

November 21, 2019  
No. 44

# STATE OF NEW HAMPSHIRE

Web Site Address: [www.gencourt.state.nh.us](http://www.gencourt.state.nh.us)



**First Year of the 166<sup>th</sup> Session of the  
New Hampshire General Court**

## SENATE CALENDAR

## EXECUTIVE SESSIONS

### ***TUESDAY, DECEMBER 3, 2019***

#### **HEALTH AND HUMAN SERVICES**, Room 101, LOB

Sen. Sherman (C), Sen. Fuller Clark (VC), Sen. Chandley, Sen. Bradley, Sen. Gray

1:30 p.m. **EXECUTIVE SESSION ON PENDING LEGISLATION**

#### **JUDICIARY**, Room 100, SH

Sen. Hennessey (C), Sen. Chandley (VC), Sen. Levesque, Sen. Carson, Sen. French

2:00 p.m. **EXECUTIVE SESSION ON PENDING LEGISLATION**

### ***WEDNESDAY, DECEMBER 4, 2019***

#### **ELECTION LAW AND MUNICIPAL AFFAIRS**, Room 102, LOB

Sen. Levesque (C), Sen. Sherman (VC), Sen. Morgan, Sen. Birdsell, Sen. Gray

10:00 a.m. **EXECUTIVE SESSION ON PENDING LEGISLATION**

### ***TUESDAY, DECEMBER 17, 2019***

#### **EXECUTIVE DEPARTMENTS AND ADMINISTRATION**, Room 100, SH

Sen. Carson (C), Sen. Cavanaugh (VC), Sen. Rosenwald, Sen. Chandley, Sen. Reagan

2:00 p.m. **EXECUTIVE SESSION ON PENDING LEGISLATION**

## MEETINGS

### ***FRIDAY, NOVEMBER 22, 2019***

#### **SHORELAND SEPTIC SYSTEM STUDY COMMISSION (RSA 485-A:44-a)**

9:00 a.m. Room 305, LOB Regular Meeting

#### **COMMISSION TO STUDY ENVIRONMENTALLY-TRIGGERED CHRONIC ILLNESS (RSA 126-A:73-a)**

10:00 a.m. Room 103, SH Regular Meeting

#### **COMMITTEE TO STUDY THE COSTS TO THE STATE FOR THE APPOINTMENT OF COUNSEL TO REPRESENT INDIGENT DEFENDANTS IN CRIMINAL CASES (HB 4, Chapter 346:266, Laws of 2019)**

10:00 a.m. Room 208, LOB Regular Meeting

#### **HEALTH AND HUMAN SERVICES OVERSIGHT COMMITTEE (RSA 126-A:13)**

10:00 a.m. Room 205, LOB Regular Meeting

#### **NH COLLEGE TUITION SAVINGS PLAN ADVISORY COMMISSION (RSA 195-H:2)**

10:00 a.m. NH Higher Education Assistance Foundation  
4 Barrell Court  
Concord, NH Special Meeting

#### **ELECTRIC VEHICLE CHARGING STATIONS INFRASTRUCTURE COMMISSION (RSA 4-G:1)**

11:00 a.m. Room 203, LOB Regular Meeting

#### **COMMISSION ON PRETRIAL DETENTION, PRETRIAL SCHEDULING, AND PRETRIAL SERVICES (RSA 597:43 )**

1:00 p.m. Rooms 206-208, LOB Regular Meeting

**COMMISSION ON DRINKING WATER (RSA 485-F:6)**

2:00 p.m.

Dept. of Environmental Services  
222 International Drive #175  
Portsmouth, NH

Regular Meeting

***SUNDAY, NOVEMBER 24, 2019*****LEGISLATIVE YOUTH ADVISORY COUNCIL (RSA 19-K:1)**

1:00 p.m.

NH Technical Institute  
Sweeney Crocker Building  
Room 225  
Concord, NH

Regular Meeting

***MONDAY, NOVEMBER 25, 2019*****COASTAL MARINE NATURAL RESOURCES AND ENVIRONMENT COMMISSION (RSA 485-G:1)**

9:00 a.m.

NH DES Portsmouth Regional Office  
Pease International Tradeport  
222 International Drive, Suite 175  
Portsmouth, NH

Regular Meeting

**OIL FUND DISBURSEMENT BOARD (RSA 146-D:4)**

9:00 a.m.

