

CITY OF HARTFORD

INTERDEPARTMENTAL MEMORANDUM

To: David MacDonald, Chairman, Hartford Board of Education

From: Melinda B. Kaufmann, Assistant Corporation Counsel

Re: Ability to serve on both City Council and HBOE

Date: December 29, 2011

You requested a written opinion as to your ability to serve on both the Board of Education and the City Council simultaneously. There is nothing within the City Charter, the HBOE policies or state statute that would prohibit one individual from serving in both capacities. That being said, there are some inherent conflicts that must be addressed.

Section 2-902(E) of the Municipal Code states that:

No officer, official or employee shall hold two (2) or more positions in City government, whether paid or unpaid, if any of those positions constitute a conflict of interest or have the appearance of a conflict of interest.

Section 2-902(C) defines a “conflict of interest” to mean:

A conflict of interest exists if an individual who is an officer, official or employee or member of any board, commission or agency or their relatives, directly or indirectly, may receive financial gain or personal gain from the outcome of, or have a financial interest in, any matter under consideration before the individual in the individual’s official capacity. In the case of a member of the council or a member of a board ... such member shall disclose on the public record of such public body, the existence of any such interest and the member may not vote or otherwise act on such matters.

Section 2-901(A) defines an “Appearance of a conflict of interest”

An appearance of a conflict of interest occurs where an officer, official, or employee of the City of Hartford, or any member of a board, commission or agency of the City, acts in a manner which would cause a reasonable person, having knowledge of the relevant circumstances, to conclude that any person can improperly influence or unduly enjoy his favor in the performance of his official duties, or that he is likely to act or fail to act as a result of kinship, rank, position or undue influence of any party or

person. It shall be unreasonable to so conclude if such officer or employee has disclosed in writing to his appointing authority, or if no appointing authority exists, discloses in a manner which is public in nature, the facts which would otherwise lead to such a conclusion.

Section 2-902 of the Municipal Code also prohibits an officer, employee or member of any board from engaging in “any business or transaction ... direct or indirect, which is incompatible with the proper discharge of the individual’s official duties in the public interest or would tend to impair the individual’s independence of judgment and action in the performance of the individual’s official duties.

Taken together, there is nothing that prevents one individual from serving as an elected official on the City Council and an appointed official on the Board of Education. That being said, it is a situation that is fraught with potential conflicts of interest as the City Council provides funding for the Board of Education. Pursuant to the above sections of the Municipal Code, you will need to publically disclose the potential conflict of interest to the Mayor (i.e. the appointing official for the Board of Education), the Board of Education and City Council. You will also need to refrain from voting on any issues (such a those with budget implications) that would create a conflict of interest and/or the appearance of a conflict of interest between the two roles.

Please do not hesitate to contact me if you need any additional information.