



STATE OF CONNECTICUT

STATE ETHICS COMMISSION

ADVISORY OPINION NO. 91-18

Member Of A State Commission Seeking To Enter Into A
Consulting Contract With That Commission

The Health Care Access Commission (HCAC) has requested an advisory opinion on the subject of whether, under the Code of Ethics for Public Officials, it may enter into a consulting contract with one of its members, Mr. Joseph Mike. The HCAC is a legislative branch agency created by the General Assembly in 1990 to implement the goal of making health care available to all Connecticut residents. See P.A. 90-134. Public Act 90-134 specifically provides that the commissioners of insurance, health services, income maintenance and human resources must be members of the HCAC, although any and all members "may be represented by designees." Mr. Mike is the insurance commissioner's designee. Members of the HCAC receive per diem payments and expense reimbursements only.

If Mr. Mike is a public official within the meaning of Conn. Gen. Stat. §1-79(k), he will be limited, by the Code of Ethics, in his ability to enter into a contract with the HCAC. See §§1-84(i), 1-84(b). Included in the definition of "public official" is any person "appointed or elected by the general assembly or by any member of either house thereof." The Insurance Commissioner was appointed to the HCAC by the General Assembly's act of passing P.A. 90-134. The rights and responsibilities of membership are not diminished by designation of a representative, as contemplated by the language of P.A. 90-134. The Ethics Commission, therefore, must conclude that Mr. Mike, a designee-member of the HCAC, endowed with the authority and responsibility which the insurance commissioner would otherwise exercise, is a public official.

The Commission notes that an exception to the definition of "public official" exists for persons who are members of advisory boards. However, the HCAC, as a body, expends public funds and has the authority to call upon any state agency for "such information and assistance as it may require." The Commission, therefore, further concludes that the HCAC is not an advisory board within the meaning of §§1-79(k) and 1-79(h). As a result, any contract between the HCAC and Mr. Mike, at a minimum, would

require prior public offer of the consulting position and subsequent public disclosure of all proposals considered and the contract awarded. See Conn. Gen. Stat. §1-84(i).

In addition, Conn. Gen. Stat. §1-84(b) provides that "[n]o public official . . . shall accept other employment which will either impair his independence of judgment as to his official duties . . . or require him, or induce him, to disclose confidential information."

The Ethics Commission has previously stated that "[t]here seems to be no doubt that there are inherent conflicts of interest when an employee is also the employer, or a full member of the body which is the employer." Ethics Commission Advisory Opinion Number 82-9, 44 Conn. L.J. No. 21, pp 4B-6B (November 23, 1982). In considering the issue of state work by an architect-member of the Commission on Capitol Preservation and Restoration, the Commission held that the architect's proposed business with the State, while not strictly prohibited, could have no connection with preservation or restoration of the State Capitol: "If there were a connection, . . . there would be an inherent conflict of interest because the architect in some sense would be supervising or reviewing his own work. . . . Taking work in any way connected with Capitol preservation and restoration would violate the prohibition against accepting employment impairing the independence of judgment of a Capitol Commission member, and perhaps requiring or inducing him to disclose confidential information gained in State office." Ethics Commission Advisory Opinion Number 83-8, 45 Conn. L.J. No. 9, p. 23B (August 30, 1983).

For the above reasons, Mr. Mike cannot both be a member of and a consultant to the HCAC.

By order of the Commission,



Astrid T. Hanzalek

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Chairperson

Dated 6-3-91