Room 305, LOB

Regular Meeting

**COMMISSION ON THE ENVIRONMENTAL AND PUBLIC HEALTH IMPACTS OF PERFLUORINATED CHEMICALS (RSA 126-A:79-a)**

10:00 a.m.

Room 204, LOB

Subcommittee Meeting - Health

1:00 p.m.

Room 204, LOB

Subcommittee Meeting - Environment

**COMMISSION TO STUDY EXPANDING THE MENTAL HEALTH COURT SYSTEM IN NEW HAMPSHIRE (RSA 490-H:3)**

10:00 a.m.

Room 203, LOB

Regular Meeting

**HEALTH AND HUMAN SERVICES OVERSIGHT COMMITTEE (RSA 126-A:13)**

10:00 a.m.

Room 206, LOB

Subcommittee Meeting - Dementia

***TUESDAY, NOVEMBER 26, 2019*****WELLNESS AND PRIMARY PREVENTION COUNCIL (RSA 126-M:3)**

9:00 a.m.

New Futures  
101 Main Street  
Concord, NH

Regular Meeting

***MONDAY, DECEMBER 2, 2019*****COMMISSION TO STUDY EXPANDING THE MENTAL HEALTH COURT SYSTEM IN NEW HAMPSHIRE (RSA 490-H:3)**

10:00 a.m.

Room 203, LOB

Regular Meeting

**COMMITTEE TO STUDY THE LAWS RELATING TO CONDOMINIUM AND HOMEOWNERS' ASSOCIATIONS (RSA 356-B:70)**

10:00 a.m.

Room 202, LOB

Regular Meeting

**COMMISSION ON NEW HAMPSHIRE BEER, WINE, AND LIQUOR TOURISM (RSA 425:2-b)**

1:00 p.m.

DHL Warehouse  
Bow Distribution Center  
1403 Route 3-A  
Bow, NH

Regular Meeting

**NH BRAIN AND SPINAL CORD INJURY ADVISORY COUNCIL (RSA 137-K:2)**

2:00 p.m.                      Brain Injury Association of NH                      Regular Meeting  
                                      52 Pleasant Street  
                                      Concord, NH

***TUESDAY, DECEMBER 3, 2019*****COMMISSION TO STUDY BARRIERS TO INCREASED DENSITY OF LAND DEVELOPMENT IN NEW HAMPSHIRE (RSA 4-C:8-a)**

9:00 a.m.                      Room 206, LOB                      Regular Meeting

**STUDY COMMITTEE ON OUTDATED NON-REGULATORY BOARDS, COMMISSIONS, COUNCILS, AND ADVISORY BODIES (HB 4, Chapter 346:73, Laws of 2019)**

10:00 a.m.                      Room 201, LOB                      Organizational Meeting

**COMMITTEE TO STUDY PROVIDING CERTAIN HEALTH CARE SERVICES WHILE ENSURING INCREASED ACCESS TO AFFORDABLE HEALTH CARE SERVICES IN RURAL AREAS OF THE STATE (SB 97, Chapter 155:2, Laws of 2019)**

11:00 a.m.                      Room 100, SH                      Regular Meeting

**COMMITTEE TO STUDY THE DISPARITY IN REIMBURSEMENT AMONG ORGANIZATIONS THAT PROVIDE CASE MANAGEMENT UNDER SOCIAL SECURITY ACT SECTION 1915(C) WAIVER PROGRAMS (HB 4, Chapter 346:381, Laws of 2019)**

1:00 p.m.                      Room 103, SH                      Regular Meeting

**HEALTH AND HUMAN SERVICES OVERSIGHT COMMITTEE (RSA 126-A:13)**

1:00 p.m.                      Room 205, LOB                      Subcommittee Meeting

**STATE VETERANS ADVISORY COMMITTEE (RSA 115-A:2)**

5:00 p.m.                      NH National Guard Regional                      Regular Meeting  
                                      Training Institute  
                                      722 Riverwood Drive  
                                      Pembroke, NH

***WEDNESDAY, DECEMBER 4, 2019*****COMMISSION TO STUDY THE ESTABLISHMENT OF A STATE DEPARTMENT OF ENERGY (RSA 162-H:23)**

10:30 a.m.                      Room 304, LOB                      Regular Meeting

