



ETHICS RESTRICTIONS: A PLAIN ENGLISH GUIDE FOR APPOINTED CITY OF CHICAGO OFFICIALS

Chicago's Governmental Ethics Ordinance (Chapter 2-156 of the Municipal Code) imposes restrictions on the conduct of appointed City officials. "Appointed officials" are appointed (typically by the Mayor, often with City Council confirmation) members of City boards or commissions.

In recent years there have been changes to the Ethics Ordinance. It is important to understand the ethics restrictions generally, in order to spot "ethics issues" and seek advice where appropriate.

This Guide is a summary of these restrictions, but it is merely a summary. To the extent it differs from the language of the Ordinance, the Ordinance controls. This Guide is not intended to substitute for confidential, personal, legal advice from the Board of Ethics.

The Board of Ethics is here to help those subject to the City's Governmental Ethics Ordinance comply with it and help them identify and manage potential conflicts of interest promptly, confidentially and professionally.

We strongly encourage appointed officials (or their representatives) with specific questions to contact us for confidential advice.

ADVISORY OPINIONS

All Board advisory opinions are confidential by law. The Board can render binding opinions on which the requester can rely, *but only as to future conduct*. If an individual seeking an opinion discloses a *past* violation that, the Board concludes, is not minor, the matter must be referred to the City's Inspector General.

Note: only persons subject to the Ordinance, or those involved in the particular situation about which the opinion is being sought, have "standing" to receive an advisory opinion from the Board.

FIDUCIARY DUTY AND ASPIRATIONAL CODE OF CONDUCT

- Appointed officials owe a **fiduciary duty** to the City -- that means a duty of loyalty. When acting in their official City capacity, they must put the City's interests first, ahead of other loyalties or duties they may owe to other organizations, entities, employers or persons.
- Appointed officials must sign a pledge to abide by the City's aspirational code of conduct. This code requires them, among other things, to put the public's interests ahead of their own personal interests, act impartially in their City duties, and not engage in any business that is inconsistent with their public duties.

CONFLICTS OF INTERESTS: VOTING OR PARTICIPATING IN MATTERS

- Appointed officials may not make, participate in making, or attempt to use their City position to influence City decisions or actions with respect to any matter in which they have a "**financial interest**" distinguishable from that of the general public, **or** from any matter from which they have received or expect to receive any income or compensation in the previous or following twelve months.

"Financial interest" means an ownership interest held by a City official or employee with a value of more than \$1,000 per calendar year but does not include compensation from employment or certain stock holdings in public companies. See § 2-156-010(I) of the Ordinance.

*For example, an appointed official who is employed by a private firm and receives and/or expects to receive compensation (salary, for example) from that firm must “**recuse**” herself from (may not participate in, or use her City position to in any way influence), any City decisions or actions that affect the firm or that may enhance her employment with it.*

Recusal – City Policy for Appointed Officials

The Ordinance's conflicts of interest prohibitions may require City board or commission members to recuse themselves from matters under consideration by their board or commission. If so, the City's policy is that:

- (i) The officials may not vote on the matter; and
- (ii) The officials must publicly disclose the potential conflict on the record of the public body orally or in writing, and remove themselves from the room in which deliberations are taking place, and while the vote on the matter is being taken; and
- (iii) An oral or written disclosure of the existence of a potential conflict of interest should be entered into the public body's minutes for the meeting in which the deliberations were made.

For more information on recusal procedures, please see:

https://www.chicago.gov/content/dam/city/depts/ethics/general/Publications/Ethics_booklet-moboco.pdf



REPRESENTATION OR “LOBBYING” ON BEHALF OF CLIENTS OR OTHERS

The Ordinance does not *per se* prohibit City appointed officials from “lobbying” or representing people before the City. However, appointed officials:

- may not represent persons other than the City in any formal or informal transaction or proceeding before a City agency, unless the transaction or proceeding is “wholly unrelated” to their City duties and responsibilities.

For example, a City appointee who also serves as an officer of a nonprofit group may not speak or write (or sign documents) on behalf of that group before or to be submitted to any agency of the City in a matter, unless that matter is wholly unrelated to the member's/official's duties as a City board member.

- may not “lobby” City personnel on behalf of private clients or a private employer, unless the matters on which they lobby are “wholly unrelated” to their City duties and responsibilities.

For example, a member of a City board that deals with police misconduct may represent or lobby on behalf of private clients on real estate matters pending before the City's Department of Planning and Development or Plan Commission.

