



STATE OF CONNECTICUT  
STATE ETHICS COMMISSION

ADVISORY OPINION NUMBER 91-10

Outside Employment Unrelated to One's State Duties

Cheryle D. Green, Personnel Administrator, Department of Human Resources, has asked the Ethics Commission for an advisory opinion regarding a departmental employee's proposed outside business endeavor.

The employee holds the position of Child Day Care Registration Supervisor. As a Registration Supervisor the individual is responsible for recommending approval, renewal or denial of all family day care home registrations in her district. The proposed business activity involves the raising of a litter of purebred dogs. According to the request for advice, "[t]he individual who might have a suitable dog for stud is a registered Day Care provider", and is subject to the Supervisor's jurisdiction. The breeding contract would call for the Supervisor to pay a fee or provide one or more puppies to the owner of the male dog.

Although the activity in question bears no relationship whatsoever to the Supervisor's official duties, it would involve entering into a contract with an individual subject to the Supervisor's state regulatory authority. Consequently, the Department of Human Resources wishes to know whether the endeavor would present any problems under the Code of Ethics.

Under the provisions of the Code of Ethics for Public Officials, Connecticut General Statutes, Chapter 10, Part I, no state employee may engage in outside employment which will impair independence of judgment as to state duties, nor may an employee use state position to obtain personal financial gain. Conn. Gen. Stat. §§1-84(b) and (c). Generally, §§1-84(b) and (c) may be violated when a state employee accepts outside employment from or engages in an economic transaction with an individual or entity which can benefit from the state servant's official actions (e.g., the individual in his or her state capacity has specific regulatory, contractual, or supervisory authority over the private person).

The substantial body of Commission rulings which explicate this general principle, however, deal almost exclusively with outside activity which is congruent with or closely related to the state servant's official duties or responsibilities. See, e.g., Ethics Commission Advisory Opinion Nos. 90-15, 51 Conn. L.J. No. 51, p. 2D (June 19, 1990) (coordinator of Division of Worker Education, Workers' Compensation Commission, should not privately publish a handbook on self-representation in workers' compensation cases, when he

is directly responsible in his state position for educating Connecticut workers regarding workers' compensation procedures and employee rights); and 90-24, 52 Conn. L.J. No. 9, p. 5C (August 28, 1990) (DMR employees should not perform outside consulting involving client contact or evaluation for a departmental grantee, if their state jobs involve related client consultation).

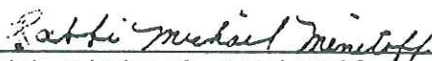
In this instance, however, the outside activity is totally separate and distinct from the state employee's public work. Under such circumstances, certain recurring potential conflicts (e.g., individual accepting dual compensation for performing required duties) are not a concern. Nevertheless, when a state regulatory official engages in a private business transaction with a person subject to his or her official authority, the potential for impairment of judgment or misuse of office clearly still exists.

In order to insure, as far as practical, that abuses of official authority do not occur, the Ethics Commission will scrutinize such outside business activity to make certain that:

1. no quid pro quo for official action is present in violation of the Code's anti-bribery provisions (Conn. Gen. Stat. §§1-84(f) and (g));
2. the activity is fiscally rational and, therefore, not tantamount to an improper gift (e.g., party paying more than is commercially reasonable for a service); and
3. the scope and/or frequency of the activity is not so great that one would inevitably question whether the state servant's objectivity had been compromised.

Applying these criteria to the question under review, no information provided to the Commission in any way suggests that the proposed contract creates a conflict of interest or otherwise invites abuse. To the contrary, the transaction is limited in cost and duration, appears commercially reasonable, and should, therefore, pose no problem under the requirements of the Code of Ethics for Public Officials. As always, if an outside employment relationship or business transaction does raise subsequent concerns, §1-86 of the Code provides a mechanism whereby the state servant may recuse himself or herself from official action affecting the private party.

By order of the Commission,



Rabbi Michael Menitoff  
Chairperson

Dated 4/1/91