**COMMISSION TO STUDY THE BUSINESS ENVIRONMENT FOR MENTAL HEALTH PROVIDERS IN NEW HAMPSHIRE (RSA 330-A:26-a)**

1:00 p.m.                      Room 302, LOB                      Regular Meeting

***THURSDAY, DECEMBER 5, 2019*****COMMITTEE TO STUDY THE COSTS TO THE STATE FOR THE APPOINTMENT OF COUNSEL TO REPRESENT INDIGENT DEFENDANTS IN CRIMINAL CASES (HB 4, Chapter 346:266, Laws of 2019)**

10:00 a.m.                      Room 208, LOB                      Regular Meeting

**STUDY COMMITTEE ON OUTDATED NON-REGULATORY BOARDS, COMMISSIONS, COUNCILS, AND ADVISORY BODIES (HB 4, Chapter 346:73, Laws of 2019)**

10:00 a.m.                      Room 201, LOB                      Regular Meeting

**COMMITTEE TO STUDY MENTAL HEALTH AND HUMAN SERVICE BUSINESS PROCESS ALIGNMENT AND INFORMATION SYSTEM INTEROPERABILITY (SB 176, Chapter 272:1, Laws of 2019)**

1:00 p.m.                      Room 103, LOB                      Regular Meeting

## ***FRIDAY, DECEMBER 6, 2019***

### **COMMISSION ON THE ENVIRONMENTAL AND PUBLIC HEALTH IMPACTS OF PERFLUORINATED CHEMICALS (RSA 126-A:79-a)**

10:00 a.m.                      Room 304, LOB                      Regular Meeting

### **ASSESSING STANDARDS BOARD (RSA 21-J:14-a)**

11:00 a.m.                      Room 303, LOB                      Regular Meeting

## ***MONDAY, DECEMBER 9, 2019***

### **COMMISSION ON MENTAL HEALTH EDUCATION PROGRAMS AND BEHAVIORAL HEALTH AND WELLNESS PROGRAMS (RSA 193-E:6)**

8:30 a.m.                      Room 207, LOB                      Regular Meeting

### **OIL FUND DISBURSEMENT BOARD (RSA 146-D:4)**

9:00 a.m.                      Room 305, LOB                      Regular Meeting

### **COMMISSION ON THE ENVIRONMENTAL AND PUBLIC HEALTH IMPACTS OF PERFLUORINATED CHEMICALS (RSA 126-A:79-a)**

10:00 a.m.                      Room 204, LOB                      Subcommittee Meeting - Health

1:00 p.m.                      Room 204, LOB                      Subcommittee Meeting - Environment

### **COMMISSION TO STUDY WAKE BOATS (RSA 270:133)**

10:00 a.m.                      Room 307, LOB                      Regular Meeting

### **NEW HAMPSHIRE DRINKING WATER AND GROUNDWATER ADVISORY COMMISSION (RSA 485-F:4)**

10:00 a.m.                      Rooms 206-208, LOB                      Regular Meeting

### **NH COLLEGE TUITION SAVINGS PLAN ADVISORY COMMISSION (RSA 195-H:2)**

10:00 a.m.                      NH Higher Education                      Regular Meeting  
Assistance Foundation  
4 Barrell Court  
Concord, NH

### **COMMISSION TO REVIEW CHILD ABUSE FATALITIES (RSA 169-C:39-k)**

1:00 p.m.                      Room 206, LOB                      Regular Meeting

### **COMMITTEE TO STUDY EXOTIC AQUATIC WEEDS AND EXOTIC AQUATIC SPECIES OF WILDLIFE IN THE STATE OF NEW HAMPSHIRE (RSA 487:30)**

1:00 p.m.                      Room 305, LOB                      Regular Meeting

## ***TUESDAY, DECEMBER 10, 2019***

### **COMMITTEE TO STUDY UNPROTECTED DRINKING WATER SOURCES (SB 164, Chapter 238:1, Laws of 2019)**

10:00 a.m.                      Room 102, LOB                      Regular Meeting

### **COMMISSION TO EVALUATE THE EFFECTIVENESS AND FUTURE OF THE NEW HAMPSHIRE GRANITE ADVANTAGE HEALTH CARE PROGRAM (RSA 126-AA:4)**

