



STATE OF CONNECTICUT

STATE ETHICS COMMISSION

ADVISORY OPINION NO. 90-1

Application of Code of Ethics to Outside Instruction
by Mental Retardation Department Employees

Mr. Charles Hamad, Assistant Director at Southbury Training School, has asked whether, under the Code of Ethics for Public Officials, he and other staff at the training school and at the Region II office of the Department of Mental Retardation may teach a college course in Mental Retardation for Quinnipiac College. The proposed course would be held at the training school.

In his correspondence and in conversations, Mr. Hamad has stated that the course, a part of Quinnipiac's degree program, will be open to Quinnipiac students and also to employees of the training school who pay the proper tuition to the college to take the course. He and four of his colleagues plan to "team teach" the class; *i.e.*, each of them will be responsible for a certain portion of the course. They intend to teach and plan the class on their own time. Enrollment in the class will not be considered a requirement of any current or future employee's job. The five teachers will receive a total of \$1,500 for teaching the class, regardless of how many students enroll in the class.

In pertinent part, the Code of Ethics provides that no state employee shall accept other employment which will impair independence of judgment as to official duties or induce disclosure of confidential information acquired in state service, nor may the employee use his or her state position or

such confidential information for personal financial benefit.
Conn. Gen. Stat. §§1-84(b), 1-84(c).

The Ethics Commission has previously held that outside paid instruction of individuals over which the state employee wields official authority presents a conflict of interest which cannot be permitted under the Code. See, e.g., Ethics Commission Advisory Opinion No. 88-16. The Commission has found that a conflict exists when: (a) the instructor's financial gain is tied to the number of students who attend, or; (b) the population of potential students is composed almost entirely of people regulated or employed by the instructor.

In this case, the state employees are considering teaching a class whose students may include employees subordinate to them at the training school. If the course will take place, regardless of whether any Southbury Training School employees enroll, then Mr. Hamad and his colleagues may teach the class and keep the \$1,500 flat fee. If, however, the course or the compensation is tied to the employees' enrollment, then the state employees/instructors could still teach the course, but should not accept the compensation. (Alternatively, the proceeds could go directly to the state.)

If Mr. Hamad's state job, or that of his colleagues, includes a training or educational component, the question also arises whether they should be paid privately for teaching a course which more properly is included in their state duties. Mr. Hamad has stated that while he does train supervisors for a few hours each year with regard to, for example, new procedural policies, his job duties do not include training or teaching the staff regarding substantive mental retardation issues. Provided that this is true for all the prospective instructors, then they may each participate in teaching the course. If at any time their job specifications are revised to include mental retardation education, then the instructors would have to teach the outside course without additional compensation. Any decision affecting the job specifications in this manner should be made by the instructors' superiors, in accordance with Conn. Gen. Stat. §1-86. That section provides that a state employee who, in the discharge of his official duties, would be required to take an action that would affect his financial interest, must deliver a sworn statement describing the conflict to his superior, who in turn assigns the matter to another employee not subordinate to the individual with the potential conflict.

Mr. Hamad has also indicated that the course is scheduled to be held on the premises of Southbury Training School, at

