



STATE OF CONNECTICUT
STATE ETHICS COMMISSION

ADVISORY OPINION NO. 88-7

Application of Sections 1-84 (a) and (b)
To An Attorney Representing An Employee
Of His Former Agency

An employee at the Receiving Home Unit within the Department of Children and Youth Services (D.C.Y.S.) has been disciplined and is scheduled for a hearing with the Office of Labor Relations within the Department of Administrative Services (D.A.S.). He will be represented at the hearing by an attorney who formerly held the position of Personnel Officer 2 at D.C.Y.S. The Labor Relations Specialist assigned to the case has asked if this representation would be a violation of the Code of Ethics for Public Officials Chapter 10, Part I, General Statutes, and specifically Sections 1-84a and 1-84b of the Code.

The Attorney worked for D.C.Y.S. until December 23, 1987 as a personnel officer. His responsibilities included the handling of individual and group personnel problems, as well as grievance procedures. Up until June of 1987, he was assigned to the Receiving Home. He was then reassigned to another area of D.C.Y.S. The disciplinary case in question arose during the latter part of November of 1987.

Section 1-84a, General Statutes, forbids a former State employee from using confidential information acquired through official duties for financial gain. Per the Supervisor of personnel officers at D.C.Y.S., the Attorney was not privy to any confidential information concerning the disciplinary matter.

Section 1-84b, General Statutes, imposes various restrictions on persons who leave State employment after January 7, 1987. In pertinent part, that section states that a person may never represent anyone other than the State concerning any particular matter in which he participated personally and substantially as a State servant, if it is one in which the State has a substantial interest. See subsection 1-84b(a), General Statutes.

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Both the Attorney and his former Supervisor have stated that in his capacity as personnel officer, he was never involved in the investigation nor any discussions concerning the merits of the disciplinary case.

The Supervisor explained that the Attorney's only involvement occurred in early December when he asked the attorney's opinion regarding a decision not to postpone a meeting scheduled with the disciplined employee. The conversation was confined to procedural due process issues.

In a prior Advisory Opinion, "substantial", in the context of an analogous provision, subsection 1-84b(d), General Statutes, was defined to mean participation which is direct, extensive, and substantive not peripheral, clerical, or ministerial. See Ethics Commission Advisory Opinion No. 86-9, 48 Conn. L. J. No. 11, p. 33 (September 9, 1986).

Based on the facts presented, it does not appear that in his role as personnel officer the individual participated substantially with the disciplinary case. Therefore, he will not be in violation of subsection 1-84b(a), if he participates in the disciplinary hearing before D.A.S.

By order of the commission,



William A. Elrick
Chairperson

Dated 4/4/88