1:00 p.m.                      Room 100, SH                      Regular Meeting

### **COMMITTEE TO STUDY CERTAIN LABOR STATUTES (HB 252, Chapter 69:1, Laws of 2019)**

1:00 p.m.                      Room 307, LOB                      Regular Meeting

### **HEALTH AND HUMAN SERVICES OVERSIGHT COMMITTEE (RSA 126-A:13)**

1:00 p.m.                      Room 205, LOB                      Subcommittee Meeting - Emergency  
Management Services

### ***WEDNESDAY, DECEMBER 11, 2019***

#### **COMMISSION ON THE SEACOAST CANCER CLUSTER INVESTIGATION (RSA 126-A:74)**

9:00 a.m. Room 205, LOB Regular Meeting

### ***FRIDAY, DECEMBER 13, 2019***

#### **ENERGY EFFICIENCY AND SUSTAINABLE ENERGY BOARD (RSA 125-O:5-a)**

9:00 a.m. NH Public Utilities Commission Regular Meeting  
Hearing Room A  
21 South Fruit Street  
Concord, NH

#### **GOVERNOR'S COMMISSION ON ALCOHOL AND DRUG ABUSE PREVENTION, TREATMENT, AND RECOVERY (RSA 12-J:1)**

9:30 a.m. Governor and Council Chambers, SH Regular Meeting

#### **COMMISSION TO STUDY GRANDFAMILIES IN NEW HAMPSHIRE (RSA 170-G:17-a)**

10:00 a.m. Rooms 206-208, LOB Regular Meeting

#### **COMMISSION TO STUDY THE INCIDENCE OF POST-TRAUMATIC STRESS DISORDER IN FIRST RESPONDERS (RSA 281-A:17-b)**

10:00 a.m. Room 304, LOB Regular Meeting

#### **FISCAL COMMITTEE (RSA 14:30-a)**

10:00 a.m. Rooms 210-211, LOB Regular Meeting

### ***MONDAY, DECEMBER 16, 2019***

#### **COMMISSION TO STUDY EXPANDING THE MENTAL HEALTH COURT SYSTEM IN NEW HAMPSHIRE (RSA 490-H:3)**

10:00 a.m. Room 203, LOB Regular Meeting

#### **STATE COMMISSION ON AGING (RSA 19-P:1)**

10:00 a.m. Rooms 205-207, LOB Regular Meeting

#### **COMMISSION TO STUDY THE EFFECTIVENESS OF THE CURRENT STATUTES RELATED TO MANAGEMENT OF NON-TIDAL PUBLIC WATERWAYS AND THE CONSTRUCTION OR PLACEMENT OF STRUCTURES WITHIN THEM (RSA 482-A:35)**

1:00 p.m. Room 305, LOB Regular Meeting

#### **COMMISSION TO STUDY AUTONOMOUS VEHICLES (RSA 241:1)**

2:00 p.m. 110 Smokey Bear Blvd Regular Meeting  
Concord, NH

#### **CONTROLLED DRUG PRESCRIPTION HEALTH AND SAFETY PROGRAM; ADVISORY COUNCIL (RSA 318-B:38)**

3:00 p.m. OPLC Regular Meeting  
121 South Fruit Street  
Concord, NH

### ***WEDNESDAY, DECEMBER 18, 2019***

#### **COMMISSION TO REVIEW THE STRUCTURE OF MOTOR VEHICLE LAWS (RSA 260:77)**

10:00 a.m. Room 203, LOB Regular Meeting

### ***THURSDAY, DECEMBER 19, 2019***

#### **ADMINISTRATIVE RULES (RSA 541-A:2)**

9:00 a.m. Rooms 306-308, LOB Regular Meeting

**COMMISSION ON PRIMARY CARE WORKFORCE ISSUES (RSA 126-T)**

2:00 p.m.                      NH Hospital Association                      Regular Meeting  
                                      125 Airport Road  
                                      Concord, NH

**COMMISSION ON POST-TRAUMATIC STRESS DISORDER AND TRAUMATIC BRAIN INJURY (RSA 115-D)**

2:30 p.m.                      Walker Building, Room 274                      Regular Meeting  
                                      21 South Fruit Street  
                                      Concord, NH

***FRIDAY, DECEMBER 20, 2019*****SHORELAND SEPTIC SYSTEM STUDY COMMISSION (RSA 485-A:44-a)**

9:00 a.m.                      Room 305, LOB                      Regular Meeting

