

## OFFICE OF STATE ETHICS

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Advisory Opinion No. 2024-3 August 15, 2024

**Question Presented:** The petitioner, a Compliance Specialist II for the Pesticide Management Program (“PMP”) at the Department of Energy and Environmental Protection (“DEEP”), asks whether she may receive compensation to teach a structural pest control course, outside of her state position, to individuals who have not yet obtained a pesticide applicator occupational license from PMP, in order to prepare them for the licensure exams.

**Brief Answer:** Based on the facts presented, the Code prohibits the petitioner from receiving compensation to teach such a course to individuals who are seeking occupational licensure from PMP and who, once licensed, will be directly regulated by the petitioner and PMP.

At its June 20, 2024 regular meeting, the Citizen’s Ethics Advisory Board (“Board”) granted the petition for an advisory opinion submitted by Wendy Martel, a DEEP employee. The Board now issues this advisory opinion under General Statutes § 1-81 (a) (3) of the Code of Ethics for Public Officials (“Code”).

### **Background**

In her petition, Ms. Martel provides the following facts for our consideration:

I began my career in structural pest control 32 years ago. What started to be a part-time job became a passion. When I tested for the Supervisory License, which allows one to purchase restricted use pesticides and allows one to apply themselves or oversee licensed applicators apply pesticides with specific written instruction.

I owned and operated with a partner Advanced Pest Control Technologies LLC. As time moved forward my partner went to a new career and I restructured the corporation to Black Widow Pest Management, LLC. During that time, I became involved with different associations pertaining to the pesticide industry. I was President of the CT Pest Control Association. I was re-elected for a second term. I served as the VP of the Environmental Industry Council, who represented the pesticide industry for CT legislation. I served as the Regional Director with the National Pest Management Association, representing the Northeast. While at that position I became the Chair for the National Residential Committee. I write this to show I really have a passion for this industry.

I am completing my career in this great industry with coming to the DEEP Pesticide Management Program as a Compliance Specialist II.

My responsibilities are to follow up on complaints, inspect businesses, retail stores and application companies of all sorts. I am versed in different pesticide application type. IE: Pool distributors, golf courses, aquatic, right of way, arborist, lawncare. I believe you get the point. During my years as a government employee I experience the pulse of the industries.

Supervisory Certification is a specialized license. I am certified to apply pesticides structurally, with General Pest, Rodent, Termite. I also earned the supervisory category for Turf/Ornamental. One must take a written exam and when passed sit in front of the PMP oral exam board, by passing both you receive your certification through the Pesticide Management Program of DEEP.

The written exam is a 150-question with two parts. CORE or safety and then the category you are trying to attain. Our State is known around the Country as one of the toughest exam processes along with CA. Once you are certified to keep your certification active one must earn 12 credited educational units, or, CEUs per category in a five-year time frame for certification renewal. I must earn 48 CEUs to keep my certification active.

Our State no longer affords sponsoring 3-hour classes for the structural pest control individuals. Some organizations hold an annual seminar that offers CEUs or manufactures have on-line courses to take.

The turf, arborist and golf course industry has fall/winter classes one can sign up for and be taught how to apply chemicals safely, how to diagnose problems and prescribe the correct materials to be used. How to operate the standard field equipment and teach the CGS Chapter 441 22a-66z pertinent statutes that regulate the industries. Those categories pertain to exterior pesticide applications and provide a sound basis of learning.

The structural pest applicator has no classes available to them. When I complete field inspections for this particular industry, I am always asked if I know if there are classes to take. My answer is always unfortunately no, but there are on-line classes created outside of CT and are rather generic but it's a start. Those on-line classes never touch upon the uniqueness of CT and the statutes/regulations.

I am asking permission to begin teaching specifically for structural pest control. There are several different categories each category obtained involves pesticide applications in, hospitals, day-cares, businesses', schools, elderly housing, restaurants, residences and so forth. I am amazed that in a field that applies pesticide in and around buildings, in or around children, pets and other humans there are no classes.

I would be teaching individuals that the DEEP PMP has no regulatory authority over. My classes will be specific to our State's requirements. My experience will help create responsible stewards of the environment and human health.

