

CONNECTICUT STATE ETHICS COMMISSION
30 TRINITY STREET
HARTFORD, CONNECTICUT 06115

80-A

In the Matter of a Request
for a Declaratory Ruling

Victor M. Sullivan,
Applicant

Employee of the State Department of Education
Serving as a Member of a Local School Board

The Commission has been asked whether an individual who serves as a consultant to the State Department of Education may at the same time be a member of a local board of education. The individual is the Title I Administrator for the Title I, Elementary and Secondary Education Act of 1965 (ESEA) program in the State's regional vocational-technical schools.

The person who has asked the Commission's advice is neither the consultant in question nor a public official or State employee subject to the Code of Ethics for Public Officials and State Employees, Chapter 10, Part I, General Statutes. The Commission, therefore, is responding to the question by a declaratory ruling rather than an advisory opinion. Subsection 1-81(3), section 4-176, General Statutes.

The principal purpose of Title I, ESEA is to provide Federal funds for the special educational needs of educationally deprived children in school attendance areas having a high concentration of children from low-income families. 20 U.S.C.A. § 2701. Title I funds are to be used in addition to, not instead of, State and local funds; they are to support and supplement regular school programs. 20 U.S.C.A. § 2736. The consultant involved here administers Title I funds for Connecticut's seventeen regional vocational-technical schools. She assesses the needs of the vocational-technical schools for Title I funds, develops the annual application for funds for the schools, monitors and evaluates their Title I project activities, maintains fiscal records of grant funds, and so forth.

The seventeen regional vocational-technical schools have been established and are administered by the State Board of Education. Section 10-95, General Statutes. They form an educational system that is separate and apart in most respects from the systems operated by local boards of education. Connecticut's entitlement to Title I funds, and the allocation of Title I funds within Connecticut between the vocational-technical school system and other school systems, are determined under factors over which the consultant has no control, by persons other than the consultant.

Because the vocational-technical schools are a State-operated educational system separate from the school systems run by local boards of education, and because the Federal funds administered by a Title I Administrator support programs which supplement other State and local education programs, a Title I Administrator for regional vocational-technical schools should be able to serve as a member of a local board of education without violating the Code of Ethics for Public Officials and State Employees. There appears to be no way the consultant's official activities could affect her in a manner prohibited by subsection 1-84(a) and section 1-85, General Statutes, insofar as her membership on the local board of education is concerned. Being a member of a local board of education should not impair her independence of judgment as a consultant with the particular responsibilities she has, whether or not being a member of a school board is "employment" for purposes of subsection 1-84(b), General Statutes. Any confidential information she may have as Title I Administrator for regional vocational-technical schools would be of little relevance to the local school board, since the Title I, ESEA money is to supplement, not supplant, State and local funds, and she cannot as a practical matter use her State office to benefit her local school board. Subsections 1-84(b) and 1-84(c), General Statutes.

There is some interrelationship between local school boards and the regional vocational-technical school system itself in the areas of planning and coordination. See, e.g., sections 10-95, 10-96a, 10-96b, 10-97, 10-99a, 10-99b, General Statutes. Because of the supplementary nature of Title I, ESEA funds, there should not be a conflict of interest between the activities of a Title I Administrator for regional vocational-technical schools and a member of a local school board operating another school system. Should any conflict between the duties of her two official positions arise, it would concern matters which are peripheral to her basic responsibilities. Use of a procedure similar to that in section 1-86, General Statutes would permit the individual involved to avoid a conflict or show that none existed. See also Low v. Madison, 135 Conn 1 (1948); Kovalik v. Planning & Zoning Commission, 135 Conn. 497, 498-499 (1967).

As a Title I Administrator, the consultant does not have the supervisory, oversight, or review powers over local school boards or their members which would make the two positions incompatible under the common law, nor is there such "contrariety and antagonism" between the two that one person could not faithfully and impartially discharge the duties of both. See State ex rel. Schenck v. Barrett, 121 Conn. 237, 242-243 (1936).

Nothing in the laws over which the State Ethics Commission has jurisdiction, therefore, prevents the Title I Administrator for regional vocational-technical schools, in the State Department of Education, from being a member of a local school board.

Since the consultant is not in the classified service, subsection 5-266a(b), General Statutes, which in some circumstances precludes a classified State employee from holding elective municipal office, is not directly applicable. Whether it provides any guidance in the case at hand must be determined by another agency, for the State Ethics Commission is not empowered to interpret the statute. Subsections 1-81(3), 1-92(5), General Statutes.

By order of the Commission,



Rev. Thomas J. Lynch
Chairman

Dated March 7, 1980

