

ETHICS DETERMINATION:

FROM: Carolyn Trevis, Assistant State Negotiator
MN Management & Budget

TO: Colleen Naughton, HR Director
Pollution Control Agency

RE: Consulting Work by PCA Employee

ETHICS TOPIC: Conflict of Interest – Consulting Work for Non-Profit

DATE OF DETERMINATION: September 16, 2013

ISSUE: May an employee of the Minnesota Pollution Control Agency in the Prevention and Assistance Division consult with and serve on an education advisory board of the Jeffers Foundation, a non-profit education organization?

BACKGROUND AND FACTS: The employee is currently assigned to a two-year IT Transformation Project. In a former position with the Minnesota Department of Education, he partnered with the Jeffers Foundation on some free workshops that he led for teachers on environmental and outdoor education.

DETERMINATION: The employee may consult with and serve on the education advisory board for the Foundation, as there is no conflict of interest with his MPCA position.

DISCUSSION: The employee's current position at MPCA has no connection with formal environmental education work and he is not involved with any agency regulatory or grant activity involving the Jeffers Foundation. He is to be advised that he shall not use state resources or time to prepare for or participate in any of the Foundation activities.

ETHICS DETERMINATION:

FROM: Carolyn Trevis, Assistant State Negotiator
MN Management & Budget

TO: Brenda Willard
Administration

RE: Discounted Software/Hardware

ETHICS TOPIC: Conflict of Interest – Discount on Software/Hardware

DATE OF DETERMINATION: October 27, 2008

ISSUE: Is it acceptable for DEED to publicize and make an offer to its employees of Microsoft software and hardware products at a discounted price?

BACKGROUND AND FACTS: DEED, as part of signed agreement with Microsoft, wants to allow its employees the ability to purchase certain software and hardware products at reduced prices (e.g. Microsoft Office 2007 for \$25.00; normal retail price is \$150.00).

DETERMINATION: DEED should not make this offer to its employees. This is not an acceptable government discount available to all governmental employees.

DISCUSSION: Special discounts or offers made generically to “government employees” are generally not a violation of the Code of Ethics’ prohibition on gifts (See PERSL #1332). However, here the offer is made only to DEED employees and is part of a binding agreement between DEED and a particular vendor, with which it has a contractual relationship. It could also be perceived by the public as improper use of an employee’s position for private gain that is not available to the “general public.”

ETHICS DETERMINATION:

FROM: Wendy Dwyer
Dept. of Employee Relations

TO: Karin Van Dyck
Dept. of Transportation

RE: Conflict of Interest – Family Member Works for Consultant

ETHICS TOPIC: Conflict of Interest – Family Member Works for Consultant

DATE OF DETERMINATION: January 3, 2007 and January 11, 2007

ISSUE: May a MnDOT employee be involved in the solicitation process of a vendor, when one of the vendors employs her brother-in-law? [*note: further facts showed that brother-in-law has ownership interest in the vendor company*]

BACKGROUND AND FACTS: The employee, a research analyst, is soliciting interested vendors for a project related to design for bike and pedestrian accommodations in Transit. A company, Bonestroo, is one of three consultants on a certified list of vendors for this project. The employee's brother-in-law works for (and later we found out) has an ownership interest in Bonestroo. He is not involved in the project, however.

DETERMINATION: The employee's involvement in the solicitation process alone did not present a conflict of interest. However, the employee cannot be involved in the selection decision.

DISCUSSION: The employee's current position was sufficiently unconnected to the decisionmaking process, and she was advised that others must make the final selection.

ETHICS DETERMINATION:

FROM: Carolyn Trevis, Assistant State Negotiator
Dept. of Employee Relations

TO: Diane Rademacher and Mary Oman
DEED

RE: New Position at DEED – State Services for the Blind

ETHICS TOPIC: Conflict of Interest – Fundraising

DATE OF DETERMINATION: June 9, 2008

ISSUE: May the State Services for the Blind, a division of DEED, create a new unclassified position for the purposes of fundraising?

BACKGROUND AND FACTS: Historically, the State Services for the Blind has been allowed to fundraise and receive funds to aid persons who are blind or visually impaired, per Minnesota Statutes Sections 248.07 and 116J.025.

DETERMINATION: The specific state statutes control; fundraising activities for the purposes described do not present a conflict of interest.

DISCUSSION: Generally, the Code of Ethics prohibits the solicitation of private businesses by state employees. Previous opinions have opined that it is a conflict of interest. However, here the more specific laws govern the situation.

ETHICS DETERMINATION:

FROM: Tom Hanson, Commissioner
MN Management & Budget

TO: Bill Eisele
Board of Water & Soil Resources

RE: Conflict of Interest for ML

ETHICS TOPIC: Conflict of Interest – Member of County-Related Commission

DATE OF DETERMINATION: January 1, 2009

ISSUE: Can an employee who works in a resource protection and planning agency be appointed to a county-related commission that oversees county parks?

BACKGROUND AND FACTS: The employee’s job duties require her to implement water and land management programs and policies of BWSR. The employee would like to apply to be the “resident citizen” member of the Washington County Parks and Open Space Commission.

DETERMINATION: The employee’s position as the “resident citizen” on the Commission does not create a conflict with her current job duties.

DISCUSSION: No conflict of interest was found for the following reasons: (1) there is no direct connection between the agency’s work and the work of the Commission; (2) the employee would not be the sole decision-maker on the Commission; (3) the Commission has pre-determined criteria that must be used when making decisions; (4) the employee will not be able to use her state position to benefit the Commission; and (5) the Commission is funded solely by county funds, not BOWSR funds. If a situation arises where a direct agency connection is present, the employee must recuse herself from voting on the matter.

ETHICS DETERMINATION:

FROM: Tom Hanson, Commissioner
MN Management & Budget

TO: Karin Van Dyck
Dept. of Transportation

RE: Employee Elected as Board Member of Community Council

ETHICS TOPIC: Conflict of Interest – Outside Activity as Elected Board Member

DATE OF DETERMINATION: June 20, 2008

ISSUE: Is it a conflict of interest for a MnDOT State Aid Engineer to serve on the Board of the District 14 Macalester-Groveland Community Council in St. Paul, and as a member of the Transportation Committee of that same Council?

BACKGROUND AND FACTS: The issue was raised by a private citizen. The employee is primarily responsible for the oversight and determination of eligibility of construction plans for State Aid funding; providing direction to clients on plans, reports and specifications necessary to meet the State Aid requirements and assisting them in the supervision of all construction activities to assure that State Aid projects are completed in accordance with such requirements. In his role as Board member, he is one of several Council members who are part of making policy and recommendations to the St. Paul City Council for transportation projects that affect the neighborhood/district.

