

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 Consequently, the analysis reflected in the opinion may be outdated.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

SEC found it was not a violation of the Code of Ethics for a VR area supervisor to work in a part-time teaching position for a private university program provided the supervisor neither participated in the decision to send clients of his agency to the university nor reviewed decisions to approve payment to the university for the duration of his relationship with the university.

**93-I-9 Conflict of Interest, Moonlighting
(Decision August 19, 1993)**

FACT SITUATION

The area supervisor for the Vocational Rehabilitation Section in the Lafayette area with overall management of VR programs for a seven county area wanted to teach part-time at a private university. The area supervisor supervised seven counselors and four secretaries who arranged services from vendors for adults with disabilities which impeded their employment. He approved the expenditures of case service monies which could include monies to attend the private university.

The part-time teaching position was in a program for adult professionals. The program was a non-traditional approach designed for students already in the business or professional world who had not completed college degrees. The university was located outside the area supervisor's supervisory area. He would become an adjunct faculty member and facilitate classes which met one night per week for five to seven weeks. This could involve one course or more per year. The course content was already established so the facilitator moved the group through the material, using his experience and knowledge to supplement the learning. Payment was on a per class basis. The area supervisor would facilitate in psychology, sociology, wellness, and personnel management. Although the area supervisor made presentations as part of his state duties, he did not make presentations to this audience of students or on these subjects.

The Office of Vocational Rehabilitation sponsored very few students to attend the university. Only one student had been assigned since 1986. The superior of the area supervisor had indicated he would be willing to screen the employee out of any fiscal transactions on students sponsored by his office who attended the university. A supervisor in Terre Haute office would become responsible.

The decision of the Office of Vocational Rehabilitation to send a client to a university is made by the client working with the counselor. The counselor's duty is to make sure the client is aware of different options. The counselor would have to be satisfied the school had a program suitable for the client's vocational goal, the school represented the most cost-effective option, and the option was reasonable in terms of logistics. The counselor could override the client's decision to chose a particular school but would do so in very few circumstances. The area supervisor would review the choice made by the client in consultation with the counselor when a file was pulled for quality assurance review or when the consumer filed an appeal of the counselor's denial of a client's choice. Such appeals were very rare.

QUESTION

Is an area supervisor for the Vocational Rehabilitation Section permitted to accept a part-time teaching position with a private university for a fee on his own time?

OPINION

The Commission found it did not violate rules on moonlighting, honoraria, or conflict of interest for an area supervisor of Vocational Rehabilitation to work in a part-time teaching position for a private university program provided the supervisor did not participate in the decision to send clients of his

agency to the university and did not review decisions to approve payment to the university during the time his relationship with the university continued.

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."