

**ADVISORY OPINION
CASE NO. 99029.A
Political Activity by Board Employee**

To: [John]
[]

Date: August 19, 1999

On June 24, you asked the Board of Ethics for advice on whether, as [an employee] of the Board you are prohibited by Section 2-156-320 of the Governmental Ethics Ordinance from becoming a candidate for the elective office of [] and engaging in activities related to your campaign. You mentioned that you would expect to initiate or circulate nominating petitions; solicit and collect political contributions, on your own behalf or on behalf of a political party; organize or participate in fundraising events; address political gatherings; and solicit votes. The Board has determined, after consulting with Corporation Counsel, that you are not prohibited by the Ethics Ordinance from seeking elective office and engaging in political activities related to your campaign.

Law: Section 2-156-320 of the Governmental Ethics Ordinance provides

No member or employee of the Board shall engage in political activity as defined in Chapter 2-156 of the Municipal Code of Chicago, as amended...

This section was passed by City Council in 1987 with minor amendments in 1989. Political activity, as defined in Section 2-156-010(s) includes becoming a candidate for office, as well as the other activities you name.

However, state law, the Local Governmental Employees' Political Rights Act, 50 ILCS 135/1 *et seq.* (1998)(effective Sept. 10, 1991), provides

No unit of local government or school district may make or enforce any rule or ordinance that in any way inhibits or prohibits any of its employees from exercising the employee's political rights.

50 ILCS 135/10(a). A home rule unit, such as Chicago, may not regulate an employee's political rights in a manner inconsistent with the Act, 50 ILCS 135/15. The Act provides that political rights "include, without limitation" the right to petition, to make public speeches, to campaign, to speak out on policy,

to distribute political literature, to make campaign contributions, and to seek public office. 50 ILCS 135/5.

Analysis and Opinion: Because your request for an opinion requires an interpretation of state law's effect on Section 2-156-320 of the City's Governmental Ethics Ordinance, the Board sought advice from Corporation Counsel. Corporation Counsel advised that Section 2-156-320 is inconsistent with the Local Governmental Employees' Political Rights Act. The right to seek public office is one of a City employee's political rights expressly protected under state law. Under that law, the City cannot "make or enforce any rule or ordinance that in any way inhibits or prohibits" your right to seek public office. Further, state law protects a City employee's right to engage in other political activities, as set forth above. Section 2-156-320 of the City's Ordinance would prohibit an employee of the Board from seeking public office and engaging in related activities. However, the Board has been advised that Section 2-156-320 is inconsistent with state law, the Local Governmental Employees' Political Rights Act, and therefore may not be enforced to prohibit you from exercising your political rights, including the right to seek elective office of [] and engage in activities related to your campaign.

Additionally, because you do not exercise contract management authority, Section 2-156-140, Solicitation or Acceptance of Political Contributions and Membership on Political Fundraising Committees, Subsection (c), which provides that no employee with contract management authority shall serve on a fundraising committee, is not applicable to your situation.

We also direct your attention to Section 2-156-140(a) of the Ordinance, under which you may not compel, coerce, or intimidate any City official or employee to make, refrain from making, or solicit any political contribution; and to Section 10 (b)(i) and (ii) of the Local Governmental Employees' Political Rights Act, which prohibits you from using your official position to coerce or inhibit others from exercising their political rights, and from engaging in political activities while at work or on duty. 50 ILCS 135/10(b).

Our determination does not necessarily dispose of all issues relevant to this situation, but is based on the application of the City's Governmental Ethics Ordinance to the facts stated in this opinion and on Corporation Counsel's advice concerning the effect of state law on Section 2-156-320 of the Ordinance. If the facts stated are incorrect or incomplete, please notify the Board immediately, as any change may alter our determination. Other laws or rules also may apply to this situation.

RELIANCE: This 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

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

[Signature]

Darryl L. DePriest
Chair