

CONNECTICUT STATE ETHICS COMMISSION  
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ADVISORY OPINION NUMBER 79-18

Conflicts of Interest with a State Employee's Duties

The Executive Director of the State Board of Education and Services for the Blind is also Chairman of the Board, Connecticut Radio Information Service, Inc. (CRIS). CRIS is a non-stock, charitable Connecticut corporation formed to establish and operate a radio information service for print-handicapped persons in Connecticut and, insofar as possible, otherwise provide to Connecticut's print-handicapped population access to the same informational benefits available to the general population. Members of its Board are unpaid volunteers. Upon dissolution of CRIS, any assets are to be conveyed to the Board of Education and Services for the Blind, if it is still in existence.

The State Board has been established under Chapter 174, General Statutes, to assist Connecticut residents who are blind or visually impaired. It provides financial assistance to residents who, because of blindness or impaired vision, require special educational programs. Section 10-295, General Statutes. It assists the blind and visually impaired to become qualified for, and to secure, employment. Sections 10-297, 10-298a, 10-303, 10-304, 10-306, *id.* Besides the normal authority of an executive director of a State agency, its Executive Director has considerable independent power over State Board activities and funds. Cf. sections 10-295 through 10-297, *id.* The State Board is empowered to receive and expend Federal funds made available to Connecticut for vocational rehabilitation of a person whose visual acuity has been impaired. Section 10-307, *id.* CRIS hopes that some of these Federal funds will be channelled to it by the State Board, to help CRIS carry out its purposes. The State Board has already assisted CRIS by voting to allow it use of office space rent-free in the Board's headquarters building.

The Executive Director has asked whether there could be a question of conflict of interest concerning his chairmanship of and membership on the CRIS Board of Directors.

The Executive Director of the State Board is a State employee, as defined in the Code of Ethics for Public Officials. Sections 10-295 and 1-79(k), *id.* Considering the broad definition which

"business" may be given, CRIS appears to be a business with which the Executive Director, as one of its directors, is "associated". Subsection 1-79(a), id.

No State employee may have any interest, financial or otherwise, direct or indirect, or engage in any business, employment, transaction or professional activity which is in substantial conflict with the proper discharge of his duties or employment in the public interest and of his responsibilities as prescribed by State law. Subsection 1-84(a), id. With exceptions not pertinent, a State employee has an interest which is in substantial conflict with the proper discharge of such duties and responsibilities if he has reason to believe or expect that he will derive a direct monetary gain or suffer a direct monetary loss by reason of his official activity. Section 1-85, id. Since the Executive Director is not paid for his services to CRIS, he cannot suffer a direct monetary gain or loss as a result of his official activity as Executive Director of the State Board. For the same reason, he cannot violate subsection 1-84(c), General Statutes, which prohibits certain activities from being carried out for the purpose of financial gain.

Service to CRIS, however, is likely to place the Executive Director on both sides of the same transaction. CRIS needs office space. The State Board provides it to CRIS, rent-free. CRIS needs operating funds. The State Board allocates Federal funds for which CRIS is eligible. Even if no violations of the Code of Ethics for Public Officials occur -- CRIS enters into no contracts with the State except through an open and public process, for example (see subsection 1-84(i), General Statutes) -- dealing on both sides of a transaction gives the appearance of the most fundamental kind of a conflict of interest. No matter how honest or selfless one's motives may be, it is impossible to maintain an appearance of fairness and impartiality in such a situation, or to convince the public that all public decisions are being made for the public good. "We may properly take into account the motives which influence and control human action ... and in doing that, what then must we conclude as to the propriety of a public officer making possible, by his participation and assent, the official action sought by his wife?" Low v. Madison, 135 Conn. 1, 7 (1948). The same question arises when the official action is sought by the organization of which the public officer is chairman of the board.

In summary, under the circumstances presented the public is unlikely to retain complete confidence in the integrity of all the State Board's decisions so long as the Board's Executive Director is Chairman of the Board of CRIS. Therefore, he should not continue to hold both positions.

The Executive Director has indicated that, should an opinion such as the foregoing be rendered, he would resign his position on CRIS' Board and offer support as a volunteer consultant. This should cause no problem under the Code of Ethics for Public Officials so long as no confidential information acquired in the course of his official duties is disclosed incident to his service as a consultant. Subsection 1-84(b), id. CRIS should not be denied his expertise in the field of support to the blind and visually handicapped. He will have to utilize careful judgment in the course of providing counsel to CRIS in order to avoid any appearance of impropriety.

By order of the Commission,



Rev. Thomas J. Lynch  
Chairman

Dated

June 7, 1979