- who lobby City government on behalf of others, or as part of their duties as others' employees, must, like all registered lobbyists, register with the Board of Ethics and file quarterly activity reports.
- may not represent any person in a judicial or quasi-judicial proceeding in which the City is a party or that may result in an adverse effect on City revenue, City finances, or the health, safety, welfare or relative tax burden of any City residents, unless the matter is wholly unrelated to their City duties and responsibilities.

*Note: this prohibition extends to actually representing someone, but not to having a monetary interest in the representation. For example, an appointed official who is a partner in a law firm that represents clients in litigation against the City (even if the litigation is related to the work of the official's City board) may still receive compensation derived from fees associated with that lawsuit, but must establish an ethical screen to ensure they do **not personally work** on the suit.*

OWNERSHIP INTEREST IN COMPANIES OR PERSONS WITH CITY CONTRACTS OR SUBCONTRACTS

- Appointed officials may not have a "**financial interest**" in any contract, work or business of the City, or in the sale of any article, if the expense or price is paid with funds belonging to or administered by the City or authorized by City Ordinance, **unless** the contract, work or business is "wholly unrelated" to their City duties and responsibilities.

For example, an appointed member of a City board who owns a business that is awarded a contract administered by the City will violate the Ordinance unless: (a) the contract is "wholly unrelated" to the official's City duties and responsibilities, or (b) alternatively, the official's ownership percentage in the company or person with the contract, when multiplied by the gross amount of the contract, yields a figure of less than \$1,000.

*Note: this prohibition does not per se apply to contracts, work or business of the City's sister agencies, like the Chicago Transit Authority, Chicago Park District, or Chicago Public Schools/Board of Education. However, the Board of Ethics has determined that it **does** apply to contracts of the Public Building Commission (PBC) to construct City facilities, because these contracts are paid with funds belonging to the City and are authorized by City Ordinance. Thus, any contract between a company owned by an appointed official and the PBC must be wholly unrelated to the work of the official's City board or commission.*

- Appointed officials with a "**financial interest**" in a matter pending before any City agency must disclose that interest to the Board of Ethics, and, if it is pending before their own agency, to the head of the agency.
- In contrast to appointed officials, City employees and elected officials may not have a "financial interest" in any contract, work or business of the City, period (regardless of whether it's related or wholly unrelated to their City work). Appointed officials who serve on commissions that enter into contracts for goods or services should know that if those contracts are made with businesses owned in whole or in part by City employees, those contracts could be subject to being voided by the City, and those employees may be found in violation of the Ordinance and be subject to fines and/or employment sanctions.
- These prohibitions do not apply to contracts with businesses owned by family members of City officials or employees, as long as the City officials or employees do not participate in the operation or management of their family members' businesses.



FINANCIAL DISCLOSURE

- Appointed officials must file Statements of Financial Interests annually with the Board of Ethics, unless they serve on boards that are solely advisory in nature and have no authority to make binding decisions, enter into contracts or make expenditures. Filings can be done electronically. The Board notifies filers around March 1.

For a list of which City boards whose members must file, and of those whose members need not file, see: <http://www.cityofchicago.org/content/dam/city/depts/ethics/general/FIS/2013-FIS/Bd-Comm-MustFile.pdf>

and

<http://www.cityofchicago.org/content/dam/city/depts/ethics/general/FIS/2013-FIS/Bd-Comm-NotReq2File.pdf>

All filed statements are posted for public inspection on the website of the Board of Ethics for seven (7) years after they are filed.

Filers must disclose, among other things: sources of income and investments; real estate in the City in which the filer has a financial interest; certain debts over \$5,000 if the creditor or debtor does business with or work for the City; any person or entity conducting business in the City in which the official had a financial interest; and board memberships (aside from the City board membership).

Appointed officials required to file must file their initial statement when their names are submitted to City Council for consideration, and then before May 1 of each year of their service.

GIFTS

- Appointed officials may accept gifts offered or given to them in the normal course of their **non-City** business, occupation, or profession.
- However, as to gifts offered to City appointed officials **as City appointed officials**, they, their spouses, domestic partners, and minor children or immediate family members residing with them may **not** accept:
 - anonymous gifts;
 - cash or its equivalent, or gifts cards, regardless of value, except from relatives or personal friends;
 - other gifts, items of services from anyone other than relatives or personal friends, unless the gifts are worth \$50 or less in a calendar year,
 - any gifts based on a mutual understanding that the gifts would influence their decisions, judgments or actions concerning City business;
 - anything of value in return for advice or assistance on matters concerning City business; provided, however, they may accept compensation for services wholly unrelated to their City duties and rendered as part of their non-City employment, occupation or profession.
- Appointed officials and their families may accept gifts on behalf of the City, provided they report the gifts promptly to the Board of Ethics and City Comptroller.
- Appointed officials may accept reimbursement for reasonable travel and entertainment expenses incurred in connection with educational or other meetings or public events related to City business, but this must be **pre-approved** by and then reported to the Board of Ethics within 10 days of the meeting or event.

