

IX.B.

CONNECTICUT STATE BOARD OF EDUCATION Hartford

TO BE PROPOSED:

May 5, 2021

RESOLVED, That the State Board of Education, pursuant to Sections 10-186 (b) and 10-233d of the Connecticut General Statutes and Sections 10-145d-611 (h), 612 (h), 613 (f), 10-4-12 (f), and 10-4-22(c)(3) of the Regulations of Connecticut State Agencies, and other applicable provisions of law, hereby reappoints the following individuals to conduct hearings and render decisions as an impartial hearing board, or otherwise, on matters where they may be appointed to serve in accordance with law for the period of September 1, 2021, through August 31, 2024:

Janis C. Jerman
Thomas C. McNeill, Jr.
Steven R. Rolnick
Frederic S. Ury

and directs the Acting Commissioner to take the necessary action.

Approved by a vote of _____ this 5th day of May, Two Thousand Twenty-one.

Signed: _____
Charlene M. Russell-Tucker, Secretary
State Board of Education

CONNECTICUT STATE BOARD OF EDUCATION

Hartford

TO: State Board of Education
FROM: Charlene M. Russell-Tucker, Acting Commissioner of Education
DATE: May 5, 2021
SUBJECT: Reappointment of Members of the Impartial Hearing Board Panel

Introduction and Background Information

Hearing officers serving as an impartial hearing board conduct hearings on behalf of the State Board of Education (“State Board”). An impartial hearing board may conduct hearings on the following matters as well as others as may be authorized by law: (1) school accommodations appeals; (2) student expulsions from the Connecticut Technical Education and Career System; (3) hearings regarding revocation, denial, and other actions concerning certificates, authorizations, and permits issued by the State Board; (4) hearings regarding unit clarification issues under the Teacher Negotiation Act; and (5) petitions for declaratory rulings.

At this time, the State Department of Education (SDE) recommends that the State Board reappoint the following attorneys to the Impartial Hearing Board Panel (Panel) for the period September 1, 2021, through August 31, 2024: Ms. Janis C. Jerman, Mr. Thomas C. McNeill, Jr., Mr. Steven R. Rolnick, and Mr. Frederic S. Ury. Each of the nominees has previously been approved by the State Board for the panel and currently serves as a State Board hearing officer with a term of appointment concluding August 31, 2021. The nominees are independent contractors. They are paid contractual fees and expenses within available appropriations.

In addition to the members of the Panel being appointed here, the Panel includes six newer members. When these four attorneys are reappointed the Panel will have 10 members.

Hearings conducted by Members of the Panel

A brief overview of the types of hearings conducted by members of the Panel is set forth below.

School Accommodations

The State Board establishes through the SDE an impartial hearing board to hold hearings and render decisions on appeals by parents, guardians, emancipated minors, or pupils eighteen years of age or older, from decisions rendered by local or regional boards of education regarding residency, transportation, or other school accommodations issues. See Connecticut General Statutes Section 10-186. The practice has been to appoint one member of the Panel to serve as the impartial hearing board in each case. The statute provides that members of the impartial hearing board may be employees of SDE or qualified independent contractors appointed by the State Board. The SDE has historically utilized independent contractors.

Student Expulsion Hearings in the Connecticut Technical Education and Career System

The State Board maintains the Connecticut Technical Education and Career System (CTECS). Pursuant to Connecticut General Statutes Section 10-15d, all provisions of the general statutes concerning education apply to the operation of the CTECS except for certain provisions relating to eligibility for state aid. Local or regional boards of education may establish an impartial hearing board of one or more persons to conduct hearings and render decisions in expulsion cases. See Connecticut General Statutes Section 10-233d. Therefore, the CTECS may also appoint an impartial hearing board to conduct student expulsion hearings within the CTECS. The practice has been to appoint one member of the Panel to serve as the impartial hearing board for each case.

Hearings on Actions Concerning Certificates, Authorizations, and Permits

The State Board may issue, revoke, deny, or take other actions with respect to certificates, authorizations, and permits for educators. These matters may require hearings pursuant to statutes, State Board regulations, or principles of due process if requested by the holder of the certificate, authorization, or permit. The State Board, a subcommittee of the State Board, or an impartial hearing officer may conduct these hearings. See Regulations of Connecticut State Agencies Sections 10-145d-611 (h), 612 (h), 613 (f), 10-4-12(f). The current practice is to appoint one impartial hearing officer to preside over a hearing and to make a recommended decision. The State Board then makes the final decision.

Unit Clarification Issues

A local or regional board of education or the representative of a teacher or administrator unit may file a unit clarification petition with the Commissioner of Education. A unit clarification petition is the mechanism used to clarify questions concerning the appropriate composition of a bargaining unit if no representation question is pending. See Connecticut General Statutes Section 10-153c (b). The Commissioner renders the final decision, but it may be appropriate to appoint a member of the panel to conduct a hearing and recommend a decision.

Petitions for Declaratory Rulings

Agencies may issue declaratory rulings as to the validity of regulations or the applicability to specified circumstances of a provision of the general statutes, a regulation, or a final decision on a matter within the jurisdiction of the agency under Connecticut General Statutes Section 4-176. In some situations, it may be appropriate for an impartial hearing officer from the panel to conduct a hearing. See Regulations of Connecticut State Agencies Section 10-4-22 (c)(3).

Volume of Hearings

The greatest number of hearings referred to Panel Members for decision are expulsion hearings within the CTECS. The COVID-19 pandemic and the cancellation of classes in 2019/2020 and the existence of hybrid and remote options in 2020/2021 have reduced the number of expulsion cases in these years. There have been 12 hearings this year. During the 2019/2020 school year there were approximately 30 hearings completed and 10 pending when the pandemic began. Of the 10 hearings pending when the pandemic began, hearings were only held if the hearing was mandated by statute. During 2018/2019, prior to the pandemic, there were 88 hearings. With

respect to school accommodations hearings, 13 matters were referred for hearings in 2019, five in 2020, and four so far in 2021. Several of these cases have resulted in written decisions. With respect to actions as to educator certificates, panel members have been appointed for two cases during the 2020/2021 school year. One of these two cases settled before the hearing, although the member of the Panel appointed to hear the case presided over necessary pre-hearing matters. In the second of these cases, the matter was heard as a contested case hearing and a proposed decision was rendered by the member of the Panel who was assigned to hear the case. The matter was then settled based on the proposed decision. There have been no unit clarification or declaratory ruling hearings during the past three years of the appointment of the members of the Panel recommended for appointment here.

Recommendation and Next Steps

The members of the Impartial Hearing Board Panel are fulfilling important roles specified by statutes and regulations. I recommend that the State Board reappoint the nominees identified above to the Impartial Hearing Board Panel to conduct hearings and render decisions as an impartial hearing board, or otherwise, in the matters set forth above, or in other matters where they may be appointed to serve in accordance with law, for the period from September 1, 2021, through August 31, 2024.

Prepared by:

Jessa Mirtle, Director
Division of Legal and Governmental Affairs