
2016 - 2017 REPORT

OF THE



MUNICIPAL BOARD OF ETHICS

August 9, 2018



“Here are the minutes of our last meeting: We drank a lot of coffee and everybody disagreed about everything until Todd looked like he was going to cry and then everyone was really super nice.”

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Municipal Board of Ethics

August 9, 2018

Re: 2016-2017 Annual Report of the Municipal Board of Ethics

Members of the Anchorage Assembly:

The Board of Ethics (“the Board”) is pleased to submit its 2016-2017 Annual Report to the Assembly for review. The Code requires the Board to formally apprise the Assembly of its work and make recommendations to support ethical conduct, improve ethics laws, and allow proper enforcement. A summary of the Board’s work and recommendations follow.

The annual report includes a statistical abstract of the Board’s work with a historical perspective, a summary of the scope of the Board’s work, details regarding the Board’s major accomplishments in 2016-2017, and the status of on-going projects. Also included are recommendations the Board believes would both strengthen compliance with the Code and enable the Board to operate more efficiently in the future.

The Board meets regularly once-monthly and met 29 times in 2016-2017 including six drafting meetings set to expedite the rewrite of AMC 1.15, Code of Ethics. **All members met the attendance requirements of board/commission members.**

The Board looks forward to another year ahead working closely with the Assembly in service of the Anchorage Community.

Sincerely,

Municipal Board of Ethics

Terrence Kelly, Chair
Ted Carlson
Jack McKenna
David Nesbett
Marsha Olson

2016 Board of Ethics Members**David Nesbett, Chair***Member since October 11, 2011***Term Expires: October 14, 2017****Dr. Terrence Kelly, Vice-Chair***Member since December 2, 2008***Term Expires: October 14, 2019****Ted Carlson***Member since March 27, 2012***Term Expires: October 14, 2019****Kathleen King***Member since January 13, 2015***Term Expired: October 14, 2016****Resigned: October 14, 2016****Rebecca Windt Pearson***Member since November 10, 2015***Term Expires: October 14, 2018**2017 Board of Ethics Members**Dr. Terrence Kelly, Chair** (starting 05/10/17)**Vice-Chair** (thru 05/10/17)*Member since December 2, 2008***Term Expires: October 14, 2019****Rebecca Windt Pearson, Vice-Chair***Member since November 10, 2015***Term Expires: October 14, 2018****Resigned: November 6, 2017****Ted Carlson, Vice-Chair** (starting 02/08/2018)*Member since March 27, 2012***Term Expires: October 14, 2019****Jack McKenna***Member since December 19, 2017***Term Expires: October 14, 2018****David Nesbett, Chair** (thru 05/10/17)*Member since October 11, 2011***Term Expires: October 14, 2020****Marsha Olson***Member since December 19, 2017***Term Expires: October 14, 2018**Staff Support to the Municipal Board of Ethics

Dee Ennis, Legal Advisor, Deputy Municipal Attorney

Lisa Toussaint, Legal Advisor, Administrative Hearing Officer

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STATISTICS OF THE BOARD'S WORK

Important note: On March 21, 2017, the Anchorage Assembly approved AO 2017-42, As Amended repealing and reenacting Anchorage Municipal Code Chapter 1.15, Code of Ethics. Because the contents of this report span the transition from the former to the current *New* Code of Ethics, references to the Ethics Code will include the designation *Old* or *New*, accordingly. An extensive review of the *New* Code of Ethics is detailed in this report at **D. Code of Ethics Rewrite - *New Code of Ethics*** beginning on page 16. However, throughout this report, the effect of some features of the *New* Code of Ethics are described by topic.

| Historical Summary of Board's Work | | | | | | | | | | |
|---|------|------|------|------|------|------|------|------|------|------|
| Work: | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 |
| Gifts Disclosure / Requests for Gift Exception | 104 | 131 | 129 | 228 | 153 | 177 | 133 | 44 | 31 | 14 |
| Disclosures of Potential Conflict of Interest | | | | 12 | 7 | 9 | 7 | 7 | 20 | 13 |
| Disclosures of Present Economic Interest | 46 | 54 | 126 | 45 | 55 | 44 | 121 | 222 | 278 | 189 |
| Notices of Intent to Respond to Public Solicitation | | | | 12 | 6 | 3 | 17 | 9 | 15 | 11 |
| Notices of Potential Violation | 2 | 7 | 3 | 4 | 3 | 5 | 3 | 3 | 1 | 1 |
| Requests for Advisory Opinion | 9 | 1 | 14 | 5 | 2 | 2 | 5 | 7 | 10 | 4 |

| (Gift Disclosures or) Requests for Gift Exception: | 2014 | 2015 | 2016 | 2017 |
|--|------------|-----------|-----------|-----------|
| MOA Employees | 4 | 0 | 0 | 0 |
| ASD Employees – Requests for Gift Exception | 125 | 42 | 29 | 12 |
| No disclosure needed | 86 | 28 | 8 | 8 |
| Approved for exception | N/A | 1 | 1 | 3 |
| Not approved for exception | N/A | 13 | 20 | 1 |
| MOA Elected Officials | 0 | 2 | 1 | 0 |
| ASD Elected Officials | 4 | 1 | 1 | 2 |
| Total: | 133 | 44 | 31 | 14 |

A. Gifts

On January 28, 2014, the Anchorage Assembly approved AO 2014-1, an ordinance amending AMC 1.15.025H (*Old Code of Ethics*) by clarifying the gift limits for Municipal employees and reconciling the broader prohibition concerning the *timing* and *nature* of a gift. Because the limits were clarified, gifts are either acceptable or not, eliminating disclosure requirements with a limited option to request an exception.

