



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

Date: August 9, 2018

Re: Response to Ethics Complaint of Potential Violation 2018-1

On March 27, 2018, the Board of Ethics ("the Board") received Ethics Complaint for Potential Violation 2018-1 ("the Complaint"). The Complaint alleges that on March 24, 2018, Dr. Deena Bishop, the Superintendent of the Anchorage School District ("ASD") used an ASD Twitter account to send a partisan communication, as that term is defined in the Anchorage Municipal Code of Ethics.¹ The Board accepted the Complaint for review and received additional information provided by Dr. Bishop.² The Board concludes that there was no violation of the Ethics Code. This memorandum contains the Board's findings of fact and recommendation for corrective action.

I. Factual Background, the Complaint, and Information Provided by the Respondent

On March 24, 2018, students nationwide engaged in demonstrations calling for safe schools. A group of ASD students organized a local march that occurred at Anchorage's Parkstrip on that day. The demonstrations were in response to a mass shooting at a high school in Parkland, Florida that had taken place in February, 2018. Among other messages, the students at the rally called on the community to protect students and make Anchorage's schools safe.

The Complaint alleges that Dr. Bishop posted the following message to her ASD managed Twitter account on March 24, 2018:

I stand today with our students for safe schools, safe neighborhoods, and for our entire community. I am emotionally impacted by the voice of our youth. I believe in them. #marchforourlives.

The Twitter post was accompanied by a photograph taken by Dr. Bishop depicting ASD students at the rally holding various signs. The signs contain the words "#March for our Lives" and other related messages. The complaint alleged that the statement in the tweet posted by Dr. Bishop to her ASD Twitter account was a partisan communication prohibited by the Code of Ethics. The Complaint specifically referenced code provisions AMC 1.15.110(D)(1) and (2) as well as the definition of "partisan activity" in AMC 1.15.110(A)(2).

AMC 1.15.110 reads in pertinent part:

(A) *Definitions:* For purposes of this Chapter, the following terms are defined:

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¹ Anchorage Municipal Code ("AMC") 1.15.010-180.

² AMC 1.15.160(B).

- (2) Partisan activity. An act for the purpose of supporting a party, cause, or action.³

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(D) *Limitations on political and partisan activity:*

- (1) Elected officials and board members may use their titles when engaging in political or partisan activity, but shall not state or imply that they are acting on behalf of the assembly or the municipality.⁴
- (2) Employees may use their titles when engaging in political or partisan activity when authorized to do so by their responsible official or if they state that they are not speaking on behalf of their work group or the municipality.

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The Board accepted the Complaint for review and invited the Respondent to provide further information.⁵ On July 31, 2018, Dr. Bishop met with the Board and presented information regarding her Twitter account in general and the specific tweet she sent on March 24. Dr. Bishop explained that her account is an official ASD account. When she wishes to post a message to it, she sends a text message to an ASD Public Information Officer ("PIO") containing the text of the message she wishes to have posted. Dr. Bishop also attaches to the text message any pictures to be posted. The PIO then uses a smartphone to post the message to Dr. Bishop's Twitter account. The PIO also selects the picture to include from those provided by Dr. Bishop. All posts to the account under Dr. Bishop's name are made at Dr. Bishop's direction.

With regards to the March 24 twitter post at issue, Dr. Bishop stated that she attended the rally on that date in her role as Superintendent to support Anchorage's students and to show support for school safety. Dr. Bishop also explained that the rally which she attended was organized by ASD students. The group generally referred to themselves as "March for Our Lives Alaska." Dr. Bishop did not view the rally as advocating for anything other than school safety. She posted the message to Twitter in order to engage with her students and let them know that she was present at the rally. Her intention was to show the students that she cared about providing a safe environment for them. She did not intend to endorse or convey any other message in her tweet that day. Dr. Bishop drafted the text of the March 24 Twitter post and texted it along with several pictures that she had taken to her assigned PIO. The Officer then formatted the text for Twitter, selected which photograph to include from the photographs sent by Dr. Bishop, and posted the message online.

³ AMC 1.15.110(A)(1) defines "political activity" as an "act for the purpose of influencing the outcome of an election. Election includes ballot, bond, or candidate elections." The allegations in this Complaint do not relate to an election. Therefore, the Tweet at issue is not "political activity" as that term is used in the Code of Ethics.

⁴ Dr. Bishop is not an elected official or a board member and therefore subpart (D)(1) is not relevant to the analysis of this Complaint.

⁵ AMC 1.15.160(B).

