



STATE OF CONNECTICUT

STATE ETHICS COMMISSION

ADVISORY OPINION NUMBER 87-12

Donations to the State by a Business With Which
a State Employee is Associated

A nonprofit organization is being established to support the environmental education programs of the Department of Environmental Protection throughout the State. The members of the organization, and the funds they raise, may assist the Department's educational program in various ways: provision of services, donation of equipment to the Department or to one of its units or facilities, grants of unrestricted funds to the Department, and so forth. The Ethics Commission has been asked whether a member of a Departmental employee's family may serve on the board of directors of the nonprofit organization.

The family member may. If the person is a member of the employee's "immediate family", action may be required to meet the letter and the spirit of the Code of Ethics for Public Officials, Chapter 10, Part I, General Statutes.

For purposes of the Code, the nonprofit organization would be considered a "business". Advisory Opinion 79-18, 41 Conn. L.J. 1, p. 22 (July 3, 1979). A business in which a member of a State employee's immediate family is a director is a "business with which he is associated". Subsection 1-79(a), General Statutes. The "immediate family" includes the spouse, and dependent children or dependent relatives residing in the Departmental employee's household. Subsection 1-79(e), General Statutes.

The Code of Ethics requires that a contract, valued at \$100 or more, between the State and a business with which a State employee is associated be awarded through an open and public process. Subsection 1-84(i), General Statutes. It is understood that there will be no contracts between the Department of Environmental Protection and the nonprofit organization. Funds, goods, and services will be donated free and clear to the Department by the nonprofit organization. If that be so, subsection 1-84(i) will have no applicability.

A State employee may not use his State position, or confidential information gained through it, for his financial benefit. Subsection 1-84(c), General Statutes. A State

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employee whose spouse is a director of an organization supporting the employee's department could well be in a position to claim that if, for example, he were promoted to a higher position in a unit of the Department he could arrange to have the organization's support directed to his unit. The promotion would be a financial benefit for purposes of subsection 1-84(c). Arguably, the employee might not have used his State position. It would be close enough to use of State position to give the appearance of a violation of subsection 1-84(c).

If, as one would expect, the Department refused to promote one of its employees for such a reason, there could still be administrative and morale problems, at the least, if the spouse of one of the Department's employees were influential in determining where assets other than official grants and appropriations were directed.

Citizen support of the Department's environmental education program should be encouraged. A nonprofit organization willing to help the environmental education program should have some latitude in determining what the assistance should be and where directed. A spouse of a Departmental employee is likely to be particularly well-qualified to serve on the board of such an organization. If the organization then becomes one with which a Departmental employee is associated, however, the gifts should be allocated under a Departmental policy which will prevent the Departmental employee from having a real or apparent ability to determine what unit or facility will receive a gift from the organization. The organization, for its part, will have to be sensitive to the possibility that a particular gift could benefit only the State employee, or the unit or facility of the State employee, whose spouse serves as a member of the nonprofit organization's board of directors.

In this case, a member of a Departmental employee's immediate family, as a director of the nonprofit organization, is more likely to encounter conflicts of interests than is the State employee. See Advisory Opinion 86-6, 47 Conn. L.J. 52, p. 1C (June 24, 1986). Real or apparent violations of the Code of Ethics can be avoided by a Departmental policy on administration of gifts to the Department and an appreciation on the part of the organization of the problems which could be caused if it appeared that the nonprofit organization's support was aimed to benefit the spouse of a director.

By order of the Commission,

Julie Peck
Julie Peck
Chairperson

Dated Aug. 2, 1987