



STATE OF CONNECTICUT
STATE ETHICS COMMISSION

ADVISORY OPINION NO. 90-28

Receipt of Fees and Honorariums By
University Faculty

Mr. Thomas G. Giolas, Dean of the Graduate School and Director of the Research Foundation of the University of Connecticut, has asked the Commission how §§1-83 and 1-84(c) of the Code of Ethics apply to outside speaking, consulting and other professional activities conducted by University faculty.

The members of the faculty of the University of Connecticut are state employees, as that term is defined by Conn. Gen. Stat. §1-79(m), and are, therefore, subject to the provisions of the Code of Ethics for Public Officials, Conn. Gen. Stat., Chapter 10, Part I. Under §1-84(c) of the Code no public official or state employee may use his or her official position, or confidential information obtained in state service, for personal financial benefit. An individual may, however, use his or her expertise, including expertise acquired or developed in one's state work, for private financial gain. 50 Conn. L.J. No. 52, p. 7C (June 27, 1989).

Section 1-83 of the Code delineates a financial disclosure requirement for the incumbents of certain state offices and positions. Conn. Gen. Stat. §1-83(b). Those subject to §1-83 are enumerated in the provision or are designated by the Governor pursuant to statute. *Id.* at (a). Included in §1-83 is a requirement that "...every individual subject to this section shall file a disclosure with the Commission of any fee or honorarium in the amount of one hundred dollars or more, which he receives in his capacity as a public official or state employee." Conn. Gen. Stat. §1-83(b)(2) as amended by P.A. 89-97. Based on this statutory language, the Commission has held that the General Assembly has authorized those who file financial disclosure statements pursuant to §1-83 to receive and retain fees and honorariums, as long as the mandated disclosure is accomplished, regardless of the fact that the

Phone: (203) 566-4472

97 Elm Street — Rear ~~Community Street~~ • Hartford, Connecticut 06106
An Equal Opportunity Employer

remuneration is obtained by virtue of the individual's public position. Ethics Commission Advisory Opinion No. 89-35, 51 Conn. L.J. No. 28, p. 1C (1/9/90). The Commission, however, has consistently held that absent a §1-83 designation no public official or state employee may accept a fee or honorarium offered in whole or in part by virtue of the individual's state position without violating the §1-84(c) prohibition on use of public office for personal financial gain. Id.

Dean Giolas' request for advice contains the following specific information and views regarding outside professional activities conducted by University professors:

1. Members of the faculty regularly participate in various external professional activities including conferences, seminars, and professional meetings. They serve on panels for government granting agencies, present colloquia and lectures, edit and review scholarly and scientific publications, give concerts and exhibits, and consult for private and governmental entities. (This consulting requires prior approval by the Provost/Academic Vice President of the University and is subject to full disclosure as to the nature of the activity and time involved.)

2. All the above enumerated activities are encouraged by University policies regarding promotion, tenure, and reappointment. Generally, faculty external professional activity complements the effectiveness of research and teaching, helps enhance the reputation of the University, and serves as an expression of the University's service commitment to the broader community. Such outside activity is viewed as an integral component of a faculty member's commitment to the University's mission of teaching, research and service.

3. Finally, and in Dean Giolas opinion most importantly, "...faculty members are not invited to participate in any of these activities because of their 'official position', rather it is invariably because of their expertise in a specific field."

Dean Giolas' final point is, indeed, the most important factor in determining whether a professor, or other state employee, may accept a fee or honorarium or engage in outside consulting or other work without violating §1-84(c) of the Code. In essence, under §1-84(c) a professor or other state employee may engage in such endeavors for compensation when they require a use of the individual's expertise, but do not involve a deliberate or inadvertent use of public position or authority. Generally, §1-84(c) is violated when a public

official or state employee accepts outside employment with, or a fee or honorarium from, an entity which can benefit from the state servant's official actions (e.g., the state servant has specific regulatory, contractual, decision making or supervisory authority regarding the entity).

Additionally, the Commission has held that the provision is breached when an individual is compensated, in whole or in part, because his or her official position lends credence to the information or views being provided. See Ethics Commission Advisory Opinion No. 89-19, 51 Conn. L.J. No. 7, p. 2C (8/15/89). In that Opinion, the Assistant Attorney General in charge of the State's Anti-trust Unit was barred from accepting an honorarium for an article, when the article was published in part because of the individual's expertise and in part because his specific state position gave credence and significance to the views expressed. (Note, the state employee in question in Advisory Opinion 89-19 was not subject to the \$1-83 fee and honorarium disclosure requirement.)

It would appear that, in many instances, professors will be offered outside fees, honorariums, and consulting work by virtue of their academic expertise, not because of any state authority they wield. Under such circumstances, outside compensated activity is not prohibited by \$1-84(c).

The faculty of the State's institutions of higher education are cautioned, however, that this Opinion does not provide unrestricted authorization for all outside endeavors. As with any other state employee, when a professor or researcher, in the performance of his or her state duties, possesses official authority to affect the interests of a certain business or industry, he or she may not accept a fee or honorarium from, or paid consultant's position with, that business or industry. (For example, a researcher studying the effects of sugar consumption on health should not accept an honorarium from or be a consultant for the sugar industry.) To do so would result in violation of \$1-84(c), as well as \$1-84(b) of the Code which prohibits the acceptance of outside employment which will impair independence of judgment as to one's state duties.

By order of the Commission,

Rabbi Michael Menitoff

Rabbi Michael Menitoff
Chairperson

Dated 9-10-90