EMPLOYMENT OF RELATIVES OR DOMESTIC PARTNERS

- Appointed officials may not hire, supervise, or advocate for the employment of their relatives or domestic partners for jobs in City agencies or boards in or on which they serve.
- Appointed officials may not hire or advocate for the hiring of any person in a City board on which they serve in exchange for having a relative or domestic partner hired by any other City official or employee.

- Appointed officials may not participate in the making of any City decision involving any person who employs or has contracts with their relatives or domestic partner, or exercise contract management authority over contracts with persons doing City work who employ or contract with their relatives or domestic partners. Contract management authority means personal involvement in or direct supervisory responsibility for the formulation or execution of a City contract.



POLITICAL ACTIVITY

- **Appointed officials are prohibited by Executive Order 2011-3 from making any political contributions to the Mayor or the Mayor's political fundraising committees.**

- Appointed officials may not compel, coerce or intimidate other City officials or employees to make, not make or solicit any political contributions, or intentionally misappropriate City property or the services of any other City official or employee by requiring them to perform prohibited political activity.
- Appointed officials with contract management authority may not serve on any political fundraising committee.
- Appointed officials may not knowingly solicit or accept political contributions from persons doing business or seeking to do business with the City. However, appointed officials who themselves are candidates for public office may solicit or accept political contributions on behalf of their own candidacy from persons doing or seeking to do business with the City, subject to the same restrictions that apply to elected officials.
- Appointed officials who: (i) are registered lobbyists; or (ii) are doing business with the City or seeking to do business with the City or any of its sister agencies; or (iii) have done business with the City or any of its sister agencies in the previous 4 years, may not make contributions in an aggregate amount exceeding \$1,500 in a calendar year to: (i) any candidate for city office (other than the Mayor, to whom contributions are prohibited), or the candidate's political committee; or (ii) a City elected official (other than the Mayor, to whom contributions are prohibited), or the official's political committee; or (iii) any official or employee of the City who is seeking election to any other office, or to the person's political committee. Otherwise, appointed officials are subject to the limitations on political contributions in the Illinois Election Code: currently \$6,900 in contributions to any single local, county or statewide candidate's political committee in an election cycle, and to applicable federal election laws. See <https://www.elections.il.gov/>
- Appointed officials may not solicit, accept or make political contributions on City property.

PRIVATE USE OF CITY PROPERTY OR CONFIDENTIAL INFORMATION

- Appointed officials may not use or reveal confidential or non-public information gained in City service.
- Appointed officials may not engage in or permit the unauthorized use of City-owned property, including their titles or business cards.

For example, an appointed official may not use a City business card or City title in a private business transaction, or to gain some kind of advantage in a private interaction.

POST-EMPLOYMENT/REVOLVING DOOR RESTRICTIONS

Appointed officials are subject to the following restrictions after completing their City appointments.

- **One-year Prohibition.** For one year after completing their term of office, former appointed officials may not assist or represent anyone in a business transaction involving the City if they participated personally and substantially in the subject matter of the transaction during the official's term of office.
- **Permanent Prohibition--Contracts.** Former appointed officials are permanently barred from assisting or representing any person as to a contract involving the City, if they exercised contract management authority as to that contract in the course of their term of office.
- **Permanent Prohibition--Proceedings.** Former appointed officials may not represent any persons other than the City in any judicial or administrative proceeding involving the City if they participated personally and substantially in the proceeding during their term of office.
- **Two-Year Lobbying Prohibition.** Appointed officials may not, for two years after leaving City service, lobby the City department, agency or commission in which they served, or any City employee or official from that department, agency or commission. "Lobbying" means acting on behalf of another person, like an employer or client, to influence any City governmental action. Appointed officials must sign an Ethics Pledge obligating them to comply with these lobbying restrictions.

MANDATORY ETHICS TRAINING

Appointed and elected officials, City employees, and lobbyists must complete an annual ethics training program designed by the Board, including a unit on avoiding and reporting sexual harassment. Those who do not complete training as required are subject to a daily \$250 fine, and their violations are made public.

PENALTIES

Appointed officials determined to have violated the law are subject to their names and violations being made public, removal from office, and fines up to \$20,000 and the amount of any ill-gotten gains, for each violation.

QUESTIONS?

There is no such thing as a silly or trivial question when the topic is ethics or conflicts of interests. It is better to ask in advance than be investigated later. For confidential guidance, please call or email the Board at 312-744-9660 or steve.berlin@cityofchicago.org



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