



# STATE OF CONNECTICUT

## OFFICE OF STATE ETHICS

### Advisory Opinion No. 2021-2

May 20, 2021

**Question Presented:**

The petitioner, an employee of Capital Community College, asks whether the Code prohibits him from submitting a reference letter, in his personal capacity, on behalf of his second cousin, who is seeking an adjunct position at another state community college.

**Brief Answer:**

The “use of office” provision in General Statutes § 1-84 (c) does not extend to distant familial relations such as a second cousin and thus does not prohibit a state employee from providing a reference letter recommending his second cousin for a state position.

At its April 22, 2021 regular meeting, the Citizen’s Ethics Advisory Board (“Board”) granted the petition for an advisory opinion submitted by Marcus G. Lawson, an employee of Capital Community College, which is part of the Connecticut State Colleges and Universities (“CSCU”) system. The Board now issues this advisory opinion in accordance with General Statutes § 1-81 (a) (3) of the Code of Ethics for Public Officials (“Code”).

### **Background**

In his petition, Mr. Lawson provides the following facts for our consideration:

I work for the Connecticut Community College System in Hartford, Connecticut at Capital Community College. The family member in question has **previously worked** at

Gateway Community College, New Haven, Connecticut, and for which **I haven't provided** at the time a reference to her for this earlier, adjunct position.

Needless to say, this is the first time I am providing a reference to this family member in question, and I have not released this reference. The reference that I have stored on my desktop computer has **not** been written on State of Connecticut letter head, nor have I used my State of Connecticut office number, title or any discernable information connecting me to the State of Connecticut is found on this general reference.

(Emphasis in original). Mr. Lawson identifies the relative on whose behalf he seeks to submit a reference letter as “Jennell Lawson[,] a second cousin of mine.” He further represents in the petition that he does not share any business endeavors or have a business relationship with this second cousin.

### Analysis

On the threshold jurisdiction issue, persons generally subject to the Code are described in it as either “Public officials” or “State employees.” The Code defines “State employee” to include, among others, “any employee in the executive . . . branch of state government, whether in the classified or unclassified service and whether full or part-time . . . .” General Statutes § 1-79 (13). According to the Connecticut State Register and Manual (2020), the State System of Higher Education is part of the executive branch of state government, and according to General Statutes § 10a-1, the state system of public higher education includes, among other entities, “the regional community-technical colleges . . . .” As an employee of Connecticut’s community college system at Capital Community College, then, Mr. Lawson is a “State employee” who is subject to the Code.

The relevant provision here is General Statutes § 1-84 (c), which provides, in relevant part, as follows: “no . . . state employee shall use his public . . . position . . . to obtain financial gain for *himself, his spouse, child, child's spouse, parent, brother or sister or a business with which he is associated.*” (Emphasis added). “Unless there is evidence to the contrary, statutory itemization indicates that the legislature intended the list to be exclusive.” *Republican Party of Connecticut v. Merrill*, 307 Conn. 470, 492–93 (2012). See also Advisory Opinion No. 1995-15 (declining to extend the meaning of “immediate family” beyond the listed terms in the Code definition for purposes of applying the “open and

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public” requirements of General Statutes § 1-84 (i)); Request for Advisory Opinion No. 17099 (2019) (“the ‘use of office’ prohibition under . . . § 1-84 (c) do[es] not extend to distant familial relations such as [the state employee’s] sister’s brother-in-law”).

Accordingly, it follows here that, because the legislature did not include “second cousin” or “cousin” on the § 1-84 (c) list, the Code does not, from a technical standpoint, prohibit the petitioner from providing his second cousin with a reference to assist her in applying for employment with Connecticut’s community college system, provided that neither the petitioner, any of the family members listed in § 1-84 (c), nor any “business with which he is associated,” as defined in General Statutes § 1-79 (2), will receive any financial benefit from his providing his second cousin with such reference.

With respect to whether there is an appearance of impropriety, “[t]he Code . . . does not speak of appearance of conflict, only actualities.” Advisory Opinion No. 90-6. That is not to say that Capital Community College or the CSCU system may not institute (or do not already have) rules that are more restrictive than those in the Code, and we recommend that the petitioner seek advice from his human resources office. See Advisory Opinion No. 2008-3.

By order of the Board,

Dated 5/20/21

/s/Dena M. Castricone  
Chairperson