

From: Tierney, June [mailto:June.Tierney@vermont.gov]
Sent: Thursday, May 03, 2018 8:18 PM
To: Kayla Dewey
Subject: VLRB Nomination of Karen O'Neill

Good evening, Kayla. Could I ask you to pass this email on to your committee members? Thanks very much. JET

Dear Senators –

I had hoped to have a chance to testify before your committee about the nomination of Karen O'Neill to the Vermont Labor Relations Board, but I am not able to attend tomorrow as I must travel out of state. Accordingly, I offer these written remarks for your consideration in lieu of testimony.

I served for many years as a hearing officer and later as general counsel to the Vermont Public Service Board (now the Public Utilities Commission). It is in this professional context that I became acquainted with Ms. O'Neill's evenhanded temperament as a legal practitioner. I have seen firsthand in her hearing room demeanor and in her work product that she is careful and thorough in considering the factual and legal elements that build to her conclusions. These professional traits did not develop overnight. They were over thirty years in the making, in a career that began for Ms. O'Neill as a judicial law clerk – a position of trust and confidence that few attorneys are privileged to occupy, and for which the indispensable qualification is a manifest commitment to ensuring that justice is served through the impartial administration of due process based on fact-finding that is tested by the rules of evidence. The fact that Ms. O'Neill cleared this high bar so early in her professional career is a powerful indicator of her essential character as a fair-minded person.

Following her early experience and training as a judicial law clerk, Ms. O'Neill chose to enter public service as an Assistant U.S. Attorney who prosecuted criminal cases. One of the principal responsibilities of an AUSA is to first ascertain whether probable cause exists before recommending or initiating a prosecution for a crime. In other words, the AUSA must first exercise neutral judgment to fairly assess the known facts to find probable cause before pursuing a criminal case. It speaks volumes about Ms. O'Neill's disposition and capacity for exercising fair and neutral judgment that she was entrusted so early on with the powers of a federal prosecutor and then steadily progressed over six years to greater responsibilities in the U.S. Department of Justice.

Throughout her career, Ms. O'Neill served in various general counsel positions in several companies. From my own personal experience, I can say that the first duty of a general counsel is to ensure that the corporate officers or board members receive the benefit of comprehensive legal counsel, which first requires the general counsel to develop an understanding of all pertinent facts and legal options. In other words, a general counsel's function is to provide sound legal advice based on a clinical and neutral analysis of the circumstances and applicable legal framework.

I have highlighted these aspects of Ms. O'Neill's professional background because they form the basis for my personal judgment that confirming Ms. O'Neill to the VLRB would well serve the people of our State. These facts demonstrate that Ms. O'Neill "can be reasonably considered to be able to serve as an impartial individual" and that she possesses the requisite qualifications of "experience, knowledge,

character, integrity, judgment, and ability to act in a fair and impartial manner.” 3 V.S.A. 921(a)(1)(B). I would further urge you to consider that Ms. O’Neill is retired, and, to my knowledge, she is not connected to a labor organization or a management position. Therefore, she meets the statutory criterion of a candidate with a “neutral” background.

Vermont enjoys a long and vigorous tradition of citizens rolling up their sleeves and tackling even the most daunting issues and complex challenges that arise in public life. This kind of civic participation is the bedrock of our democracy. For this tradition to continue flourishing, it is essential that we attract high quality candidates to serve on our citizen-led boards and commissions. I have every confidence that Ms. O’Neill would reflect great credit upon our state by bringing her essential integrity and sense of fairness to bear on the difficult and consequential decisions that the VLRB is called upon to make.

Again, I regret not being able to speak with you in person, and to answer any questions you may have.

Kind regards. JET



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"Nominees with neutral backgrounds" means individuals in high standing not connected with any labor organization or management position, and who can be reasonably considered to be able to serve as an impartial individual.