In a subsequent email communication, Ms. Martel provides the following additional facts:

I conduct on-site inspections of any person or business in CT that manufactures pesticides, sells pesticides, stores pesticides and applies pesticides. I review and evaluate records and reports that contain lab analysis to determine compliance of applications and/or facilities.

Recommend and/or draft Notices of Violation; I participate in enforcement activities to obtain compliance with regulations; I prepare correspondence, inspection reports, enforcement reports and documents.

I speak with representatives of companies, consultants, municipalities and State officials in matters relevant to cases to ensure compliance. I conduct follow up enforcement activities to ensure compliance with relevant regulations. I review the State IPM Plan schools and State facilities. I follow up on complaints involving pest control, lawn care, golf courses, farms, waterways, Right of way applications. Applications conducted on railroads, aircraft, etc. I respond to on-site incidents.

I review the pertinent State statutes and regulations Title 441 CGS 22a-66z and 23-61a-61a-7. With pest control, lawn care, arborists, golf courses, and aquatic pesticide applicators.

Do any of my job duties involve any part of the certification process? NO, there are Environmental Analysts who deal with the certification process and none of these individuals report to me.

Once an individual becomes certified in pest control does the PMP have an on-going regulatory relationship with the individual? Yes, please refer to my job description.

Does my job duties involve the regulation of those in pest control? Yes. I conduct inspections and follow up on complaints.

Describe any other interaction I or the PMP may have with an individual once certified? Those individuals will only have contact through the certification and licensing and applying for a business registration for the application of pesticides. Those certified will be contacted for renewal processes. My interaction would be for compliance or enforcement as I currently do now.

2008 I joined the DEEP Pesticide Management Program. I was told my experience in the industry was very valuable. For fifteen years I have inspected and written up many businesses and individuals I had and still have a relationship with through the industry.

DEEP, by and through Commissioner Katherine S. Dykes, submitted a response to the petition on July 11, 2024. The response sets forth as follows, in pertinent part:

Pesticide applicators can engage in different categories of “service”: ornamental and turf, general pest (sometimes also called “structural pest”), right-of-way pest control, mosquito and biting fly, rodent, termite and wood-destroying organism, and arborist. Classes are available in Connecticut for “ornamental and turf” and “arborist.” For “general pest,” Purdue University offers a distance learning course, and many libraries offer the textbook for that course. Previously, DEEP staff have participated in “arborist” training, but only as volunteers. One DEEP inspector has, from time to time, volunteered to teach a portion of an Arboriculture 101 class, sponsored by the Connecticut Tree Protection

Association. This was done outside of the inspector's usual work hours with DEEP.

Once a person has obtained an occupational license and is working as a pesticide applicator, DEEP is involved in regulating their activities. A Compliance Specialist II role, which is the petitioner's job, consists of conducting inspections of commercial pesticide applicator businesses like extermination businesses, landscapers, and farms. Compliance Specialists perform both scheduled and unscheduled inspections. If, in the course of inspecting a property, a Compliance Specialist sees a pesticide applicator van or truck out doing business, they may do an unscheduled inspection on the spot.

Inspections are done to make sure that pesticides are registered and applied properly, among other things. The Compliance Specialist then submits reports to her supervisor, who then makes the final decision as to whether the company is deemed to be compliant with relevant statutes and regulations or whether enforcement action is taken.

Despite this regulatory structure, there are opportunities for Compliance Specialists to exercise discretion in ways that could be problematic for specialists who do not exercise impartiality. Compliance Specialists, for example, can be selective in their inspections, such as when they see a pesticide applicator van or truck. A Compliance Specialist also could overlook violations for inspectors whom she had trained.

DEEP also submitted a copy of an agency directive, dated August 23, 2021, pertaining to "Outside Employment of DEEP Employees" (hereinafter, "Outside Employment Directive").

Additional facts will be set forth as necessary.

### **Analysis**

We start, as we generally do, with the issue of jurisdiction. Section 1-81 (a) (3) enables the Board to issue advisory opinions to "any person subject to the provisions of" the Code, including "State employees." The Code defines "State employee" to include, among others, "any employee in the executive . . . branch of state government, whether in the classified or unclassified service and whether full or part-time . . ." General Statutes § 1-79 (13). According to the Connecticut State Register and Manual (2023), DEEP is part of the executive branch of state government. Here, Ms. Martel is a DEEP employee and, as such, is subject to the Code. Accordingly, the Board is statutorily authorized to issue an advisory opinion to Ms. Martel concerning the Code's application to her proposed outside employment.