DETERMINATION: The employee may continue to serve as a Board Member of the Community Council; there is not a conflict of interest.

DISCUSSION: The employee's current position at MnDOT requires him to review and approve plans based primarily on set standards, rule and criteria. He is not the sole decision maker on the Council and there is no evidence that he has used or attempted to use his state position to benefit himself or the Council. In the event that he determines a potential conflict exists in the future, he shall discuss with supervisor and possibly recuse himself from the issue.

ETHICS DETERMINATION:

FROM: Patricia Anderson, Commissioner
Dept. of Employee Relations

TO: SW, PERA

RE: PERA Employee Working for an Outside Business

ETHICS TOPIC: Conflict of Interest – Outside Employment

DATE OF DETERMINATION: March 12, 2007

ISSUE: May a benefits counselor with PERA (Public Employees Retirement Association) work for a private company, Waddell & Reed (“W&R”), as a Financial Representative?

BACKGROUND AND FACTS: The employee, a benefits counselor for PERA, is considering a part-time position with W&R as a Financial Representative. He will be meeting with clients to assist with their financial planning, including advising on investing, insurance planning and overall financial plans. If any client holds PERA pension benefits, current law requires that the employee disclose his employment with PERA and how he is compensated.

DETERMINATION: The employee’s proposed part-time employment with W&R is not a conflict of interest.

DISCUSSION: None of the proposed job duties will conflict with the PERA duties or affect the employee’s judgment in his state employment. The employee will not use any state time or equipment in performing the outside job.

ETHICS DETERMINATION:

FROM: Patricia Anderson, Commissioner
Dept. of Employee Relations

TO: Gail Krieg, HR Director
Dept. of Labor & Industry

RE: DOLI Employee Continuing Practice of Law

ETHICS TOPIC: Conflict of Interest – Outside Employment

DATE OF DETERMINATION: April 9, 2007

ISSUE: May a DOLI employee continue to practice law on a part-time basis, with the intent of limiting his practice to wills and estates, business formation and consulting on civil and criminal litigation?

BACKGROUND AND FACTS: The employee, a Dispute Prevention Resolution Specialist within the agency's Workers' Compensation Division, has practiced law for over 25 years, and owns a private firm with one partner; that partner is now in charge of the main law practice. He is interested in continuing to practice law part-time, and will not work on any matters involving the agency or workers' compensation.

DETERMINATION: The employee's intent to continue a part-time law practice as outlined did not present a conflict of interest.

DISCUSSION: The employee's position at DOLI is sufficiently distinct from his proposed law practice. He was advised that he shall perform all outside work on his own time and using his own equipment and supplies. If any of his law practice involves DOLI or any person that has a claim before DOLI, he shall immediately remove himself from the matter.

ETHICS DETERMINATION:

FROM: Patricia Anderson, Commissioner
Dept. of Employee Relations

TO: Gail Krieg, HR Director
Dept. of Labor & Industry

RE: DOLI Inspector Working for Construction Company

ETHICS TOPIC: Conflict of Interest – Outside Employment

DATE OF DETERMINATION: September 28, 2007

ISSUE: May a DLI Safety Investigator work for a company selling construction trailers?

BACKGROUND AND FACTS: The employee, a Safety Investigator for MNOSHA, performs enforcement inspections on various private companies, including those engaged in the construction industry. This employee, without notifying his supervisor, apparently began working for a company which sells construction trailers; he approached a plumbing company and solicited business. Records show that this employee has inspected that same plumbing company.

DETERMINATION: The employee's outside employment presents a conflict of interest.

DISCUSSION: It appeared that the employee used his position with MNOSHA to advantage the private business (used his knowledge to gain favored access to the private companies and tried to sell them equipment). Further, his independence of judgment will be affected by this, i.e. he attempts to sell equipment and the company refuses to purchase the equipment. The companies might also feel pressure to purchase equipment, if the owners feel like they will be subject to enforcement action if they decline.

ETHICS DETERMINATION:

FROM: Patricia Anderson, Commissioner
Dept. of Employee Relations

TO: Gail Krieg, HR Director
Dept. of Labor & Industry

RE: Conflict of Interest – Outside Employment

ETHICS TOPIC: Conflict of Interest – Outside Employment

DATE OF DETERMINATION: January 10, 2008

ISSUE: May an employee of the Minnesota Department of Labor & Industry work part-time for Xcel at its Prairie Island Nuclear Power Plant to assist the Industrial Safety and Health Department during a mandatory outage?

BACKGROUND AND FACTS: Employee A is a Principal Safety Consultant in the Occupational Safety and Health Division of DOLI. He performs safety inspections at various public and private employers throughout Minnesota. In the job at Xcel he would provide coaching and technical advice to the maintenance and construction staff at the power plant.

DETERMINATION: The proposal to work part-time for Xcel does present a conflict of interest.

DISCUSSION: The employee's independence of judgment may be affected by such employment by a company which is inspected and regulated by DOLI. His actions in consulting on safety issues may also be subject directly or indirectly to review, audit or enforcement by the employee or others in his Division.

ETHICS DETERMINATION:

FROM: Patricia Anderson, Commissioner
Dept. of Employee Relations

TO: Steve Schuler
Dept. of Public Safety

RE: Conflict of Interest – Outside Employment

ETHICS TOPIC: Conflict of Interest – Outside Employment

DATE OF DETERMINATION: February 5, 2008

ISSUE: May an employee of the Minnesota Department of Public Safety, Minnesota State Patrol, Commercial Vehicle Section engage in outside work of participating in fishing tournaments and operating a fishing guide service?

BACKGROUND AND FACTS: The employee is a Sergeant in the State Patrol, Commercial Vehicle Section in Virginia, Minnesota. His outside business would possibly solicit sponsorships and advertising from local businesses.

DETERMINATION: The proposal to operate a fishing guide service and participate in fishing tournaments does not present a conflict of interest.

DISCUSSION: He was advised not to use any state time, equipment or property in his business. He was advised not to use his contacts to solicit business, and to not solicit any businesses which are regulated by his Division.

ETHICS DETERMINATION:

FROM: Carolyn Trevis, Assistant State Negotiator
Dept. of Employee Relations

TO: Colleen Naughton, HR Director
Pollution Control Agency

RE: Conflict of Interest – Outside Employment

ETHICS TOPIC: Conflict of Interest – Outside Employment

DATE OF DETERMINATION: February 29, 2008

ISSUE: May an employee of the Minnesota Pollution Control Agency in the Source and Toxicity Reduction Unit work at 3M in the Animal Care Department, as a second job?

