



**MUNICIPALITY OF ANCHORAGE
Board of Ethics**

Date: December 17, 2025

To: Municipal Ombudsman

From: Municipal Board of Ethics

Re: Response to Request for Advisory Opinion 2025-6

BACKGROUND

This request for an advisory opinion was submitted by the Ombudsman, who seeks the Board of Ethics' review of whether allegations set out in a memorandum written by a Commissioner of the Anchorage Equal Rights Commission constitute a violation of the Code of Ethics.

Briefly summarized, the Commissioner's memorandum raises concerns about recent events at the Anchorage Equal Rights Commission. The facts alleged in the memorandum are limited but appear to be based on the recent appointment of an Acting Executive Director of the Anchorage Equal Rights Commission to cover a vacancy, and the accompanying recruitment and hiring process for a permanent Executive Director. The memorandum, which was addressed to the Mayor, discusses what are alleged to be four "Statutory Conflicts" with Title 5 of the Anchorage Municipal Code (AMC), which is the part of the Code that governs the Anchorage Equal Rights Commission: (i) the Acting Executive Director was allegedly improperly appointed; (ii) the Acting Executive Director allegedly should not have also simultaneously served as legal advisor to the Commission; (iii) the Ombudsman allegedly should not have been involved on the hiring committee for the new permanent Executive Director because complaints regarding the hiring process could be submitted to his office; and (iv) an independent process allegedly should be developed for fielding complaints regarding such matters at the Commission.

The Ombudsman received the memorandum and submitted a request to the Board of Ethics for an advisory opinion. The Ombudsman's request stated that he has "had difficulty connecting the alleged code violations [in the memorandum] to the section of

code [in Title 5] cited in the memo.” The Ombudsman asks for the Board to review whether there are “any violations of, or conflicts with the ethics code regarding” the Commissioner’s “four ‘Statutory Conflicts’ outlined in her memo?”

DISCUSSION

I. Jurisdiction

AMC 1.15.150B gives the Ombudsman (along with the municipal clerk and municipal attorney) the ability to “request an advisory opinion from the board of ethics regarding the applicability and interpretation of this chapter.” The Ombudsman’s request for an advisory opinion in this matter is unusual in that it does not identify a specific section of the Municipal Code of Ethics about which the requester seeks the Board’s review, and nor does the underlying memorandum. Instead of focusing on the Code of Ethics, the underlying memorandum about which this Board has been requested to provide an advisory opinion cites, quotes, and discusses only various provisions of Title 5 regarding the Anchorage Equal Rights Commission. As noted, however, AMC 1.15.150B allows the Ombudsman to request an opinion regarding the applicability and interpretation of the Municipal Code of Ethics, not Title 5.

To facilitate the Board’s ability to evaluate requests, the form by which requests for advisory opinions are made requires the requester to identify a particular “section of the Municipal Ethics Code” regarding which the requester seeks the Board’s review. That reasonable requirement helps focus the Board’s analysis and directs the Board toward relatively concrete questions under specific provisions of the Code of Ethics. This avoids placing the Board in the position of issue-spotting a complex situation for any potential question that may arise under the entire Code of Ethics and resolving all such questions.

The Board would thus be within its discretion to reject this request for an advisory opinion with leave for the request to be resubmitted with a request to examine the applicability and interpretation of a specific section of the Ethics Code.

The Board has chosen to exercise its discretion to look beyond that shortcoming, however, and review whether the allegations in the memorandum state a violation of AMC 1.15.060, the prohibition on conflicts of interest. The remainder of this advisory opinion thus addresses whether the allegations in the memorandum make out a violation of AMC 1.15.060.

The Board does not address the separate question regarding what Title 5 may or may not require regarding the appointment of an Acting Executive Director or what Title 5 may or may not require regarding the recent selection process for the new permanent Executive Director. Such questions are beyond this Board’s purview over Chapter 15 of Title 1, the Code of Ethics.

II. Merits

We conclude that the allegations in the memorandum do not state a violation of the Code of Ethics' prohibition on conflicts of interest.

The Code defines a conflict of interest as "a conflict between the *private interest* of a public servant and the *official responsibilities* of the public servant in the context of an official action." AMC 1.15.060D (emphasis added). The Code thus focuses on conflicts arising from an official's private interests as distinct from his or her official responsibilities. For that reason, the conflict-of-interest provision generally does not apply to situations in which an official simultaneously holds two municipal positions and no question of a separate *private* interest is raised. That general rule is confirmed by the text of a separate provision of the Code that prohibits contemporaneous employment with the Municipality and "organizations *other than the municipality*, if the contemporaneous service or employment is incompatible or in conflict with the proper discharge of the employee's municipal duties." AMC 1.15.090A (emphasis added).