Ms. Martel asks whether she may "provide a class for individuals who are not yet certified or regulated by DEEP" to prepare them for the PMP licensure process, in light of the fact that she is a Compliance Specialist II for DEEP's PMP and is responsible for "follow[ing] up on complaints, [and] inspect[ing] businesses, retail stores and application companies of all sorts." For the reasons outlined herein, we conclude that the answer is no.

The Code does not contain a blanket prohibition against outside employment but does contain several restrictions on such employment. As pertinent to this inquiry, a state employee may not accept outside employment that would impair her independence of judgment as to her official duties, or that would induce disclosure of

confidential information<sup>1</sup> acquired in the course of those official duties. General Statutes § 1-84 (b). In addition, a state employee may not use her state position, or confidential information garnered from such position, for personal financial gain. General Statutes § 1-84 (c). “These provisions do not, however, prevent a . . . state employee from using . . . her expertise, including expertise gained in state service, for personal gain.” Advisory Opinion No. 91-6. Generally, § 1-84 (b) and (c) are violated when a state employee accepts outside employment “with an individual or entity which can benefit from the state servant’s official actions (e.g., the individual in . . . her state capacity has specific regulatory, contractual, or supervisory authority over the private person).” Regs., Conn. State Agencies § 1-81-17.

The former State Ethics Commission (“Commission”) “consistently held” that “outside paid instruction of a group over which the State employee wields official authority is too fraught with conflicts to be permitted under the Code.” Advisory Opinion No. 88-16, citing Advisory Opinion Nos. 84-10 and 83-5. In Advisory Opinion No. 88-16, the Commission was asked whether the Fair Housing Coordinator for the Commission on Human Rights and Opportunities—whose job was to “coordinat[e] and conduct[ ] audit and investigative tests of housing opportunities within the state”—could engage in outside employment teaching fair housing courses. The Commission concluded that she could not and the reasons provided were as follows: First, such outside work could impair her independence of judgment as to her official duties, for “[w]hen selecting targets for audit tests, it would be only natural for [her] to pass over those who have taken her course.” Second, such outside employment would place her in a position “where inadvertent use of office for financial gain is almost inevitable.” The Commission reasoned:

It would make little sense for those involved in Connecticut’s real estate industry to take a fair housing course from anyone but [the Fair Housing Coordinator], when they have the opportunity to ingratiate themselves with the individual who has such significant discretionary State authority over their business interests. Furthermore, those subjected to audit and complaint who had not taken [her] course would be in a position to claim that they had been chosen because of their failure to provide the Fair Housing Coordinator with additional private income.

In the same vein is Advisory Opinion No. 94-6, where the Commission considered whether senior employees of the Real Estate Division of the Department of Consumer Protection (“DCP”) could “teach courses which [would] either serve as a necessary prerequisite to Real Estate licensure or provide required continuing education credit for licensees.” The Commission noted that the DCP Real Estate Division “has broad statutory authority over real estate practices in Connecticut, including the power to suspend or revoke licenses,” and, in addition:

In the exercise of this authority the eight member citizen Commission is, of course, aided in various substantive ways by its full-time senior staff. Most particularly, in investigating and sanctioning possible violations of the State’s Real Estate statutes the Commission utilizes the Division’s Director and Assistant Director to investigate and present

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<sup>1</sup> “ ‘Confidential information’ means any information in the possession of the state, a state employee or a public official, whatever its form, which (A) is required not to be disclosed to the general public under any provision of the general statutes or federal law; or (B) falls within a category of permissibly nondisclosable information under the Freedom of Information Act, as defined in section 1-200, and which the appropriate agency, state employee or public official has decided not to disclose to the general public.” General Statutes § 1-79 (21).

its most sensitive and complex cases. (Senior Staff also oversees the Division's Real Estate Examiners' work on all other cases of possible misconduct.)