**NEW HAMPSHIRE RARE DISEASE ADVISORY COUNCIL (RSA 126-A:79)**

3:00 p.m.                      Health and Human Services Building                      Regular Meeting  
                                      Room 311  
                                      29 Hazen Drive  
                                      Concord, NH

***MONDAY, DECEMBER 23, 2019*****THE DIVISION FOR CHILDREN, YOUTH AND FAMILIES ADVISORY BOARD (RSA 170-G:6-a)**

2:00 p.m.                      Room 206, LOB                      Regular Meeting

***THURSDAY, JANUARY 9, 2020*****CAPITAL BUDGET OVERVIEW COMMITTEE (RSA 17-J:2)**

3:00 p.m.                      Room 201, LOB                      Regular Business (Tentatively)

**LONG RANGE CAPITAL PLANNING AND UTILIZATION COMMITTEE (RSA 17-M:1)**

3:30 p.m.                      Room 201, LOB                      Regular Business (Tentatively)

***MONDAY, FEBRUARY 3, 2020*****COMMISSION TO MONITOR CHANGES IN FEDERAL AND STATE-LEVEL LEGISLATION AND ACTIONS CONCERNING THE IMPOSITION OF TAX COLLECTION OBLIGATIONS ON NEW HAMPSHIRE REMOTE SELLERS (RSA 78-E:11)**

10:00 a.m.                      Room 100, SH                      Regular Meeting

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**2019 BILLS REREFERRED TO COMMITTEE:**

**SENATE BILLS: 35, 60, 89, 90, 113, 152, 157, 175, 181, 182, 222, 229, 256, 288, 295, 305, 312, 315, 316**

**HOUSE BILLS: 121, 130, 150, 153, 155, 263, 481, 487, 520, 556**

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**2019 BILLS REMAINING ON THE TABLE:**

**SENATE BILLS: 83, 84, 91, 107, 116, 117, 130, 135, 143, 161, 170, 202, 213, 230, 234, 236, 243, 247, 253, 259, 260, 265, 266, 277, 280, 281, 291, 294, 301, 303, 306, 308, 309, 313, 317, 318**

**HOUSE BILLS: 334, 407, 437, 452, 472, 641, 682, 689, 719, 726**

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**FISCAL NOTE ADDITIONS AND UPDATES HAVE BEEN AMENDED TO THE BILLS ON THE WEB SITE AND ARE AVAILABLE IN THE SENATE CLERK'S OFFICE FOR THE FOLLOWING 2019 BILLS:**

**SENATE BILLS: 7, 63, 93, 122, 171, 173, 255, 283, 288, 293, 295, 300, 302, 304, 311, 312, 315, 319**

**HOUSE BILLS: 121, 150, 186, 253, 397, 481, 487, 568, 703, 715, 717**

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## NOTICES

### LEGISLATIVE ETHICS COMMITTEE

Resolution of Complaint 2019-2

At its meeting on October 18, 2019, the Legislative Ethics Committee completed its Preliminary Investigation of Complaint 2019-2. The Committee voted to resolve the Complaint through the adoption of an Informal Resolution, as agreed to by the respondent, Representative Douglas A. Ley. The Informal Resolution is printed below in its entirety.

#### Legislative Ethics Committee

Complaint 2019-2  
Informal Resolution

Dear Representative Ley:

The Legislative Ethics Committee has completed its Preliminary Investigation of Complaint 2019-2. That Complaint alleges that you have acted improperly in carrying out your duties as a State Representative. It asserts that your independent judgment as a legislator is compromised as a result of your employment as President of AFT-NH. More specifically, the Complaint alleges that your failure to recuse yourself from advocating for and from voting on union-related legislation constitutes a violation of Section 3, Prohibited Activities, Paragraph II, Subparagraphs (c), (d) and (f) of the Legislative Ethics Guidelines. The Complaint provides four "examples" of alleged misconduct and suggests that you are effectively operating as a lobbyist for your employer.

You have informed the Committee, in writing and in person, that you do not agree with the allegations set forth in the Complaint. You have addressed each of the examples cited by the Complainant. You contend that the union-related legislation for which you have advocated or on which you have voted impacts all unions and not just AFT-New Hampshire. You assert that if legislation was specific to AFT-New Hampshire you would recuse yourself. You have likened your situation to someone who owns an insurance agency, as long as the legislation applies to all agencies, an individual owner is not expected to recuse him or herself from participation, only to disclose the apparent conflict.

