



BOARD OF ETHICS  
CITY OF CHICAGO

**ADVISORY OPINION, Case No. 18040.A**

**GIFTS, §2-156-142; PROHIBITED CONDUCT, §2-156-111(c); REIMBURSEMENT TO CITY PERSONNEL OF TRAVEL EXPENSES OFFERED BY PROSPECTIVE POST-CITY EMPLOYERS**

---

**Facts.** In the past six (6) years, our agency has been asked a few times by City employees or officials interviewing for post-City employment with outside companies whether they can accept travel expenses for job interviews (usually in other cities) from these prospective employers. As is common in the private sector, the prospective employer is typically willing to pay for the City employee's travel to an out-of-town location(s) in order to interview the City employee.

The issue under the Governmental Ethics Ordinance (the "Ordinance") in effect since November 2012 is that, as that law is written, - - these expenses would, without an exemption or waiver, constitute prohibited gifts.<sup>1</sup>

Hence, we issue this opinion pursuant to our authority set forth in §§2-156-380(e) and (l) of the Ordinance.

**Relevant Law.** Three (3) Ordinance provisions apply.

**2-156-111. Prohibited conduct.**

**(c) No city employee or official shall knowingly negotiate the possibility of future employment with any person, except with a government agency, that has a matter currently pending before such employee or official.<sup>2</sup>**

**2-156-142. Offering, receiving and soliciting of gifts or favors.**

**(a) (1) Except as otherwise provided in this chapter, no city official, candidate for city office, or employee, and, subject to subsection (h) no covered relative, shall**

**(i) solicit any gift for himself or any covered relative;**

---

<sup>1</sup> Under current law, City officials and employees may accept gifts or travel expenses worth more than \$50 only from personal friends or family members, or for attending meetings, conferences or other events that are related to their official City responsibilities (there are other exceptions, but none applies here). Clearly, receiving travel expenses from a prospective employer falls into none of these categories. We note here that, under former §2-156-040(b) and (c), which was replaced by current §2-156-142 on November 1, 2012, City employees and officials would have been able to accept expenses from any prospective employer, but would have had to recuse themselves from participating in any City matters involving these prospective employers.

<sup>2</sup> We also note that §2-156-142(d)(11) allows City employees and official to accept "food, refreshment, lodging, transportation or other benefit resulting from the outside business, employment or community activities of the official, candidate for city office, or employee, if such benefits have not been offered or enhanced because of the official position, candidacy or employment of the officer, candidate for City office, or employee, and are customarily provided to others in similar circumstances. This exception also is inapplicable to this situation, because the job for which the City employee or official would interview is not "outside employment" but rather post-employment, and the job interview has been extended in part precisely *because* the City employee or official is a City employee or official. Nonetheless, we cite this specific provision because, we conclude, it shows that the Ordinance's gift restrictions must be interpreted in light of the realities of the workplace, including the fact that many City employees and officials have second jobs, and, as we focus in this opinion, many go onto substantial careers after they leave the City.

- (ii) accept any anonymous gift; or
- (iii) accept any gift of cash, gift card or cash equivalent.

(2) Except as otherwise provided in this chapter, no city official, candidate for city office, or employee, and, subject to subsection (h) no covered relative, shall knowingly accept any gift, unless the total value of all gifts given to the official, candidate for city office, employee or covered relative by a single source amounts to no more than \$50.00 in a calendar year.

(d) The restriction in subsection (a) shall not apply to the following ...

(10) Any material or travel expense for meetings related to a public or governmental educational purpose, provided that any such expense has been approved in advance by the board, and further provided that such expense is reported to the board within 10 days of completion thereof...

(12) Reasonable hosting, including travel and expenses, entertainment, meals or refreshments furnished in connection with meetings, appearances or public events or ceremonies related to official city business, if furnished by the sponsor of such meeting or public event or ceremony, and further provided that such travel and expenses, entertainment, meals or refreshments have been approved in advance by the board and are reported to the board within 10 days of acceptance thereof.

#### 2-156-402. Waivers.

(a) When requested by a city official or employee, the board may grant a waiver from compliance with any of the following: (1) The gift restrictions in Section 2-156-142(a) to the extent they apply to material or travel expenses for meetings.