The Commission concluded that "such authority precludes the public servant from simultaneously offering his services for profit to those he regulates," as the conflict presented is "quite literally, inevitable." The Commission reasoned:

It is impossible to ignore, or counteract, the obvious advantage such a person has in offering his compensated services to those whose careers he oversees. And it is equally impossible to ignore, or counteract, the obvious possibility that Real Estate license applicants or practitioners will select a course offered by the Real Estate Division's Director or Assistant Director in order to ingratiate themselves with those state officials who possess such significant authority over their profession. Lastly, allowing the employment at issue creates a situation where many of those coming before the Real Estate Commission will either have chosen or declined the senior staff's outside, compensated services; thereby unavoidably impairing these regulatory employees' independence of judgment in the performance of their official duties in violation of . . . § 1-84(b).

Similar questions regarding whether public officials or state employees may teach paid courses to persons currently or potentially regulated by their respective agencies have been asked informally of staff of both the Commission and the Board, and, based on this reasoning, the answer has consistently and resoundingly been no.<sup>2</sup> As will be discussed more fully below, we see no reason to depart from over 30 years of precedent in this instance.

In her petition, Ms. Martel asserts that there are no courses available for structural pesticide applicators, and that "[o]ur State no longer affords sponsoring 3-hour classes for the structural pest control individuals." She concedes that "[s]ome organizations hold an annual seminar that offers CEUs or manufactures have on-line courses to take" and that "there are on-line classes created outside of CT," but argues that they are "rather generic" and "never touch upon the uniqueness of CT and the statutes/regulations." She notes that, while "the turf, arborist and golf course industry ha[ve] fall/winter classes one can sign up for and be taught how to apply chemicals safely, how to diagnose problems and prescribe the correct

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<sup>2</sup> See Request for Advisory Opinion No. 15461 (2017) (opining that the Code prohibits a Department of Public Health ("DPH") employee from teaching a community college course for persons interested in becoming EMS instructors where, in their DPH position, the employee has regulatory authority over EMS instructors); Request for Advisory Opinion No. 10697 (2012) (opining that the Code prohibits a member of the state Board of Chiropractic Examiners from owning a business which provided fee-based continuing education courses to licensed chiropractors, as he had statutory authority to hear and decide suspension and revocation of license matters, to adjudicate complaints against chiropractors, and to impose sanctions against the same, as such courses present concerns under both § 1-84 (b) and (c)); Request for Advisory Opinion No. 6612 (2009) ("[b]ecause in this instance the body of potential students will include individuals who are licensed in Connecticut, and because the employee in question has a role in enforcement of DCP rules, the proposed outside employment would run afoul of the Code . . . and would thus not be permissible under the Code"); Request for Advisory Opinion No. 3324 (2003) (opining that an expert member of the Home Inspection Licensing Board ("Licensing Board") could not appear as a guest lecturer for a continuing education course without running afoul of the Code, in part, because the audience members were licensed home inspectors, unlicensed home inspectors and interns seeking to obtain a license from the Licensing Board).

materials to be used,” “[t]he structural pest applicator has no classes available to them.”<sup>3</sup>

At first blush, if there are no equivalent courses available to individuals seeking a structural pest control license in the state, this might appear to mitigate the concern that a student may select Ms. Martel, as opposed to a different instructor, to teach his or her course. On closer inspection, however, this fact, even if true, does not fully mitigate the profound concerns evident here under the Code and, in fact, presents its own concerns. Put simply, where a state employee simultaneously offers her services for profit (such as the course at issue) to either those she regulates, or to those seeking to be part of her regulated community, as is discussed below, conflicts under the Code are “quite literally, inevitable.” Advisory Opinion No. 94-6.

First, there is the risk that individuals will choose to take the course because they hope to obtain favorable treatment by Ms. Martel and/or DEEP in the future. The individuals inquiring about these courses are presumably those interested in taking such a course. Because such individuals, as well as others in the industry or seeking to be in the industry, may be aware of Ms. Martel specifically (or at least in part) because of her state position, they may believe that, in taking her class, they will have an “insider” at the agency. See Advisory Opinion No. 94-7 (“[I]t is also troublesome that the state employee may be offered a position at least in part because the outside employer believes that the state employee may have an ‘in’ at the agency, thereby allowing the outside employer to receive special treatment. This results in an inappropriate, albeit unintentional, use of position by the state worker, in violation of § 1-84 (c).”) Here, Ms. Martel’s stated regulatory duties at DEEP include, as pertinent to this petition, “conduct[ing] on-site inspections of any person or business in CT that manufactures pesticides, sells pesticides, stores pesticides and applies pesticides.” In addition, as to the PMP enforcement process, her stated duties include: (1) “prepar[ing] correspondence, inspection reports, enforcement reports and documents,” (2) “conduct[ing] follow up enforcement activities to ensure compliance with relevant ‘care, golf courses, farms, waterways, Right of way applications [and] [a]pplications conducted on railroads, aircraft, etc.’”, and (4) “respond[ing] to on-site incidents.”

