

JCOPE's question of rules

Casey Seiler

Published 7:53 pm, Saturday, August 1, 2015

There may be no greater cliché in topical commentary than the observation that something is "at a crossroads." So I will merely note that the state Joint Commission on Public Ethics has arrived at an intersection.

The watchdog entity's choice of direction is presented by last week's departure of its second executive director, Letizia Tagliafierro, who is taking over the investigations unit of the state Department of Taxation and Finance.

In a very real sense, her new gig will be a return to the fold: Before taking the JCOPE post in October 2013, Tagliafierro served as director of intergovernmental operations for Gov. Andrew Cuomo.

Many readers will wonder at the appropriateness of the administrative head of a regulatory body whose ambit includes the executive branch either applying for a job or being recruited by an agency controlled by the executive branch. I wondered about it as well, and asked JCOPE whether Tagliafierro had informed the commissioners of her pursuit of the new post.

JCOPE spokesman Walt McClure declined to answer, saying it was a personnel matter.

As a changeup, I asked McClure whether there were rules in place guiding a regulatory employee through such a situation. McClure referred me to a 2006 advisory opinion from the State Ethics Commission requiring state employees to "promptly notify their supervisors and ethics officers" of job-related communications with any private entity that has a matter under consideration with their public employer. JCOPE believes the spirit of that rule also applies to those seeking new public-sector employment.


Logic dictates that Tagliafierro's supervisors are the commissioners of JCOPE. It remains unclear if all of them — or any of them — were aware of her communications with Taxation and Finance before her career change became a fait accompli.

Without commenting on any specific circumstance, JCOPE emphasized that this rule would only be triggered if the potential employer has an active matter under consideration.


That seems to mean that anyone at JCOPE could negotiate a new job with any lobbying shop or the governor himself without having to inform their supervisor, as long as those interested employers had no immediate business — such as enforcement actions — before the panel.

Like Tagliafierro, JCOPE's first executive director Ellen Biben had previously worked for Cuomo. So did JCOPE's newly promoted general counsel Monica Stamm. So did Kevin Gagan, JCOPE's new chief of staff and special counsel.

This is not to say that any of these people are in any way incompetent, or mere Cuomo flunkies. Almost all of them worked with Cuomo when he served as attorney general, which isn't a bad place to shop for investigators and enforcement experts. But ethics compliance is a matter of perception as well as reality — and if the reality of New York's ethical condition is beyond poor, the perception surrounding the strong Cuomo pedigree of JCOPE's staff is troubling.



These are good subjects for the consideration of the JCOPE review panel, whose members were appointed almost a year past the original deadline set by the 2011 law that created the ethics commission. The governor and legislative leaders generously gave themselves a new set of deadlines in the most recent state budget negotiation.



This weekend marks the midway point between the May 1 appointment of the panel's eight members — just three days before the arrest of one of the panel-pickers, former Senate Majority Leader Dean Skelos — and the Nov. 1 deadline for its report. It has already lost one member: Seymour James of the Legal Aid Society of New York City, whose assistant told me his exit was due to "time commitments." James' schedule must be hectic indeed: The review panel's members have to date held one live meeting and one telephone conference. (Christopher Pisciotta, who runs Legal Aid's Staten Island office, took his place on Friday.) The panel plans to hold "stakeholder meetings," but no public hearings have been scheduled.

This is the environment in which the new executive director of JCOPE will be chosen — its first since the governor's premature burial of his Moreland Commission on Public Corruption.

McClure said that JCOPE's commissioners will conduct an extensive nationwide search for Tagliafierro's successor.

The nation is a big place, and according to experts includes numerous ethics compliance specialists who have never worked for New York's current governor.

Will one of them get the nod? As Preet Bharara might say: Stay tuned.

cseiler@timesunion.com • 518-454-5619