

# Municipality of Anchorage



C/O OFFICE OF THE CLERK  
P.O. BOX 196650  
ANCHORAGE, ALASKA 99519-6650  
TELEPHONE: (907) 343-4311

## BOARD OF ETHICS

July 9, 2007

Advisory Opinion  
For Website

### *Summary of Opinion*

A member of a Municipal Board who performs quasi-judicial functions has requested the Ethics Board's Opinion on whether her position, at the time of the request, while her adult child served as an employee of the Municipality of Anchorage in the administrative agency from which appeals to the Board arose, amounted to a conflict of interest under the Municipality's Ethics laws. After due consideration, the Ethics Board has determined that the status of the relationship as described above does not, in and of itself, create a conflict of interest. Therefore, the Ethics Board has determined that no violation of the Municipality's Ethics provision has taken place.

### *Factual Basis of Requested Opinion*

In brief, the administrative agency in question makes decisions affecting individual members of the public which those individuals can appeal. The agency not only makes such decisions, but, in addition, assists the Board in question from an administrative view point, preparing appeals packets, and generally administering the appellate processes. Additionally, however, the administrative agency also acts as an advocate for the Municipality in defending its own decisions.

In this matter the Board member has served on the Board for several years. In her position, she necessarily would have been involved in two roles, first, as a member of a Board which would carry on Board related administrative activities; and second, as a member of panels performing quasi-judicial functions in hearing the appeals the agency's decisions by individuals.

The Board member's adult child is an employee of the Municipality, serving in the agency's office. Although the Board Member's letter requesting the Ethics Board's advisory opinion speculated that members of the administration had determined an ethic's violation had taken place, during the Ethic Board's investigation that speculation appears to be unfounded. In sum the Ethics Board's investigation determined the following facts regarding employee's position. First, upon inquiry the Ethics Board has

determined that the employee does not have direct contact with the Board and that the head of the agency has taken steps to make certain the employee has no interaction with the Board. Second, any concerns that may have been raised concerning the fact that the Board member served on the Board while her adult child continued to be employed in a position in the agency has been based on an appearance of impropriety rather than on any actual claim of impropriety.

### ***Analysis of General Prohibited AMC Provisions***

AMC 1.15.020 contains the listing of prohibited conduct violative of the Municipality Ethics Code. None of the provisions contained in that section are applicable to the facts of this matter.

### ***Analysis of Pertinent AMC Provisions for Members of an Appointed Body***

As a member of an appointed body, the Board member's position is governed by AMC 1.15.030. It is undisputed that the Board member has had no personal financial or private interest<sup>1</sup> in any matter that have come before her in her position on the Board. Therefore, sections AMC 1.15.030(D)-(K) are inapplicable. Neither AMC 1.15.030 (A) or (B) offer any applicable specific guidance, leaving subsection (C). That section has only one provision which, in the Board's opinion, could possibly be applicable:

*1. The appointment of public bodies with regulatory, quasi-judicial, or adjudicatory responsibilities recognizes the public interest in having fair and public evaluation of matters coming before the appointed public body. Members of the public serving as members of an appointed body with such responsibilities shall:*

- a. Make decisions solely on applicable law and the evidence in the record;*
- b. Be impartial in fact and action in the performance of official duties, making decisions without personal gain or financial interest;*
- c. Disclose any previous involvement in the case or with the parties;*
- d. Disclose matters that would prevent the member from hearing the case under supplemental conflict of interest provisions applicable to the appointed public body;*
- e. Disclose circumstances that could potentially interfere with impartiality, so that the member's participation may be fairly evaluated by the public body.*

Subsections AMC 1.15.030 (C) (1) (a), (b), (c) and (d) each represent general statements with no specific applicability to the factual situation represented in the Board member's request. There is no evidence that in the actual position with the agency, the employee's employment status would play any role in the Board member's decision-making as a

---

<sup>1</sup> As those terms are defined in AMC 1.15.110

member of the Board. As to the subsection (e), the Ethics Board feels the familial connection between the Board member and her child, based upon the facts in this matter; provide an insufficient nexus to require even the disclosure of potential interference of impartiality. In a small city like Anchorage, familial connections are unavoidable, and in the absence of financial or personal interest of more substance than that presented in this situation disclosure envisioned by (e) is unnecessary.

### *Analysis of Pertinent AMC Provisions for Municipal Employees<sup>2</sup>*

As an employee, the employee's actions are governed by AMC 1.15.025. There was no indication from the written request for advisory opinion, or from any person contacted by the Ethics Board, that the employee had any private or financial interest in any matter coming before the Board whatsoever. Therefore the provisions of AMC 1.15.025 were considered by the Ethics Board to be inapplicable. Because there was no supervisory relationship, there were no nepotistic issues to consider.

### *Conclusion*

It is the Ethics Board's Opinion that upon the facts stated in the request there has been no ethical violation. Should the Assembly deem additional protections necessary to eliminate even the level of concern expressed by some individuals over the familial relationship evidenced in the factual basis of this Opinion, it will be necessary for an amendment of AMC 1.15.

---

<sup>2</sup> The fact that the Board Member's request for an advisory opinion was not joined in by the employee, but necessarily involved the employee, concerned the Ethics Board and the Ethics Board sought legal opinion on the implications of such a request.