



STATE OF CONNECTICUT  
STATE ETHICS COMMISSION

ADVISORY OPINION NO. 91-4

Ethical Conflicts Engendered by the Holding of  
Municipal Office

Ralph E. Hughes, Acting Deputy Commissioner for the Department of Children and Youth Services (DCYS), has asked the Ethics Commission for an advisory opinion regarding the following situation.

Mr. Dale C. Maynard is employed by DCYS as Director of Licensing. In this regulatory role, Mr. Maynard directly oversees the licensing of child caring agencies, child placing agencies, and foster family homes. Mr. Maynard is also an appointed member of the East Hampton Board of Education. One of his duties as a boardmember is collective bargaining negotiation, a process which involves meeting and working with the attorneys who represent the Board.

Recently, a child caring agency appealed a licensing decision made by DCYS. The law firm which represents the child caring agency in this matter is also the firm which represents the East Hampton Board of Education. Due to his involvement with the law firm as a member of the Board, Mr. Maynard believes his representation of DCYS regarding the licensing appeal would constitute a conflict of interest.

Based on the above set of facts, Deputy Commissioner Hughes has asked:

1. Is it permissible for an individual serving in a regulatory role as a state employee to also hold public office?
2. Does the Code of Ethics apply to the conflict of interest perceived by Mr. Maynard; and, if so, what course of resolution does the Code provide?

1. Under regulations promulgated by the Ethics Commission:

(a) There is a conflict of interests which precludes a person in State service from holding or continuing to hold elective municipal office when one or more of the following applies:

(1) The Constitution or a provision of the General Statutes prohibits a classified State employee or a person employed in the Judicial Department from seeking or holding the municipal office.

(2) The classified State employee has an office or position which has discretionary power to:

(A) Remove the incumbent of the municipal office;

(B) Approve the accounts or actions of the municipal office;

(C) Institute or recommend actions for penalties against the incumbent of the municipal office incident to the incumbent's election or performance of the duties of said office;

(D) Regulate the emoluments of the municipal office;

(E) Affect any grants or subsidies, administered by the State, for which the municipality in which the municipal office would be held is eligible.

#### Regulations of Conn. State Agencies §5-266a-1

Although Mr. Maynard was appointed to a vacancy on the East Hampton Board of Education, the position in question is an elective one to which the regulation applies. Ethics Commission Declaratory Ruling 89-H (November 13, 1989). Based on a review of the information provided by Deputy Commissioner Hughes and the job specification for DCYS Director of Licensing, however, it does not appear that Mr. Maynard has an impermissible conflict under §5-266a-1. Therefore, he is not precluded by regulation from holding the elective municipal office in question.

2. The conflict of interest provisions of the Code of Ethics for Public Officials, Connecticut General Statutes, Chapter 10, Part I, are all grounded on one rationale: public service is a public trust and must not be used for personal financial gain. Absent this requisite gain, the tenets of the Code do not apply and the jurisdiction of the Ethics Commission is lacking. Such is the case in the matter at hand. Mr.

Maynard's concerns regarding a conflict of interest are not premised on financial benefit and are, therefore, not subject to review by the Commission under the Code of Ethics for Public Officials.

By order of the Commission,

*Rabbi Michael Menitoff*

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Rabbi Michael Menitoff  
Chairperson

Dated 1-7-91

