

7/28/91



MEMORANDUM

City of Chicago
Richard M. Daley, Mayor

Board of Ethics

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Room 303
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Chicago, Illinois 60610
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To: [Redacted]

From: Al Hofeld
Chairman

Re: Outside Employment, Case No. 91057.A
ADVISORY OPINION

Date: August 14, 1991

On May 23, 1991, you telephoned the Board of Ethics to ask if Health Department field supervisors were permitted, under the Governmental Ethics Ordinance, to teach three certification classes in the food sanitation program offered by City-Wide Colleges. We thank you for bringing this matter to our attention and for your willingness to assure that City employees uphold the standards embodied in the Ordinance. Based on the facts presented, it is the opinion of the Board that it is not a violation of the Governmental Ethics Ordinance for the field supervisors to teach the classes in question.

FACTS: In a telephone conversation on May 28, 1991, with legal counsel Marilyn E. Hanzal, [Redacted] "cwc" City-Wide Colleges explained that during Mayor Sawyer's term of office, the City [Redacted] approached City-Wide Colleges to ask whether City-Wide Colleges would offer a program for health inspectors. The goal was to establish a certification program in sanitation inspection procedures. As a result of this request there is currently a contract between the City and City-Wide Colleges to provide educational programs, including the food protection program. This contract states that City-Wide Colleges will provide "educational programs for the professional development of the food protection staff at the Department of Health." (\$2.05 of the 1990 contract). The food protection program was specifically structured to meet the needs of Health Department employees.



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According to [REDACTED], the City now requires its employees to complete this certification program before promotion within the department. CWC noted that not all students are City employees. In fact, some students obtain their certificate with the hope that they will be hired by the department.

Three levels of certification are offered by City-Wide Colleges. Completion of the food protection program entitles the student to a level 1 certificate. A number of classes are involved in the level 1 certification process, three of which are at issue in this case. These three classes and an additional nine hours of study are required for certification. The first class concerns sanitation codes, rules, regulations, and report writing. In this class students learn the laws governing sanitation and further learn how to complete the City's sanitation reports. The second class is Food Sanitation Inspectional Procedures and Techniques I. This class is an introduction to food sanitation inspection for certain types of establishments. The third class at issue is Food Sanitation Inspectional Procedures and Techniques II, which concerns the same topics as the second class described above but with regard to different types of establishments.

In the past, CWC has employed retired health inspectors to teach the three classes identified above. However, by May of this year CWC could not locate any of these retired inspectors. Therefore, CWC contacted the City for suggestions of possible instructors. The City suggested the field supervisors in the Health Department, but explained that CWC would have to contact the Board of Ethics to determine if these supervisors were prohibited by the Governmental Ethics Ordinance from teaching these courses.

[REDACTED] explained that the instructors for these classes will be teaching Tuesday through Friday, 5:30 p.m. to 9:00 p.m. for three weeks and will receive approximately \$700 for their services. [REDACTED] stated that the supervisors in question work in the Department's Food Protection Program, and were being considered precisely because of their experience and expertise in the area of City health regulations and procedures.

THE LAW: The pertinent section of the Ordinance reads:

Section 2-156-050: No official or employee . . . shall solicit or accept any money or other thing of value including, but not limited to, gifts, favors, services or promises of future employment, in return for advice or assistance on matters concerning the operation or business of the City; provided, however, that nothing in this section shall prevent an official or employee . . . from accepting

compensation for services wholly unrelated to the official's or employee's City duties and responsibilities and rendered as part of his or her non-City employment, occupation or profession.

ISSUE: The issue in this case is whether the Governmental Ethics Ordinance prohibits City of Chicago, Health Department field supervisors from being paid to teach classes for City-Wide Colleges when the information they will teach includes City health regulations and procedures.

ANALYSIS: The Ordinance section in question, section 2-156-050, prohibits a City employee from accepting money in return for advice or assistance on matters concerning the City's operation or business. However, this section specifically states that an employee may receive compensation for services wholly unrelated to that employee's City duties. Since the field supervisors in question were sought precisely because of their experience and expertise in the area of City health regulations and procedures, it is the opinion of the Board that the exemption for matters wholly unrelated to City duties does not apply in this case.

It is the Board's opinion that the three courses at issue involve matters relating to the operation or business of the City; however, the Board concludes that the teaching of these three courses by the field supervisors from the Health Department does not fall within the intended meaning of "advice or assistance" as contained in the Ordinance, and is therefore permissible under section 2-156-050 of the Ordinance.

This opinion is distinguishable from the Board's previous decision (case no. 90020.A) in which the Board determined that [REDACTED] was prohibited from teaching two classes that were included in the certification process. First, in case number 90020.A, [REDACTED]

[REDACTED]

Second, [REDACTED]

Third, [REDACTED]

Fourth, [REDACTED]

[REDACTED]

Based on all of these facts taken together, the Board distinguished case number 90020.A from the present case.

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The Board cautions field supervisors from the Department of Health who teach these classes that other provisions of the Ordinance apply to their specific situations. Field supervisors who teach the course

(1) may not make, participate in making, or influence the decisions of the Department with regard to the courses of or the contract with City-Wide Colleges, as the supervisor/instructor has an economic interest in those decisions, §§ 2-156-030 & 080,

(2) are prohibited from using City time for their non-City job or any other private interest, § 2-156-020,

(3) are prohibited from the unauthorized use of City property, § 2-156-030, and

(4) are prohibited from disclosing confidential information, § 2-156-070.

CONCLUSION: Based upon the facts presented, the Board concludes that the Governmental Ethics Ordinance does not prohibit City of Chicago Health Department field supervisors from teaching the three classes offered by City-Wide Colleges concerning City health regulations and procedures.¹

Again, the Board appreciates your willingness to assure that your employees comply with the ethical standards embodied in the Governmental Ethics Ordinance. We enclose the Board's procedural rules that apply after it renders a decision.

¹Our determination in this case is based on the application of the City's Governmental Ethics Ordinance to the facts stated in this opinion. If the facts presented in this opinion are incorrect or incomplete, please notify the Board immediately, as any change in the facts may alter our opinion. Other rules or laws may apply to this situation. We note that a City department may adopt restrictions that are more stringent than those restrictions in this Ordinance.

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If you have any further questions, please do not hesitate to contact us.

Enclosure

cc: Kelly Welsh, Corporation Counsel


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NOTICE OF RECONSIDERATION AND RELIANCE

Reconsideration: This advisory opinion is based on the facts outlined in this opinion. 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 that are the basis of the request, and (3) be received by the Board of Ethics within fifteen days of the date of this opinion.

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 that is indistinguishable in all its material aspects from the transaction or activity with respect to which the opinion is rendered.