Thus, here, Ms. Martel’s extensive involvement in both the inspection and enforcement processes for pesticide applicators who are licensed and regulated by DEEP presents a particularly attractive “insider” to those who intend to seek a structural pest control license as she will potentially be inspecting their work should they pass the requisite exams and obtain the license. She also necessarily possesses information about the inspection and enforcement processes that would be unavailable to an outside instructor. Accordingly, such students might very well choose to pay Ms. Martel to take her course, at least in part, to ingratiate themselves with her (and DEEP).

Second, there is the risk that Ms. Martel, while engaged in her state regulatory duties (i.e., conducting inspections and contributing to both the complaint and post-complaint processes), will treat her former students (even unintentionally) differently than those individuals who did not take her course. As DEEP outlined in its response to the petition, Compliance Specialists, like Ms. Martel, hold some level of discretion in carrying out their inspection duties. They “perform both scheduled and unsched-

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<sup>3</sup>Of note, DEEP identifies, in its response to the petition, that “[f]or ‘general pest,’ [sometimes called structural pest] Purdue University offers a distance learning course, and many libraries offer the textbook for that course.”

uled inspections” and “[i]f, in the course of inspecting a property, a Compliance Specialist sees a pesticide applicator van or truck out doing business, they may do an unscheduled inspection on the spot.” They can thus “be selective in their inspections, such as when they see a pesticide applicator van or truck.” In addition, as DEEP observed, “[a] Compliance Specialist also could overlook violations for inspectors whom she had trained.”

Thus, as with the Fair Housing Coordinator in Advisory Opinion No. 88-16, Ms. Martel maintains discretion when conducting her state regulatory duties that could, even if inadvertently, positively impact her former students (or negatively impact those who chose not to take her course). She could very well overlook violations when conducting a scheduled inspection of a former student. And, if she came across a former student’s “van or truck” in the field, she could overlook violations or even decline to inspect the former student’s work at all. As their former teacher, Ms. Martel may believe she can trust the work quality of such former students because she was the one who taught them. She will also naturally maintain a high opinion of her instruction and may not want to undermine this by finding issue with her former students’ work.

Should Ms. Martel be permitted to teach the proposed course, this measure of discretion in her state position would create the unmitigated potential for a lapse in impartiality, as to both her former students and those who did not take her course. Simply put, there would be an unavoidable impairment of Ms. Martel’s independence of judgment in the performance of her official duties in violation of § 1-84 (b). See Advisory Opinion No. 94-6 (“allowing the employment at issue creates a situation where many of those coming before the Real Estate Commission will either have chosen or declined the senior staff’s outside, compensated services; thereby unavoidably impairing these regulatory employees’ independence of judgment in the performance of their official duties in violation of . . . § 1-84 (b)’”).

Third, there are necessarily “use of office” concerns where, as here, Ms. Martel has admittedly been approached by individuals about the availability of the course at issue, while she is “on the clock” completing her state inspection duties. In her submissions, Ms. Martel outlines her 15 years of experience in the pesticide industry predating her state employment in 2008, and represents that, although she has since served as a state inspector for the past 15 years, she is “not *known* for being an inspector for the state.” (Emphasis added.) She also notes, however, that “[w]hen [she] complete[s] field inspections for this particular industry, [she is] *always asked* if [she] know[s] if there are classes to take.” (Emphasis added.) Thus, it appears that Ms. Martel has already interacted with potential students while conducting field inspections for DEEP and these potential students are aware of her position as an inspector. If she now provides the requested course for compensation, she will have both used her state position to identify the need for the course *and* used it to identify a ready pool of interested students, in direct contravention of § 1-84 (c). See Advisory Opinion No. 2002-9 (finding where (amongst other factors) an opportunity for outside employment arose from the dealings of the parent company of the potential outside employer with the employee’s state agency, “it is essentially unavoidable that acceptance of the outside employment in question will engender an improper use of position, however inadvertent, in violation of § 1-84 (c)’”). And, as Ms. Martel repeatedly asserts, her course would be the only one of its kind available, i.e., the only game in town. Those individuals who have already inquired about a course would be easy acquisitions for her roster of students.