**Analysis and Determinations.** For purposes of this opinion, we assume the travel expenses that would be reimbursed by a prospective employer to an interviewing City employee or official would exceed \$50, and thus normally run afoul of the Ordinance. The exceptions for City-related business travel, in (d) (10) and (12), above, do not apply because interviewing with a prospective employer is clearly not City-related business travel. Further, the Ordinance does enable the Board to grant waivers in these situations.

The Board takes notice of the fact it is not in the City's interest to create unreasonable obstacles in a City employee's or official's search for appropriate post-City work. But, because the Ordinance does not provide the actual mechanism for the Board to come to the conclusion that interview-related travel expenses are acceptable when appropriate, the Board – as it has in past cases<sup>3</sup> – hereby fashions an

---

<sup>3</sup> See, e.g., Case No. 90028.A, and its progeny (in these cases, known as the "Homestead cases," the Board determined, as a matter of fundamental fairness and equity, that City employees could receive loans through the City that were greater than \$5,000 and thus would have otherwise constituted an impermissible financial interest in City business, because these employees had disclosed their City employment status in their applications, and were still approved; then were lucky and won a lottery, awarding them the property; and, finally, had expended considerable sums of money in rehabilitating their properties, thus to deny them their property would have been unconscionable, even though a literal reading of the Ordinance would have demanded that); Case No. 02022.A (the Board determined as a matter of equity that a City employee could receive a loan to rehabilitate a residence through a City program, the amount of which would have otherwise caused an impermissible financial interest in City business, because the employee entered into the loan agreement prior to becoming a City employee and the rehabilitation of the property was delayed because of a dispute between the employee and her contractors); Case No. 92002.A (the Board determined that principles of equity and justice compelled it to rule that a City employee who had been awarded a home six (6) years prior through a City lottery program, and who had spent money improving the property, which was now deemed structurally unsound, could receive a loan from the City's Department of Housing worth more than \$5,000 to improve the property, even though it would otherwise be considered a prohibited financial interest in a City contract, the Board specifically stating that "... the law must be considered in light of the principles of

equitable and fair solution to this problem, based on its inherent waiver authority and fundamental fairness.

Accordingly, as a matter of fundamental fairness, we determine that a City employee or official *may* accept reimbursement for travel from a person or entity with has interest in possibly employing the City employee or official in order to facilitate the long-distance interviewing process, ***but with a critical proviso***, that is: as required by §2-156-111(c) of the Ordinance, the interviewing City employee or official must recuse him- or herself from any City matters involving the prospective employer from the moment the interviewing process identifies a possible post-employment job opportunity with a particular entity, must advise others at the City of his or her recusal and be screened from any involvement between the City and that possible employer.

Should the interview/negotiation process be ended by either the City employee or official or by the interviewing company without an offer of employment being extended, the City employee or official should not return to participating in his or her City position in pending matters involving the would-be employer without first considering discussing this with departmental or agency superiors, and should be mindful that the Ordinance's aspirational code of conduct requires him or her to "act impartially in the performance of their duties, so that no organization or individual is given preferential treatment" – we note here that this principle also applies where a City employee or official might harbor *negative* bias toward a would-be future employer if no job offer was forthcoming. And, finally, we remind City personnel that, as we recognized in a 1991 case, their fiduciary duty requires them to "put the best interests of the City before any personal feelings they may have for the [would-be prospective employer] ... Any [City employee or official] who cannot exercise unbiased judgment, and therefore, would not properly perform their duties as City [employees or officials] should recuse themselves."<sup>4</sup>



William F. Conlon, Chair  
December 14, 2018

---

equity and justice"); and Case No. 17004.A (the Board, applying an equity and fundamental fairness analysis, determined that a City employee who had recently experienced the death of a spouse, leaving the employee and a minor child as survivors, was not prohibited from receiving anonymous cash or cash equivalent gifts from persons who were not personal friends or relatives, stating that "in the same spirit of these earlier Board cases, it is appropriate for the Board to fashion an equitable remedy consistent with the spirit of the Ordinance...").

<sup>4</sup> See Case No. 91090.A, at page 4.