Before addressing the Complaint, the Committee first expresses its concern over the breach of confidentiality involving this Complaint. Unless the person against whom the Complaint is filed requests that proceedings be made public, until formal charges are brought by the Committee, pursuant to RSA 14-B:4, III, all communications or materials received by the Committee, including the Complaint, are confidential. While the Committee believes that you have kept these matters private, the Committee has received evidence that other persons have provided a blogger and at least one radio reporter with information about the Complaint. Furthermore, the Complainant and one State Representative have been quoted commenting on the Complaint in the press.

It appears that the Legislature enacted the confidentiality provision to avoid causing harm to the reputations of persons based solely on allegations which could be made for political or other purposes. Based upon the breach of confidentiality, you have asked the Committee to dismiss the Complaint. After considering your request, the Committee has decided that dismissal is not the appropriate remedy. Given the issue raised, the Committee felt it was important enough to require consideration on the merits. The Committee notes that while it lacks statutory authority to take action directly against an offending party, RSA 14-B:4-a does make it a misdemeanor for anyone to knowingly or willfully make unauthorized disclosure of these confidential matters.

In evaluating a Complaint, it is the Committee's duty to evaluate compliance with the provisions of RSA Chapter 14-C. The purpose of that chapter is set forth in RSA 14-C:1; "to ensure that persons charged with



carrying out the duties and activities of the legislative branch of state government do so in an atmosphere that supports the independent judgment of such persons and minimizes the opportunity for inappropriate influence by persons or organizations subject to or likely to become subject to or interested in any matter or action pending in the legislative branch.”

The Committee appreciates your cooperation in this matter and your willingness to provide information regarding your duties as president of AFT-NH. You acknowledge that you keep the members of the organization informed as to legislative matters through an organizational newsletter. The president of the AFT-NH is a paid position and the Committee has no doubt that it would be expected that the president would be an advocate for the organization. In fact, the Articles of Organization for AFT-NH provide that the president of that organization shall be “the only official spokesperson of AFT-NH, or designate a person in his/her place.” The person who served as the president of AFT-NH before you registered as a lobbyist.

Certainly, when you advocate for or vote on union-related matters, your position as President of AFT-NH creates an apparent conflict of interest. But, as you correctly pointed out to the committee, it is not uncommon for legislators to have associations with particular industries, businesses or organizations. We encourage people with special knowledge to participate in our citizen legislature. In adopting the Ethics Guidelines, the Legislature has placed an emphasis on disclosure, not on disqualification.

There is no bright line stating when a legislator must refrain from participation in legislative matters. However, the Committee has found in the past that, under certain circumstances, recusal is the required course of action. To quote former United States Supreme Court Justice Potter Stewart; “Ethics is knowing the difference between what you have a right to do and what is right to do.” The question for the Committee to answer in this Complaint is whether the apparent conflict between your role as AFT-President and as a legislator can be satisfactorily addressed through disclosure or is recusal required.

On August 15, 2018, the Legislative Ethics Committee provided Representative Gregory Hill with Advisory Opinion 2018-1 regarding his possible employment. He sought guidance from the Committee on whether he would be able to participate in legislative activities impacting his potential employer. As you have noted, his case is somewhat distinguishable because the employment involved a legislatively created program, however, the Committee determined that he would be required to recuse himself in “matters directly related to the interests of (his employer).” The Committee recognized the distinction between being a paid advocate for an organization and simply being a member or an employee of an organization. The Committee found by clear and convincing evidence that his participation in legislative matters which would directly impact his employer would violate Section 3, Paragraph II, Subparagraphs (c), (d) and (f) of the Ethics Guidelines.

A similar situation previously arose involving former Senator Peter Bragdon. He obtained employment as Executive Director of an organization which often lobbies on matters before the legislature. An Informal Resolution of Complaint 2013-5 was reached with Senator Bragdon whereby he agreed that he would “not take part in any official activity that concerns, involves or would have any effect on (his) employer.”

