



STATE OF CONNECTICUT
STATE ETHICS COMMISSION

ADVISORY OPINION NO. 85-3

Registered Lobbyist Serving on Legislator's Staff

A person registered with the Ethics Commission as a lobbyist is concurrently employed part time by a legislator to provide services of a clerical and administrative nature. She has asked whether the situation creates conflicts of interests or other problems under the Code of Ethics for Public Officials or the Code of Ethics for Lobbyists, Parts I and II, respectively, of Chapter 10, General Statutes.

Her retainer as a lobbyist is more than the \$500 threshold requiring registration. Subsection 1-94(a), General Statutes. The organization which she represents as a lobbyist with respect to both legislative and administrative action is Connecticut NOW. It is concerned with women's rights, minority rights, and budget matters, taxes, and so forth as they affect women's rights.

The legislator has hired her to work part time for the legislative session. She is employed directly by the legislator and paid out of the legislator's pocket. Her duties are clerical and administrative in nature--maintaining files, screening and tracking legislative bills and keeping friendly contacts apprised of them, ordering supplies, attending meetings of organizations interested in women's issues, processing constituent requests, answering phones, maintaining the legislator's calendar, etc.

As a registrant, the woman is subject to the ethical code, section 1-97, General Statutes, as well as the remainder of the Code of Ethics for Lobbyists. A direct employee of the legislator, paid with the legislator's personal funds, she is neither a public official nor a State employee. Subsections 1-79(j) and 1-79(k), General Statutes. Therefore, strictly speaking she is not subject to the provisions of the Code of Ethics for Public Officials.

Compliance with the only Code to which she is required by statute to conform should not be difficult. She is a registrant at all times, including when working for the legislator. Therefore, even in her role as a legislator's assistant she must avoid placing a public official under personal obligation. Subdivision 1-97(c)(1), General Statutes. Additionally, she must be careful to make clear when she is speaking for her employer, the legislator, (if she is, or appears, authorized to) and when she is speaking as a lobbyist for the organization which employs her. When she is acting as a lobbyist she must identify herself as one. Otherwise, she could in effect violate the prohibition against

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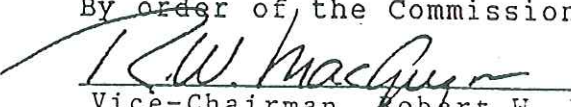
causing a communication to be sent to a public official in the name of another individual except with the individual's consent. Subdivision 1-97(c)(3), General Statutes. The lobbyist's badge required by section 1-101, General Statutes, should be sufficient identification.

This illustrates a significant problem created by her two part-time jobs: it may not always be apparent which role she is filling at the moment. For example, part of her duties as an assistant to the legislator, who supports many of the same issues as NOW, is to attend meetings, when necessary, of organizations concerned with women's issues. Some she might well attend as a NOW lobbyist were she not covering them for the legislator. There can be confusion, and possible violation of the Code of Ethics for Lobbyists, unless she makes a special effort to acquaint others of the role she is filling at the time.

More important, to many she will appear to be a State employee, as most legislative staff members are. Consequently, it is likely to be impossible to avoid apparent violations of the Code of Ethics for Public Officials which could bring the legislative staff or the Code into disrepute. She will appear to be in a position to exploit her post as an assistant to a legislator, presumably with some influence over the legislator, to support her lobbying efforts. This would not only be an apparent violation of subsection 1-84(c), and possibly subsection 1-84(a), of the Code of Ethics for Public Officials, but an apparent violation of section 1-102, General Statutes, which makes it unlawful to hire a State employee working in Hartford to influence legislative action. Additionally, it could appear that she had taken a position, as a lobbyist, which could impair her independence of judgment and require or induce her to disclose confidential information gained as an assistant to a legislator. Subsection 1-84(b), id.

Since the legislator whom she assists and the organization she serves as a lobbyist have many common interests and goals, in one sense she might have few real conflicts of interests. Nevertheless, it is unlikely that multiple apparent violations of the Codes of Ethics and similar statutory provisions can be avoided if a lobbyist, paid to influence legislative action, also serves in the heart of the legislature. Therefore, she should not at the same time hold the positions of assistant to a legislator and a registered lobbyist.

By order of the Commission,


Vice-Chairman, Robert W. MacGregor

Dated Mar 21/85