



STATE OF CONNECTICUT
STATE ETHICS COMMISSION

ADVISORY OPINION NO. 92-20

Department of Higher Education Employees May Not Accept
Outside Employment As Teachers At Connecticut
Institutions Of Higher Education

The Commissioner of Higher Education has asked whether, under the Code of Ethics for Public Officials, an employee of the Department of Higher Education may accept part-time employment as a teacher at a Connecticut institution of higher education, either public or private. /

The Department of Higher Education (hereinafter "Department") serves as the administrative arm of the Board of Governors of Higher Education (hereinafter "Board") (See Conn. Gen. Stat. §10a-5(a)). The Department is under the direction of the Commissioner of Higher Education, who serves at the pleasure of the Board. (Ibid.) The Board is the "central policy-making authority for public higher education in Connecticut." (See Conn. Gen. Stat. §10a-2). The Board's authority with respect to public higher education is sweeping, and includes the responsibility for monitoring and evaluating institutional effectiveness and viability; initiating the merger or closing of institutions; participating in the initiation, consolidation or termination of academic programs; developing standards for, and requiring, licensing and accreditation; and preparing a public higher education budget for review by the Governor and General Assembly. (See Conn. Gen. Stat. §§10a-6, 10a-34). Except for its essential licensing and accreditation functions, the Board's authority with respect to private higher education is more advisory in nature. (Ibid.). No member of the Board is permitted to be employed by any Connecticut higher education institution, either public or private. (See Conn. Gen. Stat. §10a-2).

Connecticut General Statutes §1-84(b) is designed to prevent conflicts of interest with state employment by prohibiting the acceptance of other employment which will impair a state employee's independence of judgment with respect to his or her state duties. Subsection 1-84(b) also prohibits a state employee's acceptance of outside employment which will result in the disclosure of confidential information acquired in the course of his or her state service. In addition, under Conn. Gen. Stat. §1-84(c), a state employee may not use his or

her public position or confidential information acquired as a result of such position to obtain financial gain for himself or herself or for a business with which he or she is associated.

"Conflicts of interest, both real and apparent, are almost inevitable when a State employee accepts outside employment with an entity which can benefit from the employee's official actions." Ethics Commission Advisory Opinion No. 88-14, 50 Conn. L.J. No. 15, p. 1D (October 11, 1988). The Department of Higher Education is charged, by statute, with implementing policies which affect every institution of higher education in the State of Connecticut. Pursuant to §1-84(b), employees who are in a position to make, or contribute to, Department decisions regarding such policies, will be precluded from accepting employment with a Connecticut institution of higher education, either public or private, on the ground that their independence of judgment would be thereby impaired. The petitioner has suggested that a different result should obtain, based upon a recent limitation of the Board's budget-making authority. However, the Board's budget-making function is but one of the vital regulatory and oversight functions it performs.

The Commission notes that employees who are completely removed from the process of making and/or implementing decisions and policies are not similarly constrained. It is conceivable that a qualified teacher might accept such a position with the Department, and then be offered an opportunity to teach part-time at a Connecticut institution. Unless the employee had secured the offer of employment through the improper use of his or her state position, or through the improper use of confidential information, such employment would be permissible. In addition, any Department employee will be permitted, by the Code, to accept outside employment with an institution outside of the State and, therefore, beyond the jurisdiction of the Board and the Department.

By order of the Commission,



Christopher T. Donohue
Chairperson

Dated 9-14-92