



MUNICIPALITY OF ANCHORAGE
Board of Ethics

January 18, 2023

Advisory Opinion 2022-12

Relevant Ethics Topic: Qualifications for board members – AMC 1.15.140(B)

This advisory opinion responds to a request from Board of Ethics Member Joan Wilson, in which she asked for an advisory opinion on whether her appointment as the Director of the State’s Alcohol & Marijuana Control Office (AMCO) prohibits her continued service on the board under AMC 1.15.140(B)(1). Board Member Wilson waived confidentiality regarding this advisory opinion.¹

I. FACTS OF THE REQUEST

In 2021, Board Member Wilson was a Senior Assistant Attorney General in the commercial, fair business, and child support section, which falls under the civil division in the Alaska Department of Law. She was serving in this position when she was appointed to the Board of Ethics.

In 2022, Board Member Wilson accepted appointment by the governor as the AMCO director. Board Member Wilson noticed that under the Municipal Code, members of the board of ethics may not “[h]old elected or other appointed public office with any municipal, state, or federal government unit.”² But the types of positions that constitute “public office” are not further defined in that section. On August 28, 2022, Board Member Wilson brought this issue to the board and expressed concern about whether serving as AMCO director qualified as public office. She then recused herself from ongoing board deliberations and decisions while the board considered her qualification as a board member.

The board noted that the prohibition against elected and appointed public officials serving on the board is intended to preserve the board’s independent and non-partisan nature. The role of the state’s AMCO director is defined in state law.³ The position has statutory safeguards to ensure the director is independent from political control, such as restricting the ability to remove the director,⁴ as opposed to other types of appointed public officials who serve at the pleasure of the executive. Because of this, the board was unsure if AMCO director fell within the definition of “elected or other appointed public

¹ See AMC 1.15.150.D (“A request for advice is confidential unless confidentiality is waived by the person requesting an advisory opinion.”)

² AMC 1.15.140(B)(1).

³ AS §§ 04.06.070 and 17.38.140(a).

⁴ AS § 04.06.070.

office” in AMC 1.15.140(B)(1). The board requested legal advice from the Municipal Attorney regarding the types of state positions that constitute appointed public office under AMC 1.15.140(B)(1).

On October 28, 2022, the Acting Municipal Attorney provided a legal memorandum to the board concluding that the AMCO director does hold “public office” under AMC 1.15.140(B)(1). Upon receipt of this memo, Board Member Wilson informed the board of her intention to resign. The board discussed the legal memo at its next meeting on December 14, 2022. The board agreed with the Acting Municipal Attorney’s interpretation of AMC 1.15.140(B)(1) and adopted the memorandum by unanimous vote.

II. DISCUSSION

As a public servant, Board Member Wilson had the ability to request an advisory opinion regarding the applicability and interpretation of the ethics code related to actions, rights, or conflict personal to her as the inquirer.⁵ Therefore, the board has jurisdiction to issue this advisory opinion.

AMC 1.15.140(B)(1) mandates that members of the board of ethics may not “[h]old elected or other appointed public office with any municipal, state, or federal government unit.” While the ethics code does not define the types of positions that constitute state public office, the AMCO director is considered a public official under state law governing public office.⁶ Since the AMCO director is considered a public official and is subject to regulations by the Alaska Public Offices Commission, the AMCO director also holds public office as that term is used in AMC 1.15.140(B)(1).

III. CONCLUSION

The board concludes that serving as AMCO director prohibits Board Member Wilson’s continued service on the board of ethics under AMC 1.15.140(B)(1). The board wishes to thank Board Member Wilson for her dedication to ethical principles in raising this issue, and for her previous hard work and valuable contributions to the board. The board conveys its best wishes to her as AMCO director.

APPROVED by the Municipality of Anchorage Board of Ethics this 18th day of January, 2023.



Rebecca Windt Pearson, Chair
Aesha Pallesen, Vice Chair
Abram Goodstein

Copy to:

- (1) Ms. Wilson
- (2) Municipal Clerk for electronic publication

⁵ AMC 1.15.150.A

⁶ AS § 39.50.200