

Advisory Opinion # 2021-14
Issued: May 28, 2021

Advisory Opinion #2021-14: It is the decision of the Board of Ethics to issue an advisory opinion pursuant to Section 2-5-124(b)(4) in response to Request for Advisory Opinion 2021-33. The Requestor's current position with the City does not implicate Section 2-5-71 of the Ethics Ordinance, *One Year Post-Employment Prohibition*, if she obtains employment with the [REDACTED] [REDACTED] [REDACTED]
[REDACTED] [REDACTED] as a [REDACTED]
[REDACTED].

I. Procedural Background

Request for Advisory Opinion 2021-14 (the "Request") was sent to the Board of Ethics (the "Board") by electronic communication and received on April 21, 2021. In accordance with Sec. 2-106.1, the Request was submitted by a current public servant as defined by Section 2-5-3 of the Detroit Ethics Ordinance (the "Ordinance").

Pursuant to Section 2-5-124(a) of the 2019 Detroit City Code ("Code"), the 91-day period for review of this request will conclude on July 21, 2021. 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 October 20, 2021.

At its meeting on May 28, 2021, the Board determined that the Request met the basic requirements for a Request for Advisory Opinion under Section 2-5-121 of the Ordinance. The Board reviewed a Preliminary Analysis from legal counsel on the same day, and after consideration and discussion of the issues presented, the Board decided to issue this advisory opinion pursuant to Section 2-5-124(b)(4).

II. Information from the Request

The Requestor currently has a position with the City as an [REDACTED] at the [REDACTED]. The [REDACTED] licenses and inspects food establishments, with the goal of preventing foodborne illness and ensuring that food is being served to the public. The Requestor's position requires she reviews incoming plans and applications for various types of food establishments, approves licenses, and conducts routine and licensing food inspections.

The Requestor is either seeking or has obtained a position with the [REDACTED] [REDACTED] as a [REDACTED]. In this position, she will conduct investigations and interviews with patients, infection control specialists, and hospitals based on medical information and history obtained through the Michigan Disease Surveillance System. Requestor's desire to transition from the City to [REDACTED] is due to a shift in career path

interest and a desire to obtain a position that is more in line with the Requestor's educational background.

III. Applicable Charter Sections

The 2012 Detroit City Charter provides at Section 2-106.1, *Ethical Standards of Conduct*, that the purpose of applying and enforcing these requirements and standards is to ensure that governmental decisions are made in the public's best interest by prohibiting public servants from participating in matters that affect their personal or financial interests. This Request involves Sections 2-5-71 of the 2019 Detroit City Code. It states as follows:

Section 2-5-31. - One year post-employment prohibition.

(a) Subject to state law, for one year after employment with the City, a public servant shall not lobby or appear before the City Council or any City department, agency, board, commission or body, or receive compensation for any services in connection with any matter in which the public servant was directly concerned, personally participated, actively considered or acquired knowledge while working for the City.

(b) Subject to state law, for one year after employment with the City, a public servant shall not accept employment with any person who, or entity which, did business with the City during the former public servant's tenure where the public servant was in any way involved in the award or management of the contract, or the employment would require the sharing of confidential information.

(Code 1984, § 2-6-72; Ord. No. 18-12, § 1(2-6-72), eff. 8-31-2012)

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

The Request states that the Requestor wishes to "transition from the City to [REDACTED]." Therefore, it is assumed that Requestor is considering in leaving her position with the City for a position with [REDACTED]. Accordingly, the Requestor must comply with Section 2-5-71 of the Ethics Ordinance.

According to the facts provided, the Requestor has worked several positions within the [REDACTED] [REDACTED], including [REDACTED] on [REDACTED] cases. Nevertheless, none of her previously held positions were in the field of study that he will be assigned with [REDACTED]; namely, focusing on Legionella, Shigella, Campylobacter, and other food and water born bacteria. In her current position, the Requestor is only responsible for handling applications, licensing, and conducting inspections for food establishments. Therefore, it is unlikely that her receiving compensation for providing services as a [REDACTED] [REDACTED] would be connected to any matter in which she was concerned, participated, actively considered, or acquired knowledge of while she was working as an [REDACTED] [REDACTED] for the City. Also, the Requestor's prospective position does not require her to lobby or appear before the City or appear before the City in any capacity.

█████ does business with the City, evidenced by several contracts between the parties, serving as a fiduciary partner that the City utilized post-bankruptcy to process funds from federal and state grants. The Requestor's duties as an █████, however, do not suggest that she had any responsibility or involvement in the award or management of any potential contracts. Furthermore, because information on Detroit restaurant inspections is publicly available on the City's website,¹ it is unlikely that the Requestor accepting employments with █████ would amount to the act prohibited by Section 2-5-71(b).

V. Conclusion

It is the decision of the Board of Ethics to issue an advisory opinion pursuant to Section 2-5-124(b)(4) in response to Request for Advisory Opinion 2021-14. It is very unlikely that the Requestor [REDACTED]

[REDACTED] would lead or amount to any of the acts prohibited by Section 2-5-71. Therefore, the Requestor would not be in violation of the Ethics Ordinance.

¹ See generally CITY OF DETROIT, <https://cityofdetroit.github.io/restaurant-inspections/> (last visited May 13, 2021) (being the website for the Detroit Restaurant Inspections).