



# STATE OF CONNECTICUT OFFICE OF STATE ETHICS

## Draft Advisory Opinion No. 2025-1

March 13, 2025

**Question Presented:**

The petitioner, recently appointed as an Administrative Law Judge on the Workers' Compensation Commission (WCC), asks whether the Code requires him to resign from his uncompensated position as an elected member of the Board of Finance of the Town of North Stonington.

**Brief Answer:**

Section 5-266a-1 of the regulations—which bars certain persons in state service from holding elective municipal office in certain instances—would not apply to the petitioner in his capacity as an Administrative Law Judge at the WCC.

At its February 20, 2025 regular meeting, the Citizen's Ethics Advisory Board (Board) granted the petition for an advisory opinion submitted by Michael L. Anderson, who has been nominated by Governor Lamont and confirmed by the General Assembly to serve as an Administrative Law Judge on the WCC. The Board now issues this advisory opinion in accordance with General Statutes § 1-81 (a) (3) of the Code of Ethics for Public Officials (Code).

### **Background**

In his petition, Mr. Anderson provides the following for our consideration:

I am presently on the Board of Finance for the Town of North Stonington, CT. I was elected in 2017 for a six-year term and re-elected in 2023 to serve another six-year term. I was elected by the Board of Finance to be Chair of the Board of Finance in 2023 and currently serve in that role.

....

On January 27, 2025, Governor Lamont announced that he has nominated me to the Workers' Compensation Commission as an Administrative Law Judge. Does General Statutes § 5-266a (b) require me to resign my position as an elected member of the Board of Finance of the Town of North Stonington should I be confirmed as an Administrative Law Judge for the Workers' Compensation Commission?

In subsequent email communications, Mr. Anderson provides that the General Assembly confirmed his nomination on March 5, 2025, and that he is “not compensated for any services provided to the Board of Finance.”

### Analysis

We start (as always) with the issue of jurisdiction. Persons generally subject to the Code are described in it as either “Public officials” or “State employees.” The Code defines the former to include (among others) “any person appointed to any office of the . . . executive branch of state government by the Governor or an appointee of the Governor . . . [and] any person appointed or elected by the General Assembly or by any member of either house thereof . . . .” General Statutes § 1-79 (11). Administrative Law Judges on the WCC are executive branch officials nominated by the Governor and appointed by the General Assembly. General Statutes § 31-276 (a) (“There shall be a Workers' Compensation Commission to administer the workers' compensation system. . . . The administrative law judges shall, upon nomination by the Governor, be appointed by the General Assembly as prescribed by law”). As an Administrative Law Judge on the WCC, Mr. Anderson is, therefore, a “Public official” and, as such, subject to the Code, including the regulation about which he specifically inquires.

Before going further, we stress, as did our predecessor, the former State Ethics Commission, that when it comes to political activity, our “jurisdiction . . . is limited.” Declaratory Ruling 97-A; see also Request for Advisory Opinion No. 3062 (2002) (“[t]he Ethics Commission has very limited jurisdiction regarding the political activity of state employees”); Request for

Advisory Opinion No. 1783 (1997) (“[t]he Commission’s jurisdiction regarding political activity is limited”).

Indeed, we have “jurisdiction over only one aspect of state employee [or public official] political activity.” Request for Advisory Opinion No. 3168 (2002). This limited jurisdiction stems from General Statutes § 5-266a (b), which mandates that “[t]he Citizen’s Ethics Advisory Board shall establish by regulation definitions of conflict of interest which shall preclude persons in the *classified state service* or *in the Judicial Department* from holding elective office.” (Emphasis added.) That regulation—§ 5-266a-1 of the Regulations of Connecticut State Agencies—provides that “[t]here is a conflict of interests which precludes a person in State service from holding or continuing to hold elective municipal office” in one of two instances. The first is when “[t]he Constitution or a provision of the General Statutes prohibits a *classified State employee* or *a person employed in the Judicial Department* from seeking or holding the municipal office.” (Emphasis added.) Regs., Conn. State Agencies § 5-266a-1 (a) (1). The second is when “[t]he *classified State employee* has an office or position which has discretionary power to” :

- (A) Remove the incumbent of the municipal office;
- (B) Approve the accounts or actions of the municipal office;
- (C) Institute or recommend actions for penalties against the incumbent of the municipal office incident to the incumbent’s election or performance of the duties of said office;
- (D) Regulate the emoluments of the municipal office;
- (E) Affect any grants or subsidies, administered by the State, for which the municipality in which the municipal office would be held is eligible.

(Emphasis added.) Regs., Conn. State Agencies § 5-266a-1 (a) (2).

As is clear from the italicized language above, § 5-266a-1 applies to just two groups of persons—namely, (1) “classified State employee[s]” and (2) “person[s] employed by the Judicial Department.” Mr. Anderson does not fit within either group. First, Administrative Law Judges on the WCC are employed by the executive, and *not* the judicial, branch of state government. Chapter 568 (Workers’ Compensation Act) of the General Statutes, housed

within Title 31 (Labor); see also link on the [home page of State of Connecticut website](#) for [Executive: Departments and Agencies](#), which lists the Workers' Compensation Commission. Second, as an Administrative Law Judge on the WCC, Mr. Anderson is not a "classified state employee."<sup>1</sup> Accordingly, § 5-266a-1 does *not* apply to Mr. Anderson in his capacity as a WCC Administrative Law Judge.

Here, then, based on the facts provided, § 5-266a (b) would *not* require Mr. Anderson to resign his position as an elected member of the Board of Finance of the Town of North Stonington.

Before concluding, we stress that this opinion interprets the Code only, and that it does not address appearance issues, which are beyond the Code's scope. See Advisory Opinion No. 2009-7 ("[t]he Code . . . does not speak of appearances of conflict, only actualities," so "in interpreting and enforcing the Code . . . [we are] limited, by statute, from addressing appearances or perceptions of conflict of interest" [internal quotation marks omitted]).

### **Conclusion**

We conclude that § 5-266a-1 does not apply to Mr. Anderson in his capacity as an Administrative Law Judge on the WCC.

By order of the Board,

Dated \_\_\_\_\_

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Chairperson

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<sup>1</sup>According to information provided in email communications by staff at the Department of Administrative Services (DAS), "Administrative Law Judges are appointed under the job classification Workers' Compensation Commissioner." Further they provided [the job description for the Job Class titled "Workers Compensation Commissioner"](#), which states, under "Job Class Designation," that the position is "Unclassified."