Finally, Ms. Martel provides:

On the one hand, at the time of teaching the course, the DEEP employee would not be employed by someone whom she also regulates. On the other hand, *the express purpose of the course is to prepare them for such a position and therefore regulation.*

(Emphasis added.) She appears to be asking that we distinguish between individuals who are currently part of DEEP's (and thus her) regulated community and those who are necessarily seeking to be part of it by becoming licensed. This we cannot do.<sup>4</sup> The latter class triggers essentially the same issues under the Code as the former, and, accordingly, we find no reason to distinguish between the two. In fact, individuals who have not yet obtained licensure from DEEP, a process which necessitates that they pass a written and oral exam, may be more greatly incentivized to establish an "insider" at DEEP, as discussed above.

We recognize that Ms. Martel is attempting to fill a perceived educational need for the state. However well-intentioned this endeavor, we cannot permit it at the Code's expense. Accordingly, Ms. Martel's proposed outside employment teaching a course to individuals who are seeking to obtain structural pest control licensure from PMP is not permissible under the Code.

It is worth noting that DEEP reached the same conclusion when declining to grant Ms. Martel's request to teach the course at issue last fall, relying on both the Commission's analysis in Advisory Opinion No. 88-16 and language in its own Outside Employment Directive.<sup>5</sup> In its response to the petition, DEEP aptly noted:

The question here is not merely whether the Compliance Specialist is teaching a class to people who are, at the time of the class, not currently regulated by DEEP. Here, the students are not merely likely to be

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<sup>4</sup>Of significant note, the Commission (formally) and Board staff (informally) have not distinguished between existing and potential members of the regulated community when determining that the Code prohibits state employees from teaching an outside course to such students. See Advisory Opinion No. 94-6 (finding that members of the senior staff of the DCP Real Estate Division could not "teach courses which *either* serve as a necessary prerequisite to Real Estate licensure *or* provide required continuing education credit for licensees" [emphasis added]); Request for Advisory Opinion No. 15461 (2017) (opining that a DPH employee may not teach a community college course "for persons *interested in becoming* EMS instructors" where, in their DPH position, the employee has regulatory authority over EMS instructors [emphasis added]).

<sup>5</sup>DEEP's Outside Employment Directive provides the following, in pertinent part:

DEEP employees are permitted to seek outside employment provided that employment does not present an actual or perceived conflict of interest. Actual or perceived conflict of interest means any work that relates to or affects, or might relate to or affect, the department's work or interests. This directive applies to all outside employment, including consulting work, but is especially critical for those employees seeking to do outside work for a lobbyist, an individual or entity doing business or seeking to do business with DEEP, *or any individual or entity regulated by DEEP.*

DEEP employees may not use their position for their own financial gain, or the gain of a family member such as a spouse, child, child's spouse, parent, sibling, or an associated business, however inadvertent that use may be. See Conn. Gen. Stat. § 1-84(c). *A violation of the Code of Ethics and this directive may occur when a DEEP employee accepts outside employment with an entity that can benefit from his or her DEEP position, such as when the DEEP employee has specific regulatory, contractual or supervisory authority over the person or entity.*

(Emphasis added.) DEEP concluded that Ms. Martel was not permitted, under this policy, to teach the course at issue, where her students would be necessarily seeking occupational licensure from DEEP and, once licensed, will be subject to her (and DEEP's) regulatory authority.

regulated in the future – *they are taking the class for the express purpose of being regulated by DEEP.*

(Emphasis added.) They concluded: “For those reasons, plus DEEP’s outside employment directive, DEEP’s position relative to the petition remains that a Compliance Specialist II should not teach paid classes preparing students for licensure by DEEP.” Although the Board does not have jurisdiction to interpret DEEP’s Outside Employment Directive, we note that “[s]tate agencies may formulate and implement internal polices to govern ethical behavior of its employees . . . [and, in doing so,] are permitted to adopt ethics policies that are more restrictive than the Ethics Code.” Advisory Opinion No. 2014-6. Nevertheless, as the Board does not interpret or enforce other agencies’ ethics policies, we will not opine as to the application of DEEP’s Outside Employment Directive here. See Advisory Opinion No. 2008-3 (“the Citizen’s Ethics Advisory Board does not interpret and is without authority to enforce other agencies’ ethics policies”).

