



STATE OF CONNECTICUT

OFFICE OF STATE ETHICS

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Draft Advisory Opinion No. 2013-1

February 21, 2013

Question Presented:

The petitioner asks whether a librarian at Tunxis Community College may accept a \$5000 cash award, plaque, and \$500 travel stipend to New York City for being selected as one of ten librarians across the country to earn the Carnegie Corporation of New York/New York Times “I Love My Librarian” award.

Brief Answer:

Because the award was given for the librarian’s overall job performance (rather than for her performance of any specific tasks in her state job), she may, in accordance with Advisory Opinion No. 92-1, accept it, provided that she was not involved in the selection process, and that the award was neither established nor funded by persons regulated by, doing business with, or seeking to do business with her state employer.

At its February 2013 regular meeting, the Citizen’s Ethics Advisory Board (“Board”) granted the petition for an advisory opinion submitted by Charles C. Cleary, Dean of Administration at Tunxis Community College. The Board issues this advisory opinion on the date shown below in accordance with General Statutes § 1-81 (a) (3).

Facts

The pertinent facts provided by the petitioner are set forth below and are considered part of this opinion:

On December 19, 2012 Lisa Lavoie, Director of Library Services, sent an email to all Tunxis Community College employees that Rachel Hyland, one of the College librarians, was selected as one of ten librarians in the country to earn the Carnegie Corporation of New York/New York Times “I Love My Librarian” Award. The award includes a \$5,000 cash award, plaque and \$500 travel stipend to New York City. . . .

The criteria for the award are as follows:

In order to be eligible, each nominee must be a librarian with a master’s degree from a program accredited by the ALA in library and information studies or a master’s degree with a specialty in school library media from an educational unit accredited by the National Council for the Accreditation of Teacher Education.

Nominees must be currently working in the United States in a public library, a library at an accredited two- or four-year college or university or at an accredited K-12 school.

Ms. Hyland did not submit her name for the award. Ms. Hyland’s nomination was submitted by the library director and supported by several faculty members.

The College believes acceptance of the award is not a violation of state ethics. Ms. Hyland has worked many years as a librarian prior to being employed by Tunxis. Her expertise in the field of library science, not her state position, was the significant factor in her being selected as an award recipient.

Ms. Hyland is the recipient of a prestigious award. It improves morale immeasurably for the campus community to have employees recognized nationally. We hope the advisory opinion will support the College’s efforts to recognize an individual’s expertise. In turn this expertise has helped many students succeed and flourish in their academic endeavors.

Analysis

In his petition, Dean Cleary suggests that the appropriate Ethics Code provision under which to analyze the facts at issue is General Statutes § 1-84 (k), which provides, in relevant part, as follows: “No . . . state

employee shall accept a fee or honorarium for an article, appearance or speech, or for participation at an event, in the . . . state employee's official capacity" A threshold question is whether the award conferred upon Ms. Hyland constitutes a "fee" or an "honorarium"; for if not, § 1-84 (k) will not prohibit her from accepting it, regardless of whether she received it for some activity undertaken in her official capacity.

The Ethics Code does not define the terms "fee" and "honorarium," so we turn to General Statutes § 1-1 (a), which directs that, in construing statutes, "words . . . shall be construed according to the commonly approved usage of the language" "To ascertain the commonly approved usage of a word, we look to the dictionary definition of the term."¹ For "fee," it is this: "compensation often in the form of a fixed charge *for professional service* or for special and requested exercise of talent or of skill."² And for "honorarium," it is this: "an honorary payment or reward usually *given as compensation for services* on which custom or propriety forbids any fixed business price to be set or for which no payment can be enforced at law"³ Both definitions thus contemplate the provision of some type of "service," which is something Ms. Hyland did not provide in exchange for the award. That is, she was given the award, not for any service performed for the sponsors, but rather based on the merits of her work for the College. Thus, the award is not a "fee" or an "honorarium," and Ms. Hyland is therefore not prohibited by § 1-84 (k) from accepting it.

Even so, there is still the matter of whether accepting the award is prohibited by General Statutes § 1-84 (c), under which "no . . . state employee shall use his public . . . position . . . to obtain financial gain for himself" The former State Ethics Commission ("SEC") interpreted § 1-84 (c) to prohibit a state employee from "receiv[ing] remuneration in addition to his or her state salary for performance of official duties."⁴ For example, in Advisory Opinion No. 82-3, it prohibited a Department of Motor Vehicles employee from accepting compensation from a private organization in return for responding to its request for information.⁵ In Advisory Opinion No. 89-20, it prohibited an employee of a state-owned museum from

¹(Internal quotation marks omitted.) *Mayfield v. Goshen Volunteer Fire Co.*, 301 Conn. 739, 746, 22 A.3d 1251 (2011).

²(Emphasis added.) Webster's Third New International Dictionary.

³*Id.*

⁴(Emphasis added.) Advisory Opinion No. 2003-14, Connecticut Law Journal, Vol. 65, No. 20, p. 13C (November 11, 2003).

⁵Connecticut Law Journal, Vol. 43, No. 39, p. 9B (March 30, 1982).

accepting “tips from tourists after he has given them a tour”⁶ And in Advisory Opinion No. 98-30, it prohibited a Department of Mental Retardation employee from accepting “a bequest under a will which was made while the client was under the employee’s influence, control and/or authority.”⁷

But in Advisory Opinion No. 92-1, the SEC declined to extend the rule established in that line of opinions to facts analogous to those before us.⁸ The issue was whether a “fund established . . . to provide a cash award each year to a current state police officer, who would be designated ‘Trooper of the Year,’ is acceptable”⁹ After acknowledging the rule discussed above—that a state employee may not accept additional compensation “for performing tasks as a part of his or her state job”—the SEC immediately distinguished it.¹⁰ In its words, the “Trooper of the Year” award “would not be bestowed as a quid pro quo for a specific action, *but rather as an honor to the state police officer for his or her overall job performance*”; and hence its acceptance would not be “a prohibited use of office.”¹¹ But there were two caveats: (1) potential recipients could not be involved in the selection process; and (2) persons regulated by, doing business with, or seeking to do business with the trooper’s state agency could neither establish, nor contribute to, the award.¹²

The question before us, then, is why the “I Love My Librarian” award was bestowed upon Ms. Hyland: was it in return for performing tasks as part of her state job, or was it as an honor for her overall job performance? The answer, we believe, is the latter. That is, it was bestowed, not because of any specific tasks performed by Ms. Hyland at the College, but by virtue of her overall job performance as a librarian—or, as put by Dean Cleary, because of “[h]er expertise in the field of library science,” a field, he notes, in which she “has worked many years . . . prior to being employed by Tunxis.” Accordingly, she may accept the award without violating § 1-84 (c), provided, of course, that the two caveats mentioned in Advisory Opinion No. 92-1 are observed.

We finish by noting that, given the fact-specific nature of this opinion,

⁶Connecticut Law Journal, Vol. 51, No. 7, p. 3C (August 15, 1989).

⁷Connecticut Law Journal, Vol. 60, No. 27, p. 7E (January 5, 1999).

⁸Connecticut Law Journal, Vol. __, No. __, p. __ (_____, 1992).

⁹Id.

¹⁰Id.

¹¹Id.

¹²Id.

OFFICE OF STATE ETHICS

any state employee or public official offered such an award should contact the Office of State Ethics before accepting it.

By order of the Board,

Dated _____

Chairperson