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Advisory Opinion #2022-01
Issued: February 16, 2022

Advisory Opinion #2022-01: In response to Request for Advisory Opinion 2022-01, it is the decision of the Board of Ethics to issue an advisory opinion pursuant to Section 2-5-124(b)(4) of the Code. While Requestor is a public servant, Requestor's mother is not considered to be an immediate family member for purposes of disclosure requirements mandated by the Ethics Ordinance. Thus, Requestor is under no duty to disclose the parent-child relationship between Requestor and Requestor's mother. However, the fact that Requestor's mother is responsible for completing Requestor's UltiPro time and attendance gives cause for concern. In order to alleviate any perception of impropriety, the Board recommends that the department allocate the responsibility of completing Requestor's Ulti Pro time and attendance to a different person within the division.

I. Procedural Background

The Board of Ethics ("the Board") received this matter on January 4, 2022, by email communication. In accordance with Section 2-5-121(a) of the Detroit Ethics Ordinance ("the Ordinance"), the Request was submitted by a current public servant. In accordance with Section 2-5-122, Requestor's identity shall remain confidential.

Pursuant to Section 2-5-124(a) of the 2019 Detroit City Code ("Code"), the 91-day period for review of this request concludes on April 6, 2022. Section 2-5-124(a) also provides that the Board may, under extraordinary circumstances, extend its time to respond to a specific request by not more than 91 additional days and notify the requestor, in writing, of the specific reasons for such extension. The 91-day extension period concludes on July 6, 2022.

At its meeting on February 16, 2022, the Board determined that the Request met the basic requirements of a Request for Advisory Opinion under Section 2-5-12(b) of the Ordinance because the Requestor was a public servant, the Request addresses the Requestor's behavior as applied to the Disclosure Requirements, and the Request is in writing. The Board heard a Preliminary Analysis from legal counsel on the same day and after consideration and discussion of the issues presented, the Board voted to issue this Advisory Opinion pursuant to Section 2-5-124(b)(4) of the Ethics Ordinance.

II. Information from the Request

Requestor is a public servant who, at the time of the Request for Advisory Opinion, was employed as a [REDACTED] within the [REDACTED] (" [REDACTED] ") – a division of the [REDACTED] (" [REDACTED] "). At the time of the request, Requestor had served as a [REDACTED] since August 2021, when she was promoted from the position of [REDACTED] in the [REDACTED], which is a different division of the [REDACTED]. In her current position, the Requestor reports to the [REDACTED]. Requestor resides at [REDACTED] in [REDACTED], Michigan.

Requestor's promotion placed her in the same division as her mother, who is also employed in [REDACTED] as a [REDACTED]. Requestor's mother has served in her current position since 2020. In her duties as [REDACTED], Requestor's mother reports to and assists [REDACTED] (" [REDACTED] "). Requestor's mother also has a team of staff under her supervision. Notably, while [REDACTED] approves all of Requestor's requests for time off, Requestor's mother is responsible for completing all Ulti Pro time and attendance. Requestor's mother resides at [REDACTED] in [REDACTED], Michigan.

Requestor submitted the appropriate form, and it states:

I applied for a [REDACTED] position within the [REDACTED] department, and my mother works in this department. My mother works in this department as a [REDACTED] and she reports to the [REDACTED]; [REDACTED]. My mother is also the assistant to the [REDACTED], and she has her own staff that reports to her. The position that I applied for was posted in July 2021. I report to the [REDACTED]. In this role I am responsible for completing [REDACTED] department reports, completing [REDACTED]; and making sure [REDACTED] department.

My job duties are completely different. Although, I do not report directly to my mother, is there an issue with us working within the same department?

As an attachment to the Request, Requestor submitted the Job Bulletin for [REDACTED] ([REDACTED]), which listed the salary range, job description, opening and closing dates, and examples of duties associated with the position held by Requestor at the time that she submitted the Request. Requestor also submitted the following information contained in a separate attachment to the Request:

My Mother's address is:

[REDACTED], MI [REDACTED]

My address is

[REDACTED], MI [REDACTED]

My Mother began working with the City of Detroit on [REDACTED]. Her work history is:

CITY OF DETROIT

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

[REDACTED]

- [REDACTED]

I began working with the City of Detroit on [REDACTED]. My work history is:

CITY OF DETROIT

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

[REDACTED]

- [REDACTED]
- [REDACTED]

Prior to receiving the [REDACTED] promotion within the [REDACTED] – [REDACTED] department, I worked within the [REDACTED] office. I worked in the [REDACTED] office from [REDACTED] as an [REDACTED]. Also, my mother

is responsible for completing the entire staff's UltiPro time and attendance. But my supervisor approves all time off requests. Are there any concerns that should be addressed in this matter?

