



STATE OF CONNECTICUT

OFFICE OF STATE ETHICS

**CITIZEN'S ETHICS ADVISORY BOARD
OFFICE OF STATE ETHICS
165 Capitol Avenue, Suite 1200, Hartford, CT 06106**

MINUTES OF THE SEPTEMBER 23, 2021 REGULAR MEETING

The Citizen's Ethics Advisory Board ("Board") of the Office of State Ethics ("OSE") held a Regular Meeting on Thursday, September 23, 2021.

Chair of the Board, Dena Castricone, called the meeting to order at 1:08 p.m.

The following Board members were present:

Dena Castricone, Chair
Mary Bigelow
Charles Chiusano
Karen Christiana (by telephone)

Jason Farrell, Vice Chair (by telephone)
Nichelle Mullins
Laura Schuyler (by telephone)

The following staff members of the OSE were present:

Peter Lewandowski, Executive Director
Brian O'Dowd, General Counsel
Mark Wasielewski, Ethics Enforcement Officer
Nancy Nicolescu, Director of Education & Communications
Marianne Sadowski, Deputy General Counsel (by telephone)
Marc Crayton, Deputy Ethics Enforcement Officer (by telephone)
Jennifer Montgomery, Assistant Ethics Enforcement Officer (by telephone)

Diane Buxo, Assistant General Counsel (by telephone)
Michael Morrissey, Legal Investigator (by telephone)
Melissa Hamilton, Paralegal & Clerk of the Board
Alaaeldin Ali, Information Technology Analyst II (by telephone)
Henry Herschkorn, Fiscal Administrative Officer (by telephone)

The following topics were addressed during the meeting:

1. The minutes of the August 19, 2021 Regular Meeting were presented to the Board for approval.

On the motion of Ms. Mullins, seconded by Ms. Bigelow, the Board voted seven (7) to zero (0) to approve the minutes of the August 19, 2021 Regular Meeting.

2. The consideration of the minutes of the August 18, 2021 Special Meeting of the Nominating Committee was tabled due to the lack of quorum of the Nominating Committee members.
3. Chair Castricone presented the Chairperson's report, expressing how delighted she was to see folks in-person and thanked all involved with the move of the Office to 165 Capitol Avenue and for organizing today's hybrid meeting. Vice Chair Farrell volunteered to serve as the November 4, 2021 Uniform Administrative Procedure Act ("UAPA") Hearing Officer, and Ms. Lipson previously volunteered to serve as the October 14, 2021 UAPA Hearing Officer. Chair Castricone reminded the attendees that the next Board meeting will be held on October 21, 2021.
4. General Counsel Brian O'Dowd discussed Draft Advisory Opinion No. 2021-3, issued in response to the Petition submitted by Noel Petra, a Deputy Commissioner at the Department of Administrative Services ("DAS"). Before discussing the Draft, General Counsel O'Dowd informed the Board that Mr. Petra previously sought informal advice regarding his concerns, and he was advised that there were no concerns under the Code, particularly given that the OSE has very limited jurisdiction when it comes to state employees and public officials running for unpaid political offices. Mr. Petra, however, had continued concerns about his oversight of the Office of School Construction and its perception of a conflict of interest, resulting in his Petition to the Board for an opinion. Petitioner asked (1) whether the Code would prohibit him from both continuing to hold his appointed state position as a Deputy Commissioner at DAS, and concurrently serving his community as a volunteer in an elective position on the Guilford Board of Education; and (2) whether there are any ethical conflicts that are created by the fact that in his state position he is responsible for oversight of the Office of School Construction. General Counsel O'Dowd explained to the Board that the Draft Opinion discusses Section 5-266a-1 of the Regulations, the only OSE provision concerning political conduct, and that the provision does not apply to the Petitioner because it only applies to the political activities of state employees and officials in classified positions and those employed by the Judicial Department, neither of which positions Petitioner holds. Rather, Petitioner is an appointed state official employed in the Executive branch at DAS. Turning to the outside employment provision, the Draft explained that the Code does not consider Petitioner's unpaid service on a municipal Board as employment, as it has historically held that for a service to be considered employment it must be compensated. With respect to the conflict-of-interest rules, General Counsel O'Dowd explained that public officials generally may not to take official action if there is a reasonable expectation of a financial impact on the public official, certain family members of the public official or a business with which the public official is associated. Because the Town of Guilford and the Guilford Board of Education would not be considered "businesses with which [Petitioner] is associated", Petitioner would not be in violation of the Code's conflict-of-interest rules if he were to take official action that impacts either entity. Lastly, although there may be appearance issues concerning Petitioner's service on the Guilford Board of Education, the Code does not address such issues.

