



STATE OF CONNECTICUT

STATE ETHICS COMMISSION

DECLARATORY RULING 98-B

*Application Of The Code Of Ethics For Public Officials To Arbitrators
Appointed Pursuant To Conn. Gen. Stat. §7-473c*

Kevin G. Dubay, Corporation Counsel for the City of Hartford, has asked the Ethics Commission whether certain state arbitrators, appointed by the Department of Labor pursuant to Conn. Gen. Stat. §7-473c, are subject to The Code Of Ethics For Public Officials, Conn. Gen. Stat. Chapter 10, Part I.

Under §7-473c(a), the Labor Commissioner is directed to appoint a Neutral Arbitrator Selection Committee. This Committee is then mandated to appoint a panel of neutral arbitrators. *Id.* These neutral arbitrators are authorized to provide binding arbitration to municipal employers and municipal employee organizations regarding various collective bargaining matters, if neither the municipality nor the union has requested the services of the State Board of Mediation and Arbitration within certain enumerated time periods. *Id.* at (b).

The Commission has previously ruled that members of the Arbitration Panel established, pursuant to Conn. Gen. Stat. §10-153f, in the Department of Education were public officials subject to the requirements of The Code. Advisory Opinion No. 81-16 (Amended) 43 CLJ 16, p. 10 (October 20, 1981). Similarly, given their powers and the manner of their appointment, members of the State Board of Mediation and Arbitration are, unquestionably, public officials subject to The Code. Conn. Gen. Stat. §31-9 *et. seq.*

The Arbitration Panel established, pursuant to §7-473c, in the Department of Labor is, however, distinguishable. Specifically, while the members of the Education Arbitration Panel and the State Board of Mediation and Arbitration are appointed by the Governor, the Labor Arbitration Panel is appointed by a Selection Committee established by the Commissioner of Labor.

To qualify under The Code's definition of "Public official", regardless of one's state authority, the official must have been appointed by the Governor, by the General Assembly, or by a member of the General Assembly. Conn. Gen. Stat. §1-79(k). Consequently, the arbitrators in question do not meet all elements of the definition of "Public official", and are, therefore, not subject to The Code.

The Ethics Commission has believed, for over a decade, that a substantial number of state officials, often exercising significant public authority, are inappropriately exempt from the requirements of The Ethics Code, due to the appointments provision at issue. Consequently, the Commission has, on more than one occasion, requested that the

General Assembly amend §1-79(k) to include such individuals within the definition of "Public official". The General Assembly has, for whatever reasons, declined to enact the requested statutory amendment. Unless and until such a legislative revision is enacted, it is beyond the Commission's jurisdiction to apply the requirements of The Code Of Ethics For Public Officials to officials such as the members of the Labor Arbitration Panel.

By order of the Commission,

A handwritten signature in black ink, appearing to read "Stanley Burdick", written over a horizontal line.

Stanley Burdick, Chairperson

Dated 10/2/98