BACKGROUND AND FACTS: The employee is currently assigned to look at environmental and health issues associated with a variety of products and their constituent materials for the purpose of finding more environmentally friendly alternatives. The focus is research, outreach and technical assistance related to products and toxicity reduction. Her second job is working part-time at 3M testing products (e.g. how stretchable a bandage is) in the Animal Care Department.

DETERMINATION: The employee may continue working at 3M in the role described, as there is no conflict of interest with her MPCA position.

DISCUSSION: The employee's current position at MPCA has no connection with the outside employment, and she performs no regulatory or compliance duties related to 3M or its products.

ETHICS DETERMINATION:

FROM: Tom Hanson, Commissioner
MN Management & Budget

TO: S. Massoud Amin, private citizen

RE: Appointment to Deputy Commissioner

ETHICS TOPIC: Conflict of Interest – Outside Employment

DATE OF DETERMINATION: August 7, 2008

ISSUE: Is it a conflict of interest for the individual, a University of Minnesota Professor of Electrical and Computer Engineering, to accept the appointment to Deputy Commissioner of the Department of Commerce, and appointment as the Director of the Office of Energy Security within that same agency?

BACKGROUND AND FACTS: At the University of Minnesota, the professor is the Director of the Center for the Development of Technological Leadership, he serves as the director of graduate studies, he teaches several courses, he conducts extensive research and he advises graduate students pursuing Ph.D. programs. As Deputy Commissioner, he would be responsible for implementing the Commissioner's statutory powers and duties over energy, climate change and greenhouse gas emissions. He would continue working part-time at the University, teaching courses on two days and advising graduate students; he would give up his administrative duties.

DETERMINATION: There is no conflict of interest; the individual can accept the appointment.

DISCUSSION: Given that the professor will primarily be engaged in teaching adult professionals, and will not serve in any administrative, regulatory or policy-making role at the University, there was no conflict found.

ETHICS DETERMINATION:

FROM: Tom Hanson, Commissioner
MN Management & Budget

TO: Colleen Naughton, HR Director
Pollution Control Agency

RE: Employee of PCA

ETHICS TOPIC: Conflict of Interest - Outside Employment

DATE OF DETERMINATION: February 18, 2009

ISSUE: May a PCA employee accept outside employment from a private business to act as its expert witness where his area of expertise is directly related to his state job duties?

BACKGROUND AND FACTS: An employee works in a professional capacity in a state regulatory program that issues permits, conducts inspections and enforces federal and state regulations for above-ground storage tanks. An out-of-state oil company wants to hire the employee to serve as an expert witness on the accepted industry standards for above-ground storage tanks. The lawsuit has been filed against the oil company by the State of Maryland. The oil company is not regulated by the employee's agency and has no business presence in the State of Minnesota.

DETERMINATION: The employee may accept the outside employment because it does not present a conflict of interest with his state job duties as long as the employee follows certain guidelines.

DISCUSSION: Because the out-of-state oil company does not have a business presence in the State of Minnesota it is not regulated by the employee's agency. Therefore, the employee's job duties will not conflict with his role as an expert witness for a private business. However, the employee must abide by the following guidelines: 1) he must not use any state property, time or equipment to prepare for his expert testimony; 2) he must not use any confidential information gained through his state employment; and 3) he must not represent that he is testifying as an employee of the state agency.

ETHICS DETERMINATION:

FROM: Tom Hanson, Commissioner
MN Management & Budget

TO: Ann O'Brien, HR Director
Dept. of Public Safety

RE: Conflict of Interest for MM

ETHICS TOPIC: Conflict of Interest – Outside Employment

DATE OF DETERMINATION: March 24, 2009

ISSUE: Can an employee have outside employment as a part-time county deputy sheriff (Waters, Parks and Trails Officer) if his current job involves the management of DPS's Driver's Compliance Program?

BACKGROUND AND FACTS: The employee's current job duties include the following: (1) managing a program that processes traffic violations; (2) the authority to reinstate driving privileges; (3) the authority to close-out license revocations and suspensions; and (4) testifying in court on traffic-related violations. In performing his duties the employee works with driving violators, police, sheriffs, courts, the Attorney General's Office and members of the insurance industry. The deputy sheriff job duties include the following: (1) conducting routine patrols to enforce all laws, including all traffic laws; (2) conducting initial investigations; (3) testifying in court regarding procedures and/or evidence; and (4) responding to accidents, disturbances and complaints.

DETERMINATION: A conflict of interest would be created if this employee has outside employment as a deputy sheriff.

DISCUSSION: A conflict of interest was found for the following reasons: 1) there is an overlap in the clientele served and duties performed in both jobs that could result in the employee's objectivity being compromised; 2) there is a greater possibility that outside employment could influence the employee's decision-making because of the discretion he has in carrying out his job duties; and 3) the employee could potentially perform an act in his capacity as a deputy sheriff that would come under his or his staff's review.

ETHICS DETERMINATION:

FROM: Tom Hanson, Commissioner
MN Management & Budget

TO: Dept. of Education Employee

RE: Conflict of Interest for Employee at MDE

ETHICS TOPIC: Conflict of Interest – Outside Employment

DATE OF DETERMINATION: May 7, 2009

ISSUE: Can employee have outside employment that provides training on the same issues and to the same group of individuals that the employee regulates and trains in his current job?

BACKGROUND AND FACTS: The employee's current state job duties involve monitoring special education programs in school districts to determine compliance with state and federal laws. The employee is also required to develop and present technical assistance information to school district personnel on special education laws, rules and programs as they relate to monitoring and compliance. The employee has outside employment with a company that provides instruction to school district employees on how to comply with the same state and federal laws.

DETERMINATION: The employee's outside employment creates a conflict of interest with his current state job. The agency will be provided with a copy of this determination.

DISCUSSION: Because the employee is regulating and training the same individuals and entities in his state job that he is providing similar training to in his private employment, his ability to maintain his independence judgment in his state job could be compromised.

ETHICS DETERMINATION:

FROM: Tom Hanson, Commissioner
MN Management & Budget

TO: Ann O'Brien, HR Director
Dept. of Public Safety

RE: Trooper Employee RD

ETHICS TOPIC: Conflict of Interest - Outside Employment

DATE OF DETERMINATION: June 8, 2009

ISSUE: Do the employee's outside business interests create a conflict of interest with his state employment duties?

