

CAUTION: The following advice may be based on a rule that has been revised since the opinion was first issued. Consequently, the analysis reflected in the opinion may be outdated.

Moonlighting

A DOE instructional television consultant was offered a scholarship from TVOntario's Utilization Staff to attend a two-week workshop, all expenses paid. SEC found it was permissible for the consultant to accept the scholarship, subject to specific conditions set forth by the SEC.

No. 89-I-13 Conflict of Interest, Moonlighting

FACT SITUATION

An instructional television consultant from the Indiana Department of Education (IDOE) has been offered a scholarship from TVOntario's Utilization Staff in Toronto, Ontario, to attend the annual two-week Summer Utilization Workshop, all expenses paid. At TVO's workshop the recipient would learn how to design and present workshops on the use of TVO programs and resource materials, present their own television-based workshops to course participants, become a television utilization expert, and become eligible to assist the United States office of TVOntario as a paid freelancer presenting workshops in the United States.

Essentially, the consultant for the IDOE would be learning how to teach teachers to most effectively use instructional television in the classroom. One person in the United States is selected as the recipient of the scholarship annually.

IDOE once acquired a video series from TVOntario's marketing office in North Carolina. The possibility exists that the IDOE may purchase additional video programming from TVOntario's United States office at some time in the future.

First of all, there is a state curriculum guide which includes every subject area and every grade level. For each subject area at each grade level, there is a list of specific skills a student in that subject at that grade level should acquire. The ITC correlates the programming they have in their collection to the curriculum guide. If there are certain skills that are supposed to be taught in third grade math, there are video programs to support that. Usually programming licenses are for a finite period of time. There are approximately three dozen vendors DOE works with. In selecting the videos, the subject matter is selected first. They go through the list of vendors to see who has a video on the selected subject matter. The companies that have the material are contacted and asked to send ten VHS copies of the program. The copies are drop shipped to ten different sites across the state and evaluated by appropriate educators. Each site has two or three appropriate teachers who view the product. Approximately 25 to 30 written evaluations of everything is looked at. They are scored numerically. The vendors are contacted and asked for the cost to get a five year, ten year, or whatever term license is desired on the video. The higher the score on the video the higher amount DOE will pay for the license for the video. There is a maximum of what DOE will pay. They buy the best programming they can as inexpensively as possible. A contract for the selected video is then drafted. The contract goes to the ITC's supervisor and then to the senior officer. The instructional television consultant in drafting certain contracts could be considered as making a recommendation. Were a situation to arise where TVO programming were to be considered in the future, the ITC could prepare the paper work, give it to his supervisor and refrain from the decisionmaking.

QUESTION

Is there a conflict of interest for the instructional television consultant from IDOE to accept a scholarship from TVOntario's Utilization Staff in Toronto, Ontario.

OPINION

The Commission rendered the opinion that the Department of Education Instructional Television Consultant be allowed to accept the scholarship with two conditions:

(1) Whenever TVOntario is a potential contractor with the state, the employee who received the scholarship would need to have his decision with regard to that matter reviewed by his immediate supervisor.

(2) Should the employee get any of these free-lance consulting positions, the positions would have to be individually approved by the Commission to make sure there is no conflict of interest. The Commission cannot give an advance opinion of that because they would have to look at the facts of each case individually.

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