



STATE OF CONNECTICUT  
STATE ETHICS COMMISSION

ADVISORY OPINION NO. 88-21

Outside Instruction by Education Consultants

The Executive Director of the Board of Education and Services for the Blind, William E. Patton, has requested the Ethics Commission's advice regarding the propriety of certain outside instruction by education consultants employed in his agency.

Established by Section 10-293, General Statutes, the Board of Education and Services for the Blind (the Board) provides a variety of programs for visually handicapped persons. Among its services, the Board furnishes or funds instruction for blind and visually impaired children. Subsections 10-295(a) and (b), *id.*

The questions posed by Executive Director Patton concern this instruction. He first asks whether the following hypothetical course of conduct would be permissible under the Code of Ethics for Public Officials, Chapter 10, Part I, General Statutes.

1. As part of his State duties, an education consultant employed by the Board participates in the work of an education planning team chaired by local authorities. Specifically, the consultant provides the expertise necessary to determine the educational requirements of a blind student. The work of the planning team results in an individual student plan which calls for the consultant, in his State capacity, to provide three hours of braille instruction per week to the student. The plan also calls for ten hours per week of additional outside instruction, with the costs to be reimbursed by the Board to the locality. The local Board of Education then hires the consultant in question to provide the additional ten hours of instruction outside of his State duties. Given the education consultant's significant role in producing the plan which mandated the outside instruction, Mr. Patton asks whether it is a conflict of interests for the consultant subsequently to enter into a contract with the local Board of Education to furnish the required services?

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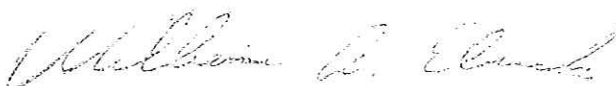
2. Additionally, Mr. Patton wishes to know whether an education consultant, as a ten month State employee, may, during July and August, contract with a local Board of Education to provide special education services to the same student he or she services directly during the ten month school year?

1. In pertinent part, the Code prohibits a State employee from accepting outside employment which will impair independent judgment as to official duties; and from using his or her official position, or confidential information gained through State service, for personal financial benefit. Subsections 1-84(b) and (c), General Statutes. The conduct in question allows too great an opportunity for violation of these provisions. The education consultant's official recommendations in this matter concerning the necessity and extent of outside instruction directly created the opportunity for his outside employment. At a minimum, regardless of the consultant's integrity, it will appear that he has accepted employment which will impair independence of judgment as to official duties and has used his State position for private financial benefit. The State consultant who develops a blind student's special education program might well be the best individual to provide outside instruction called for under that program. However, if compensation is involved, such an arrangement is not permissible under the Code. See, e.g., Ethics Commission Advisory Opinion Nos. 86-13, 48 Conn. L.J. No. 26, p. 1C (December 23, 1986) and 88-20, \_\_\_\_\_ Conn. L.J. No. \_\_\_\_\_, p. \_\_\_\_\_ (\_\_\_\_\_).

2. Before addressing Executive Director Patton's second query, it is necessary to determine whether education consultants as ten month State employees are subject to the Code during July and August when they are not performing their State duties. The Commission previously has ruled that a State employee on an extended (six month) leave of absence was still subject to the provisions of the Code during the unpaid leave. Ethics Commission Advisory Opinion No. 86-8, 48 Conn. L.J. No. 6, p. 1D (August 5, 1986). The reasoning behind that decision also applies here. It would frustrate the purposes of the Code if ten month State employees were subject to no ethical restrictions on their activities during July and August, or only the rather inappropriate "revolving door" provisions of Sections 1-84a and 1-84b, General Statutes. To fulfill the intent of the Code of Ethics, and as its language allows, a ten month education consultant remains a "State employee" as defined in subsection 1-79(m) of the Code during the summer months. As a result, these individuals are subject to the substantive provisions of the Code throughout the year.

As previously set forth, a State employee may not use his or her official position for personal benefit. However, State employees are allowed to use their expertise, including experience gained in public service, for private gain. On balance, an education consultant privately teaching, during the summer, the same student that he or she serves during the school year is best described as utilizing expertise, not public position. As long as the consultant plays no role in developing or modifying the program calling for the summer instruction, the conflicts of interests discussed in response to question 1., supra, should not arise, and the employment would not be prohibited by the Code.

By Order of the Commission,



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William A. Elrick  
Chairperson

Dated 12-13-88

