



Municipality of Anchorage  
**Board of Ethics**  
C/o Municipal Clerk's Office  
632 W. 6<sup>th</sup> Ave. Ste. 250 Anchorage, AK 99501

Date: March 8, 2018

To: Dee Ennis, Department of Law and Municipal Ethics Officer  
[EnnisDL@muni.org](mailto:EnnisDL@muni.org)

From: Municipal Board of Ethics

Re: Response to Request for Advisory Opinion 2018-1 – *Confidential*<sup>1</sup>

Dear Ms. Ennis:

This advisory opinion (2018-1) is a response to your *Request for an Advisory Opinion* dated February 7, 2018. It is based on the facts presented in that request and in the Board's discussions and interviews on this matter at its meeting on February 8, 2018. If material facts have not been disclosed or have been misrepresented, this opinion is without force and effect.

Certain facts in this opinion have been redacted or altered to honor the confidentiality of this request.

#### SUMMARY OF THE OPINION

The Board finds that a spouse of an elected official may hold an executive position with an organization that receives funds via a municipal contract provided that, upon consultation with the Board of Ethics, potential conflicts are effectively managed as outlined below.

#### FACTS OF THE REQUEST

"Boethius" —a spouse of a municipal elected official— is interested in pursuing an executive job opportunity with a local non-profit organization in Anchorage (hereafter "the organization"). The organization receives funding from the Municipality through an ongoing contract— a contract over which Boethius' spouse has some discretionary decision-making authority. While the job Boethius wishes to pursue is not and would not be funded via this contract, Boethius asked you (Dee Ennis), as municipal ethics officer, to bring the matter to the Board of Ethics in an abundance of caution to insure that a conflict of interest would not be created by employment with the organization. The Board met with you and Boethius on February 8, 2018 to discuss the matter.

#### DISCUSSION

The Anchorage Municipal Code of Ethics (hereafter "the Code") states:

---

<sup>1</sup> See AMC 1.15.150.D. ("A request for advice is confidential unless confidentiality is waived by the person requesting an advisory opinion.")

A public servant or a **member of the public servant's immediate family or household**, may not acquire, receive, or apply for, be a party to, or have a **personal or financial interest** in a municipal grant, contract, or lease unless:

- a. the public servant does not take official action that could directly affect the request for services, nor the award, execution, or administration of the grant, contract, or lease.
- b. if this requirement is not met, the public servant may request additional review by the Board of Ethics.

(AMC 1.15.100B.2)

Boethius is a member of the public servant's household. The Board finds that the executive nature of the position would give Boethius a personal interest in that contract with the Municipality. Moreover, the Board finds that Boethius' spouse is an elected official whose official powers include ongoing discretionary authority over the contract. Hence, there is at least prima facie reason to believe that Boethius' executive employment with the organization is prohibited under the general rule set forth in AMC 1.15.100B.

However, the prohibition in this section of the Code is not categorical, and rightfully so. Were it categorical this prohibition would essentially close off significant sectors of the economy and civil society to family members of elected officials. This would particularly penalize spouses who, like Boethius, wish to pursue professional, executive level employment in Anchorage. Therefore, (B) was added to the newly revised Code precisely to allow some flexibility in these matters *provided that the elected official works proactively with the Board and that the conflict can be reasonably managed*. The Board finds that proactive steps by the elected official can reasonably manage the conflict in this case. It recommends that the elected official delegate the discretionary authority regarding the contract, and create a firewall separating the elected official from any deliberations regarding the contract. This opinion is not intended to mean that the elected official cannot participate in other actions affecting the organization that do not involve the award, execution, or administration of the contract.

## CONCLUSION

The Board rules that provided the elected official delegates the discretionary authority over this contract and creates an effective deliberative firewall, Boethius may pursue, and if offered, accept executive employment with the organization.

If you have any questions or concerns about this advisory opinion, or if the underlying material facts change, please contact us.

Respectfully,

Terrence Kelly, Chair  
Ted Carlson  
Jack McKenna  
David Nesbett  
Marsha Olson