Board member Bigelow inquired as to the extent of Petitioner's authority in his role to oversee the Office of School Construction and was provided with Petitioner's explicit role/authority as stated in the Petition. However, Mr. O'Dowd informed Ms. Bigelow that based on the information provided by Petitioner it is not problematic under the Code for him to take official action in his state position because there would be no financial gain to Petitioner, his family members, or a business with which he is associated with, as the Board, a governmental entity, is not a business.

Chair Castricone commented that the Draft was well written and thoroughly explained.

On the motion of Mr. Chiusano, seconded by Ms. Mullins, the Board voted seven (7) to zero (0) to approve Draft Advisory Opinion No. 2021-3.

5. General Counsel O'Dowd presented the Legal Division report, highlighting an informal staff opinion that was issued to the Governor's General Counsel, Nora Dannehy, concerning the Governor's appointment of Dr. Manisha Juthani as Commissioner of Public Health. Attorney Dannehy's concern was whether Dr. Juthani could maintain an outside employment relationship as an unpaid physician at Yale University School of Medicine, taking a public service leave of absence and foregoing certain benefits, such as malpractice coverage and a child tuition benefit. General Counsel O'Dowd explained that the Code's outside employment provision prohibits acceptance of certain outside employment. Because Dr. Juthani has a pre-existing outside employment relationship with Yale University, Mr. O'Dowd explained that she would not be in violation of this provision. Mr. O'Dowd noted that OSE has attempted to amend the language of this provision to prohibit engagement in, rather than acceptance of, certain outside employment, but the legislature, so far, has not approved the change. As to whether Dr. Juthani, as Commissioner of Public Health, may take official action impacting Yale University, Mr. O'Dowd explained that pursuant to the conflict-of-interest rules, Dr. Juthani can take official action impacting Yale University (so long as she will not be financially impacted) because Yale University is not an associated business of Dr. Juthani, as she is simply a professor at the school. Mr. O'Dowd also suggested that Dr. Juthani abide by the conclusion reached in Advisory Opinion 1991-1, and treat Yale University as a "business with which she is associated." Lastly, Mr. O'Dowd noted that there is a long-standing provision, which is not within the jurisdiction of OSE, that states that the Commissioner of Public Health may not engage in any other occupation.

Ms. Mullins commented on the appearance of the conflict of interest of Dr. Juthani's appointment and how individuals seeking similar appointments to high offices within State service may attempt to circumvent the law by maintaining an outside employment relationship with its private employer simply because it pre-existed the state appointment. Executive Director Lewandowski added some history as to OSE's pursuit of change of the statutory language of the outside employment provision. He stated that since 2008 the OSE has been pursuing a change of the language to no avail and did not pursue the change this past Legislative session due to a request from the General Assembly to limit proposals given the virtual format of the session.

Chair Castricone inquired as to the requestor's feedback once she received the informal staff opinion and General Counsel O'Dowd replied that there has been no feedback to date.

6. Director of Education & Communications Nancy Nicolescu presented the Training and Media reports, noting that the Division has completed 49 trainings to date, which is right in line with statistics of 2019 (pre-pandemic). Concerning COGEL, Ms. Nicolescu informed the Board that the December 2021 conference will not be held in-person, as previously announced due the uncertainty of presenters' attendance at an in-person conference. Alternatively, the conference will be held online for three days. More details are forthcoming. Next year's conference will be held in Montreal.

