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Office of The Attorney General  
**State of Connecticut**

July 29, 2011

Ms. Darlene Perez  
State Teachers' Retirement Board  
765 Asylum Avenue  
Hartford, CT 06106

Dear Ms. Perez:

You have inquired of my office whether the chairperson of the State Teachers' Retirement Board ("Board") may be elected by the members of the Board, pursuant to Regs., Conn. State Agencies, 10-183/-11(b), or whether the Governor, pursuant to Conn. Gen. Stat. § 4-9a, must instead appoint the chairperson. We conclude that the Governor must appoint the Board chairperson.

To answer this question we must examine Conn. Gen. Stat. § 4-9a and § 10-183/ to determine whether the Board's past practice of electing its chairperson is permissible. Section 10-183/(b) provides in relevant part that the "board . . . may adopt regulations and rules not inconsistent with this chapter . . . ." By regulation, the Board adopted a procedure for electing its chairperson: "One of the members of the board is elected by the board as its chair to serve for a one-year term." Regs., Conn. State Agencies, §10-183/-11(b). You report that this has been the Board's practice since the adoption of this regulation in 1945.

Section 10-183/(a), however, presently provides, in relevant part, that "[t]he Governor shall appoint five public members to said board *in accordance with the provisions of section 4-9a.*" (Emphasis added.) Section 4-9a, which was enacted in 1977, requires the Governor to appoint the chairperson and executive director of all executive branch boards and commissions, with only the exceptions noted in the general statutes. Specifically, §4-9a provides in relevant part that:

The Governor *shall appoint the chairperson* and executive director, if any, *of all boards* and commissions within the Executive Department, except the Board of Governors of Higher Education . . . the State Properties Review Board, the State Elections Enforcement Commission, the Commission on Human Rights and Opportunities, the Citizen's Ethics Advisory Board, and the Commission on Fire Prevention and Control.

(Emphasis added.) Clearly the Board falls "within the Executive Department" and clearly as well the Board is not mentioned as an exception within Conn. Gen.

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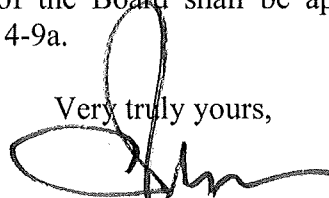
Stat. § 4-9a. Nor are we aware of any other statute that would exempt the Board from the general rule in § 4-9a. Therefore, an apparent conflict exists between the Board's regulation and § 4-9a.

It is well-established that "a later statute . . . repeals a prior irreconcilable administrative regulation." Harper v. Tax Com'r, 199 Conn. 133, 142 (1986). Therefore, § 4-9a, which was enacted later, supersedes the Board's earlier regulation. See also Conn. Op. Atty. Gen. 91-006 (February 11, 1991) (concluding that §4-9a superseded a 1933 statute setting terms of office for the Commissioners of Liquor Control).

It is also clear, upon examining the history of the enactment of Conn. Gen. Stat. § 4-9a in 1977, that the legislature intended to expand the Governor's power over virtually all state agencies. Senator Lieberman articulated the statute's purpose clearly: "[W]hen we create bureaucracies or commissions that are above and beyond the call of the people, . . . we are diminishing the extent to which our government is pure democracy. By increasing the power of the Governor's office through appointment and administrative control, we're increasing accountability." 20 Conn. S. Proc., pt. 7, 1977 Sess. 2681-82 (May 23, 1977) (remarks of Sen. Lieberman). This interest in greater accountability clearly was one of the purposes in establishing the Governor's broad power of appointment. Since this power extends over all state boards and commissions, except those specified, the legislature intended the Governor to appoint the chairperson of the State Teachers' Retirement Board as well.

We therefore conclude that Con. Gen. Stat. § 4-9a controls over the earlier regulation enacted by the Board concerning the selection of the chairperson of the Board. Accordingly, the chairperson of the Board shall be appointed by the Governor pursuant to Conn. Gen. Stat. § 4-9a.

Very truly yours,



GEORGE JEPSEN  
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