



STATE OF CONNECTICUT

STATE ETHICS COMMISSION

DECLARATORY RULING 04-A

Application Of The Code's Conflict Of Interest Provisions To Selection Of Education Panel Impartial Arbitrators

Mr. Daniel Carnese of Woodbury, Connecticut has asked the Commission for a declaratory ruling regarding Conn. Gen. Stat. §10-153f and the regulations implementing this statutory provision. The statute and regulations in question, in pertinent part, set forth a procedure for selection of impartial arbitrators in the Department of Education. Mr. Carnese's specific concern is a claimed conflict of interest engendered by the role of teachers union representatives in the selection process.

Subsection 10-153f(a) establishes an arbitration panel in the Department of Education composed of three elements: (1) seven members representing local and regional boards of education; (2) seven members representing the interests of unionized employees; and (3) not less than ten nor more than fifteen impartial representatives of the public interest. The implementing Regulations provide the following procedures for selecting the panel's impartial representatives. Review of applications is conducted by a committee appointed by the Commissioner of the Department of Education. Said Committee is to be composed of the Commissioner's designee and representatives of boards of education, teachers unions and local legislative and fiscal authorities. Regulations of Conn. State Agencies §10-153f-6. Applicants rated as qualified by the Review Committee are then interviewed by an Interview Committee. This panel again includes board representatives, union representatives, local authorities and also includes three representatives of public or private dispute resolution agencies. In order to be recommended by the Interview Committee an applicant must receive a rating of satisfactory or better from all committee members. *Id.* at 7. Recommended applicants are then reviewed by the Commissioner and submitted to the State Board of Education. *Id.* at 8. The Board may approve or reject any or all of the applicants. Applicants approved by the Board are submitted as qualified to the Governor. *Id.* at 9. Finally, pursuant to statute, the Governor, with the advice and consent of the General Assembly, appoints the persons to serve as impartial arbitrators. Conn. Gen. Stat. §10-153f(a).

As the Commission has consistently held, when the General Assembly by statute, or in this instance by legislatively approved regulations, provides for the participation of a certain special interest group or groups in the State's decision making process it, in effect, waives any inherent, potential conflict of interest. In essence, the General Assembly, by its actions, has determined that any such potential conflict is outweighed by the benefit of utilizing the special interest group's experience and expertise. Ethics Commission Advisory Opinion No. 80-20, 42 CLJ 26, p. 21 (12/23/80)

Furthermore, the resultant process is, in the Commission's opinion, devoid of any actual conflict. Specifically, the various special interest representatives on the Review Committee and

the Interview Committee have equivalent, essentially advisory, authority in selecting the impartial members of the Arbitration Panel. It is however, the State Board of Education and, ultimately, the Governor, with the approval of the General Assembly, which makes the appointments. The Commission finds that this procedure is fully in keeping with the requirements of The Code Of Ethics For Public Officials.

By order of the Commission,



Rosemary Giuliano
Chairperson

Dated

7/9/04