You have likened your circumstances to legislators who might be insurance business owners, brokers or agents who, after disclosure, participate in matters involving the insurance industry. While we appreciate that analysis, the Committee finds that holding a paid position in an organization with the expectation that one will advocate for that organization can put that legislator in a position contrary to the purpose of the Ethics Guidelines. It is inconsistent with the precept of independent objective judgment and may result in inappropriate influence by an organization subject to actions taken by the legislature. Certainly, paid lobbyists serving as legislators should not participate in matters favoring their clients or employers. Accordingly, we should not allow a compensated employee who is paid to advocate for his or her employer to participate in matters directly related to his or her employer.

At the same time, recusal is required only when matters directly affect your employer. In your case, as union president, you are precluded from participating in union related legislation such as matters involving union fees, dues or membership. Because your union largely consists of teachers, you would be precluded from participating in issues which directly benefit them. On the other hand, you would not be precluded from participating in general matters involving education. For example, you could participate in education funding legislation as long as it does not directly address the compensation of your union members. However, you are reminded that in certain circumstances, a legislator must file a Declaration of Intent Form when participating in legislative proceedings. And the Ethics Guidelines require a legislator to make verbal disclosure of conflicts of interest prior to engaging in verbal advocacy on any legislative matter affecting his or her interest. With this analysis in mind, the Committee has considered each of the examples provided by the Complainant.

**Example #1: 2017 bill *relative to Right to Work*.** In this case, it is alleged that you disclosed you had an interest in the legislation but announced that you would participate and vote. The Committee has determined that this matter had a direct effect on your employer and recusal was the appropriate action to be taken. This would be a violation of the Ethics Guidelines, Prohibited Activities, Section 3, Paragraph II, Subparagraphs (c) and (d).

**Example #2: For HB 438 (2018) Hearing House Labor: Eliminating Automatic Union Dues for State Employees.** It is alleged that you voted on this legislation which directly affected the interests of your employer. The Committee has determined that this matter had a direct effect on your employer and recusal was the appropriate action to be taken. This would be a violation of the Ethics Guidelines, Prohibited Activities, Section 3, Paragraph II, Subparagraphs (c) and (d).

**Example #3: HB 1405 (2018) Heard in House Labor. Requiring school district personnel to be eligible for Family and Medical Leave Act.** It is alleged that you did not vote on this legislation on the House floor but participated in committee. If this legislation was about the Family and Medical Leave Act in general, it would not be a problem. But, being directed at school district personnel, it would provide a specific benefit for your union members. The Committee has determined that this matter had a direct effect upon your employer and recusal was the appropriate action to be taken. This would be a violation of the Ethics Guidelines, Prohibited Activities, Section 3, Paragraph II, Subparagraphs (c) and (d).

**Example #4: SB 193 (2018) Education Savings Accounts.** It is alleged that you “lobbied” for this legislation. While your union’s membership undoubtedly has an interest in promoting education, the Committee does not find that the union will receive any direct benefit from Education Savings Accounts. The Committee does not find a violation of the Ethics Guidelines.

In addition to the four examples, the Complainant also alleged that you registered in favor of or in opposition to legislation by signing committee “Blue Sheets” in your capacity as AFT-NH President. At this point, the Committee has not verified this allegation. However, if it is true, this could result in a violation of the Ethics Guidelines, Prohibited Activities. When acting in your capacity as a legislator, you may have to disclose a conflict due to your employment, but you could participate in legislative activities which do not directly impact your employer. But, when you take a position on legislation on behalf of your employer, you should not be participating in any legislative action or activities involving that legislation. The Complaint does not specify whether you heard or voted on the legislation after signing in on behalf of AFT-NH.

The Committee recognizes that the Ethics Guidelines are not always easily understood and are subject to interpretation. As stated previously, there is no bright line set out in the Ethics Guidelines establishing when recusal is required. Perhaps that is a matter for the Legislature to address in the future. In addition, the Committee notes that the seminal Advisory Opinion on this subject given to Representative Hill was issued on August 15, 2018, and most, if not all, of the examples provided by the Complainant occurred prior to the issuance of that Advisory Opinion. The Committee will also accept your representation that you did not intentionally violate any principle or rule.

Therefore, the Committee proposes to resolve this Complaint through informal resolution, provided that you agree that, as long as you are employed as president of or as an advocate for AFT-NH, you will properly recuse yourself from participating in any legislative activities which may have a direct benefit to your employer or to the union membership. A failure to comply with that agreement would result in an ethical violation and the imposition of sanctions.

