

City of Detroit Board of Ethics

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Advisory Opinion #2018-10
Issued: October 16, 2018

Advisory Opinion #2018-10: The Ethics Ordinance does not prohibit the Requestor from volunteering with an outside agency that sought her participation on its grants committee, so long as the outside agency 1) is doing no business with the city; 2) seeks to do no business with the city; 3) is seeking no official action from the city; 4) has no interests that could be substantially affected by the performance of Requestor's duties; or 5) is not registered as a lobbyist. Requestor should exercise caution that her judgment and actions on behalf of the City remain independent, that she refrain from sharing any confidential information with the outside agency, and that her outside activities are not performed during City business hours or utilizing City resources.

I. Procedural Background

Request for Advisory Opinion 2018-10 (the "Request") is dated August 17, 2018, and was sent to the Board of Ethics (the "Board") by electronic communication and received August 17, 2018. In accordance with Sec. 2-6.101, the Request was submitted by a current public servant as defined by Section 2-6-3 of the Detroit Ethics Ordinance (the "Ordinance"). The Public Servant maintains confidentiality with respect to identity. Also the Public Servant signed and submitted the Request in writing as required by the Ethics Ordinance.

At its meeting on September 18, 2018, the Board determined that the Request met the basic requirements for a Request for Advisory Opinion under Section 2-6-101 of the Ordinance. At this meeting the Board reviewed a Preliminary Analysis of the Request. On October 16, 2018, 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:

I work in the [city of Detroit] department with the City but also participate in a networking group called the [REDACTED]¹. They recently reached out to me asking if I would join a “grants committee” that needs volunteers to help place engineering students from a [REDACTED]¹ into a temporary program in the fields of their choice. I am interested in supporting them on this project (volunteering) but wanted to make sure it is not a conflict of interest as it is being administered by a grants committee.

I have informed them that if approved I can assist, but will not be able to sit on any sub-committees that actually do grant research or writing applications, etc.

The question presented to the Board of Ethics is whether Requestor can volunteer with the outside agency without violation of the 2012 Detroit City Charter or 1984 Detroit City Code.

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 2-6-65, 66, and 67 of the Ethics Ordinance. It states as follows:

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)

¹ This Opinion is redacted to maintain the confidentiality of the process.

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.

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.

IV. Application of the Charter to the Facts Presented

The Board of Ethics addresses the questions of whether the Requestor may continue to participate with an outside agency without violation of the 2012 Detroit City Charter or 1984 Detroit City Code. The City of Detroit encourages its employees to participate in

volunteer efforts throughout the districts and neighborhoods. Thus far, the Requestor's participation has not involved any perceived conflict of interest. However, now the outside agency would like her expertise on the grants committee.

Based upon the investigation, the Requestor's role for the City and her volunteer role for the community group have no correlations or conflict. The outside agency is not a vendor or contractor; has no business pending before City Council, a city department, or other city entity. There is no sharing of confidential information. It appears that no proprietary City information is implicated, nor are the duties related or incompatible with Requestor's duties her department. The Requestor is not representing the outside agency before the City and has no financial interest in it. There is also no self-dealing because the Requestor is not using the outside agency to create policy within the city that would benefit herself or immediate family member. If the outside agency decided to seek funding or do business of any sort from/with the City of Detroit, the Requestor could not represent the outside agency before the City and could not participate in any activities the community group that involved seeking business.

V. Conclusion

The Board of Ethics concludes the Request for Advisory Opinion 2018-10 in accordance with Sec. 2-6-104(b)(4) and issues this advisory opinion in response to the request that shows no prohibition of Secs. 2-6-65, 2-6-66, and 2-6-67 of the Ethics Ordinance. The Ethics Ordinance does not prohibit the Requestor from volunteering with an outside agency that sought her participation on its grants committee, so long as the outside agency: 1) is doing no business with the City; 2) seeks to do no business with the City; 3) seeking no official action from the City; 4) has no interests that could be substantially affected by the performance of Requestor's duties; or 5) is not registered as a lobbyist. Requestor should exercise caution that her judgment and actions on behalf of the City remain independent, that she refrain from sharing any confidential information with the outside agency, and that her outside activities are not performed during City business hours or utilizing City resources.

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Dated: March 7, 2019