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November 29, 2012

Ms. Polly Rauh
Board of Representatives
888 Washington Boulevard, 4th Floor
Stamford, Connecticut

Re: Dual Office Holding

Dear Ms. Rauh:

This letter is in response to your request for a legal opinion concerning the legal implications of the recently amended City of Stamford Charter, Section C1-80-1. Presently, Section C1-80-1 of the City's Charter does not prohibit City officials from holding dual offices. However, on November 6, 2012, residents of the City of Stamford voted on and approved a proposed amendment to Section C1-80-1. The proposed Section reads as follows:

The following named officers shall be elected by the qualified voters of Stamford: a Mayor, who shall also serve as a non-voting, ex officio member of the Board of Education, and who shall not be eligible to serve as an officer thereof; forty (40) members of the Board of Representatives, six (6) members of the Board of Finance, a Town and City Clerk, nine (9) members of the Board of Education, seven (7) Constables and two (2) Registrars of Voters. No individual shall hold more than one of the above elective offices at the same time, excluding Constable.¹

According to Connecticut General Statutes Section 7-191(f), "such proposed charter, charter amendments or home rule ordinance amendments shall become effective thirty days after such approval..." Thus, the newly amended Charter Section C1-80-1 does not become effective until December 6, 2012.

Section C1-80-1, as amended, prohibits certain city officials from holding dual offices. Specifically, that Section expressly prohibits dual office holding between members of the Board

¹ The underlined portion is the amendment approved by the voters on November 6, 2012.

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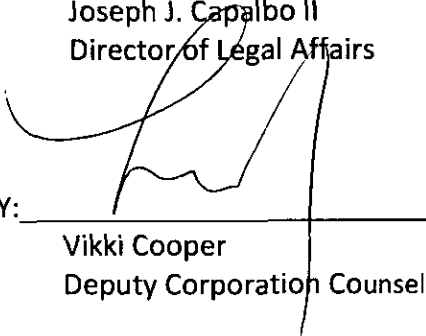
of Representatives and members of the Board of Education. Because you are a current Board of Representatives member² and you were recently re-elected to the City of Stamford's Board of Education³, the amended Charter may prohibit you from holding dual offices. "Although a town board of education is an agent of state when carrying out educational interests of the state, members of a board of education are still officers of the town." Board of Education of Town and Borough of Naugatuck v. Town and Borough of Naugatuck, 800 A. 2d 517 (2002).

There is a general presumption that absent express language to the contrary, legislation is intended to operate prospectively. See Harlow v. Planning and Zoning Commission of Town of Westport, 194 Conn. 187, 194 (1984); see also Connecticut General Statutes Section 55-3. Because Charter Section C1-80-1 does not become effective until December 6, 2012, days after you assume your duties on the City's Board of Education, your ability to hold dual offices will not be affected because the amendment does not apply retroactively.

I trust that this satisfactorily addresses your concerns regarding the amendment to City of Stamford Charter Section C1-80-1.

Very truly yours,

Joseph J. Capalbo II
Director of Legal Affairs

BY: 
Vikki Cooper
Deputy Corporation Counsel

Cc: Mayor Michael Pavia
Randall M. Skigen, Board of Representatives President

² Ms. Rauh was elected to the Board of Representatives on November 6, 2009 and thereafter took office on December 1, 2009. Because the Board of Representative members serve four-year terms, Ms. Rauh's term expires on December 1, 2013. See Charter Section C1-70-3.

³ Ms. Rauh was re-elected to the Board of Education on November 6, 2012, and thus her term begins on December 1, 2012 and expires on December 1, 2015. See Charter Sections C1-70-3.

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