



Municipal Board of Ethics

#: 2022-06

632 West 6th Ave. Ste. 250 Anchorage, Alaska 99501

Meeting Date: _____

Mailing Address: P.O. Box 196650 Anchorage, AK 99519-6650

Phone: 343-4311

Municipal Clerk: Barbara A. Jones

CONFIDENTIAL Request for an Advisory Opinion CONFIDENTIAL

Anchorage Municipal Code: Chapter 1.15 CODE OF ETHICS, AMC 1.15.150 Advisory Opinions.

- A. Current, former, or potential **public servant** may request an advisory opinion regarding the applicability and interpretation of this chapter related to actions, rights, or conflict personal to the inquirer.
- B. The municipal clerk, the municipal ombudsman, and the municipal attorney may request an advisory opinion from the board of ethics regarding the applicability and interpretation of this chapter.
- C. In any later proceeding involving the inquirer, the inquirer is entitled to rely on the advice of the board, and may not be sanctioned for acting in compliance with the board's advice so long as the facts remain substantially unchanged from those represented to the board in the inquiry.
- D. **A request for advice is confidential** unless confidentiality is waived by the person requesting an advisory opinion.

*** *** ***

<input type="radio"/> Current	<input type="radio"/> Employee	<input type="radio"/> Municipal Clerk
<input type="radio"/> Former	<input type="radio"/> Board Member	<input type="radio"/> Municipal Attorney
<input type="radio"/> Potential	<input type="radio"/> Elected Official	<input checked="" type="radio"/> Municipal Ombudsman

AMC 1.15.030D. **Public Servants** - all persons within the scope of this code, including employees, board members, and elected officials.

In accordance with AMC 1.15, I am requesting applicability and interpretation of the following section of the Municipal Code of Ethics: AMC 1.15.040

Please describe your request:

SEE ATTACHED

(Attach separate sheets as necessary.)

<input checked="" type="radio"/> Waive Confidentiality	<input type="radio"/> I Request Confidentiality
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I understand that advisory opinions are required to be posted on the Municipal Website. The Board shall make sufficient deletions to prevent disclosure of the persons who have requested anonymity. AMC 1.15.150F. **I affirm to the best of my knowledge that my statement is true, correct, and complete.**

Signature of Requestor: Darrel W. Hess Date: 01/07/22

Printed Name: DARREL W. HESS Phone Number: (907) 343-4783

Email Address: Hess DW@MUNI.ORG

Mailing Address: 632 W. 6th AVE., SUITE 100, 99501

Ombudsman request for an advisory opinion from the Municipal Board of Ethics

In his official capacity, the Director of the Municipality's Human Resources Department attended the June 15, 2022 meeting of the Anchorage Library Advisory Board, a municipal public body. The Director was wearing a t-shirt that read "I'm With Judy" and sat next to Anchorage Public Library Deputy Director, Judy Eledge, at the table with the members of the Board who were attending in-person.

A recording of the meeting is posted on the Library's YouTube channel, at <https://www.youtube.com/watch?v=mJddv7mKae8>. At 17:08 in the video, the Director introduces himself as "Nikki Tshibaka, Chief Human Resources Officer", and at 39:10 in the video, the Director begins briefing the Board regarding the library's vacant employee positions – this shows that Mr. Tshibaka was participating in the meeting in his official capacity as the MOA Human Resources Department Director.

At 1:14:24 in the video Ms. Eledge starts defending herself against allegation of racism and creating a hostile work environment at the library. She references the June 3, 2022 Assembly work session, and notes that "There is not a written complaint in HR" regarding the allegations leveled against her by current and former library employees – the HR Director was sitting next to Ms. Eledge during her defense of herself, wearing his "I'm With Judy" t-shirt.

As reported at the June 3rd Assembly work session, 10-12 Library employee have recently spoken with the Ombudsman's Office alleging that Ms. Eledge has created a hostile work environment at the library. The Ombudsman's Office referred those employees to the Anchorage Equal Rights Commission and the Municipality's Office of Equal Opportunity. Normally the Ombudsman's Office would have referred the employees to Human Resources to have their allegations investigated. However, the employees refused to take their allegations to HR, due to their concerns that the HR Director would not be impartial and might unduly influence his staff during the investigation of any complaints filed with HR regarding Ms. Eledge.

As HR Director, Mr. Tshibaka has an obligation to ensure that HR conducts fair, impartial, and unbiased investigations regarding allegations of a hostile work environment that are brought forward by municipal employees – a perception of bias or lack of impartiality by the HR Director discourages municipal employees from filing complaints with HR and opens the municipality up to possible legal challenges. Mr. Tshibaka wearing his "I'm With Judy" t-shirt at the Library Advisory Board meeting and introducing himself as the Chief Human Resources Officer, while sitting next to Ms. Eledge, could be construed to be sending a message to library employees that he, as HR Director, has already determined, without any investigation, that the allegations leveled against Ms. Eledge are unfounded, and that it would be pointless for any aggrieved employee to file a complaint with HR.

Mr. Tshibaka, in his official capacity as HR Director, by wearing his "I'm With Judy" t-shirt, appears to have been publicly expressing a personal opinion on a personnel matter, after introducing himself at a public meeting as the Chief Human Resources Officer for the municipality. This seems to have been an inappropriate use of municipal resources. Were Mr. Tshibaka's actions a violation of AMC 1.15.040 – Use of municipal resources, or any other provisions of AMC 1.15?