BACKGROUND AND FACTS: The employee is employed in a state law enforcement position that requires him to enforce all authorized statutes and regulations with an emphasis on traffic stops and inspections of commercial vehicles. The employee has a private business that sells scrap metal and uses commercial vehicles to transport this material. The employee also used his state vehicle to transport scrap material for his private business. The employee's father owns a business that uses commercial vehicles and occasionally performs towing services for the Employer. The Employer received complaints from other scrap metal businesses that the employee was engaging in targeted enforcement against competitors and was inspecting his father's commercial vehicles.

DETERMINATION: The employee's outside employment creates a conflict of interest with his state job duties. He should be removed from his duties of the enforcement of law relating to and inspecting commercial vehicles or he should cease his private business activities.

DISCUSSION: The Code of Ethics states that it is a conflict of interest to be employed by a business that is subject to the direct or indirect control, inspection, review, audit or enforcement by the employee. In this situation, the employee has a private business and competes with similar businesses which are subject to the inspection and enforcement authority of his state employment. This creates a conflict of interest and compromises the employee's ability to maintain his "independence of judgment" when performing inspections and traffic stops of competitors. The employee is also in a position where he could exert pressure on other vehicle inspectors with whom he works in the inspection of his or his father's vehicles. Additionally, the employee's use of his state vehicle to transport scrap metal for his private business violated the Code of Ethics.

ETHICS DETERMINATION:

FROM: Tom Hanson, Commissioner
MN Management & Budget

TO: Colleen Naughton, HR Director
Pollution Control Agency

RE: Conflict of Interest for TG

DATE OF DETERMINATION: September 9, 2009

ETHICS TOPIC: Conflict of Interest – Outside Employment

ISSUE: May an employee provide consultant services to another state government on a subject matter that is similar to her current job?

BACKGROUND AND FACTS: The employee's job duties involve oversight of statewide household hazardous waste programs and programs regulating small quantity generators of hazardous waste to ensure that required education and training is provided on operational and safety issues. The State of Nebraska would like to hire her as a consultant to assist with implementation of a new household hazardous waste program, drafting facility designs and preparing grant documents.

DETERMINATION: The employee's proposed work as a consultant does not conflict with her current state job because her current job is focused upon providing services to citizens and entities within the state of Minnesota.

DISCUSSION: Working for a different state on a state-level program should not result in any conflicts of interest with her current job duties that are performed for Minnesota citizens and businesses. Additionally the employee's current job duties do not involve any grant writing. To avoid any improprieties the employee must abide by the following guidelines: 1) not use any state property, time or equipment in her work as a consultant; 2) not use any confidential information gained through her state employment; and 3) not represent that she is acting for the MPCA while performing the consultant services.

ETHICS DETERMINATION:

FROM: Tom Hanson, Commissioner
MN Management & Budget

TO: Ann O'Brien, HR Director
Dept. of Public Safety

RE: Conflict of Interest for MJIS Fingerprint Technician

ETHICS TOPIC: Conflict of Interest – Outside Employment

DATE OF DETERMINATION: June 4, 2010

ISSUE: Can an employee have outside employment that provides the same service that the employee performs for DPS and that generates revenue for DPS?

BACKGROUND AND FACTS: If a private employer or licensing entity requires the fingerprints of applicants, the DPS will fingerprint these applicants for a \$10 fee. The employee is the DPS's fingerprint technician that performs this function. The employee has outside employment which provides the same service of fingerprinting applicants for private employers or licensing entities.

DETERMINATION: A conflict of interest exists when the activities of the outside employment directly compete with a revenue-raising function of the agency, unless the agency waives the restriction.

DISCUSSION: A conflict of interest was found for the following reasons: 1) the employee has the potential to use his state position to obtain clients for his outside employment; 2) the employee's independence of judgment could be compromised because he is performing the same duties for DPS that he is performing in the outside employment; and 3) the activities of the outside employment directly compete with the revenue-raising function of DPS. However, Minn. Stat. Sec. 43A.38, subd. 5(d), authorizes the agency to waive the "non-compete" provision and allow the outside employment to continue. If waived, the employee must (1) not use state equipment or email to get referral or take appointments for the outside employment; (2) not use agency fingerprint cards; and (3) not receive referrals for the outside employment from work-related activities.

ETHICS DETERMINATION:

FROM: James Schowalter, Commissioner
MN Management & Budget

TO: Theresa Johnson
Dept. of Education

RE: Conflict of Interest for Employee K

ETHICS TOPIC: Conflict of Interest – Outside Employment

DATE OF DETERMINATION: September 24, 2012

ISSUE: Can an employee have outside employment teaching a course about special education theories and laws when his current employment involves monitoring school districts for compliance with federal and state laws governing special education?

BACKGROUND AND FACTS: The employee's current state job duties involve monitoring special education programs in school districts to determine compliance with state and federal laws. The employee is also required to develop and present technical assistance information to school district personnel on special education laws, rules and programs as they relate to monitoring and compliance. The employee seeks to have outside employment teaching a course to graduate students at a private college that would examine the theories, legal mandates, definitions and terminology related to special education.

DETERMINATION: A conflict of interest does not exist because the purpose of the course is *not* to teach school districts how to comply with the laws and rules administered by the employee as was the case in the earlier determination.

DISCUSSION: In an earlier determination dated May 7, 2009, the same employee had outside employment with a company that provided instruction to school district employees on how to comply with the same laws and with the same clients that the employee monitored in his state job. Because the employee's job duties require him to monitor school districts for compliance with the same special education laws, a conflict of interest was found. However, in the current circumstances the course the employee would be instructing does not deal with compliance issues and is not specifically for school district employees.

ETHICS DETERMINATION:

FROM: James Schowalter, Commissioner
MN Management & Budget

TO: Department of Health Employee

RE: Employment with City of St. Paul

ETHICS TOPIC: Conflict of Interest – Outside Employment

DATE OF DETERMINATION: April 2, 2013

ISSUE: May an employee of the Minnesota Department of Health continue his part-time employment with the City of St. Paul as a Public Health Sanitarian?

BACKGROUND AND FACTS: The employee is an inspector for food, pools and lodging facilities for the Department of Health (MDH) and St. Paul. Until recently, St. Paul had delegated authority to perform all inspections, and there was no overlap in the work performed for the State and the City. In late 2012, the delegation of authority was terminated and MDH took over the inspection work and provides direct oversight on all inspections. The City pays MDH for these services. MDH issued an opinion that this change resulted in a conflict of interest for the employee. The employee appealed the determination.

