



STATE OF CONNECTICUT

STATE ETHICS COMMISSION

ADVISORY OPINION NO. 89-5 (Amended)

State Employee's Recusal From Activities That
Affect a Financial Interest of Her Spouse

The Regional Director for Region 6 of the Department of Mental Retardation, Ms. Kathryn duPree, has requested an advisory opinion on how the Code of Ethics for Public Officials and State Employees affects her situation. In her capacity as Regional Director, Ms. duPree is responsible for the management of all publicly operated services for the mentally retarded in her region and for the final approval of the yearly budgetary letters of agreement between the State and the providers in her region.

Ms. duPree's husband was recently hired as an employee of Alternative Services, Inc. (ASI), a non-profit organization which runs homes for the mentally retarded. Prior to hiring Ms. duPree's husband, ASI contracted with Region 6 to operate five homes for individuals who are mentally retarded. The contract is for one year, as are all contracts between the State and a private organization to run a home for the mentally retarded. The contract may be renewed yearly for the same services as long as licensing and quality standards are met.

Regulations of Connecticut State Agencies §§17-313b-1 through 17-313b-15 delineate the yearly process for renegotiation of rates for group homes. Each year, a group home may ask for enhancements to its contract. For example, a group home may ask for more money if it wants to hire a new staff member, give raises to its employees, refurbish its facilities, etc. The request for an enhancement is then negotiated with the State.

Under Conn. Gen. Stat. §1-86(a), a State employee who would be required to take an action that would affect a financial interest of his or her spouse must prepare a written statement signed under penalty of false statement describing the matter requiring action and the nature of the potential conflict and deliver a copy of the statement to his or her immediate supervisor. The supervisor must then assign the matter to another employee, who is not subordinate to the employee with the potential conflict of interest.

Ms. duPree has stated that she has no responsibility for making sure licensing and quality standards are met. Additionally, Ms. duPree has stated that if any mediation were ever required with ASI that would normally involve her, the Deputy Commissioner in charge of Administrative and Fiscal Services would assume that responsibility. Ms. duPree has stated that she has asked the Deputy Commissioner to also take on the responsibility of signing the yearly budgetary letter between the State and ASI.

Ms. duPree's actions in approving the yearly budgetary letter between the State and other providers of homes for the mentally retarded in her region might impact upon ASI's negotiations with the State. For example, if Ms. duPree were to approve another provider's request for an enhancement for employee salary increases, the individual responsible for negotiating with ASI might be more inclined to grant a similar enhancement to ASI. Ms. duPree's husband has, therefore, agreed not to accept any salary increases for his work on behalf of ASI in Region 6, other than cost-of-living raises, while Ms. duPree is Regional Director.

Ms. duPree has stated that ASI is seeking to open homes for the mentally retarded in regions other than Region 6 and to offer services in Connecticut for disabilities other than mental retardation. If ASI is successful in opening these other facilities in Connecticut, Ms. duPree's husband may take on significant new responsibilities. Since Ms. duPree would have no control whatsoever over funding for these facilities, her husband should not be precluded from accepting additional compensation for such added responsibilities.

Ms. duPree's husband has agreed to provide the Ethics Commission with an explanation of his present responsibilities. Should he accept new responsibilities, and consequently a salary increase, as a result of ASI's opening new facilities outside Region 6 or unrelated to mental retardation, he has further agreed to provide the Ethics Commission with an explanation of these added responsibilities.

By Order of the Commission,



William A. Elrick
Chairperson

Dated 7-17-89