The Code thus reflects a conclusion that there is no general conflict, within the meaning of the Code of Ethics, between a Municipal official's discharge of one set of municipal duties and that person's discharge of another set of municipal duties. Other sources of law beyond the Ethics Code may or may not constrain the circumstances in which a municipal official may properly perform two sets of distinct municipal duties. Any such questions, however, are beyond this Board's purview. The key point here is that, generally, there is no conflict of interest under the Code of Ethics when a municipal official simultaneously holds multiple positions with the Municipality. The Code is not designed to address the compatibility or incompatibility between the multiple roles that a dedicated public servant may fulfill for the Municipality.

The Commissioner's memorandum does not allege any conflict of interest between any person's *private* interests and their official responsibilities. Instead, the memorandum asserts that a conflict arose when a public official holding one office (such as the Ombudsman or the legal advisor to the Commission) was also assigned to perform additional duties related to the Commission (such as Acting Executive Director or serving on the hiring evaluation committee for the new permanent Executive Director). As explained above, those circumstances do not generally violate the Code of Ethics.

Nor do any of the more specific allegations in the memorandum describe a prohibited conflict of interest. The memorandum alleges four "Statutory Conflicts" but none of them describe a conflict of interest prohibited by the Code of Ethics.

1. Appointment of an Acting Executive Director

The Code of Ethics says nothing about the process that can be used under Title 5 or any other provision of law to appoint an Acting Executive Director for the Commission.

2. Legal counsel to the Commission also serving as Acting Executive Director of the Commission

The Code of Ethics does not expressly prohibit the legal advisor to a board or commission from being appointed to also serve in an executive capacity for the board or commission, as properly supervised by that board or commission and consistent with the attorney's separate ethical duties as a member of the bar.

That conclusion is not affected by the fact that, as the memorandum at issue here emphasizes, the legal counsel in this case was employed by the Municipality and the Municipality may have cases come before the Commission as an employer. All Commission staff and advisors are employed by the Municipality but remain free to properly hear cases involving the Municipality. There is no allegation here that the Acting Executive Director of the Commission represented anyone else (including the Municipality) before the Commission.

3. Ombudsman serving on the hiring committee

The Code of Ethics does not prohibit a person from serving as Ombudsman and also helping the Commission by serving on a committee of people receiving applications and evaluating candidates, as properly supervised by the Commission. That conclusion is not affected by the fact that the Ombudsman's office is charged with receiving complaints and investigating, as appropriate, "the administrative acts of employees and agents of the municipality." AMC 2.60.110A. The Commissioner's memorandum notes that any complaints about the hiring process here may be routed by Code to the Ombudsman's office, and the memorandum raises a question about whether the Ombudsman himself could properly receive and consider such a complaint potentially about his own conduct on the hiring committee. While the relevant section of Code is outside our purview over Chapter 15 of Title 1 (the generally applicable Code of Ethics), we note that the Code governing the Ombudsman's office clearly provides a mechanism for dealing with any such conflict if it were to arise: In the event of "a conflict of interest or significant risk to the public trust based on the appearance of a conflict of interest, the ombudsman will promptly transfer the complaint to another staff member." AMC 2.60.135A. There is no allegation in the memorandum that any actual conflict has arisen or that the procedure set out in Code for handling such a conflict would be inadequate if a conflict were to arise in the future.

4. Using municipal entities to resolve potential grievances by Commission employees

Finally, the Code of Ethics does not expressly prohibit the Commission or the Municipal Code from routing potential grievances by Commission employees for consideration by other municipal organizations, such as the Ombudsman's office, the Department of Human Resources, or the Municipal Attorney's Office, as appropriate. The mere fact of such routing does not create a conflict of interest within the meaning of the Code of Ethics. And there is no allegation in the memorandum indicating that the existing Code of Ethics' requirements regarding disclosure of a potential conflict and recusal on a case-by-case basis would be insufficient to handle any conflicts that may arise in the future.

CONCLUSION

The Board concludes that none of the allegations attached to the request for an advisory opinion state a violation of the Code of Ethics' prohibition on conflicts of interest. The Board does not address whether or how any other provision of Municipal Code outside of the Code of Ethics may or may not apply to the alleged circumstances. The Board thanks you for seeking this advisory opinion and striving to uphold the Code of Ethics.

Respectfully submitted,



Daniel Bellerive, Chair
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Gretchen Guess
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- (1) Municipal Ombudsman
- (2) Municipal Clerk for electronic publication