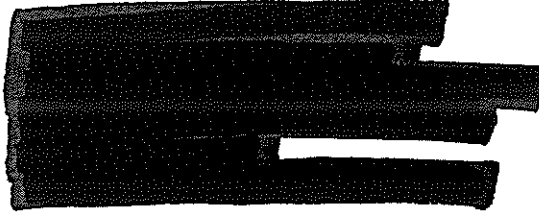




September 20, 1989



City of Chicago  
Richard M. Daley, Mayor

Board of Ethics

RE: Nepotism Provision of the Governmental Ethics Ordinance Case No. 89094.A

Dear [redacted]

Mary Milano  
Vice Chair  
Margaret Carter  
Angeles Eames  
Russell Hardin  
Rev. A. Patterson Jackson  
Marlene O. Rankin  
Suite 530  
205 West Randolph Street  
Chicago, Illinois 60606  
(312) 744-9660

At its August 29, 1989 meeting, the Board of Ethics considered your questions concerning nepotism and the Governmental Ethics Ordinance. In a letter received March 30, 1989 you asked the following questions:

- 1) "Does the ethics policy preclude a husband and wife from working in the same work place, i.e. section, division, department, with:
  - a. same supervisor?
  - b. different supervisor?
  - c. husband supervising wife?
  - d. wife supervising husband?"
  
- 2) "Does the city ethics policy preclude a brother or sister from working in the same place, i.e. section, division, bureau, department with:
  - a. same supervisor?
  - b. different supervisor?
  - c. brother supervising sister?
  - d. sister supervising brother?"

The Board issued the following advisory opinion:

Section 26.2-13(a) of the Ordinance states:

No official or employee shall employ or advocate for employment, in any City agency in which said official or employee serves or over which he exercises authority, supervision, or control, any person (i) who is a relative of said official or employee, or (ii) in exchange for or in consideration of the employment of any of said official's or employee's relatives by another official or employee; provided that the prohibition in (i) applies to City Council Committee staff



but not to personal staff of an alderman.

Section 26.2-1(x) is also relevant in that it defines "relative" more broadly than the parties mentioned in your inquiry:

"Relative" means a person who is related to an official or employee as spouse or as any of the following, whether by blood or by adoption: parent, child, brother or sister, aunt or uncle, niece or nephew, grandparent, grandchild, father-in-law, mother-in-law, son-in-law, daughter-in-law, stepfather or stepmother, stepson or stepdaughter, stepbrother or stepsister, half-brother or half-sister.

First, please be advised that this determination by the Board of Ethics applies not only to husband/wife and brother/sister relationships included in your query, but also to all relations covered under the definition of "relatives" stated above.

Second, the order of supervision based upon sex in conditions c) and d) of your letter is irrelevant. Whether a husband is supervising a wife or the wife is supervising her husband does not change the material aspects of the situation from the standpoint of the Ethics Ordinance. The same holds true for brothers and sisters. Hence, your inquiry can be restated as follows:

Does the Governmental Ethics Ordinance prohibit two relatives from working in the same work place

- a. under the same supervisor?
- b. under different supervisors?
- c. one under the supervision of the other?

The Ordinance prohibits officials and employees from "employing or advocating for employment" relatives in any City agency in which the said official or employee serves. The Board has determined that this language proscribes an employee or official from a) the act of hiring a relative or attempting to influence an employment decision in which a relative is a job candidate<sup>1</sup>,

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<sup>1</sup> A nepotism policy must be carefully formulated to avoid violation of laws prohibiting discrimination based on marital status. For example, the policy should not prohibit a department's hiring a spouse of another employee in that department. Rather, the policy should prohibit the employee whose spouse is a job candidate from participating in or exercising discretion in the hiring decision.

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and b) the on-going supervision of an employee by a relative. Thus, favoritism is discouraged with respect to obtaining employment with the City as well as with respect to a broader range of employment issues (e.g. evaluation, promotion, salary decisions).

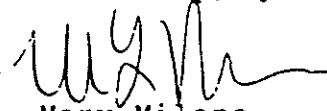
Applying the above interpretation to your specific questions, the Board concludes that the Ethics Ordinance permits situations in which relatives work under the same or different supervisors. In these instances one relative is not employing another since both are employed by a third party. However, the Ethics Ordinance prohibits situations in which one relative is under the supervision or employ of another relative.

Please be advised that this judgment applies to the specific questions of your inquiry and that further information or alterations of circumstances could warrant a different analysis and conclusion. This advisory opinion may be relied upon by 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.

Furthermore, this advisory opinion concerns only the Governmental Ethics Ordinance's provision regarding nepotism. Your department may choose to adopt more restrictive policies tailored to your needs, provided they do not violate other laws. The Board recommends that any nepotism policy restricting hiring and supervision of relatives be submitted to the Corporation Counsel to check compliance with other applicable laws.

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

Sincerely,



Mary Milano  
Vice Chair

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