

**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 Consequently, the analysis reflected in the opinion may be outdated.

**IC 4-2-6-9(a) Conflicts of interest**

**40 IAC 2-1-8 Moonlighting**

A VR counselor wanted to know if she would be permitted to work on weekends and evenings as a substitute at group homes from whom she could purchase services for VR clients. SEC found this outside employment did not present a conflict of interest so long as the counselor observed specific conditions.

**93-I-10 Conflict of Interest, Moonlighting  
(Decision August 19, 1993)**

**FACT SITUATION**

A VR counselor with a hearing impaired caseload in ten counties and a general caseload in one county wanted to know if she was permitted to work on weekends and evenings as a substitute at group homes in the county where she had her general caseload from whom she might purchase services for VR clients. The VR counselor purchased job placement services for some clients in the county through a purchase of services agreement.

The VR counselor was interested in working as a substitute group home person on weekends and some evenings. The county was a rural county served only by this one developmental center. Facilities from surrounding counties did not come into this county to provide services. The company had three group homes in the county. The counselor's responsibilities would be supervision and care for the more severely handicapped and less care for those who could take care of themselves. The counselor planned to be an infrequent substitute for an hourly wage. She had worked for seven years for the company before employment with the state. Two programs were available through the company. The VR counselor's supervisor authorized all placements before the money could be spent. The counselor would never be the person providing supportive employment for the company. She played no role in assigning people to group homes. However, she did refer mildly mentally retarded persons who were interested in getting into a group home to the Department of Mental Health. It used her general medical and psychological information, along with the social history and assessment of adaptive behavior skills which the Department of Mental Health prepared, to decide if the individual was appropriate for semi-independent living in a group home situation.

**QUESTION**

Is a VR counselor permitted to work on weekends and evenings as a substitute at group homes from whom the counselor could purchase services for VR clients?

**OPINION**

The Commission found the part-time employment by a VR counselor as a substitute in group homes run by a business which was a sole source within the area from whom the counselor purchased services for clients was not a conflict of interest provided recommendations or decisions the counselor made were subject to review and approval by others in OVR, provided the services purchased by OVR were distinct from the group home operation, and provided the decisions the counselor made did not affect the occupancy of the facilities.

The relevant statute and rules are as follows:

IC 4-2-6-9(a) on conflicts of interest provides, "A state officer or employee may not participate in any decision or vote of any kind in which the state officer or the employee or that individual's spouse or unemancipated children has a financial interest."

40 IAC 2-1-8 on moonlighting provides, "A state employee shall not engage in outside

employment or other outside activity not compatible with agency rules or the full and proper discharge of public duties and responsibilities. This outside employment or other outside activity must not impair independence of judgment as to official responsibilities, pose a likelihood of conflict of interest, or require or create an incentive for the employee to disclose confidential information acquired as a result of official duties."