outside earned income" attributable to a calendar year in excess of 15% of the annual rate of basic pay for level II of the Executive Schedule under 5 U.S.C. § 5313 (15% = \$26,955 for CY 2011). The payments you receive from teaching at Florida International University would be outside earned income subject to this limit.

Finally, because you are required to file an annual public financial disclosure report under Senate Rule 34 (Title I of the Ethics in Government Act of 1978, as amended), you will need to report this compensation under the "income" section of this report covering the calendar year or years during which you receive the income.

I hope you find this information helpful. If you have any further questions please do not hesitate to contact the Committee.

Sincerely,



John C. Sassaman
Chief Counsel and Staff Director