



**MUNICIPALITY OF ANCHORAGE**  
**Board of Ethics**

September 16, 2020

**Subject:** *Advisory Opinion 2020-04 (Confidential)*

Relevant Ethics Topics: Private Conflicts of Interest – AMC 1.15.060(B)

A public servant (the requestor) requested a confidential advisory opinion on whether the requestor had a conflict of interest under AMC 1.15.060(B). This is a generic form of the Board's response to that request. Certain facts have been redacted or altered to honor the confidentiality of the request.

**SUMMARY OF OPINION**

The Board found that the requestor's former campaign donations and volunteer work for an assembly member created a substantial conflict of interest that precluded the requestor from participating in the approval or rejection of a recall petition filed against the assembly member.

**FACTS OF THE REQUEST**

A recall application was filed against an assembly member. In order to accept the petition, the Municipal Clerk must determine, based on advice from the Department of Law, that the sponsors of the recall petition adequately allege conduct that amounts to "misconduct in office, incompetence, or failure to perform prescribed duties." The requestor's normal duties as a public servant would involve the requestor in that process. Before the requestor became a municipal employee, the requestor made campaign contributions (approximately \$250) to the assembly member's campaigns during prior elections. The requestor also volunteered in the assembly member's 2018 campaign.

**DISCUSSION**

The Municipal Code of Ethics states that "A public servant shall not participate in an official action in which the public servant or a member of the public servant's immediate family has a substantial financial or private interest." The Board concluded that the requestor's political activity created a personal interest in the assembly member as a candidate and elected official. In determining whether an interest is "substantial" the code outlines a constellation of factors to be considered:

*1. Whether the financial or private interest is a substantial part of the matter under consideration.*

In order to accept a recall petition, the Municipal Clerk must determine, based on impartial legal advice from the Department of Law, that the sponsors of the recall petition

adequately alleged conduct that amounts to "misconduct in office, incompetence, or failure to perform prescribed duties." Providing legal advice and accepting or rejecting the request are both official actions, which public servants may not participate in when they have a substantial financial or private interest. The Board concluded that the requestor's official action in this case would be substantially entangled with their private interest.

*2. Whether the financial or private interest directly and substantially varies with the outcome of the official action.*

The Board concluded that the requestor's interest would vary directly with the outcome of their official action.

*3. Whether the financial or private interest is immediate and known or conjectural and dependent on factors beyond the official action.*

The Board determined the nature of the requestor's official duties made the relationship between their official act and private interest known and immediate.

*4. Whether the financial or private interest is significant monetarily.*

The Board concluded that the interest is of a personal and political nature and is not significant monetarily.

*5. Whether the financial or private interest is of a type which is generally possessed by the public or a large class of persons to which the member belongs.*

The requestor's interest is shared only by those who have supported the assembly member's political campaigns financially and through volunteer work. This is an interest not shared by the public or a large class of persons.

*6. Other factors deemed appropriate by the presiding official under the specifics of the disclosure and the nature of the action.*

The board considered that this was a high-profile case involving the significant matter of the recall of an elected official. The requestor's actions should promote public trust in the objectivity and impartiality of municipal public servants taking official action on this matter.

## CONCLUSION

The individual factors laid out in the Code are neither necessary nor sufficient conditions for an interest to be substantial. While the Board finds that the requestor's interest is not significant monetarily (4), the balance of the factors clearly show that the requestor's personal interest in this matter is substantial and is clearly and directly related to the requestor's official duties. The Board therefore concluded that a substantial conflict of interest precluded the requestor from participating in taking official action on the recall petition. The Board also concluded that procedures should be put in place to observe ethical screening guidelines provided by the Alaska Bar Association in order to ensure the requestor was effectively precluded from influencing other public servants on this matter.

Approved by the Municipality of Anchorage Board of Ethics

Terrence Kelly, Chair