DETERMINATION: The agency's determination that it was a conflict of interest was affirmed. The employee must choose either to remain employed by MDH or resign and retain his job with the City.

DISCUSSION: The City of St. Paul pays for services that include inspections by MDH staff. This employee is, thus, working for an employer that is subject to the direct or indirect inspection, review, audit or enforcement by the same division he works for at MDH.

ETHICS DETERMINATION:

FROM: Patricia Anderson, Commissioner
Dept. of Employee Relations

TO: Sherry Thomas-Berry
Dept. of Agriculture

RE: Conflict of Interest – Outside Employment/Private Business

ETHICS TOPIC: Conflict of Interest – Outside Employment/Private Business

DATE OF DETERMINATION: January 3, 2008

ISSUE: May a Soil Scientist at the Department of Agriculture engage in a private Internet marketing business with a family member?

BACKGROUND AND FACTS: The employee, a Soil Scientist in the Agronomy and Plant Protection Division, wishes to start a business with his son, developing and marketing information and educational products (e.g. reports, books videos, webinars) on the Internet; the topics will include editing video, developing a website, adding sound to your website, fishing and possibly photography. It is not intended that the business will sell products related to agriculture or agricultural laboratories.

DETERMINATION: The proposed private business activities do not present a conflict of interest.

DISCUSSION: The employee's current position and duties at MDA has no connection with the proposed business. He is to be advised that he shall not use state resources or equipment in the business and he shall not sell any products related to his state job.

ETHICS DETERMINATION:

FROM: Patricia Anderson, Commissioner
Dept. of Employee Relations

TO: John Holck
Pollution Control Agency

RE: Conflict of Interest – MPCA Employee Serving on a Newspaper’s Editorial Board

ETHICS TOPIC: Conflict of Interest – Outside Volunteer Activity

DATE OF DETERMINATION: December 27, 2007

ISSUE: Is it a conflict of interest for a MPCA employee to serve as a volunteer citizen representative on a newspaper’s editorial board?

BACKGROUND AND FACTS: The employee, a Public Information Officer with the Pollution Control Agency, has been asked to serve as a volunteer citizen representative on the Duluth News Tribune’s editorial board. Her duties include establishing MPCA presence in the community, maintaining relationships with government representatives, opinion leaders and civic groups, contacting media outlets to provide information, researching and writing news releases, and monitoring media outlets for MPCA coverage.

DETERMINATION: The proposed volunteer position does not present a conflict of interest.

DISCUSSION: Although not a conflict, the employee was advised that she cannot use her MPCA position to gain any privilege for the newspaper, she shall not represent that any of her views as a citizen are those of the agency, and she recuse herself from any decision or issue that relates to the MPCA and in any matter that it regulates. If in doubt, she needs to seek advice from her supervisor.

ETHICS DETERMINATION:

FROM: Patricia Anderson, Commissioner
Dept. of Employee Relations

TO: Jean Dolensek
Iron Range Resources

RE: Conflict of Interest – Private Consulting Work

ETHICS TOPIC: Conflict of Interest – Private Consulting Work

DATE OF DETERMINATION: March 9, 2007

ISSUE: May two current ITS employees enter into a private contractual agreement with a non-profit corporation to work as private consultants to secure technical services and a network to support its operations? [*note: the non-profit corporation is managing Ironworld, formerly a state-owned operation*]

BACKGROUND AND FACTS: The employees, an ITS 2 and an ITS3, have been asked to serve as consultants to Ironworld Development Corporation (IDC), a non-profit corporation that has recently assumed Ironworld's operations. IDC is being removed from the agency's information system network structure. It needs to secure technical services and establish a network to support its operations.

DETERMINATION: The employees may serve as private consultants to the new corporation.

DISCUSSION: It does not appear that any of the job duties performed with IDC will affect the employees' judgment in performing their state duties for the IRR. This assumes that all work will be performed on the employees' own time and using their own equipment and supplies, and they will not disclose or use any confidential information of IRR.

ETHICS DETERMINATION:

FROM: Patricia Anderson, Commissioner
Dept. of Employee Relations

TO: Mary Oman
DEED

RE: Conflict of Interest – DEED Employee Opening Private Consulting Business

ETHICS TOPIC: Conflict of Interest – Private Consulting

DATE OF DETERMINATION: June 15, 2007

ISSUE: May an employee of the agency's Minneapolis Workforce Center open a private business focused on life and career planning?

BACKGROUND AND FACTS: The employee, an Employment Counselor at DEED's Minneapolis Workforce Center, is responsible for counseling and working with Dislocated Worker and universal clients. She is considering opening a private consulting business, working with employed individuals and focusing primarily on life planning issues, and also with job search activities. She will not recruit any Workforce Center clients.

DETERMINATION: The employee's private consulting business described here does not present a conflict of interest.

DISCUSSION: So long as the employee does not use her state contacts to recruit business, does not represent herself as acting on behalf of the State, and otherwise uses her own time and resources, there is not a conflict with her current state duties. The clients are distinct.

ETHICS DETERMINATION:

FROM: Carolyn Trevis, Assistant State Negotiator
Dept. of Employee Relations

TO: Rich Peterson
Dept. of Transportation

RE: MnDOT Engineer Working for Engineering Consultant

ETHICS TOPIC: Conflict of Interest – Private Consulting/Outside Employment

DATE OF DETERMINATION: July 26, 2007

ISSUE: May a MnDOT bridge design engineer work part-time for Erickson Engineering, a private local firm that designs bridges for the local road system, used by counties and cities?

BACKGROUND AND FACTS: The employee, unit leader in the Bridge design area, works solely on MnDOT bridge projects. He understands that while he works at Erickson, he cannot be involved in any MnDOT projects, and cannot use any state time or resources in this private business.

DETERMINATION: The employee's private consulting for Erickson Engineering does not present a conflict of interest.

DISCUSSION: So long as the employee does not use state time, equipment or resources and recuses himself from any projects involving/relating to MnDOT highways/roads, there is not a conflict with his current state duties.

ETHICS DETERMINATION:

FROM: Patricia Anderson, Commissioner
Dept. of Employee Relations

TO: Colleen Naughton, HR Director
Pollution Control Agency

RE: Conflict of Interest – Outside Employment/Private Business

ETHICS TOPIC: Conflict of Interest – Private Consulting Work

DATE OF DETERMINATION: March 3, 2008

ISSUE: May an employee of the Minnesota Pollution Control Agency in the Feedlot Environmental Results Program (“FERP”) continue his private consulting work with farmers, developing Nutrient Management Plans?

