

## OPINION NO. 80-010

**Syllabus:**

Firms which provide continuing consultation and informational services purporting to lead to employment, including preparation for interviews and preparation of resumes; provision of employer lists for the client to pursue; counseling on clarification of career goals, how to make employment contacts, and how to negotiate position and salary; and other such services for a client for a fee, are "employment agencies, for hire" within the purview of R.C. 4143.01 and R.C. 4143.02 and are required to be licensed if doing business in Ohio.

**To: J. Gordon Peltier, Director, Department of Commerce, Columbus, Ohio**  
**By: William J. Brown, Attorney General, March 3, 1980**

I have before me your request for my opinion regarding the applicability of the regulatory provisions and licensure requirements of R.C. Chapter 4143 to an employee counseling company within the state. In your request you submitted a sample contract of the subject company and the company's list of services. You also indicated that the company provides the following services to its clients:

The company advertises that it will counsel one relative to employment. It offers specific services designed to help one find employment and/or further one's career. A list of employers who employ individuals similar in background to a given client is furnished and the client is then encouraged to make arrangements for his own interviews with these employers. Other services, including evaluation of job offers, are provided. A client must sign a contract and pay a fee based upon either past earnings or upon earnings anticipated in the jobs sought.

R.C. Chapter 4143 sets forth provisions governing the licensing of employment agencies. R.C. 4143.02 requires the licensing of employment agencies. It provides:

No person, firm, association, or corporation shall engage in the business of an employment agency, for hire, within this state, without first obtaining a license from the department of commerce, paying to said department the initial license fee of one hundred dollars, and executing and filing with the department a bond as provided in section 4143.04 of the Revised Code. (Emphasis added.)

Hence, whether a person, firm, association, or corporation is subject to licensure and regulation under R.C. Chapter 4143 depends upon how "employment agency" and "for hire" are defined.

R.C. 4143.01 defines the term "employment agency" as follows:

As used in sections 4143.01 to 4143.23, inclusive, of the Revised Code:

"Employment agency" means a person, firm, association, or corporation which secures, or, by any form of representation or by means of signs, bulletins, circulars, cards, writings, or advertisements, offers or agrees to secure or furnish, employment, engagements of help, or information or service of any character concerning or intended or purporting to promote, lead to, or consummate employment. (Emphasis added.)

This definition is unusually comprehensive and was obviously intended to apply to a wide variety of activities associated with employment services. The use of such

words and phrases as "any form of representation" (emphasis added) and "information or service of any character concerning or intended or purporting to . . . lead to" (emphasis added) makes clear that the General Assembly intended that the reach of this statute be long and broad. In fact, it would be difficult for anyone to engage in the business of providing employment services and not be included under this definition. See, e.g., 1969 Op. Att'y Gen. No. 69-005; 1967 Op. Att'y Gen. No. 67-038.

"Hire" is defined in R.C. 4143.01(B) as follows:

"Hire" means any charge, fee, compensation, service, or benefit exacted, demanded, or accepted, or any gratuity received, for or in connection with any act, service, or transaction comprehended by "employment agency," or for or in connection with any transaction or representation which includes matters comprehended by "employment agency." (Emphasis added.)

"Hire," like "employment agency," is broadly defined.

First, I will apply the definition of "employment agency," and then the definition of "hire," to the situation you have described.

The contract which you submitted identifies the firm as providing "professional and executive development services." The contract lists counseling services it will provide for a client. These services include appraisal of a client's qualifications; clarification of a client's career goals; resume and/or portfolio development; interview planning, including attitudes and approaches, how to make contacts, how to negotiate position and salary; guidance on in-company position and salary advancement; and counseling and consultation on all phases of implementation of long range objectives. The company's list of services includes, among other services, the following: resume preparation, a program for establishing appropriate-level contacts to obtain interviews, preparation for interview situations, examination of job offers, and other options prescribed by the counselor as needed.

Construction of the contract provisions and the list of services leads to the inescapable conclusion that the counseling firm is an "employment agency" within the definition of those words in R.C. 4143.01(A). Several of the activities engaged in by the company in question place the company within the definition of "employment agency." Since the company offers to secure or furnish information or services "intended or purporting to promote, lead to, or consummate employment," it is included within the statutory definition.

Moreover, one of my predecessors concluded, in reviewing R.C. 4143.01, that firms which provide continuing consultation and services, including interviews and preparation of a resume, are "employment agencies" within the purview of that statute. Op. No. 69-005, *supra*. These services are also provided by the company in question. Furthermore, you have indicated that the company provides a client with lists of employers who employ individuals similar in background to the client, so that the client may arrange his own interviews. By providing such information the company falls within the definition of "employment agency" in R.C. 4143.01(A). The mere fact that a company does not arrange specific contacts and interviews with potential employers does not take it out of the statutory definition of "employment agency." In addition, the firm counsels clients on clarification of career goals, how to make employment contacts, and how to negotiate position and salary, any of which would place the company within the purview of "employment agency" as defined in R.C. 4143.01(A). Hence, the firm must be licensed if doing business for hire within this state. R.C. 4143.01(A); R.C. 4143.02.

There is no doubt that the company is offering its services "for hire" as defined in R.C. 4143.01(B). The firm has established a fee structure, which consists of various percentages of earnings. The contract stipulates that the services are

offered on a fee basis. The fee requirement makes the contract a contract for hire under the definition appearing in R.C. 4143.01(B).

Finally, while R.C. 4143.03 does identify certain persons and organizations which are exempt from the provisions of R.C. Chapter 4143, none of the exceptions are applicable here. The exemptions are for educational, fraternal and labor organizations, for consultants or recruiters who are compensated solely by an employer, and for certain other temporary or part-time employment services.

It is, therefore, my opinion, and you are advised, that firms which provide continuing consultation and informational services purporting to lead to employment, including preparation for interviews and preparation of resumes; provision of employer lists for the client to pursue; counseling on clarification of career goals, how to make employment contacts, and how to negotiate position and salary; and other such services for a client for a fee, are "employment agencies, for hire" within the purview of R.C. 4143.01 and R.C. 4143.02 and are required to be licensed if doing business in Ohio.