



STATE OF CONNECTICUT

STATE ETHICS COMMISSION

ADVISORY OPINION NO. 91-19

Department Of Housing Employee Simultaneously Serving
As An Elected Municipal Official

Mr. Francisco DeJesus, Director of Administration and Finance, Department of Housing, and Mr. James Pettit, a classified employee of the Department, have asked the Ethics Commission to issue an advisory opinion regarding the propriety of Mr. Pettit's simultaneous service as an elected municipal official.

In August, 1987, Mr. Pettit was appointed by Governor O'Neill as an executive assistant to the Commissioner of Housing. In November, 1989, he also was elected to the Winsted Board of Selectmen and was subsequently chosen by the Board to be First Selectman/Mayor. In December, 1990, Mr. Pettit relinquished his politically appointed executive assistant position, and was appointed to the classified position of Housing Department Program Coordinator I in the Small Cities Section of the Department's Community Development Division.

Subsequent to this transfer, the Department's Assistant Attorney General expressed concern regarding the apparent conflict of interest engendered by an elected municipal official serving in a state position which deals with state and federal funds for municipalities. As a result of this and separate concerns related to the Hatch Act, the Department has now transferred Mr. Pettit to the Agency's Homeownership Opportunity Division, Energy Loan Section.

The Department and Mr. Pettit wish to know whether this action was necessary and sufficient to avoid potential violations of the Code of Ethics and Ethics Commission Regulations.

The Commission responds in the affirmative. Specifically, under Ethics Commission regulations there is a conflict of interest which precludes a classified state employee from seeking or holding elective municipal office when the employee's state position gives the individual discretionary authority to "[a]ffect any grants or subsidiaries, administered by the State,

for which he municipality in which the municipal office would be held is eligible". Regulations of Conn. State Agencies §5-266a-1(E).

Mr. Pettit's prior classified position in the Department's Small Cities Section unquestionably involved the exercise of such discretionary authority. Consequently, it was impermissible, under state regulation, for him to continue in that position while also holding elective municipal office. The departmental transfer has, however, obviated the conflict. Therefore, Mr. Pettit may, consistent with the requirements of the Code of Ethics and Commission Regulations, continue in his current state job while also holding, and seeking, elective municipal office.

In closing, the Ethics Commission wishes to commend the Department for its actions in this matter. In contrast to the Code of Ethics for Public Officials, the Commission's municipal office regulations contain no recusal mechanism for avoiding conflicts of interest. As a result, the only remedy for situations such as Mr. Pettit's, other than relinquishing one's state or municipal position, is a job transfer or other legitimate alteration in state duties which will permanently eliminate the conflict. As the Commission has previously commented, it supports such actions, which allow state servants to more fully participate in their town's governance, as long as the alternative utilized also protects and serves the interests of the State.

By order of the Commission,



Astrid T. Hanzalek

Astrid T. Hanzalek
Chairperson

Dated 6-23-91