



STATE OF CONNECTICUT  
STATE ETHICS COMMISSION

ADVISORY OPINION NUMBER 82-1

State Employee Serving on an Advisory Committee  
Considering Issues with which Spouse is  
Involved as Private Attorney

The Executive Director, Permanent Commission on the Status of Women, has been invited to serve on the advisory committee established by Public Act No. 81-380, An Act Concerning Objective State Job Evaluations. The Executive Director's spouse, an attorney, represents several State employees and a State employees labor union in a suit against the State which alleges sex discrimination by the State. Charges in the suit concern issues which the advisory committee will be considering. The Executive Director has asked whether under the Code of Ethics for Public Officials (Chapter 10, Part I, General Statutes) there would be a conflict of interest, given her spouse's involvement in the suit, if she were to serve on the advisory committee.

Public Act No. 81-380 directs the Commissioner of Administrative Services to adopt and implement a system for evaluating classifications in the classified State service. The Department of Administrative Services is to review, as necessary, and revise, as appropriate, the classification system for all job families in the classified service. The evaluation is to be based on objective job-related criteria, some of which are designated in the Act.

In performing its work, the Department is to be advised by an advisory committee. The Commissioner or his delegate has invited representatives of various interested parties to serve on the advisory committee. Members are unpaid. One person asked to be a member is the Executive Director, Permanent Commission on the Status of Women. The Permanent Commission is a party interested in the system because implementation of a State employee job classification system based on objective job-related criteria in its opinion would support its mission.

The Permanent Commission on the Status of Women was established in 1973 to assist women in various ways and to work toward elimination of sex discrimination, particularly in State service. Section 46a-4, General Statutes. Duties of the Commission include assessing programs and practices in State agencies as they affect women, enlisting

the support of State and local government in eliminating sex discrimination, and recommending legislation and policies in the area of sex discrimination to agencies and offices of the State and of local subdivisions of government. Chapter 812, General Statutes; sections 46a-5-1 through 46a-5-15, Regulations of Connecticut State Agencies. The Commission supports participation of its Executive Director in the work of the advisory committee, for the purpose of Public Act No. 81-380 is consistent with one of the principal goals of the Commission.

A member of a group with strictly advisory responsibilities who is not paid by the State for her services as a member is neither a public official nor a State employee. Subsections 1-79(j), (k), General Statutes. The Executive Director of the Permanent Commission on the Status of Women is clearly a State employee, and has been asked to serve on the advisory committee because of her State position. There seems to be no reason why she may not serve, even though her spouse is engaged in private employment in the same area of interest.

If she were to accept membership on the advisory committee the Code of Ethics would affect her in various ways. Since the Executive Director is a State employee whether or not she is a member of the advisory committee there are certain provisions of the Code--subsections 1-84(d), 1-84(f), 1-84(g), and 1-84(i)--concerning paid representations of others before certain State agencies, conduct in the nature of bribery, and contracts with the State, which she must observe at all times. Subsection 1-84(b) is not applicable. Unpaid, service on the advisory committee is not employment within the meaning of the word in the subsection. Ethics Commission Advisory Opinion No. 80-18, 42 Conn. L.J. No. 22, p. 23 (Nov. 25, 1980).

Subsection 1-84(a), as clarified in section 1-85, and section 1-86 concern substantial and potential conflicts of interest involving official activity or action. The actions the Executive Director would take as a member of an advisory committee and her activities on the committee are not official. They are not the acts of a public official or State employee in the course of her State employment or office, for members of an advisory board or committee, as members, are neither public employees nor public officials. It is possible, of course, that the law suit brought by the clients of the Executive Director's spouse would be strengthened by an advisory committee report adopting a particular position. Even the appearance of a conflict of interest is, however, minimized by a number of factors. The position of the Commission which the Executive Director represents on the advisory committee and the position taken in the suit appear to be congruent. The Commission, to which the Executive Director must answer, wishes her to serve on the committee. The Commission presumably is aware of the suit brought by her spouse, and if not should be informed. Finally, the Executive Director is only 1 of 21 members on the advisory committee.

There is one provision of the Code that would appear to be applicable to the Executive Director were she to assume the role of member of the Public Act No. 81-380 advisory committee. The latter part of subsection 1-84(c) forbids a State employee from using confidential information received through holding public office to obtain financial gain for, among others, a spouse. Since the Executive Director would serve on the committee because of her State duties, information acquired as a member can be considered to be gained through her public office. If this information is confidential--obtained under the authority of the advisory committee and not yet made part of the body of public information--it cannot be used to obtain financial gain for the Executive Director or her spouse, who is a paid representative of persons who claim to be victims of the type of evil which the advisory board is trying to help exterminate. If no confidential information is available to the advisory committee members, as the Executive Director understands on the basis that all its gatherings and deliberations are public, then there is no possibility of a violation of the only part of the Code which would be applicable to the Executive Director based on her status as an advisory committee member. (The union her spouse represents in the law suit against the State has a representative on the advisory committee. Even if the advisory committee did have any confidential information the Executive Director, if a committee member, presumably would know nothing that a party to her spouse's suit did not also know.)

There appear to be no inherent conflicts of interest between the goals of the Commission which the Executive Director serves and the more limited goal of the advisory committee. Since the advisory committee is constituted so as to get the viewpoint of all parties interested in the issue of objective job evaluation, differences in means to achieve the common goals should cause no problem. The goals of the spouse in his paid representation of individuals and a union complaining of job-related sex discrimination parallel those of the Commission and the advisory committee.

As a State employee in a position of considerable responsibility, the Executive Director was properly concerned that she not accept an appointment which could result in a violation of the Code of Ethics for Public Officials or even an apparent conflict of interest. She should be able to serve on the advisory committee provided she does not use confidential information, if any, gained in the course of her committee service for the benefit of the spouse/attorney.

The Executive Director must be as sensitive about the provisions of the Code in her position on the Commission as she has given evidence of being by her request concerning possible service on the advisory committee. While violations of the Code can be avoided, in her employment with the Commission there are more opportunities for conflicts of interest involving her spouse, the attorney, than in service on an advisory committee.

By order of the Commission,

Lucille E. Brown

Dated 12 January 1982