It is also worth noting that there are a few permissible options under the Code for Ms. Martel, should she still wish to teach the course at issue or one similar. First, although this may not be permitted under DEEP policy, there is no Code provision that would prevent Ms. Martel from volunteering her time and services to teach an *uncompensated* course, even to potential members of DEEP’s regulated community.<sup>6</sup> See Advisory Opinion No. 2011-4 (“[t]he Ethics Code’s conflict provisions, 1-84 through 1-86, are all grounded on a single rationale: namely, that public service is a public trust and must not be used for personal financial gain or the financial gain of certain family members or a ‘business with which he is associated.’ Absent this requisite financial gain, the tenets of the Ethics Code do not apply and the jurisdiction of this office is lacking”); see also Request for Advisory Opinion No. 20157 (2023) (“provided that the Region 3 EMS Coordinator will not be compensated in any way, nothing in the Code prohibits this state employee from volunteering his personal time and services to teach these [refresher and Continuing Medical Education] courses”).

In addition, although this also may not be permitted under DEEP policy, the Code would not preclude Ms. Martel from teaching such a course as part of her state position.<sup>7</sup>

Finally, the Code would not preclude Ms. Martel from teaching such a course to students who are outside DEEP’s current or potential regulatory authority, e.g., an

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<sup>6</sup>Of note, in its response to the petition, DEEP provided the following with respect to historical practice at the agency permitting employees to teach uncompensated courses on a volunteer basis:

Previously, DEEP staff have participated in “arborist” training, but only as volunteers. One DEEP inspector has, from time to time, volunteered to teach a portion of an Arboriculture 101 class, sponsored by the Connecticut Tree Protection Association. This was done outside of the inspector’s usual work hours with DEEP.

<sup>7</sup>We cannot opine on whether such a course, taught by someone in Ms. Martel’s position at DEEP, who is involved in both the inspection and complaint processes of DEEP licensees, would be permitted by DEEP’s internal policies or any other state policies. See Request for Advisory Opinion No. 1258 (1994) (“[i]f the Department of Public Health and Addiction Services is awarded the contract, it would be beyond the jurisdiction of the Ethics Commission to determine whether what you now propose to undertake on behalf of the Health Center or the CSAT would then be considered part of your DPHAS responsibilities”); Request for Advisory Opinion No. 20783 (2024) (“[p]lease note that the OSE Legal Division has the authority to issue advice concerning the Code only, and you may want to direct any questions about a state employee’s appropriate job duties to DESPP’s Human Resources personnel or the Department of Administrative Services”).

out-of-state person seeking certification or licensure in another jurisdiction.<sup>8</sup> Again, we cannot opine as to whether any of these options would contravene DEEP's Outside Employment Directive or any other DEEP policy, and Ms. Martel, should she wish to pursue such an option, must petition DEEP directly.

#### **Conclusion**

Based on the facts presented, the Code prohibits Ms. Martel from receiving compensation to teach a structural pest control course to individuals who are seeking occupational licensure from PMP and who, once licensed, will be directly regulated by both her and PMP.

By order of the Board,

Dated **August 15, 2024**

**/s/Dena Castricone**  
Chairperson

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<sup>8</sup> Again, we cannot opine on whether such a course, taught by someone in Ms. Martel's position at DEEP, would be permitted by DEEP's internal policies or any other state policies. Of significant note, however, in its response to the petition, DEEP provided the following, quoting its Outside Employment Directive: "DEEP's Outside Employment Directive contemplates a situation similar to this one, noting that, '[f]or example, an employee may provide consulting services to an out-of-state person or entity not subject to the department's jurisdiction or to any person or entity on a matter *in which the department is unlikely to ever have an interest.*'" (Emphasis in original.)