



# STATE OF CONNECTICUT

## STATE ETHICS COMMISSION

ADVISORY OPINION NO. 89-36

Application of Ethics Code to Members of  
Connecticut Historical Commission and State  
Historic Preservation Board

The Director of the Connecticut Historical Commission, John W. Shannahan, has asked the State Ethics Commission to apply the conflict-of-interest provisions of the Code of Ethics for Public Officials, Conn. Gen. Stat., Chapter 10, Part I, to members of the Connecticut Historical Commission and the State Historic Preservation Board.

Specifically, Mr. Shannahan has presented the following factual situations:

1. Nancy Campbell is currently a member of the Connecticut Historical Commission, which is responsible for awarding federal and state historic preservation grants to qualified applicants. She is also on the Council of Overseers of the Weir Farm Heritage Trust, Inc. The Connecticut Historical Commission has awarded a National Park Service grant-in-aid to the Weir Farm Trust.

2. Jared I. Edwards is currently chairman of the State Historic Preservation Board, which is not responsible for awarding federal and state grants. He is also on the Council of Overseers of the Weir Farm Heritage Trust, Inc. The Connecticut Historical Commission has awarded a National Park Service grant-in-aid to the Weir Farm Trust.

3. Catherine W. Lynn is currently Director of Education for the Connecticut Trust for Historic Preservation. She is also a member of the State Historic Preservation Board. The Connecticut Historical Commission annually awards the Connecticut Trust for Historic Preservation a National Park Service grant-in-aid to administer its education programs.

Taking Mr. Shannahan's situations in order:

1. In order to determine whether a conflict of interest exists, several questions must be answered. The first question

is whether Ms. Campbell is a public official, within the meaning of Conn. Gen. Stat. §1-79(k), and therefore subject to the Code of Ethics.

Under the Code, a public official is defined in part as "...any person appointed to any office of the legislative, judicial or executive branch of state government by the governor, with or without the advice and consent of the general assembly, ...any person appointed or elected by the general assembly or by any member of either house thereof; and any member or director of a quasi-public agency; but shall not include a member of an advisory board..."

The Connecticut Historical Commission, on which Ms. Campbell serves, is established by Conn. Gen. Stat. §10-321. Its members are appointed by the governor. The Commission's duties include the administration of federal grants-in-aid for the preservation of historic properties, and the advancement of funds to the owners of such properties. Conn. Gen. Stat. §10-321b. Since Ms. Campbell is appointed by the governor to a commission which is not merely an advisory board but rather has the authority to expend public funds, she is a "public official" who must comply with the Code of Ethics.

The second question is whether Ms. Campbell's acceptance of a position on the Council of Overseers of the Weir Farm Trust makes the Trust a business with which Ms. Campbell is associated. The definition of "business with which associated" includes a trust in which the public official or state employee is a director, officer, owner or beneficiary. Conn. Gen. Stat. §1-79(b). Officer refers only to the president, executive or senior vice president or treasurer of such trust.

The Council of Overseers of the Weir Farm Heritage Trust, Inc. is not the governing body of the Trust. Rather, the Trust is run by the Board of Trustees, and the Council's function is advisory only. Bylaws of the Weir Farm Heritage Trust, Inc., Article V, Section 5.1. The bylaws contain no provision for compensation of Council members. For purposes of the Code of Ethics, then, the Trust is not a business with which Ms. Campbell is associated.

Section 1-84 of the Code of the Ethics prohibits certain activities by public officials and state employees, including the acceptance of other employment which impairs their independence of judgment and the use of their public office, position or any confidential information to obtain financial gain for themselves, their spouse, child, child's spouse,



parent , brother, sister, or a business with which they are associated. See Conn. Gen. Stat. §1-84(a)-(c). In Ms. Campbell's case, since she is not employed by the Weir Farm Trust and since the Trust is not a business with which she is associated, her dual involvement does not violate the Code of Ethics. Under the Code, therefore, she may participate in the Historical Commission meetings which concern the Weir Farm Trust.

It should be noted, however, that in addition to the state Code of Ethics, there may be other conflict-of-interest restrictions which apply to Historical Commission members. For example, the Commission has its own "Conflict of Interest Policy for Receiving State and Federal Grants-in-Aid." Also, the National Register Programs Guideline NPS-49, promulgated by the National Park Service, sets forth a code of conduct to be observed in the awarding of federal grants-in-aid. Under the National Guideline, a conflict of interest arises if, for example, an employee, officer or agent of a grantee organization has a "financial or other interest" in a firm selected for award. Guideline, Release No.1, October 1984, p. 2. Although the State Ethics Commission does not have the jurisdiction to interpret these provisions, they should be addressed by the Historical Commission in the context of this and other possible conflict-of-interest situations.

2. The State Historic Preservation Board, which Mr. Edwards chairs, is established by Conn. Gen. Stat. §10-321q. The Board's duties and powers are set forth in federal regulations, 36 C.F.R. S.61.4 (1978). The members of the State Historic Preservation Board are not "public officials" within the meaning of Conn. Gen. Stat. §1-79(k), because they are appointed to that position by the state historic preservation officer rather than by the governor or the general assembly. Therefore, in his role as State Historic Preservation Board chairman, Mr. Edwards is not subject to the Code of Ethics for Public Officials.

Again, however, the bylaws of the State Historic Preservation Board also contain a conflict-of-interest policy which should be considered, along with pertinent federal regulations, in determining whether a conflict exists. See Bylaws, State Historic Preservation Board of Connecticut, Article VIII.

3. As a member of the State Historic Preservation Board, Catherine Lynn is not a "public official" subject to the Code of Ethics. See No. 2 above.

Ms. Lynn is also employed as Director of Education for the Connecticut Trust for Historic Preservation. The Trust was created by special act of the Connecticut legislature as a quasi-public, nonprofit instrumentality. S.A. No. 75-93. In her position at the Trust, Ms. Lynn is not a state employee or public official and therefore is not subject to the Code of Ethics.

By order of the Commission,



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William A. Elrick  
Chairperson

Dated 12-13-89