



STATE OF CONNECTICUT
STATE ETHICS COMMISSION

ADVISORY OPINION NUMBER 82-6

Executive Director of an Agency as Administrator
of a Fund which could Benefit his Agency

The Executive Director of the Board of Education and Services for the Blind has asked whether he may serve as a member of the three-person administrative committee established for a trust fund. The trust fund is a part of a substantial trust, most of the purposes of which are charitable. One of the charitable funds within the trust is dedicated to the benefit of those who are blind or have very limited eyesight. The trust instrument directs the trustees to pay the net income of this fund to a corporation or institution administering to the blind or visually impaired. The corporation or institution is to be selected by the administrative committee on which the Executive Director has been nominated to serve. The other committee members are a bank president and a third person selected by the two named committee members. The decisions of the administrative committee are declared by the trust instrument to be binding and conclusive.

A principal duty of the Board of Education and Services for the Blind is to provide a broad spectrum of aid and assistance to the blind and visually impaired. See Chapter 174, General Statutes. Its Executive Director serves as its chief administrative officer and has, under Chapter 174, some additional statutory duties as well. The Board may accept gifts of money. Subsection 10-298(b), *id.* Considering its mission, it clearly would be eligible to receive financial assistance from the charitable fund for the benefit of the blind, on the administrative committee of which the Executive Director has been named to serve. If the Board were to be successful in applying to the trust fund for some or all of the fund's income for the year, there would be no financial benefit to the Executive Director himself.

The Ethics Commission has considered other situations in which a public official or State employee has asked for advice as to the propriety of taking a position with an eleemosynary organization which has some relationship with the State agency in which the public official or State employee serves. In several instances it has observed that the public servant would be faced with a basic conflict of interest if he were to accept even unpaid service with the organization. See Ethics Commission Ad-

(Over)

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visory Opinion No. 79-18, 41 Conn. L.J. No. 1, p. 22 (July 3, 1979) (Executive Director, Board of Education and Services for the Blind as Chairman of the Board, Connecticut Radio Information Service); Advisory Opinion No. 80-20, 42 Conn. L.J. No. 26, p. 21 (December 23, 1980) (Alcohol and Drug Abuse Commission member as director of a community-based program funded by the Commission); Advisory Opinion No. 82-2, 43 Conn. L.J. No 35, p. 12B (March 2, 1982) (Housing Program Coordinator as director, neighborhood development corporation). These situations must be distinguished from the present one. In all of them the State agency to which the public servant is attached has a supervisory, support, or funding role in relation to the non-profit organization. The public servant's agency is in a position to take beneficial action on a request by the non-profit organization. The public servant in his private capacity often would have participated in preparing the request.

In the case at hand, neither the Executive Director nor the Board will be required, in an official capacity, to approve or disapprove a proposal or application filed by the charitable fund. Here any application for assistance will be made by the Board. If successful, it is the State which will be the beneficiary.

If any conflict of interests arises, it would relate to the actions of the Executive Director as a member of the administrative committee of the fund. The creator of the trust chose to nominate to the administrative committee a person with empathy for the visually handicapped and experience in helping them. He was known to be administrative head of an organization "administering to the blind or persons with limited vision", an organization eligible, therefore, to receive financial assistance from the fund. Any possible conflict of interests is the concern of the trustees of the trust of which the charitable fund is a part. The Code of Ethics for Public Officials (Chapter 10, Part I, General Statutes) does not apply to such private matters, nor does the Ethics Commission have jurisdiction over them.

By order of the Commission,


Vice-Chairman, State Ethics
Commission

Dated May 5, 1982