Board member Chiusano inquired whether the Board may obtain access to the updated Ethics 101 training and whether it is worthwhile for the Board review its contents. Ms. Nicolescu responded that she and Mr. Lewandowski recently discussed Ethics training for the Board; therefore, it would be a great opportunity for the Board to review and complete the updated Ethics 101 training.

7. Ethics Enforcement Officer Mark Wasielewski presented the Enforcement Division Report, highlighting that the Division has wrapped up its second quarter initiatives, and therefore, there will be no UAPA hearings in October. Furthermore, Mr. Wasielewski informed the Board that the Enforcement Division settled Docket No. 2021-4, In the Matter of Erik Johnson, for \$2,500, which is the first time the Division successfully prosecuted a General Statutes § 1-84b (g) matter. The matter involved a former board member of the Capital Region Development Authority ("CRDA"), a quasi-public agency, who within a year of leaving the CRDA board, sought employment with a party to a contract that he deliberated on and voted for as a board member. Mr. Wasielewski acknowledged Staff Attorney Jennifer Montgomery and Legal Investigator Michael Morrissey's successful handling of the matter.

Chair Castricone and Board members Chiusano and Christiana congratulated Ms. Montgomery on the successful outcome.

Vice Chair Farrell inquired about the respondent Johnson's comment that he was not trained on the post-state employment provisions and, as a result, he was unaware of them. Mr. Wasielewski replied that he was surprised by the comment because ethics liaisons are usually proactive in providing board members with the Code of Ethics, any information they received from the OSE and departing information when members depart the Board. Ms. Nicolescu added that while the statutes state that the OSE is required to provide annual ethics training to agencies, it does not require them to take the training. The OSE annually reaches out to agencies, providing monthly reminders and self-audits to ethics liaisons to ensure full compliance with the Code.

8. Mr. Lewandowski presented the Executive Director's report, which consisted of the following:
 - (a) The welcoming of board members to the return of in-person meetings.
 - (b) The solicitation of feedback regarding the hybrid meeting format (in-person appearance and remote appearance). The plan is to hold future Board meetings using the hybrid format.

- (c) Concerning Board reappointments:
 - i) Congratulatory wishes were presented to Board member Chiusano on his reappointment. Senator Kevin Kelly reappointed Mr. Chiusano to another 4-year term; and
 - ii) Senator Bob Duff, the Senate Majority Leader's office informed the OSE that Board member Bigelow will be reappointed.
- (d) The appreciation of the Board's submission of responses to the Board Diversity survey. The initiative is an important endeavor by the Secretary of State whereby a recent change in the law requires appointing authorities to consider the diversity of State Boards and Commissions to ensure that they are reflective of the diversity of Connecticut residents.
- (e) Vaccination Mandate. Pursuant to Governor Lamont's Executive Order No. 13G, state employees are now required to submit a record of vaccination by September 27, 2021, or be subject to weekly testing. (Religious and medical exemptions are in effect). A portal was designed for employees to submit such information.
- (f) Telework. Beginning October 2, 2021, through the end of the year, state employees will embark on a new phase of teleworking wherein they are automatically granted 50% of telework but can request above 50% considering agency heads' approval, which consist of the duties of the given employee and the operational needs of the agency. The unions and the State are still in discussion about a permanent solution for telework.
- (g) Regulations. Either in October, but no later than November, the OSE will submit the first installment/batch of regulatory overhaul to the Board for approval. The OSE is conducting a global overhaul of its Regulations and once the Board approves the changes, they will be submitted to the Regulations Review Committee at the Legislature for their approval.
- (h) A reminder that on October 1, 2021, most of the laws or OSE's proposals that passed this past legislative session will go in effect.
- (i) Concerning Legislative matters. At the next Board meeting an agenda item will be added to discuss Legislative proposals for the next sessions. The goal of the discussion is to obtain feedback from the Board relating to future proposals.

On the motion of Mr. Chiusano, seconded by Ms. Bigelow, the Board voted seven (7) to zero (0) to adjourn the meeting.

The meeting was adjourned at 1:47 p.m.

Respectfully submitted by,



Melissa Hamilton
Clerk of the Citizen's Ethics Advisory Board
Office of State Ethics

Date approved
(By the Citizen's Ethics Advisory Board)