

MEH



MEMORANDUM

CONFIDENTIAL

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To: [Redacted]
From: *Albert F. Hofeld*
Albert F. Hofeld
Chairman, Board of Ethics
Re: Case No. 89144.A
ADVISORY OPINION
Date: December 10, 1990

You asked if an employee with DEPARTMENT G [Redacted] may hold the position of Vice-President in a community organization that deals exclusively with the needs of the neighborhood. The Board considered your inquiry at its November meeting.

FACTS: You explained over the telephone to our staff member that the employee to whom you refer is not being compensated in any manner for his/her time and energy. The community organization does not have a contract with the City and does not do business with the City. However, its members do voice their opinions with regard to issues facing the community and confront City departments with their viewpoints and suggestions. The group invites representatives of the City or one of its departments to attend meetings, which are held in the evening. No one particular person espouses the viewpoints of the organization, but rather the group as a whole presents the members' opinions. To date, the community organization has not dealt with DEPARTMENT G [Redacted]

The employee to whom you refer does not spend City time performing any of his/her duties on behalf of the community organization. The only economic or financial interest that this employee has in the community organization is indirect. If the organization's efforts improve the neighborhood, the employee will obviously reap the benefit of the improvement.

ISSUES: Whether the employee may represent or have a financial interest in the representation of this organization before a City agency?



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ANALYSIS: The City employee is not prohibited from holding the position of Vice-President of the community organization as no section of the ordinance sets forth this prohibition. The Board also considered whether the representation section of the Ordinance affected the extent of this employee's involvement.

The Ordinance prohibits an employee from representing "any person other than the City in any formal or informal proceeding or transaction before any City agency [when] the agency's action or non-action is of a non-ministerial nature" § 2-156-090(a) (prior code § 26.2-9(a)). The issue then raised is whether this employee may speak out at the community meeting to the City agency invited to the meeting on behalf of the organization.

Previous Board Decisions reveal that the Board interprets this section in a broad manner. The Board stated in the opinion of Case No. 89087.A that the term "representation" covered a broad range of activities including making appearances before City agencies, negotiating any business agreement between the organization and the City, contacting City personnel in person, by telephone or in writing on behalf of the organization, and signing petitions, contracts, proposals and other documents submitted by the organization to the City. This includes the representation of not-for-profit corporations. See also Case Nos. 89126.A and 88125.A.

However, the Ethics Ordinance specifically states that the representation must be in "any formal or informal proceeding or transaction before any City agency." The Board determined that a community meeting during which members of the community speak out to a representative of the City is not a formal or informal proceeding or transaction. Therefore, the City employee may represent the community or the community organization during community meetings.

Other Relevant Ordinance Provisions: We point out the following Governmental Ethics and Campaign Financing Ordinance provisions which may affect the manner in which this employee carries out his or her duties as Vice-President of the community organization.

Fiduciary Duty:

Section 2-156-020: Officials and employees shall at all times in the performance of their public duties owe a fiduciary duty to the City. (Prior code § 26.2-2)

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This section establishes an obligation for City employees to use their City positions responsibly and in the best interest of the public. Within lawful limits, they must give undivided loyalty to the City of Chicago in the discharge of their public duties. City employees must be able to exercise professional judgments free from outside influence or conflicting duties to another entity.

Confidential Information:

Section 2-156-070: No current or former official or employee shall use or disclose other than in the performance of his official duties and responsibilities, or as may be required by law, confidential information gained in the course of or by reason of his position or employment. (Prior code § 26.2-7)

Under this section, City employees must be careful to avoid using or revealing confidential information they may have acquired during the course of their City job.

CONCLUSION: The Board determined that the City employee in your department may serve as vice-president of a community organization. In addition, the employee may speak to City representatives on behalf of the community and the organization at community meetings.

If you have any questions, please contact the staff of the Board of Ethics at 744-9660.

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NOTICE OF RECONSIDERATION AND RELIANCE

Reconsideration: This advisory opinion is based upon the facts which are outlined in this letter. If there are additional material facts or circumstances that were not available to the Board when it considered this case, you may request reconsideration of the opinion. A request for reconsideration must (1) be submitted in writing, (2) explain the material facts or circumstances which are the basis of the request, and (3) be received by the Board of Ethics within fifteen days of the date of this letter.

Reliance: This advisory opinion may be relied upon by (1) any person involved in the specific transaction or activity with respect to which this opinion is rendered and (2) any person involved in any specific transaction or activity which is indistinguishable in all its material aspects from the transaction or activity with respect to which the opinion is rendered.