

CONNECTICUT STATE ETHICS COMMISSION  
30 TRINITY STREET  
HARTFORD, CONNECTICUT 06115

80-D

In the Matter of a Request  
for a Declaratory Ruling

Joan D. Stuka,  
Applicant

Simultaneous Service as a State Legislator  
and a Metropolitan District Commissioner

The Ethics Commission has been asked whether the Code of Ethics for Public Officials, Chapter 10, Part I, General Statutes, has any application to the situation of a commissioner of the Metropolitan District serving simultaneously as a member of the General Assembly. He has been elected a member of the General Assembly to commence serving in January 1981, and has been re-appointed to the District Board for a term commencing January 1, 1981.

A member-elect of the General Assembly is a public official, as he will be when he is sworn in as a legislator. Subsection 1-79(j), General Statutes. He is already subject to the provisions of the Code of Ethics applicable to public officials, and will remain so while he is a member of the General Assembly.

The Metropolitan District was created in 1929 by a special act of the General Assembly. 20 Spec. Acts 1204, No. 511. It is composed of the City of Hartford and other towns in the region which have elected, and been permitted by the District, to become District members. The principal purpose of the District is to provide water supply and sewerage collection and disposal services to its member municipalities, and to other municipalities in the region with which it has agreements to do so. Its charter, however, grants it broad powers not only to develop and maintain sewer and water systems but with regard to certain highways in the District, to refuse collection and disposal, to resource recovery, and to the construction and maintenance of hydroelectric dams. Section 1-2, Cumulative Supplement (1979) to the Compiled Charter, Metropolitan District (1976 ed.). (The Compiled Charter is based upon Special Act 511 of 1929, as amended.) With respect to the functions it performs, the District has the powers granted to municipal corporations. Section 1-2e, id. In form it is a municipal corporation. Rocky Hill Convalescent Hospital, Inc. v. Metropolitan District, 160 Conn. 446, 450 (1971). It is governed by a District Board of 25 commissioners. Of the commissioners, 17 are appointed for a fixed term of years by the legislative bodies of member municipalities, 8 by the Governor from electors of the District, with a provision for the election of some of the commissioners. Sections 2-1 through 2-5, Compiled Charter, Metropolitan District (1976 ed.). Board members receive no compensation

for their services as commissioners; the actual expenses of the Board may be reimbursed. Section 2-8, id.

Since a Metropolitan District commissioner receives no compensation as a commissioner, he is not employed as "employment" is used in section 1-84, General Statutes, the code of ethics within the Code of Ethics (see Ethics Commission Advisory Opinion No. 80-18, 42 Conn. L.J. No. 22, p. 23). Only in a very few instances can his actions as a legislator, if they affect the District, result in the financial impact upon him as a commissioner which the Code attempts to prevent. (The only example that comes to mind is a legislative proposal which would amend the District Charter to give pay to the commissioners or to certain commissioners for their services. As a legislator, the commissioner could avoid any conflict of interest by abstaining from action on the matter. If the charter amendment were to be approved and become effective, the analysis above based on commissioners being uncompensated would, of course, no longer apply.) Further, although a Metropolitan District commissioner bears some resemblance to the director of a corporation, the District is not literally a "business with which he is associated" in the case of the District commissioner. See subsection 1-79(a), General Statutes. Consequently, it appears almost impossible for a legislator who is also a District commissioner to violate subsections 1-84(a) through (c) or subsection 1-84(i), the portions of section 1-84, General Statutes, which could be considered to have possible applicability to the situation given.


For the same reason, holding both offices does not appear to foster potential conflicts of interest as defined in section 1-86, General Statutes. Except in the situation noted above, the person's actions as a legislator could not affect his financial interests as a District commissioner since he is unpaid in the latter office, and again the District is not a business with which he is associated. Because of the close resemblance the District bears to a "business with which he is associated", the legislator might on occasion wish to take action analogous to that provided for in section 1-86, General Statutes, although not required to do so. When faced with the prospect of taking official action affecting the Metropolitan District he might consider it appropriate to take steps ranging from disclosure of his relationship to the District to abstaining from any action, depending upon the circumstances and his estimate of the effect taking official action would have on the public's perception of the integrity of the legislative process.

Simultaneous holding of the two positions also should be reviewed under the common law doctrine of incompatibility of public offices. See State ex rel. Schenck v. Barrett, 121 Conn. 237, 242-243 (1936). Insofar as it is significant, both a member of the General Assembly and a District commissioner hold offices within the meaning of "office" in the doctrine of incompatibility of offices. Kelly v. Bridgeport, 111 Conn. 667, 671 (1930). There appears to be, however, no "contrariety and antagonism" resulting when one person tries to discharge faithfully and impartially the duties of one, toward the incumbent of the other. See Schenck, supra, at 242. Although the General Assembly created the Metropolitan District, there is essentially no interrelationship between the General Assembly and the District. No State funds are appropriated for the District, except as appropriated funds might perhaps be used to pay the District for services rendered to the State. The General Assembly does not review the operations of the District, or audit its books, or have any other relationship to the District which would cause problems if one person

held an office in each. The General Assembly can and does amend the District charter from time to time. Its deliberations and voting on a Metropolitan District charter change could furnish an occasion for the District commissioner to consider whether he should, as a legislator, abstain from official action. He would usually not be required by the terms of the Code of Ethics for Public Officials to do so, and the fact that the General Assembly has power to amend the District's charter does not make the office of a single legislator superior to and incompatible with the office of Metropolitan District commissioner within the meaning of the common law doctrine. Support for this conclusion is afforded by the fact that a single person has held the two offices in the past --John P. Cotter, 1948-1951 and Declan J. Foley, 1959-1960.

Reviewing the powers and responsibilities of the General Assembly and its members and of the Metropolitan District and its Board members, there appears to be no statute or other authority within the jurisdiction of the State Ethics Commission which would prevent someone from serving as a District commissioner and, at the same time, a member of the General Assembly.

By order of the Commission,



Rev. Thomas J. Lynch  
Chairman

Dated December 3, 1980

