

CONNECTICUT STATE ETHICS COMMISSION
30 TRINITY STREET
HARTFORD, CONNECTICUT 06115



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ADVISORY OPINION NUMBER 78-22

Public Officials Appearing Before State Agencies

A partner in a law firm, appointed by the Governor to the Public Health Council, has asked the State Ethics Commission whether it would violate section 6(d) of Public Act Number 77-600 if he or a member of his firm were to appear in a representative capacity and on a compensated basis before the State agencies listed in that section of the statute.

The Public Health Council is one of the two components of the State Department of Health. Section 19-1, Connecticut General Statutes. The central policymaking authority for the Department is vested in the Council. Section 19-3, *id.* A person appointed by the Governor to the Council is, therefore, a public official, section 1(j), Public Act Number 77-600, not a member of an advisory board, section 1(g), *id.*

Section 6(d), Public Act Number 77-600, provides in pertinent part: "No public official...shall agree to accept, or be in partnership with...which partnership...agrees to accept, any employment, fee or other thing of value...in consideration of his appearing, agreeing to appear, or taking any other action on behalf of another person before" various State agencies named in the section. Since the attorney is a public official, it clearly would be a violation for him to represent another, for compensation, before any of the named agencies. State Ethics Commission Advisory Opinion 78-1, 39 Conn. L.J., No. 36, p. 17.

As is more fully discussed in State Ethics Commission Advisory Opinion 78-21, dated September 12, 1978, [and] the predecessor statutory provision, section 1-66(d), Connecticut General Statutes, prior to amendment by section 6(d), *supra*, was interpreted to extend the prohibition on appearances before the listed State agencies to all the attorneys in a public official's law firm; the General Assembly, in re-enacting section 1-66(d) in 1977, intended that interpretation to continue; and the State Ethics Commission has construed the current statutory provision to include a ban on appearances by those in a public official's law firm. Therefore, it would likewise be a violation for other members of a law firm in which a member of the Public Health Council is a partner to

represent another for compensation before the agencies named in section 6(d), Public Act Number 77-600.

By order of the Commission

Thomas J. Lynch

Rev. Thomas J. Lynch
Chairman

Dated September 12, 1978

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February 2, 1978

William T. Kosturko, Esq.
Chairman
State Elections Commission
410 Asylum Street
Hartford, Connecticut 06103

Dear Mr. Kosturko:

By letter of December 29, 1977 you requested an advisory opinion regarding the application of Public Act Number 77-600 to your situation as both Chairman of the State Elections Commission and an associate in a law firm, other members of which may appear before, or take action on behalf of another before, one or another of the executive agencies listed in section 6(d) of that Act. You stated that you would not be either appearing before the listed executive agencies or devoting time to any matter before them.

The Commission agrees with your conclusion that you are a public official under the Act.

Section 1-66(d), Connecticut General Statutes, the predecessor of section 6(d) of the Act, was interpreted to mean that a public official who was a member of a firm violated the code of ethics if any member of his firm practiced before the agencies listed in section 1-66(d). This is hardly the necessary interpretation of that section, but it is the one made by the Joint Legislative Ethics Committee and the one upon which public officials have acted in the past.

In considering your letter, the Commission came to the tentative conclusion that the Legislature did not intend to change the application of the Act when it re-enacted section 1-66(d) as section 6(d) of the Act. Much of the section is unchanged. The modification of language describing the relationship of the public official to the firm was not considered to remove your particular situation from the operation of the Act.

It was the tentative conclusion of the Commission, therefore, that if you remain both Chairman of the State Elections Commission and an associate in your law firm, you will be in violation of section 6(d), Public Act Number 77-600.

Because the interpretation of the former act is somewhat unusual and your letter contained no background data or argument, the Commission did not take final action on your request for an advisory opinion. If you have any information regarding this matter which you wish to submit for the Commission's consideration before it comes to an opinion finally in your case, you are welcome to present it to the Commission. You may present it in writing, by appearing before the Commission at its next regular meeting at 4 p.m., Wednesday, March 1, 1978, or both, as you prefer.

Very truly yours,

J. D. Eaton
Executive Director & General Counsel

JDE:jw

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March 10, 1978

The Honorable Carl R. Ajello
Attorney General
30 Trinity Street
Hartford, Conn. 06115

Dear Mr. Ajello:

The State Ethics Commission has asked me to request your legal opinion on several questions which arise under Public Act Number 77-600 and which affect the members of the State Ethics Commission, as well as members of other commissions with a similar status.

These questions are:

1. Is each member of the Ethics Commission a "public official" as defined in section 1(j), so as to be subject to the prohibitions of section 6(d), Public Act Number 77-600? If so, and he is affiliated with a partnership or professional corporation in any way, may other members of the firm appear, agree to appear, or take any other action on behalf of another, for consideration, before one of the State agencies enumerated in section 6(d), so long as the public official does not? Further, to what extent does the second sentence of section 6(d) limit the first sentence?
2. Is a member of the Ethics Commission a "commissioner" as that term is used in section 5(a), Public Act Number 77-600?

For your convenience I am enclosing copies of two opinions of the Joint Legislative Ethics Committee interpreting section 1-66(d), Connecticut General Statutes, the predecessor of section 6(d), Public Act Number 77-600.

By order of the Commission:

J. D. Eaton
Executive Director &
General Counsel

JDE:pf
Encl.

