



STATE OF CONNECTICUT  
STATE ETHICS COMMISSION

ADVISORY OPINION NUMBER 82-9

Member of Board of Trustees for State Colleges Becoming an  
Administrative Faculty Member of one of the Colleges

A student member of the Board of Trustees for the State Colleges is a candidate for a term appointment as a residence hall director at her college. She is serving temporarily in the position, which was vacated suddenly. As a residence hall director she is, and would remain if given a term appointment, a member of the union which represents all the administrative faculty members in the State Colleges. She has asked whether, if she receives a term appointment as a residence hall director, she may continue as a member of the Board of Trustees, abstaining from acting on any matter which might bring profit or advantage to her, or must she resign as a Trustee. She also questions whether a distinction should be made between her situation as a temporary replacement in the Director position and as someone with a term appointment.

The Board of Trustees for the State Colleges is composed of sixteen members, fourteen appointed by the Governor and two (of which the member in question is one) full-time State College students elected by the students enrolled at the State Colleges. Section 10-109a, General Statutes. The Board of Trustees administers the State Colleges, including employing faculty and other personnel needed to maintain and operate the State Colleges and fixing their compensation, establishing terms and conditions of their employment, and prescribing their qualifications and duties. Section 10-109b, General Statutes. Trustees receive no compensation, but are reimbursed for necessary expenses incurred in the course of their duties. Id.

Among those employed by the Board are residence hall directors. Residence hall directors at the State College in which the member in question is a graduate student are selected from the graduate students who apply for a director position. Their duties are to supervise and counsel the students in their dormitory. A director is paid a salary of several thousand dollars a year for the services rendered and receives a free apartment as well.

It is not certain that a student elected to the Board of Trustees for State Colleges is either a public official or State employee as those terms are defined in the Code of Ethics for Public Officials. See subsections 1-79(j) and 1-79(k), General Statutes. There is no doubt that



a residence hall director is a State employee under the Code and, therefore, subject to it. Subsections 1-79(k), 5-196(i), General Statutes.

Section 10-109b, General Statutes, establishes that the relationship between the Board of Trustees and a residence hall director is that of employer and employee. The agreement between the Board and the union which represents administrative faculty members, including residence hall directors, illustrates the problems generated when an employee is also a member of the employing body. The agreement confirms that the Board of Trustees for the State Colleges is the employer of administrative faculty members. Article 1.1, Collective Bargaining Agreement between State College Organization of Administrative Faculty AFSCME-Council 4-Local 2836 and the Board of Trustees for the Connecticut State Colleges 1982-1984 (Agreement). The initial term appointments of administrative faculty members are made by the President of the member's college and confirmed by the Board of Trustees. Articles 12.1, 13.2, Agreement. The Board does not appear to participate in temporary appointments. See Article 13.1, Agreement. Article 4 of the Agreement repeats the duties of the Board, set forth in section 10-109b, General Statutes, as an employer of personnel at the State Colleges, noting that the Board determines job requirements, promulgates appropriate regulations and policies, and has "the necessary freedom to require performance which insures efficient and effective operation in all matters properly reserved to management...." In defining "management" Article 1.3 states that it includes the Board of Trustees but "does not include bargaining unit members as defined in...Article 1.6" which defines "administrative faculty members". Other parts of the Agreement set forth the authority and responsibility of the Board in the grievance procedure, in providing a system to promote professional growth, in granting leave without pay, in retrenching administrative faculty members, etc. In all these areas, the Board necessarily has considerable discretion as to who receives benefits and who suffers detriments.

There seems to be no doubt that there are inherent conflicts of interest when an employee is also the employer, or a full member of the body which is the employer. Too many opportunities exist for use of position as a Trustee, or confidential information gained as a Trustee, for the financial benefit of the Trustee/employee. See subsection 1-84(c) General Statutes. The employee in some situations could not avoid use of position for her financial benefit. For example, administrative procedures for employment of a residence hall director for a term include the use of a search committee followed by action at various administrative levels of review and recommendation through appointment by the President and confirmation by the Board of Trustees. The potential employee no doubt would abstain from Board discussion or action on her appointment. The major problems in the process have already occurred, however, for those in the selection and review process are employees of the Board of Trustees and cannot help but be influenced by the fact that the applicant is, in a real sense, their employer.

Although the position of Residence Hall Director is probably not technically an "office", serving simultaneously as Director and member of the Board of Trustees also violates the principles of the common law

doctrine of incompatibility of offices. That doctrine was developed to protect the public's interest in the proper and impartial performance of governmental duties. See State ex. rel. Schenck v. Barrett, 121 Conn. 237 (1936).

It is understandable that the College would want, as a residence hall director, a student with the qualities to be one of the two chosen by their fellows to represent on the Board of Trustees the more than thirty thousand students in State Colleges. Nevertheless, the Code of Ethics for Public Officials, Chapter 10, Part I, General Statutes, applies to the Director in her status as a State employee, and possibly in her status as a Trustee. There are too many opportunities for violation of the Code, intentionally or through no fault of the person subject to the Code, when the same person is employer and employee. It is not enough that she refrain from participation in official Board actions which might affect her. As noted above, those responsible for selecting the best candidate for a term appointment should not have to choose from a group which includes one who bears an employer relationship to them. For reasons such as this, one who remains a member of the Board of Trustees for the State Colleges should not be a candidate for a term appointment as a residence hall director nor should she serve in that position.

By order of the Commission,

Benjamin A. Winter, Jr.  
Chief Clerk

Dated November 3, 1982

