



STATE OF CONNECTICUT
STATE ETHICS COMMISSION

ADVISORY OPINION NUMBER 82-7

Teaching By a Member of a State Licensing Board

A public member of the State Board of Examiners for Professional Engineers and Land Surveyors has asked whether he may assist in teaching a refresher course offered to persons who intend to take an examination for licensure as a land surveyor.

The Board is established in the Department of Consumer Protection by section 20-300, General Statutes, as amended, to administer Chapter 391, General Statutes, as amended, Professional Engineers and Land Surveyors. It has twelve members, appointed by the Governor. Section 20-300, above. Four of them are public members, who administer the provisions of Chapter 391 as to licensure and issuance, reissuance, suspension, or revocation of licenses concerning the practice of both land surveying and professional engineering. Id. To practice or offer to practice as a land surveyor in Connecticut a person must hold a license authorized by the Board, except for those exempted by section 20-309, General Statutes, as amended, from the provisions of Chapter 391. Section 302, General Statutes, as amended. The Board determines by various means whether a person is qualified to practice land surveying in Connecticut. The determination may be based on an examination prescribed by the Board and administered by the Department of Consumer Protection under the supervision of the Board, or by experience, satisfactory to the Board, in land surveying. Section 20-302, subsection 19-171g(e), General Statutes, as amended. In the case of land surveyors, graduation from a school or college approved by the Board and completion of an approved course in surveying may be required. Subsections 19-171f(a), 20-302(c), General Statutes, as amended. An applicant for the examination must have some experience as a land surveyor, of a character satisfactory to the Board. Subsection 20-302(c), above. Should the Board find that a person licensed as a land surveyor has performed grossly incompetent or negligent work, it could take a number of corrective actions, including placing the person on probation and requiring him to continue or renew his education until he has attained a satisfactory level of competence in any area which is the basis for probation. Subsections 19-171h(c)(4), 19-171f(g), General Statutes, as amended.

The course in which the public member provides teaching assistance is not the approved course which section 20-302(c), above, states that applicants for licensure as land surveyors must complete. It is a refresher course which applicants may choose, but are not required, to take.

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The public member, who is experienced in land conveyancing, is hired by the course instructor to explain common legal principles and terms that will be encountered in the practice of land surveying.

The examination utilized to determine qualification for licensure as a land surveyor in Connecticut is in three parts. Two parts are prepared and scored by a national organization. These parts are not available to any Board member prior to administration of the examination. Board members have no part in their scoring and cannot affect it. The third part, peculiar to Connecticut, is prepared by a subcommittee of the Board composed of Board members who hold licenses as land surveyors. The public member involved here is not one of them. None of the other Board members have access to or information concerning this portion of the land surveyor examination. The Land Surveyor Subcommittee gives its part of the examination to the Board staff, which provides it security until the examination is given. The Connecticut part of the examination is scored by the Land Surveyor Subcommittee members. (The examination papers are anonymous, identified by an examination number.) The only participation by Board members, other than the Land Surveyor Subcommittee, in the Connecticut portion of the land surveyor examination is to receive a summary of the examination results.

Considering the manner of his appointment to the Board and the State powers that he exercises as a Board member, the member involved unquestionably is a public official. Subsection 1-79(j), General Statutes.

The Ethics Commission has previously considered the question of staff members of one of the State's professional licensing agencies teaching a course in the area of their agency's jurisdiction. It determined that a staff member should not teach a course which is a prerequisite to applying for a license issued by the agency and which, with the course instructor and the school offering the course, is required by statute to be approved by the agency. Declaratory Ruling issued June 24, 1980 to Laurence L. Hannifin, et al. The case at hand is readily distinguishable. The differences dictate a different result.

The first difference, that a Board member rather than a staff member is involved, requires special scrutiny to be given the situation. It is the agency members, not the staff, which have the statutory authority to exercise the power granted the agency. On the other hand, the course with which the Board member is involved is not a prerequisite to licensure by his agency. It is not approved by the Board, nor is the school at which it is offered, nor is he or the teacher he assists. These factors mean that there is essentially no relationship between his teaching and his responsibilities as a Board member. There is almost no opportunity for him to use his official position to his private financial advantage, in violation of the Code of Ethics for Public Officials, except perhaps in the course of Board determination whether an applicant's practice in land surveying has been of a satisfactory character. Should his teaching experience permit him to recognize whether or not an applicant is one of his students, he should consider he has a potential conflict of interest and take action pursuant to section 1-86, General Statutes when character of experience is to be assessed.

Two other differences between this situation and the one previously addressed impose obligations on the Board to avoid any opportunity for a violation of the Code. The arrangements which deny the Board member any information about or influence over the contents of the examination, including the portion prepared by the Land Surveyor Subcommittee, and any part in its scoring, must be continued. Also, if the refresher course with which the Board member is involved ever were considered by the Board to be one which a licensed land surveyor should be required, pursuant to subsection 19-171f(g), above, to take to reach or regain an acceptable level of competence, the Board member should sever his position with the Board or the course.

Under the present circumstances, and with the Board aware that the public member assisting in teaching the refresher course should continue to be completely isolated from the entire land surveyor examination and may have a potential conflict of interest when the character of an applicant's service as a land surveyor is being judged, the Board member can assist in teaching the course without being in violation of the Code of Ethics for Public Officials. There appears to be no evidence that he has accepted employment which would affect his independence of judgment or requiring or inducing him to disclose information, received as a Board member, which is not generally available to the public. See subsection 1-84(b), General Statutes. Similarly, there should be no opportunity for him to use or disclose such confidential information, or use his public office, to his financial advantage as an assistant teacher. See subsection 1-84(c), General Statutes. No other sections of the Code appear applicable.

By order of the Commission,



Acting Chairman, State Ethics
Commission

Dated Oct 6, 1982

