



STATE OF CONNECTICUT

STATE ETHICS COMMISSION

ADVISORY OPINION NO. 86-6

Bureau of Licensing and Regulation Staff Members Teaching Continuing Education Courses

In 1984 the Ethics Commission concluded that members of the staff of the Real Estate Division, Department of Consumer Protection, could teach approved real estate courses, including those which serve as a prerequisite for initial issuance of a real estate broker's or salesman's license, without violating the Code of Ethics for Public Officials, Chapter 10, Part I, General Statutes. Ethics Commission Declaratory Ruling re Lawrence L. Hannafin, et al., June 8, 1984. Recent legislation requires persons requesting renewal of a real estate broker's or salesman's license to have completed a continuing education program. Subsection 20-319(b), General Statutes, as amended. One method of satisfying the continuing education requirement for license renewal is to complete a course or courses approved by the Real Estate Commission. Subdivision 20-319(b)(1), General Statutes, as amended. The Ethics Commission has been asked whether members of the Department of Consumer Protection's Bureau of Licensing and Regulation, which includes the Real Estate Division, may teach the courses which satisfy the continuing education required for real estate license renewal. Those who are teaching the courses include the Bureau Chief and senior members of the Real Estate Division staff.

Except as exempted by statute, no person may act as a real estate broker or salesman without a license issued by the Real Estate Commission. Section 312, General Statutes. Engaging in the real estate business without a license is punishable by a fine and imprisonment. Section 20-325, General Statutes. Only applicants with a good reputation for honesty, truthfulness, and fair dealing, and who are competent to transact the real estate business allowed by the license, can obtain a real estate broker's or salesman's license, or have renewed the license which expires annually. Section 20-314, General Statutes.

To prove competency when a licensee applies for renewal of a real estate license the applicant must, among other things, satisfy the continuing education requirement during the two-year period preceding renewal by (1) successfully completing 12 classroom hours studying a course or courses approved by the Real Estate Commission; (2) pass a written test demonstrating knowledge of current real estate practices and licensing laws; or (3) demonstrate equivalent continuing educational experience or study. Subsection 20-319(b), General

Statutes, as amended. Applicants may be excused from the continuing educational requirements for reasons of health or instances of individual hardship. Subdivision 20-319(d)(2), General Statutes.

The rules regarding approval by the Real Estate Commission of continuing education courses, and of the schools, institutions, and organizations offering them, are set forth in sections 20-319-1 through 20-319-5 and 20-319-9, Regulations of Connecticut State Agencies. The Real Estate Commission accepts courses certified by the National Association of Real Estate License Law Officials. Applications for local approval of other courses are handled by staff members of the Department of Consumer Protection, who review them for completeness and perform other clerical functions. They are submitted to the Real Estate Commission without analysis, comment, or recommendation. Some of the personnel associated with these clerical functions are Real Estate Division staff members who teach continuing education courses.

The written examination which can substitute for the 12 hours of course study is prepared, administered, and scored by a national testing service, with no participation by members of the Bureau of Licensing and Regulation staff.

Regulations specifying what constitutes equivalent continuing education experience or study allow the Real Estate Commission some discretion in making decisions. See subsection 20-319-6(b), Regulations of Connecticut State Agencies. The Commission has considerable discretion in determining what hardships justify exceptions to the continuing education requirements. See section 20-319-8, Regulations of Connecticut State Agencies.

The cited regulations implementing the statutory continuing education requirements were drafted by a group representing diverse interests, with the Bureau of Licensing and Regulation playing only a small part. The Department of Consumer Protection and the Real Estate Commission have organized administration of the continuing education programs so that persons who are teaching continuing education courses play a very limited role.

A basic tenet of the Code of Ethics for Public Officials is that public officials and State employees may not use their official positions for personal financial benefit other than their authorized compensation. Section 1-84(a), subsection 1-84(c), General Statutes. To avoid temptation, and to maintain public confidence in the integrity of State Government

operations, situations which invite improper use of State position should be avoided insofar as possible. Clearly, a person who is negotiating with a school regarding employment as a teacher of a continuing education course, and regarding the salary of the position, should not be able to say that his State position allows him to affect the Real Estate Commission's approval of the school or the continuing education courses it proposes to offer. Therefore, if members of the Bureau of Licensing and Regulation are allowed to teach continuing education courses, they and their subordinates should not be involved in handling applications for approval, even though their actions may be merely clerical. They should not be the ones judging whether an application is complete, or making sure that applications proceed to the Real Estate Commission in an expeditious and safe manner. For the same reason, because of the discretion allowed they should not be able to influence the number of students taking continuing education courses by participating in the determination of what is equivalent continuing education or study, or who may be excused from the continuing education requirements for reasons of health or other individual hardship. Removing the teachers from a part in the administration of the continuing education program reduces the likelihood of their independence of judgment as State employees being influenced by their outside employment. Subsection 1-84(b), General Statutes.

The Real Estate Division has among its staff members a number of the real estate examiner class whose qualifications include expertise in real estate matters. Presumably, their education and experience makes them most useful to the Real Estate Commission. However, employees of the Real Estate Division are considered members of the Department of Consumer Protection, not the Real Estate Commission, staff. The Department has authority to assign any staff member to assist the Real Estate Commission. Subdivision 21a-8(2), General Statutes. The Department apparently already at times assigns staff members other than those in the Real Estate Division to support the Real Estate Commission, and members of the Real Estate Division staff to support other boards and commissions in the Department.

In addition, the Department should continue practices limiting use of public position for private gain such as ensuring inquiries concerning approved continuing education courses, and schools offering them, are responded to with a list of all approved schools and courses.

In summary, members of the staff of the Bureau of Licensing and Regulation may teach courses meeting the continuing

education requirements of section 20-319, General Statutes, as amended, so long those doing the teaching, and their subordinates, do not participate in administration of the continuing education program. The Ethics Commission realizes that, as long as the Chief of the Bureau is teaching continuing education courses, all employees of the Bureau are barred from official involvement in the program.

By order of the Commission,

Julie Peck
Chairperson

Dated

Julie Peck

June 27 1986