



STATE OF CONNECTICUT
STATE ETHICS COMMISSION

ADVISORY OPINION NO. 88-2

Legislator/Union Employee

An employee of a labor organization, after being elected to the General Assembly, has continued to work part time for the union. She has asked the Ethics Commission how the Code of Ethics for Public Officials (Chapter 10, Part I, General Statutes) applies to one with her legislative position and private employer.

The labor organization represents active and retired State employees. The legislator has a number of duties as its employee. She helps organize union members, encouraging participation in the union's organizational structure. She assists in monitoring collective bargaining agreements affecting union members to ensure that the agreements are properly implemented. She helps keep members apprised of the union's activities and to find the answers to questions they have. She has had various roles as a member of a team negotiating collective bargaining agreements. In the case of one contract she was an observer when the agreement was negotiated. When it was reopened as a result of subsequent legislation, she collected data to support the union's position -- comparing the salaries of the State employees with those of persons in similar positions in non-State employment, for example -- and served for a time as a union spokesperson concerning the negotiations.

She is not a member of the union which employs her. Therefore, whatever the terms of a contract reached by the union, she receives no direct financial benefit. The union is not a business with which she is associated, for purposes of the Code of Ethics. Section 1-79(a), General Statutes.

As a legislator she has three committee assignments. She is Vice-Chair of the Labor and Public Employees Committee. The Committee has jurisdiction over issues affecting union and non-union employees in the public and the private sector. She is a member of the Select Committee on Conditions in the Workplace Affecting the Family. That Committee considers hazards in the workplace and support services for working parents, the unemployed, and the underemployed. The public

sector workplace is included in its jurisdiction. Finally she is a member of the Appropriations Committee and two of its subcommittees. The Appropriations Committee has cognizance of appropriations, operating budgets of State agencies, and matters relating to State employees' salaries, benefits, and retirement, teachers' retirement, veterans' pensions, and collective bargaining agreements and arbitration awards for all State employees. The jurisdiction of the Health and Hospitals Subcommittee, of which she is a member, includes review of the operating budgets of State departments and agencies with responsibilities in the fields of physical and mental health. Her other subcommittee assignment, Collective Bargaining, reviews collective bargaining agreements for their impact on the budget, and reviews arbitration awards if it appears there may not be sufficient funds in the budget to satisfy them. The legislator is not a member of the subcommittee which has jurisdiction over the operating budget of the Personnel Division.

The legislator excuses herself from any action on collective bargaining agreements and arbitration awards involving the union which employs her, even though not required to by the Code of Ethics since the agreements and awards do not affect the financial interests of her, of a member of her family, or of a business with which she is associated. See subsection 1-86(a), General Statutes.

The Code of Ethics attempts to prevent public officials and State employees from using the authority of their State position for the financial benefit of themselves, their families, or their businesses. See subsections 1-84(a), 1-84(c), 1-84(d), 1-84(i), 1-86(a), General Statutes. Reviewing the legislator's duties as a member of the General Assembly, it does not seem possible for her to take official action which will affect her financial interests as an employee of a labor union. The Code also forbids a public official to accept employment impairing independence of judgment or requiring or inducing one to disclose confidential information acquired through State service. Subsection 1-84(b), General Statutes. Whether or not union employment would impair the legislator's independence of judgment as a public official, or require or induce her to disclose confidential information should she acquire any as a legislator, subsection 1-84(b) is not applicable because the legislator was already a union employee when elected to her current term. (She was just completing a term as a legislator when she accepted the employment, and had not been reelected.) Therefore, it does not appear that the Code of Ethics prevents the legislator from carrying out any duties as an employee of a labor union representing active and retired State employees.

The Office of Labor Relations, part of the Personnel Division, Department of Administrative Services, represents the

State in negotiating collective bargaining agreements with unions, including the one employing the legislator, which represent State employees. The Personnel Division also sponsors, on behalf of the State, legislation benefitting State employees with respect to their compensation, benefits, retirement, and the conditions of their workplace, and may oppose legislative proposals which it considers would affect State employees adversely.

The legislator is in a position, as a member of the Appropriations Committee, to vote on the size and compensation of the Personnel Division staff, and on any appropriations required to fund legislative proposals advanced by the Personnel Division. As a member of the Committees on Labor and Public Employees and on Conditions in the Workplace Affecting the Family she is in a particularly strategic position to affect legislation of special concern to the Personnel Division. In some situations, inadvertent use of office may be impossible to avoid. See Ethics Commission Advisory Opinion No. 87-13, 49 Conn. L.J. No. 20, p. 1C, 3C (November 17, 1987).

When the legislator, in her capacity as a union employee, is seen to be serving on a negotiating team, it would be understandable if the element of the Personnel Division on the other side of the bargaining table were at least cautious in its treatment of her because of her ability to affect legislation for which the Personnel Division has primary State responsibility. There is no evidence that the legislator ever has intentionally used the power of her legislative positions to influence State/union negotiations, either directly as a legislator or indirectly as a union employee reminding those on the other side of negotiations of the positions she holds as a legislator. There is no evidence that the Office of Labor Relations has been intimidated by the knowledge that a union negotiating team member is also a legislator with a number of legislative positions giving her apparent power to frustrate or influence adversely some of the Personnel Division's legislative programs for State employees. Nevertheless, there is at least the appearance of the position of union negotiating team member and of legislator with the committee assignments listed above being incompatible.

The public may question the integrity of the collective bargaining process for State employees when the legislator is known to be a member of the union's negotiating team. Granted, contracts for State employee's unions tend to be very similar. That argument cuts both ways. It lessens the possibility of the legislator using her position to affect the terms of a contract, particularly without it being conspicuous. On the other hand,

if her legislative position were to be used, intentionally or unintentionally, to improve the terms of a contract with her union over those of other unions, the improvement probably would end up in the contracts of all unions of State employees.

In summary, the legislator's public and private positions do not seem to create problems under the Code of Ethics. (It would, of course, be a clear violation of the Code of Ethics if the legislator were to use the authority of her office to promote a union objective in return for some financial advantage for herself.) Her services as an employee of a union representing State employees do not appear to cause any other problems or provide opportunity for use of her legislative authority except when she is a member of a union negotiating team. She could participate if she confined her duties to research and the provision of information to those who do the actual negotiating. However, no matter what attitude she adopts as a visible member of a union negotiating team, or whatever she says or does not say concerning her other role as a legislator serving on the committees to which she has been assigned, it does not seem possible for the Office of Labor Relations to treat her as just another team member.

Although the Code of Ethics does not forbid it, the legislator might wish to consider whether, as a union employee, she should meet face-to-face with State personnel representatives on union matters.

By order of the commission,



William A. Elrick
Chairperson

Dated 2/8/88