

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 Consequently, the analysis reflected in the opinion may be outdated.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

**31 IAC 2-4-2**

DOC inquired as to whether various Branchville Training Center employees could be employed by a local private college to offer vocational and academic college classes to offenders who attended on federal grants. SEC considered both the Code of Ethics and 31 IAC 2-4-2(f) in determining that although the assistant superintendent of the facility would be prohibited from contracting with the local college to teach classes to employees on state grounds, it was permissible for full-time institutional teachers, part-time contractual teachers and a refrigeration mechanic foreman to do so.

**93-I-12 Conflict of Interest, Moonlighting  
(Decision August 19, 1993)**

**FACT SITUATION**

Due to budget cuts and lost positions, the Branchville Training Center, Department of Correction, found itself with a vocational building and no teachers. Therefore, they contracted with a local private college to offer vocational and academic college classes for offenders who attend on federal grants. The college hired the teachers. The question was whether various employees of Branchville Training Center could be employed by the college to do the teaching.

Because the attorney for the Personnel Department had a conflict of interest in that his parents were employees of the local college, the State Personnel Department and the Department of Correction asked the State Ethics Commission to also interpret 31 IAC 2-4-2(f), last paragraph, a State Personnel Department rule for merit employees.

**QUESTION**

- 1) Is a full-time teacher of Branchville Training Center permitted to contract with Oakland City College to teach evening courses to the offender population (the same population they teach during the day) on the grounds of the institution where they work?
- 2) Is a part-time contractual teacher who works approximately thirty hours per week permitted to contract with Oakland City College to teach the offender population at the institution where they are employed?
- 3) Is an assistant superintendent at Branchville Training Center permitted to contract with the local university to teach evening classes to employees on state grounds?
- 4) Is a refrigeration mechanic foreman employed full-time permitted to enter a contract with a local university to teach refrigeration/cooling to the offender population?

**OPINION**

The Commission found with respect to question number three that an assistant superintendent was prohibited from contracting with the local university to teach evening classes to employees on state grounds. (Note: See 93-I-15.) With respect to 1, 2, and 4, full-time institutional teachers, part-time contractual teachers, and a refrigeration mechanic foreman employed full-time were permitted to teach the offender population part-time for the university on state grounds. Further, the Commission found the same persons were not violating 31 IAC 2-4-2(f) by such teaching because the employees would be providing educational services in furtherance of Branchville Training Center's mission and under its indirect supervision, consequently outside the intended scope of that rule.

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."

31 IAC 2-4-2(f) on minimum salary; advancement; change in status provides, "No employee in the state service shall supplement any state salary through activities, engaged in or on state property, such as collecting commissions, owning and operating concessions, rendering personal or other service to patients, inmates, clients, wards, or the public. No employee shall supplement any state salary through activities engaged in or on state property during working hours, such as collecting commissions, owning and operating concessions, rendering personal or other services to other employees."