BACKGROUND AND FACTS: The employee is currently assigned as the lead inspector for the FERP project, a project that tests the use of education, self-assessment, self-certification, and statistically-based performance measurement as a means to gain environmental improvement and compliance. He is primarily responsible for collecting primary data and verifying secondary data at the project farms. He has no regulatory or enforcement duties.

DETERMINATION: The employee may continue his private consultant work with farmers; there is no conflict of interest with his MPCA position.

DISCUSSION: The employee’s current position at MPCA is not charged with regulatory or enforcement functions and he is not involved with granting or denying feedlot permits or reviewing applications for such permits. He was advised that he may not solicit any business from farmers/citizens that he works with on the FERP project.

ETHICS DETERMINATION:

FROM: Tom Hanson, Commissioner
MN Management & Budget

TO: Bev Barnick
Dept. of Education

RE: Consulting Work by MDE Employee

ETHICS TOPIC: Conflict of Interest – Private Consulting Work

DATE OF DETERMINATION: December 15, 2008

ISSUE: Is it a conflict of interest for an MDE employee to engage in private consulting services for a group called Paragon Scholarship Funding (“PSF”), an organization that coordinates student exchanges between Thailand and the United States?

BACKGROUND AND FACTS: The employee’s position at MDE relates to special education, tuition billing and participating with the special education funding and data workgroup. His consulting work involves assisting PSF with finding good high schools in Minnesota for student exchanges with private schools in Thailand. He learned of the consulting work while on a flight with the grandniece of the King of Thailand.

DETERMINATION: The employee may engage in this private consulting work; there is no conflict of interest.

DISCUSSION: The employee will use his own time and equipment. The students involved in this program are not disabled and do not have high academic needs requiring special education or related services.

ETHICS DETERMINATION:

FROM: Tom Hanson, Commissioner
MN Management & Budget

TO: Colleen Naughton, HR Director
Pollution Control Agency

RE: Consulting Work of MPCA Employee

ETHICS TOPIC: Conflict of Interest – Private Consulting Work

DATE OF DETERMINATION: August 7, 2008

ISSUE: Is it a conflict of interest for an MPCA employee to engage in private consulting engineering services through his private business?

BACKGROUND AND FACTS: The employee, a senior Engineer in the Industrial Wastewater Permits Unit, proposes to perform private consulting work including engineering work on the building and repairs of Liquid Manure Storage areas on farms; clean water diversions, filter strips and other runoff control for agricultural practices; work on dead animal composting facilities; and services that handle the design and operation of anaerobic digesters. These types of activities will be reviewed and permitted by either the MPCA Feedlot Division staff or at the county level.

DETERMINATION: The employee may engage in this private consulting work; there is no conflict of interest.

DISCUSSION: The employee will use his own time and equipment. He is not charged with reviewing or permitting feedlots and is not involved in inspecting these facilities. His primary duties include implementing Water Quality Point Source Work plan activities to ensure compliance of industrial wastewater dischargers with federal and state environmental regulations.

ETHICS DETERMINATION:

FROM: Tom Hanson, Commissioner
MN Management & Budget

TO: Bev Barnick
Dept. of Education

RE: Consulting Work of MDE Employee

ETHICS TOPIC: Conflict of Interest – Private Consulting Work

DATE OF DETERMINATION: September 19, 2008

ISSUE: Is it a conflict of interest for an MDE employee to provide training services to school district employees on special education law and compliance through a private company?

BACKGROUND AND FACTS: Two MDE employees formed a private company, Inspire Group, LLC, which provides training on special education law targeted to school district employees; a brochure for this company was found at an MDE-sponsored meeting for charter schools held at an MDE building. One employee, Employee K, is responsible for providing technical assistance and in service to school district personnel in understanding special education laws, rule and standards as they relate to monitoring and compliance. He is also charged with determining program compliance. The other, Employee M, is a complaint investigator; he assists in the resolution of formal and informal complaints and provides technical guidance to parents and service providers. Employee M resigned prior to the determination. The course described in the brochure includes the same topics as the technical training that these employees provide to school districts; Inspire Group charges \$395.00 per registrant.

DETERMINATION: It was found that Employee K's involvement in the private consulting group presents a conflict of interest and he must be advised to remove himself from the conflict.

DISCUSSION: The company brochure was found at an agency-sponsored event; thus, the employees used their state positions to promote their private business. It also appeared that the company provides the same or similar training to that provided by the agency, and to the same audience. A waiver from the agency is required; none was sought. Finally, Employee K is charged with monitoring special education programs in schools for compliance. At the same time, he is offering training on the compliance standards, thus jeopardizing his ability to use "independent judgment" in his MDE duties.

ETHICS DETERMINATION:

FROM: Tom Hanson, Commissioner
MN Management & Budget

TO: J.G., employee at Office of Enterprise Technology

RE: Consulting Work of OET Employee

ETHICS TOPIC: Conflict of Interest – Private Consulting Work

DATE OF DETERMINATION: October 21, 2008

ISSUE: Is it a conflict of interest for an OET employee to engage in private consulting services through his private business?

BACKGROUND AND FACTS: The employee, an ITS5 at OET, proposes to perform private consulting work relating to the design and implementation of a computer program that will streamline the handling of insurance information by law enforcement personnel.

DETERMINATION: The employee may engage in this private consulting work; there is no conflict of interest.

DISCUSSION: The employee will use his own time, supplies and equipment to pursue this possible business plan. The work is not in conflict with his state duties of managing hardware standards.

ETHICS DETERMINATION:

FROM: Carolyn Trevis, Assistant State Negotiator
Dept. of Employee Relations

TO: Karen Miller
Minnesota West C&TC

RE: MnSCU Faculty Member Reviewing Book

ETHICS TOPIC: Conflict of Interest – Prohibited Gift

DATE OF DETERMINATION: July 26, 2007

ISSUE: May a MnSCU faculty member accept a \$50 payment in exchange for reviewing a textbook, with the purpose of the review being consideration of it for purchase and use in a college program?

BACKGROUND AND FACTS: The faculty member has asked if she can accept a payment of \$50 for reviewing a textbook. The faculty member is reviewing it to make a decision on whether to purchase it for her college program.

DETERMINATION: The faculty member cannot accept the payment.

DISCUSSION: A payment made for performing the faculty member's job duties is a prohibited gift.

