

*City of Detroit Board of Ethics*

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**Advisory Opinion #2019-04**  
**Issued: June 18, 2019**

**Advisory Opinion #2019-04:** The Board of Ethics concluded the Request for Advisory Opinion 2019-04 in accordance with Sec. 2-6-104(b)(4) and issues this advisory opinion. Requestor has no conflict of interest as a result of his spouse's appointment to Detroit Complete Count Committee. Requestor should exercise caution that his judgment and actions on behalf of the City remain independent and that he handle confidential information accordingly. Requestor should also be mindful that if their work begins to intersect, he should utilize this process again.

**I. Procedural Background**

JJ Vélez filed the Request for Advisory Opinion 2019-04 ("Request") on February 1, 2019. As defined by Section 2-6-3 of the Detroit Ethics Ordinance ("Ordinance"), only a public servant may submit a Request. In this Request, the Public Servant waived confidentiality with respect to identity. As required by the Ethics Ordinance, the Public Servant signed and submitted the Request in writing.

At its meeting on February 19, 2019, the Board determined that the Request met the basic requirements for a Request for Advisory Opinion under Section 2-6-101 of the Ordinance. The Board also reviewed a privileged and confidential Preliminary Analysis of the Request. The 91-day deadline was May 3, 2019. At this meeting, the Board of Ethics allowed an extension of the investigation for an additional 91 days, making the new deadline August 2, 2019. On June 18, 2019, the Board heard an investigative report. After consideration and discussion of the issues presented, the Board voted to issue this Advisory Opinion pursuant Section 2-6-104(b)(4) of the Ethics Ordinance.

## II. Facts Alleged In the Request

The Requestor states:

My wife, Kerry Duggan, has been asked to be a part of the following: Thank you for agreeing to serve on the Detroit Complete Count Committee (DCCC) for the 2020 Census. Our first meeting will be on Thursday Jan. 31, 2019 at 4pm - 5:15 in the Cabinet Room., 11th Floor, Mayor's Office, Coleman A Young Municipal Center (CAYMAC). We decided to hold our first meeting before officially launching the 2020 the Census effort, which will happen at the Mayor's State of the City Address on March 5 (to which you will be invited). At the Jan. 31 meeting we will review the roles and expectations of Complete Count Committee members, discuss our overall census strategy (committee structure, targeting, etc.) and decide on a schedule of meetings going forward. Thank you again for agreeing to serve and please reply to this email with confirmation of your attendance. We are excited to get started on the census effort and I look forward to working with all of you in the coming 18 months.

The Requestor wants an opinion on whether a conflict of interest exist, causing a violation of the 2012 Detroit City Charter or 1984 Detroit City Code.

The investigation showed that Requestor's department is not a key in the census activities. Requestor's spouse is the co-chair and her work entails collaborating with third party entities who will assist with media opportunities to ensure an accurate census count in Detroit.

## III. Applicable Charter Sections

The 2012 Detroit City Charter provides at Section 2-106.1 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 Section 2-106.1 of the 2012 Detroit City Charter codified at Sections 2-6-32, 62, 65, 66, and 67.

### **Sec. 2-6-32. - 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.

(Ord. No. 18-12, § 1, 7-31-12)

**Sec. 2-6-62. Improper use or disclosure of confidential information prohibited.**

Except as otherwise provided for by applicable law, a public servant shall not knowingly use or disclose to third parties confidential information, which is gained by reason of his or her official duties, concerns the property, government or affairs of the city or any office, department or agency thereof, and is not available to members of the public.

(Ord. No. 22-00, § 1, 8-2-00; Ord. No. 18-12, § 1, 7-31-12)

**Sec. 2-6-65. - Incompatible employment or rendering services prohibited.**

Except as otherwise provided for by applicable law, a public servant shall not knowingly engage in or accept employment, or knowingly render services, for a private or public interest where such employment or service is in conflict or incompatible with the proper discharge of the public servant's official duties for the city, or where such employment or service is reasonably expected to impair the public servant's independence of judgment or action in the performance of his or her official duties for the city.

