



STATE OF CONNECTICUT

STATE ETHICS COMMISSION

ADVISORY OPINION NO. 90-15

Outside Publication Related to a State
Employee's Official Duties

The Coordinator of the Division of Worker Education, Workers' Compensation Commission, has asked whether, under the Code of Ethics for Public Officials, he may privately publish a handbook on self-representation in workers' compensation cases.

The Workers' Compensation Commission is directed by law to "...prepare, publish and distribute an illustrated booklet explaining, in informal and readily understandable language, employee benefits and responsibilities under the workers' compensation act." Conn. Gen. Stat. §31-279a. Additionally, by statute, there is established a Division of Worker Education within the Workers' Compensation Commission to provide, among other services, "...training for nonmanagement employees in workers' compensation procedures and substantive rights..." Conn. Gen. Stat. §31-283g. The Coordinator, as assistant to the Workers' Compensation Education Director, is directly responsible for implementing the Commission's statutory mandate to educate and train Connecticut's workers regarding Workers' Compensation procedures and rights and benefits under the Workers' Compensation Act.

In his proposed endeavor, the Coordinator wishes to write and sell a handbook on self-representation in workers' compensation cases. He states that "...the handbook would include an introduction to the Connecticut Workers' Compensation System, and a description of its structure". The Coordinator notes that "this is not privileged information that one would know only because of employment with the system." Additionally, the Coordinator stresses that his knowledge and expertise in this area are not limited to his current employment, but result from years of prior experience with workers' compensation matters as a union official. In essence, the handbook is intended to provide a step-by-step approach to understanding and

successfully resolving a workers' compensation case without an attorney. The Coordinator admits that "some of the ...issues" in the proposed handbook "involve the type of information that I provide to people in my job." He claims, however, that the envisioned handbook will provide a more organized and exhaustive source of this information.

Under the Code of Ethics for Public Officials, Conn. Gen. Stat. Chapter 10, Part 1, a public official or state employee may not accept outside employment which will impair independence of judgment as to state duties or require or induce disclosure of confidential information acquired in state service. Conn. Gen. Stat. §1-84(b). Additionally, no one subject to the Code may use his or her official position or confidential state information for personal financial benefit. Conn. Gen. Stat. §1-84(c). One may, however, utilize expertise, including expertise acquired in state service, for financial gain as long as one's actions do not breach §1-84(b), §1-84(c), or any other provision of the Code. Ethics Commission Advisory Opinion No. 89-14. 50 Conn. L.J. No. 52, p. 7C (June 27, 1989).

In this instance, the Code does not permit the outside work in question. The Coordinator's proposed handbook primarily appears to address issues that he is already responsible for addressing in his state position. The fact that, according to the Coordinator, the handbook would provide the information in a more organized and exhaustive fashion than the State currently furnishes does not obviate the conflict. As noted, supra, the Coordinator, as assistant to the Education Director, is directly responsible for educating Connecticut workers regarding workers' compensation procedures and employee rights. The publication for profit of an outside treatise on the same subjects for the same class of workers clearly would impair the Coordinator's independence of judgment concerning the issue of how extensively to disseminate free educational materials on these issues. See, e.g., Ethics Commission Advisory Opinion No. 89-9, 50 Conn. L.J. No. 44, P 1C (May 2, 1989). (State assessment adviser should not be paid privately to do what he or she is essentially already required to do as part of his or her state job. The temptation to be paid by two sources for the same work might very well impair independence of judgment as to official duties.)

In closing, it should be noted that under the Code of Ethics for Public Officials the Coordinator has a conflict only if he markets his proposed handbook to Connecticut workers. If the Coordinator wishes to sell the handbook to workers in other

jurisdictions, where he has no official responsibility for providing workers' compensation education, he is not precluded from doing so by the Code.

By order of the Commission,

(Rabbi) Michael Menitoff
Rabbi Michael Menitoff

Rabbi Michael Menitoff
Chairperson

Dated 5-7-90

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