ETHICS DETERMINATION:

From: Patricia Anderson

To: Steve Sviggum, Commissioner, DLI

Regarding:

FROM: Patricia Anderson, Commissioner
Dept. of Employee Relations

TO: Steve Sviggum, Commissioner
Dept. of Labor & Industry

RE: Service on the Board of Directors of Bank by Commissioner

ETHICS TOPIC: Conflict of Interest – Service on Board of Directors

DATE OF DETERMINATION: August 3, 2007

ISSUE: Is it a conflict of interest for the Commissioner of the Department of Labor & Industry (“DLI”) to serve on the Board of Directors of Target Bank (“Bank”), a corporation located in Salt Lake City, Utah?

BACKGROUND AND FACTS: The recently appointed Commissioner has been serving on the Board of Directors for Target Bank; the Bank markets corporate credit cards, with its participating corporations receiving 1% cash back as incentives. Its sole shareholder is Target Corporation. As a Director, he attends monthly business meetings, and receives a stipend of \$25,000/year. The Bank has customers worldwide, including in Minnesota. One of the duties of Board members is to promote the interests of the Shareholder.

DETERMINATION: The Commissioner’s membership on the bank’s Board of Directors presents a conflict of interest.

DISCUSSION: The Commissioner of DLI oversees an agency that regulates Minnesota businesses, including Target Corporation and other companies, in a variety of ways (workers’ compensation; safety; minimum wage; licensing). The independence of his judgment to regulate these businesses will be or, certainly will be perceived to be, compromised by his position on the Board. He was advised to resign from the Board.

ETHICS DETERMINATION:

FROM: Carolyn Trevis, Assistant State Negotiator
Dept. of Employee Relations

TO: Mary Oman, HR Director
DEED

RE: Soliciting Money for Prizes

ETHICS TOPIC: Conflict of Interest – Solicitation from a Third Party

DATE OF DETERMINATION: August 6, 2008

ISSUE: Is it acceptable for DEED employees to solicit funds from an outside organization (in this case, MAPE) toward door prizes to be given away at a work-related conference?

BACKGROUND AND FACTS: An employee involved in planning a conference received this question.

DETERMINATION: It is not acceptable.

DISCUSSION: State employees should not solicit gifts or funds from outside parties for this purpose. It could be perceived that the agency would favor this outside party, if funds were obtained.

ETHICS DETERMINATION:

FROM: Tom Hanson, Commissioner
MN Management & Budget

TO: Denise Legato, HR Director
Dept. of Natural Resources

RE: DNR Employee JE

ETHICS TOPIC: Conflict of Interest – Unpaid Volunteer Activity

DATE OF DETERMINATION: February 2, 2009

ISSUE: May an employee serve as an unpaid president of a non-profit organization whose activities are similar to her state job duties?

BACKGROUND AND FACTS: The employee is a Blufflands Nongame Specialist with the Department of Natural Resources. In that capacity she manages a program that provides technical expertise and financial assistance to government and non-governmental organizations regarding nongame species and habitat conservation. She has been elected president of a non-profit organization that is listed in her state job position description as one of her clients.

DETERMINATION: Serving as the president of this particular non-profit organization creates a conflict of interest with her state employment. It is recommended that the employee relinquish the office of president of the organization.

DISCUSSION: The employee's job duties in her state job are almost identical to many of the activities she will engage in as an officer of the non-profit organization. Additionally, the non-profit organization for which she would serve as president is specifically identified as one of her clients. Holding an office in this particular non-profit organization may compromise or be seen to compromise the employee's objectivity required in her state job. Additionally, if the non-profit organization applies for grant funding from the program the employee administers, a conflict of interest is created.

However, the employee may remain a non-voting member of this particular non-profit organization as long as she 1) does not use the prestige or influence of her state employment to gain an advantage for the non-profit organization, 2) does not use her state employment to secure benefits or privileges for the non-profit organization that are not available to the general public, and 3) does not disclose any confidential information gained in her state job.

ETHICS DETERMINATION:

FROM: Tom Hanson, Commissioner
MN Management & Budget

TO: T. Nyblom, private citizen

RE: Use of State Computers for Political Activity

ETHICS TOPIC: Conflict of Interest – Use of State Computers

DATE OF DETERMINATION: July 15, 2008 [follow-up opinion dated August 13, 2008]

ISSUE: Did representatives of the national and state leadership of AFSCME, an exclusive representative of numerous state employees, improperly use state computers to request members to lobby federal and state elected officials?

BACKGROUND AND FACTS: A private citizen wrote letter of complaint to the Commissioner and attached a few e-mails. It was alleged that AFSCME's actions violated the Code of Ethics.

DETERMINATION: The Commissioner was unable to determine whether the communications were sent using a state computer or whether state time was used. However, some of the communications were deemed as "political activity" and thus prohibited under the state policy.

DISCUSSION: The Commissioner agreed to reissue a memo to "All Exclusive Representatives" reminding them of the state policy and of what is and is not permissible use. Specifically, they will be reminded that use of state-owned computers to engage in political activity is prohibited.

ETHICS DETERMINATION:

FROM: Carolyn Trevis, Assistant State Negotiator
Dept. of Employee Relations

TO: Rich Peterson
Dept. of Transportation

RE: MnDOT Employee Teaching Yoga in a State-Owned Building

ETHICS TOPIC: Conflict of Interest – Use of State Property

DATE OF DETERMINATION: October 4, 2007

ISSUE: Is it a violation of the Code of Ethics for an employee to teach a yoga class (for a fee) using a room at the MnDOT offices?

BACKGROUND AND FACTS: The agency's Health and Wellness Committee sponsors activities throughout the year. It is currently sponsoring a yoga class. The class is taught by a MnDOT employee who charges a fee, and uses a room in the agency's building.

DETERMINATION: The employee cannot continue this, as it violates the Code of Ethics.

DISCUSSION: The employee's use of the room/facilities to conduct these classes, for which she charges a fee, violates the Code; the Code prohibits the use of state property for the employee's private gain.

ETHICS DETERMINATION:

FROM: Carolyn Trevis, Assistant State Negotiator
MN Management & Budget

TO: Colleen Naughton, HR Director
Pollution Control Agency

RE: North Face Professional Purchase Program

ETHICS TOPIC: Conflict of Interest – Use of State Time/Resources

DATE OF DETERMINATION: March, 2013

ISSUE: May PCA employees apply for discounts on purchasing North Face products through this professional purchase program?

BACKGROUND AND FACTS: A PCA employee was interested in applying for the program, to receive discounts on North Face products. The company’s purchasing program targets professionals in the “outdoor industry” as its brand’s representatives, and establishes six different professional categories. One category is for state government employees that work outdoors, interact with the public and provide professional services in natural resource conservation. To apply, the employee provides a pay stub and an official job description letter signed by the employee’s supervisor.

