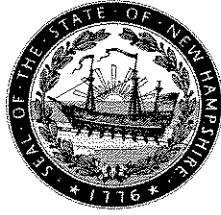


EXECUTIVE BRANCH ETHICS COMMITTEE



33 Capitol Street
Concord, New Hampshire 03301-6397

David L. Nixon, Chairman
Dale S. Kuehne, Vice Chairman
John E. Blair
Deborah J. Schachter

Patricia B. Quigley
L. Douglas O'Brien
John J. Barthelmes

Advisory Opinion

2007-004

Question Presented

Is it acceptable for a public official or a state employee to use Department/Agency letterhead to send an employment reference for a person who was not employed by, and who has not done work for, the Department/Agency?

Summary Answer

Yes. Provided the public official/employee had personal knowledge of the individual seeking the recommendation by virtue of working with the individual in a government capacity and issuing a letter of recommendation is a reasonable extension of the public official/employee's responsibility.

Legal Authority

RSA-G:23 provides that no executive branch official shall disclose or use confidential or privileged information acquired in the performance of his or her duties for the State for personal benefit for financial gain.

Neither should the official use his or her position with the State to secure privileges or advantages for himself or herself which are not generally available to government employees, or to secure governmental privileges or advantages for others.

Analysis

This legal prohibition is intended to prevent individuals from using the authority and/or prestige of their government positions to further their personal interests or the personal interests of others.

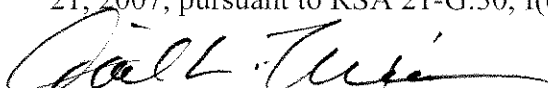
As a general matter, issuing a letter of recommendation on agency letterhead is appropriate only if this is a type of letter that the public official/employee would normally write in the course of his or her work for the state. Only those officials/employees who would otherwise be authorized to issue communications on agency letterhead on behalf of the agency would be entitled to use letterhead to issue a letter of recommendation.

Further, there must be some connection between the public official/employee's official duties and the individual being recommended. Use of agency letterhead is appropriate provided the public official/employee gained personal knowledge of the individual seeking the recommendation from first hand interaction while the public official/employee was acting in a government capacity. It is our opinion that this would include interactions and associations in activities such as joint committees, task forces or focus groups with persons that might be volunteers, vendor representatives, employees of another area of state or local government, etc.

Conclusion

Presuming that the public official/employee's position and authority encompasses providing such letters of recommendation consistent with RSA 21-G:23 and the official/employee possesses personal knowledge of the individual seeking the recommendation gained in his or her official capacity, it is permissible for that public official/employee to use agency letterhead to issue a letter of recommendation.

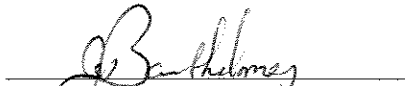
This Advisory Opinion is issued by the Executive Branch Ethics Committee on February 21, 2007, pursuant to RSA 21-G:30, I(c).



Chairman David L. Nixon



Deborah Schachter



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