



STATE OF CONNECTICUT

STATE ETHICS COMMISSION

ADVISORY OPINION NUMBER 80-9

Private Employment Related to a State Employee's Official Duties

The Chief of the Product Safety Division, Department of Consumer Protection, in addition to her duties as a State employee has been employed by a television station to provide information to the public on various consumer issues. The Ethics Commission has been asked whether compensated participation in consumer-oriented public service television programs represents a conflict of interest, under the Code of Ethics for Public Officials, with the Product Safety Division Chief's responsibilities to the State.

The Product Safety Division engages in education, consultation, inspection, investigation, enforcement, and administration of State laws and regulations pertaining to the State Child Protection Act (Chapter 365, General Statutes), the manufacture of bedding and upholstered furniture (sections 19-419 through 19-424, General Statutes), and various hazardous substances such as lead-based paint (section 19-65b, General Statutes) and the compounds used to remove soot and scale from flues and boilers (section 19-170f, General Statutes). In addition the Division is a principal agency for liaison with the U.S. Consumer Safety Commission. The Chief of the Division has access to substantial information, some of it confidential, concerning product safety and other consumer matters.

On television, the Division Chief has provided general consumer information on how to purchase various products at savings, how to compare items and get the best buys, and other facts concerning how to make various purchases intelligently and economically. Her presentations can include matters directly related to product safety. She is not presented on television in her capacity as a State employee but as a person with expertise in consumer matters. Her major in college was consumer interest. Since graduation she has worked in the field of consumer interests, for the most part as a State employee in the Department of Consumer Protection.

Whenever a State employee accepts paid private employment in a field closely related to the employee's public duties, there is a potential for violating some provision of the Code of Ethics for Public Officials and State Employees, Chapter 10, Part I, General Statutes. In some situations a violation is inescapable. In others, understanding and observance of the Code can avoid possible conflicts.

In the case at hand, there appears to be the chance of violating several provisions of the Code, such as engaging in activity in substantial conflict with the proper discharge of public duties (subsection 1-84(a), section 1-85, General Statutes), accepting employment which impairs independence of judgment (subsection 1-84(b), General Statutes),

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disclosure of confidential information gained in the course of duty (subsections 1-84(b) and 1-84(c), General Statutes) and the use of office for financial gain (subsection 1-84(c), General Statutes). Nevertheless, violations of the Code are not inevitable.

There are, no doubt, official actions which the State employee could take, as Division Chief, which would result in her enjoying a financial gain or suffering a financial loss as a consumer advisor on television, thus violating subsection 1-84(a), as amplified in section 1-85, above. There seems to be no reason why such a violation could not be avoided, so long as its possibility is kept in mind. The related prohibition on taking employment which might impair one's official judgment is not necessarily breached in this case. The State employee should be able to present television programs concerning matters of general consumer interest without affecting her judgment as Division Chief of the Product Safety Division in any way. Subsection 1-84(b), above. Similarly, the State employee can keep clear of any use of her office as Division Chief to obtain financial gain for herself as a television performer if she is sensitive to the need to do so. Subsection 1-84(c), above. In her capacity as a consumer adviser on television she should be able to avoid the use of information, gained as a State employee, which is not available to other members of the public, subsections 1-84(b), 1-84(c), above. This may be difficult but is by no means impossible.

The surest way for a State employee to avoid conflicts of interest is to eschew other employment, especially compensated work in a field associated with one's State service. This is not the only method for compliance with the Code of Ethics for Public Officials and State Employees, however. In the case of the Chief of the Product Safety Division, Department of Consumer Protection, appearing on television for pay in consumer-oriented programs, the requirements of the Code can be met, and even the appearance of impropriety avoided, if careful judgment is exercised. Cf. Advisory Opinion Number 79-10, 40 Conn. L.J. No. 42, p. 12.

By order of the Commission,



Rev. Thomas J. Lynch
Chairman

Dated March 8, 1980