Additionally, Requestor indicated in a supplemental email communication to the Board that she does not claim her mother as a dependent under the United States Revenue Code. Nor does Requestor's mother claim Requestor as a dependent under the United States Revenue Code.

The question presented to the Board is whether the Requestor, who is a public servant, is under a duty to disclose the nature of her relationship with her mother, who works in the same division of the OCFO.

III. Applicable Charter and Ordinance Sections

Section 2-106.1, *Ethical Standards of Conduct*, of the 2012 Detroit City Charter provides that the purpose of applying and enforcing its requirements and standards is to ensure that governmental decisions are made in the public's best interests. One way to execute this purpose is to prohibit public servants from participating in matters that affect their personal or financial interests. The instant Request involves Section 2.106.2(e), *Disclosures*, of the 2012 Detroit City Charter, codified at Section 2-5-32 of the 2019 Detroit City Code. The Code states the following:

Sec. 2-5-32 – Disclosure of immediate family member's employment or application.

- (a) Except as otherwise provided for by applicable law, a public servant who exercises significant authority shall disclose the identity of any immediate family member employed by the City or who is making application to the City for employment.
- (b) All disclosures that are required under Subsection (a) of this section shall be made, in writing, on a form that is created by the Law Department and sworn to in the presence of a notary public. After completion, the form shall be filed with the Board of Ethics, which shall forward a complete copy of the form to the applicable department director or agency head.

IV. Application of the Charter and Code to the Information Presented

The terms "exercise significant authority" and "immediate family member" are both germane to the application of disclosure requirements under Section 2-5-32. However, consideration of whether the instant circumstances dictate disclosure turns on the definition of

“immediate family member,” as set forth by the Code and the Charter. Similar to the Charter, the Section 2-5-3 of the Code defines “immediate family member” as follows:

- (1) A public servant’s spouse;
- (2) A public servant’s domestic partner;
- (3) An individual claimed by a public servant or a public servant’s spouse as a dependent under the United States Internal Revenue Code, being 26 USC 1 et seq.; or
- (4) An individual who lives in the household of a public servant.

By nature of the parent-child relationship, Requestor is neither the spouse, nor the domestic partner of her mother.¹ Furthermore, per information submitted to the Board via supplemental communication, Requestor does not claim her mother as a dependent under the United States Internal Revenue Code.² Finally, the Requestor and her mother live at separate residences. Thus, neither is an individual who lives in the household of the other. For purposes of consideration of disclosure requirements under the Code, Requestor and her mother are not immediate family members. Thus, this Board need not consider whether Requestor “exercises significant control” in her role. Because Requestor’s mother does not qualify as an “immediate family member,” the Code does not impose a duty to disclose upon Requestor.

Notwithstanding the lack of duty to disclose the parent-child relationship, that Requestor’s mother is responsible for completing Requestor’s Ulti Pro time is concerning, as it appears to present an opportunity to exploit the payroll system. In order to remediate any appearance of impropriety, whether misconstrued or not, the task of approving Requestor’s time should be assigned to someone other than Requestor’s mother.

V. Conclusion

It is the decision of the Board to issue an advisory opinion, pursuant to Section 2-5-124(b)(4) in response to Request for Advisory Opinion 2022-01.

Requestor’s mother is not considered to be an immediate family member for purposes of disclosure requirements mandated by the Charter and the Code. Thus, Requestor is under no duty to disclose the parent-child relationship between Requestor and Requestor’s mother. However, the fact that Requestor’s mother is responsible for completing Requestor’s UltiPro time and attendance gives cause for concern. In order to eliminate any appearance of impropriety, the Board

¹ The Ethics Ordinance defines “domestic partner” as “one of two adults who: (1) Have a common residence; (2) Agree to have joint responsibility for each other’s basic living expenses incurred during the domestic partnership; (3) Are not married or are not a member of another domestic partnership; (4) Are not related by blood in a way that would prevent them from being married to each other in this state; (5) Are at least 18 years of age; (6) Have chosen to share one another’s lives in an intimate and committed relationship of mutual caring; and (7) Are capable of consenting to the domestic partnership”. DETROIT, MICH. CODE § 2-5-3.

² Nor does Requestor’s mother claim Requestor as a dependent under the United States Revenue Code, as reported by Requestor in a supplemental communication.

advises that [REDACTED] address such concern by assigning the task of reviewing and completing Requestor's Ulti Pro time and attendance to a different, unrelated person within the division.

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