

# MAINE STATE LEGISLATURE

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# STATE OF MAINE

79-143

Inter-Departmental Memorandum Date July 27, 1979

To Jadine R. O'Brien, Commissioner Dept. Personnel  
cc Robert J. Stolt, Deputy Dept. Attorney General  
Subject Executive Director Advisory Council to Human Services (Elderly)

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## MEMORANDUM OF COUNSEL


You have asked whether or not it is a conflict of interest for the Director of the Bureau of Maine's Elderly to participate as a subject matter expert in the selection process for the position of Executive Director, Advisory Council to Human Services (Elderly), a position within the Maine Committee on Aging.

The answer to your question is no. There is no statutory or other conflict caused or created by the participation of the Director of the Bureau of Maine's Elderly as a subject matter expert in the selection process for a position within the Maine Committee on Aging.

In this particular instance, the present Director of the Bureau of Maine's Elderly was a past incumbent of the position under consideration. As such, the Director of the Bureau of Maine's Elderly was an ideal choice for use by your Department as a subject matter expert. She was one of only two people available with background experience not only in the position under consideration, but also with experience as an employee of the Committee on Aging. She had long and intimate knowledge of the functions and responsibilities of the position in question and of the Committee on Aging. Your Department used both of the available individuals as subject matter experts. When it came time for the subject matter experts to evaluate the qualifications of the various applicants, only the Director of the Bureau of Maine's Elderly was utilized. The reason for using only the Director of the Bureau of Maine's Elderly was because the other subject matter expert would have been required in essence to pass upon her future boss. Your Department laudibly decided that such a function would be a conflict of interest and accordingly used only the Director of the Bureau of Maine's Elderly to evaluate applications.

After the conflict issue you pose was raised, your Department reviewed the evaluation process and determined that each of the applications was objectively evaluated in accordance with pre-determined criteria. The review of your Department indicated

that the training and experience evaluation was applied to each candidate in a consistent and objective manner, and that the top six candidates who were certified for the hiring interview represented the best qualified applicants. The Director of the Bureau of Maine's Elderly played no role beyond the evaluation of applications, using a task based training and experience evaluation which was developed by your senior personnel analyst in conjunction with the two referenced subject matter experts. The actual hiring interviews and hiring decisions were made by the Committee on Aging.

  
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ROBERT J. STOLT  
Deputy Attorney General

RJS/ec