Consideration of this matter also requires discussion of national events that were taking place in March, 2018. In addition to the "March for Our Lives Alaska" rally that took place in Anchorage on March 24, "March for Our Lives" was also the name of a student-led demonstration that took place in Washington, D.C. on that date. One of the primary issues associated with the rally was student advocacy for gun control legislation following the mass shooting in Parkland, Florida. The official twitter presence of the group organizing the Washington, D.C. march was @March4OurLives. Similar rallies with related messages were also conducted in numerous other cities nationwide. The hashtag used in the March 24 Twitter post referenced in the Complaint, "#marchforourlives", continues to be used to link messages that express opinions related to the national March for Our Lives group and to express messages related to gun control.

II. Factual Findings and Analysis

The Code of Ethics prohibits municipal employees, such as the ASD Superintendent, from engaging in partisan activity in specified circumstances.⁶ As explained above, "partisan activity" is defined as "[a]n act for the purpose of supporting a party, cause, or action."⁷ The Board must therefore determine whether any component of the referenced Twitter post meets this definition. The post reads:

I stand today with our students for safe schools, safe neighborhoods, and for our entire community. I am emotionally impacted by the voice of our youth. I believe in them. #marchforourlives.

The text of the message itself, absent the hashtag reference at the end, does not support any party, cause, or action. Indeed, the Tweet expresses the non-controversial message that schools should be safe environments and supports students engaging with their community in support of this goal. The Board does not find that the actual text of the message was a partisan activity.

Furthermore, based on the information provided by Dr. Bishop, the Board does not find that the message as a whole, including the referenced hashtag, was made for the purpose of supporting any particular party, cause, or action. The Code of Ethics defines "partisan activity" as an action made for a particular purpose and so the Board must examine the intent or objective of Dr. Bishop's actions.⁸ Dr. Bishop stated that the purpose of the message was exclusively to support making Anchorage's schools a safe environment. Making schools a safe place is squarely within Dr. Bishop's job description. The inclusion of the hashtag link "#marchforourlives" was made purely in reference to what she believed to be the local rally and its focus on school safety. The Board does not find that the Twitter post, the action at issue in this matter, was made for the purpose of supporting a particular party, cause, or action. The post in its entirety was therefore not "partisan activity" as that term is defined by the Code of Ethics.

However, the Board does note that the included hashtag text "#marchforourlives" in the March 24 Twitter post could be interpreted as support for a cause that would fall within the definition of partisan activity. As explained above, while the Alaska-specific rally was understood

⁶ AMC 1.15.110.

⁷ AMC 1.15.110(A)(2).

⁸ "Purpose" is defined as a "desired or intended result or effect." Webster's Second New Riverside University Dictionary (1984).

by Dr. Bishop to only encompass school safety, the larger national narrative involving the term "March for Our Lives" encompassed support for gun control legislation. Clicking on the hashtag link "#marchforourlives" takes an internet user to a "landing platform" on Twitter's website that also includes statements related to the national March for Our Lives movement and in support of gun control legislation. In addition to functioning as hypertext links to other web pages, hashtags on Twitter also function as meta-commentary allowing the writer of a particular post to incorporate or reference in a message the ideas associated with other posts that share the same hashtag. A person reading Dr. Bishop's March 24 tweet could conclude that the post expressed apparent support for the messages associated with the hashtag "#marchforourlives" or the national March for Our Lives group. In other words, the inclusion of the hashtag could have given the appearance that the post was intended to support that cause. However, the mere appearance of impropriety without a specific Code of Ethics provision being implicated is not enough to support a violation.⁹ As determined above, the purpose of Dr. Bishop's message was not to support any particular cause. The posted message therefore did not constitute partisan activity.

III. Recommended Action

In light of the findings and analysis above, the Board makes the following recommendation for corrective action.¹⁰ While hashtags on Twitter are helpful for connecting with the public, they also carry the risk of incorporating unintended messages into a post. This situation illustrates that danger. Using municipal resources to post a partisan or political message could run afoul of AMC 1.15.040.¹¹ Similarly, elected officials, municipal board members, and municipal employees are prohibited from engaging in certain political activity or partisan activity by AMC 1.15.110. The Board therefore recommends that, in the future, any post to social media by municipal employees using municipal resources be carefully scrutinized for language, particularly in hashtag links, that would imply support for a political or partisan position.

Municipality of Anchorage Board of Ethics¹²

Ted Carlson, Vice-Chair
Jack McKenna
David Nesbett

⁹ AMC 1.15.020(C).

¹⁰ AMC 1.15.160(C).

¹¹ AMC 1.15.040(B). De minimus personal use of municipal resources is permitted and is defined as use that is infrequent or occasional and that results in little or no actual cost to the municipality. No personal use, however, may be for political activities, lobbying, or outside business interests.

¹² Terrence Kelly, Chair, and Marsha Olson, Member, were recused from participation in this matter.