DETERMINATION: State employees may not apply for this program to receive discounts. It would be an improper use of state resources and their position to receive benefits not available to the general public.

DISCUSSION: The State’s policy on government discounts generally provides that such offers cannot be accepted unless they are available to *all* government employees (see PERSL 1332); in this case, the discount was available to only particular state employees. Further, to apply for the discount required use of state resources and time.

ETHICS DETERMINATION:

FROM: Patricia Anderson, Commissioner
Dept. of Employee Relations

TO: Mary Oman
DEED

RE: Explore Minnesota Employee Publishing Article in Minnesota Golfer

ETHICS TOPIC: Conflict of Interest – Using Position for Private Gain

DATE OF DETERMINATION: May 1, 2007

ISSUE: May an employee of Explore Minnesota Tourism (“EMT”) write an article for pay for a golf magazine, and in the by-line note that he is the media relations manager for EMT?

BACKGROUND AND FACTS: The employee, the Media Relations Manager for EMT, is responsible for increasing awareness of Minnesota travel opportunities and promoting Minnesota tourism. The employee wrote an article regarding golfing with his friends in the Brainerd lakes area; the article appeared in Minnesota Golfer, a publication of the Minnesota Golf Association. The by-line indicated that he is an employee of EMT.

DETERMINATION: The employee’s activities described here presented a conflict of interest.

DISCUSSION: Due to the content of the article and the by-line, to the outside world it appeared he was representing and writing the article on behalf of EMT and representing its views. It appears that he used his “official position” to secure benefits for himself. He wrote on the same topic (Minnesota tourism) that he is hired to promote as part of his job.

ETHICS DETERMINATION:

FROM: Patricia Anderson, Commissioner
Dept. of Employee Relations

TO: Laura Asunma
Dept. of Public Safety

RE: DVS Employee Starting Driving School Business

ETHICS TOPIC: Conflict of Interest – Using Position for Private Gain/Ownership of Business

DATE OF DETERMINATION: May 4, 2007

ISSUE: May an employee of the agency's Driver and Vehicle Services ("DVS") Division own and operate a driving school in Minneapolis?

BACKGROUND AND FACTS: The employee, a DVS Customer Services Specialist, is responsible for administering vision, written and oral tests for motor vehicle license applicants. He also conducts all office procedures while driver examiners are administering the skills test, like processing applications for drivers' licenses. He has asked if he can own and operate a driving school in Minneapolis, to provide classroom and behind-the-wheel instruction.

DETERMINATION: The employee's proposed business described here presents a conflict of interest.

DISCUSSION: The independence of his judgment will be compromised. The employee has access to the answers for the oral and written tests, knowledge that he can use directly for the benefit of his students (in the driving school). Such access to these answers could be used by him to secure an advantage for his business that is different from that available to the general public.

ETHICS DETERMINATION:

FROM: Carolyn Trevis, Assistant State Negotiator
MN Management & Budget

TO: Sandy Caron
Dept. of Health

RE: Loan Repayment Plan

ETHICS TOPIC: Conflict of Interest – Using State Position for Private Gain/Gifts

DATE OF DETERMINATION: July 10, 2007

ISSUE: Is it a conflict of interest for an MDH employee, working in public health research, to receive student loan repayment assistance through a National Institute of Health Loan Repayment Plan?

BACKGROUND AND FACTS: The employee, a physician with a Masters of Public Health, has been granted assistance by the NIH with loan repayment (\$35,000/year) conditioned on his working in public health.

DETERMINATION: This grant does not present a conflict of interest.

DISCUSSION: This does not violate the Code of Ethics, as the NIH is making the payments based upon the employee's service in a public health institution, not because of his specific work in his state position. It is not a prohibited gift.

ETHICS DETERMINATION:

FROM: James Schowalter, Commissioner
MN Management & Budget

TO: Susan Wickham, HR Director
Office of Enterprise Technology

RE: Conflict of Interest for ML

ETHICS TOPIC: Use of Official Position to Secure Privileges; Use for Private Gain of State Time, Facilities, Equipment or Supplies

DATE OF DETERMINATION: October 18, 2011

ISSUE: State employee's caregiver business marketing and offering services to state employees, using state buildings, using contacts developed through work and using presentations already given to employee groups through state employment.

BACKGROUND AND FACTS: Employee established a for-profit business for caregivers. Her business was to provide educational and informational services related to caregiving and to provide consulting services to caregivers and HR staff. Employee's services were to be provided to private and public sectors, including state agencies. Employee also intended to use state facilities to conduct some of her business activities, her presentations were targeting state employees and her presentation materials were using information/presentations gained as her agency's wellness coordinator. She also gained knowledge of contacts with state agencies through her former role as an agency wellness coordinator.

DETERMINATION: The employee's plan to market and conduct her outside business activities to the state does present a conflict of interest under the State Code of Ethics.

DISCUSSION: The employee gained knowledge of the contacts with state agencies through her role as wellness coordinator, which violates 43A.38, subd.5 (a). The employee also had presented a similar presentation to state employees and a wellness coordinator group – and it would be a conflict to now present the same information using state facilitators and her influence for private gain. This decision did not prohibit marketing and conducting her business to other private or public sector employees – the opinion is limited to state employees.

ETHICS DETERMINATION:

FROM: Carolyn Trevis, Assistant State Negotiator
MN Management & Budget

TO: State Agency M

RE: Conflict of Interest for Employee B

ETHICS TOPIC: Conflict of Interest – Work on Doctoral Dissertation

DATE OF DETERMINATION: January 27, 2012

ISSUE: Can an employee use state-collected data and time to work on a doctoral thesis that is related to her job duties and could also benefit the state as an employer?

BACKGROUND AND FACTS: The employee works in a division that provides workforce planning and development expertise to other agencies. The employee would like to interview other state employees on state-paid time and use the information to support her doctoral dissertation. The employee also would like to use data collected by another state agency to validate the data collected in the interviews. The results of her research and dissertation could possibly benefit the state as an employer.

DETERMINATION: A conflict of interest exists because the employee would be using her state position to secure advantages that are not available to the general public. Also, the employee cannot conduct the interviews on state time as she would primarily be benefitting her private interest of obtaining a doctoral degree.

DISCUSSION: The data collected by another state agency is “state property” and cannot be used to benefit the employee’s private interest of obtaining a doctoral degree. Neither can state time be used to conduct interviews of other employees for use in her dissertation. The employee should also be advised that she should not use “confidential information” obtained in her employment for her dissertation.