



STATE OF CONNECTICUT  
STATE ETHICS COMMISSION

ADVISORY OPINION NO. 91-2

State Employee Holding Elective Municipal Office

Ms. Lois B. Hager, a Supervising Environmental Analyst with the Department of Environmental Protection (DEP), has asked if it is a violation of the Code of Ethics for Public Officials to be also an elected member of a town planning and zoning commission. Under current Ethics Commission Regulations, there is a conflict of interest which precludes a person in state service from holding or continuing to hold elective municipal office when a "classified state employee has an office or position which has discretionary power to ...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(a)(2)(E).

The DEP administers the statewide mandatory recycling plan. Through this plan, grant funds are distributed to regional entities. Single municipalities are not eligible to receive grant funds directly unless they join a regional group of municipalities. Ms. Hager is responsible for drafting and monitoring the implementation of contracts between DEP and the regional recycling entities for the flow of the available recycling grant funds. The amount of grant funds which can be awarded to a region is set by grant guidelines established by DEP and relates to the population of the region. Individual municipalities receive funds through a separate contract between the regional entity and the municipalities which make up each region. Based on the facts that the municipality's population is an important factor in determining the amount of funds the region may receive and that it then receives a portion of these funds as a member of a regional group, it follows that the municipality is eligible to receive a grant administered by the State.

Regulation 5-266a-1 was recently amended. Prior to the change, the Regulation stated that a conflict of interest existed when the "department or agency in which a classified State employee has an office or position has discretionary power to ...affect any grants or subsidies, administered by the

State, for which the municipality in which the municipal office would be held is eligible, provided the classified state employee's position (i) affords him the capability of influencing the decision regarding which municipality or municipalities will be given a grant or subsidy or (ii) allows him to exercise discretion in the course of monitoring, approving periodic payments for, or conducting the final audit review of, any municipal grant or subsidy administered by the employee's department or agency". Regulations of Conn. State Agencies §5-266a-1(a)(2)(E)(amended January 26, 1990). When the regulation was redrafted this explanation of the employee's duties was deleted as extraneous language. Accordingly, it is the Commission's position that the language "affect any grants or subsidies" includes the responsibilities described in the prior regulation.

It is clear that Ms. Hager does not have any discretion regarding whether or not the municipality in which she holds elective municipal office may receive a grant. However, she has stated that her responsibilities include the review and approval of the proposed expenditures of each region and each municipality to ensure that they are proper expenditures as mandated under the Recycling Trust Fund and Recycling Bond Authorizations. Consequently, there is a conflict of interests which precludes Ms. Hager, a classified state employee, from holding or continuing to hold the elective municipal office. To avoid a violation of State regulation, she must resign from either her State or municipal position. If, however, a proposed expenditure by a municipality is not authorized, the funds remain for use by that same municipality and cannot be awarded to a competing town. Therefore, in the alternative, if DEP can legitimately alter Ms. Hager's job responsibilities so as not to include the municipality in which she holds the elective position, she can maintain her position on the zoning and planning commission.

By order of the Commission,

*Rabbi Michael Menitoff*

Rabbi Michael Menitoff  
Chairperson

Dated 1-7-91