



# STATE OF CONNECTICUT

## STATE ETHICS COMMISSION

ADVISORY OPINION NO. 92-2

Application Of Revolving Door Provisions To Former  
Mental Retardation Residential Program Supervisor

The regional office, Region 4, of the state Department of Mental Retardation ("DMR") has asked whether a former Mental Retardation Residential Program Supervisor who left state employment to accept a position as Director of Program Planning and Development for a private residential and day provider operating in Region 4 has a conflict under the revolving door provisions of the Code of Ethics.

According to Linda Underwood of the regional office, the individual in question provided a number of different services in his state job. He did a variety of computer work, including maintaining records of current residential placements and the Region's waiting list file, and calculating the monthly rent subsidies for DMR clients living on their own. He also helped private providers prepare their annual financial forecasts, reviewed mandatory annual financial reports submitted at year's end by the providers, and, after that review, helped calculate the cost settlements with the providers (if they had spent too much or not enough of their allotted funds). The former state employee also assisted in the development of residential plans designed to meet the needs of those on the Region's waiting list. When a plan was implemented, he was not involved in the process of selecting the private provider, but he did help the successful provider to obtain proper state licensing by, for example, inspecting its facility before the state licensing inspectors did so. Finally, in prior years, the individual had provided technical advice during contract negotiations with private providers. This past year, however, he had asked to be removed from that process entirely because of a concern that he might have to look for private employment if he were laid off or "bumped" under his union contract.

This former state employee's job duties for his new private employer include planning and development of new programs, which may involve preparing applications for grants, responding to DMR requests for proposals, and assisting various homes to get state licensing.

A number of potential revolving door issues are raised by this scenario. As a threshold issue, Conn. Gen. Stat. §1-84b(d) prohibits a former state employee who participated substantially in, or supervised, the negotiation or award of a state contract obliging the state to pay an amount of fifty thousand dollars or more from accepting employment with another party to the contract for a period of one year after leaving state service, if his resignation occurs less than one year after the contract is signed. Substantial participation in the negotiation process includes discretionary authority to affect the terms of the contract and the authority to review and/or make recommendations regarding the contract. See Ethics Commission Declaratory Ruling No. 90-A, (1/8/90). Technical advice may certainly affect the terms of a contract; therefore, the actions of this former state employee could fall under the language of §1-84b(d).

DMR has indicated that its former employee was in no way involved in the contract process during the past year, which may prevent a problem under this section. If it is determined that §1-84b(d) does not apply (e.g., that no contract with which he was involved was signed within the past year), then other revolving door prohibitions must be kept in mind.

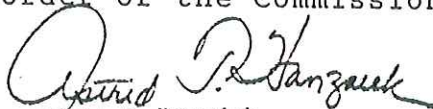
A former state employee may never use confidential information acquired in the course of his state job for financial gain for himself or anyone else. Conn. Gen. Stat. §1-84a. "Confidential information" is any information not generally available to the public. See Ethics Commission Advisory Opinion No. 90-7, 51 Conn. L.J. No. 35, p. 6D (2/27/90). If the information regarding the clients on DMR's waiting list is confidential, this individual is barred from using it to help the private agency develop a residential plan for submission to DMR.

Secondly, no former state employee may represent anyone other than the state concerning any particular matter in which he participated personally and substantially while in state service and in which the state has a substantial interest. Conn. Gen. Stat. §1-84b(a). This is a lifetime ban. Under the facts presented here, this individual should not, for example, represent his new employer in disputes with the state arising from any financial forecast he may have helped prepare, or from any year-end financial report which he reviewed in his state job.

Finally, under Conn. Gen. Stat. §1-84b(b), for one year after leaving state service, a state employee may not represent anyone other than the state for compensation before his former

agency. "Represent" includes any action which reveals the identity of the individual, e.g.; a personal appearance, phone call or signature on a document. See Ethics Commission Advisory Opinion No. 88-13, 50 Conn. L.J. No. 8, p. 4C (8/23/88). For example, this individual may not contact DMR, or sign any documents submitted to DMR, regarding grant money or requests for proposals, or have any contact with DMR personnel in connection with the licensing of homes during the first year after leaving state employment.

By order of the Commission,



Astrid T. Hanzalek

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Astrid T. Hanzalek  
Chairperson

Dated 1-6-92

