



STATE OF CONNECTICUT
STATE ETHICS COMMISSION

ADVISORY OPINION NUMBER 82-3

Receipt of an Honorarium by a State Employee

A Federal agency concerned with highway safety has awarded to a non-profit organization a contract to conduct a study of self-supporting alcohol and highway safety programs nationwide. The organization asked an employee of the Department of Motor Vehicles to provide it a substantial amount of information concerning Connecticut's driving-while-intoxicated programs. The organization offered the employee a modest "honorarium" for his assistance. The Ethics Commission has been asked whether it would be appropriate for the employee to accept the honorarium.

Much of the requested material concerning the driving-while-intoxicated programs probably is in the Department's files -- statutes affecting the programs and their funding, regulations governing their operation, proposals and brochures describing the programs and their costs and funding, procedures manuals, status reports, evaluation reports, etc. A few documents desired -- flow charts showing financial responsibility, for example -- might have to be prepared by someone knowledgeable about the programs. Also requested by the organization are newspaper or journal articles describing the programs or addressing program funding, methods of collecting revenue, etc.

The Motor Vehicle Department employee asked to provide the information was selected because of his duties in the Department. He directs, and is responsible for the planning, formulation, and implementation of, all driver improvement and driver education programs and policies. His duties include evaluating alternative plans and programs for the improvement of driver behavior, especially for drivers with repeated violations or accidents. He is also the Department's representative in contacts with other public and private agencies involved in driver education and improvement.

It would appear that programs concerned with the problem of those who drive when they are intoxicated are part of driver education and driver improvement. This conclusion is reinforced by the fact that the President, Association of Alcohol/Drug and Highway Safety Administrators wrote the employee in question seeking his cooperation in responding to the organization's request for information. Among the employee's responsibilities with relation to the programs for which he is concerned is representation of the Department with outside public and private groups.

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Should he or his superiors conclude that he ought to respond to the organization's request for information, the foregoing would indicate it was part of his official duties. His activity in developing the response would be "official action" as that term is used in the Code of Ethics for Public Officials, Chapter 10, Part I, General Statutes.

Subsection 1-84(a) of the Code, as amplified in section 1-85, prohibits a State employee from deriving a direct monetary gain by reason of his official activity. A State employee also is forbidden to use his public position to obtain financial gain for himself. Subsection 1-84(c), General Statutes. Since the employee was selected to respond to the request for materials because of his State responsibilities, acceptance of an honorarium could constitute a violation of subsection 1-84(c) as well as of subsection 1-84(a), above.

Subsection 1-83(b)(2) of the Code implies that fees and honorariums can be accepted by public officials and State employees under certain circumstances. See Ethics Commission Advisory Opinion No. 81-3, 42 Conn. L.J. No. 39, page 10 (Mar. 24, 1981). It does not, however, permit receipt of the honorarium here. First, the subsection speaks only of fees and honorariums received "for any appearance or the delivery of an address to any meeting of any organization". Second, the subsection applies only to those who are required by section 1-83, General Statutes, to file a statement of financial interests. The State employee involved here is not required to file a statement of financial interests.

Faithful compliance with the request for material concerning Connecticut's driving-while-intoxicated programs would appear to be an extensive, time-consuming chore, added to what is no doubt already a full workload. For the same reason that he cannot accept the honorarium, if preparation of the response requires the State employee to work beyond his normal hours he should be eligible for overtime, compensatory time, or whatever is appropriate for a State employee in his position.

Dated 5 March 1982

By the order of the Commission,

Lucille E. Brown
Commissioner, State Ethics
Commission