



STATE OF CONNECTICUT

STATE ETHICS COMMISSION

ADVISORY OPINION NO. 88-9

Legislator Representing State Employees Before
The Workers' Compensation Commission

State Representative Joseph A. Adamo has requested the Ethics Commission's advice regarding the following situation.

The Representative has been asked by the Protective Services Union to act as a consultant and handle their members' workers' compensation claims against the State. The employment would include representing the State employees in the Union with regard to their claims before the Workers' Compensation Commission at the informal hearing level and, possibly, at the formal hearing level.

Representative Adamo is Chairman of the Labor and Public Employees Committee of the General Assembly. He is also Chairman of the Task Force which currently is studying the State's Workers' Compensation Program. Among its powers, the Labor and Public Employees Committee has full cognizance over all matters relating to workers' compensation, including the Workers' Compensation Commission. It also has full cognizance over all matters relating to the conditions of employment of State employees and the substantive law of State employees' collective bargaining. The Joint Rules of the Senate and House of Representatives, p. 3, (1987). The Task Force, authorized by Special Act No. 87-79, was established to study "...the state's liability as employer under the Workers' Compensation Act, including, but not limited to, the state's management structure, budgeting procedures and funding methods used in attempting to meet and regulate such liability, and possible methods of reducing the high human and financial cost of such liability." Id.

The Representative wishes to know whether the employment in question would pose a conflict under the Code of Ethics for Public Officials, Chapter 10, Part I, General Statutes, or present the serious appearance of a conflict due to his State positions.

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In pertinent part, the Code states that a public official may not accept employment which will impair his independence of judgment, nor may he use his State office for his financial benefit. Subsections 1-84(b) and (c), General Statutes. In applying these provisions to the question of whether a member of the General Assembly may engage in outside employment which in some way involved the State, the Commission has established certain basic parameters.

Such employment has been found proper when it involved a closing out of work begun before the official assumed office, or when the level of activity in question continued at no significantly greater level than before the legislator's election. Ethics Commission Advisory Opinions Nos. 80-21, 42 Conn. L.J. No. 26, p. 23 (December 23, 1980) and 81-1, 42 Conn. L.J. No. 32, p. 10 (February 3, 1981).

Acceptance of new employment involving the State has been carefully restricted. It has been allowed in a situation where the legislator's clients had only limited contact with the State and the legislator lacked any specific, on-going authority over the clients' activities. Ethics Commission Advisory Opinion No. 84-12, 46 Conn. L.J. No. 17, p. 1C (October 23, 1984).

In a situation analogous to the one under review, legislators were allowed to apply for financial benefits from a State program (the Farmland Preservation Program) when they had no, or only limited, specific, continuing responsibility for the Department and Program in question. However, certain members of the General Assembly were prohibited from such participation, because as committee chairpersons or ranking members their authority over the Department or Program was so great that inadvertent use of office for financial benefit probably could not be avoided. Ethics Commission Advisory Opinion No. 87-13, 49 Conn. L.J. No. 20, p. 1C (November 17, 1987).

Applying the above reasoning to the case at hand, it is apparent that the Representative should not undertake the employment in question.

Acceptance of such employment, with its attendant financial benefit, from a union representing State employees will inevitably create the appearance that the Union is attempting to ingratiate itself with the individual who, as Chairman of the Labor and Public Employees Committee, has such sweeping, continuing control over its members' fortunes. Regardless of Representative Adamo's expertise or performance, many will believe that he has obtained the employment in question by

virtue of his State office. Regardless of his subsequent public conduct, many will believe that his independence of judgment as to his official duties has been impaired. Additionally, it will be believed that the Union has retained the Representative's services because of the obvious possibility that his influence over workers' compensation matters will redound to its members' benefit in workers' compensation cases.

In fact, the Representative's authority, both as Committee and Task Force Chairman, over the State agency before which he will appear will make it exceedingly difficult to avoid inadvertent use of his public position in the course of his private, paid representation of clients. Again, regardless of his skill, and no matter how scrupulously he attempts to avoid use of office, many will assume that his clients are being favored by the Commission over which he has such significant official influence.

In summary, because of the inevitable appearance of use of office for personal gain and acceptance of employment which will impair independence of judgment, the Chairman of the Labor and Public Employees Committee and Workers' Compensation Task Force should not, for compensation, represent State employees before the Workers' Compensation Commission.

By order of the Commission,



William A. Elrick
Chairperson

Dated

5/2/88