(Ord. No. 22-00, § 1, 8-2-00; Ord. No. 18-12, § 1, 7-31-12)

**Sec. 2-6-66. Representation of private person, business or organization prohibited; exceptions.**

A public servant shall not act as an agent, attorney, or representative for another person, business or organization in any matter that is pending before a city agency, except that:

(1) A public servant may represent another person, business, or organization before a city agency where such representation is a **required part** of the public servant's **official duties**; or

(2) A public servant who is an uncompensated member of a city board, commission, or other voting body may act as an agent, attorney, or representative for another person, business or organization in a manner that is pending before a city agency, other than the board, commission, or other voting body on which he or she is a member; or

(3) A public servant who is compensated by the city may act as an agent, attorney or representative for another person, business, or organization in a matter that is pending before a city board, commission or other voting body, other than the board, commission or other voting body on which he or she serves as an appointee or as an employee, or under a personal services contract, as long as he or she does so:

a. Without compensation; and

- b. On his or her leave time ; and
- c. For appointees, in accordance with Chapter 13 , Article V, of this Code; or
- d. For non-union employees, in accordance with Chapter 13, Article V, of this Code and the City's Civil Service Rules; or
- e. For union employees , in accordance with his or her respective union contract and the city's civil service rules; or
- f. For individuals who provide services to the City of Detroit pursuant to a personal services contract, in accordance with the applicable provisions of the contract.

(Ord. No. 22-00, § 1, 8-2-00; Ord. No. 43-06, § 1, 11-17-06)

**Sec. 2-6-67. Self-interested regulation prohibited.**

Except as otherwise provided for by applicable law, a public servant shall not knowingly vote, or **knowingly participate in the negotiation or making of any City contract, or any other type of transaction** with any business entity in which he or she or an immediate family member has a financial interest.

(Ord. No. 22-00, § 1, 8-2-00; Ord. No. 18-12, § 1, 7-31-12)

**IV. Application of the Charter to the Facts Presented**

**Sec. 2-6-31. Disclosure of Interests by Public Servants**

Requestor is not required to disclose his spouse's appointment because she is not an employee nor is she making application for employment.

**Sec. 2-6-62. Improper Use or Disclosure of Confidential Information Prohibited**

Requestor's employment activities and his spouse's volunteer activities do not intersect. The investigation showed that Requestor's work does not overlap with his spouses' appointed role at the DCCC. Requestor's department is not a key in the census activities. Requestor's spouse is the co-chair and her work entails collaborating with third party entities who will assist with media opportunities to ensure an accurate census count in Detroit.

**Sec. 2-6-65. Incompatible Employment or Rendering Services Prohibited**

Requestor will have no new duties because of his spouse's appointment. Nothing within either of their roles causes a conflict with Requestor's duties.

**Sec. 2-6-66. Representation of Private Person, Business or Organization Prohibited, Exceptions**

Requestor does not represent the census activities or participate in any of the activities a city employee.

**Sec. 2-6-67. Self-interested Regulation Prohibited**

The Requestor does have responsibilities for renting recreational spaces owned by the City of Detroit. It would be self-dealing if the Requestor negotiates any type of discount

for the DCCC on behalf of his spouse. However, his spouse's role does not include negotiations for rental space and other personnel would handle that matter.

## **V. Conclusion**

The Board of Ethics concludes the Request for Advisory Opinion 2019-04 in accordance with Sec. 2-6-104(b)(4) and issues this advisory opinion. Requestor has no conflict of interest as a result of his spouse's appointment to Detroit Complete Count Committee. Requestor should exercise caution that his judgment and actions on behalf of the City remain independent and that he handle confidential information accordingly. Requestor should also be mindful that if their work begins to intersect, he should utilize this process again.

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Dated: August 20, 2019