Please advise us as to whether you accept the informal resolution of this matter on the terms described. You may do so by signing in the space provided below and returning the signed letter to the Committee. If you are in agreement, this letter will become a public document. Copies will be provided to the presiding officers of the House and Senate and it will be submitted for inclusion in the legislative calendars.

For the Committee,  
Edward M. Gordon  
Chairperson

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### **MONDAY, DECEMBER 2, 2019**

Elected officials are invited to a Legislative Reception at Lakes Region Community College on Monday, December 2<sup>nd</sup> from 5:00 p.m. - 7:00 p.m., in the Academic Commons, 379 Belmont Road, Laconia NH. The event is being co-hosted with the Lakes Region Planning Commission, Belknap Economic Development Council and Lakes Region Community Developers. A panel will discuss issues affecting the Lakes Region and workforce development and seek input from attendees. Refreshments will be served. Please RSVP to Elawton@ccsnh.edu or 366-5299 by November 28<sup>th</sup>.

Senator Harold French  
Senator Bob Giuda

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### **THURSDAY, DECEMBER 12, 2019**

The New Hampshire Council on Developmental Disabilities will be hosting their annual Winter Awards Ceremony on Thursday, December 12, 2019, from 11:00 a.m. to 2:00 p.m. at the Grappone Center in Concord, NH. Refreshments will be served. All Senators are invited to join the Council in celebrating Legislators of the Year, Senator Cindy Rosenwald and Representative Tamara Le, Advocate of the Year, Roberta Gallant, and the Smile Award winner, Surfing With Smiles.

Senator Dan Feltes, Senate Majority Leader

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### **WEDNESDAY, JANUARY 8, 2020**

Sheehan Phinney Capitol Group cordially invites all Senate members and staff to their annual Welcome Back Reception on Wednesday, January 8, 2020 at Tandy's Pub & Grille, One Eagle Square (directly across the street from the State House) following the close of session, or at 3:00 p.m. should the session end early.

Senator Dan Feltes, Senate Majority Leader  
Senator Chuck W. Morse, Senate Minority Leader

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## **SENATE SCHEDULE**

Thursday, November 28, 2019	Thanksgiving Day (State Holiday)
Friday, November 29, 2019	Day after Thanksgiving (State Holiday)
Wednesday, December 04, 2019	Deadline for prime sponsors to sign off on legislation.
Wednesday, December 11, 2019	Deadline for co-sponsors to sign off on legislation.
Thursday, December 19, 2019	Deadline to REPORT rereferred bills out of committee.
Wednesday, December 25, 2019	Christmas Day (State Holiday)
Wednesday, January 01, 2020	New Year's Day (State Holiday)
Wednesday, January 08, 2020	Convening Day
Monday, January 20, 2020	Martin Luther King Jr./Civil Rights Day (State Holiday)
Monday, February 17, 2020	President's Day (State Holiday)
Monday, February 24, 2020 – Friday, February 28, 2020	SENATE BREAK
Thursday, March 05, 2020	Deadline for Policy Committees to ACT on all Senate bills with a fiscal impact, except bills exempted pursuant to Senate Rule 4-5.
Thursday, March 26, 2020	CROSSOVER – Deadline to ACT on all Senate bills.
Thursday, April 30, 2020	Deadline for Policy Committees to ACT on all House bills with a fiscal impact, except bills exempted pursuant to Senate Rule 4-5.

Thursday, May 14, 2020	Deadline to ACT on all House bills.
Thursday, May 21, 2020	Deadline to FORM Committees of Conference.
Monday, May 25, 2020	Memorial Day (State Holiday)
Thursday, May 28, 2020	Deadline to SIGN Committee of Conference Reports.
Thursday, June 04, 2020	Deadline to ACT on Committee of Conference Reports.
Friday, July 03, 2020	Independence Day (State Holiday)
Monday, September 07, 2020	Labor Day (State Holiday)
Wednesday, November 11, 2020	Veterans' Day (State Holiday)
Thursday, November 26, 2020	Thanksgiving Day (State Holiday)
Friday, November 27, 2020	Day after Thanksgiving (State Holiday)
Friday, December 25, 2020	Christmas Day (State Holiday)