During the four-year period since the ordinance became effective, the Board's review of gift disclosures from employees of the Anchorage School District (ASD) continues to drop from 228 gift disclosures at the statistical height in 2011 to 12 total requests for a gift exception in 2017. Of these 12 requests, 8 gifts were allowable which required no disclosure, 3 requests were approved as allowable under the specific circumstance, and only 1 request was not approved because the Board found no special circumstance to warrant approval of a gift in excess of the allowable dollar amount. The decreased number of filings and the limited number of requests for an exception seem to indicate that ASD employees understand the limits regarding acceptable gifts and recognize when it is necessary to ask for an exception. Whether that is the case and excessive gifts are being returned by the recipients, or whether recipients are simply not disclosing excessive gifts; these results, although stunning, should be taken with a grain of salt and hopes for the former explanation. Further, it is hopeful that the consistent non-approval of excessive gifts will further reduce the filing of requests for an exception.

The clarity and limits provided in the rewrite of the gift section of the *Old Code of Ethics* shifts the employee's responsibility away from mere disclosure to managing the acceptance of gifts to avoid influence and the appearance of impropriety.

Excessive gifts should be returned immediately to the gift-giver.



We appreciate you!



In the years prior to the 2014 rewrite of the gift section of the *Old Code of Ethics*, some examples of excessive gifts received by teachers from their students-parents included cash in excess of \$100, spa gift cards, diamond jewelry, fur clothing, and airline tickets.

ACCOMPLISHMENTS

Regarding acceptable gifts for ASD employees, the *New Code of Ethics* retains both the letter and the spirit of the 2014 Rewrite. Like before, the *New Code of Ethics* provides supplemental rules for ASD employees to acknowledge and provide for other opportunities for students-parents and other organizations to show appreciation for teachers while avoiding undue influence and without compromising the appearance of undue influence. These additional provisions include gifts given in anonymity, contributions from ASD business partners, tickets to events or trips as a mentor or chaperone, and discounts for educational supplies.

B. Notices of Potential Violation

| Historical Summary – Notices of Potential Violation (<i>Old Code of Ethics</i>) Ethics Complaints of Potential Violation (<i>New Code of Ethics</i>) | | | | | | | | | | |
|---|------|------|------|------|------|------|------|------|------|------|
| 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 |
| 2 | 2 | 7 | 3 | 4 | 3 | 5 | 3 | 3 | 1 | 1 |

Links to notices of potential violation can be found on the Municipal Website at <http://www.muni.org/Departments/Assembly/Ethics/Pages/NOPVByViolation.aspx>.



NOPV 2016-1 came to the Board via filing by a resident of the Municipality of Anchorage requesting the Board of Ethics to determine a possible violation of (*Old Code of Ethics*) AMC 1.15.030(C), (D), and (E) regarding a conflict of interest. The Complainant stated that during a public meeting of a Municipal commission, a Commission member did not disclose his financial interest in a project whose amendments were being considered by the Commission until after comment on the amendments began.

The letter further stated that fellow commissioners did not make a determination on the disclosure and the Commission member voted on the amendments.

The Board of Ethics considered the evidence provided by the Complainant and reviewed the Commission meeting minutes, weighing all against the provisions of the *Old Code of Ethics*, and concluded that while the Commission member did not make a sufficient disclosure which resulted in a violation of AMC 1.15.030D; there was not an actual, substantive conflict of interest violation as determined by AMC 1.15.030E. However, the weakness and timing of the disclosure gave the appearance of a conflict.

Based on these findings, the Board of Ethics recommended that board and commission members should pay close attention to the proper procedure for the disclosure of potential conflicts of interest. Further, the Board provided a copy of the memorandum *Re: Disclosures of Potential Conflict of Interest*, dated November 12, 2015, for careful consideration by all the Commission members. Although the memorandum was originally directed at Assembly members, it is as informative and applies equally to

board and commission members.



Municipal Board of Ethics

MEMORANDUM

To: Assembly Ethics and Elections Committee

From: Municipal Board of Ethics

Date: November 12, 2015

Re: Disclosures of Potential Conflict of Interest

In a recent Assembly meeting (July 14, 2015), there seemed to be some confusion about the extent to which disclosures of financial and personal interests must be made.

A financial interest is a financial benefit or expectation of benefit. The Code of Ethics requires that an Assembly member disclose any (not just substantial) financial or personal interest that the member has in a matter before the body.

Any financial or personal interest in a matter before the Assembly should be publicly disclosed. If the Assembly is dealing with a matter in which there is a reasonable potential "downstream" financial or personal benefit to a member, it should be disclosed in sufficient detail to allow the body to determine if the interest is "substantial."

The Code prohibits an Assembly member from taking official action on a matter in which the member has a "substantial" financial or personal interest.

According to the Code, whether a financial or personal interest is "substantial" is determined by the Assembly. However, the Code requires that the determination be made in light of several conditions (see included*). The Assembly Chair may make an initial ruling as to whether a member's interest is substantial. If the Chair has made the disclosure, the Vice-Chair should make an initial ruling. If this ruling is challenged, then the entire body, except the member in question, should vote on whether the interest is substantial.

Whether you should have disclosed an interest, or did so in sufficient detail, is a matter that is reviewable by the Board of Ethics. In other words, a Notice of Potential Violation can be filed against a member of the Assembly on this issue.

Key Ethics Take-Aways

- Disclosure and robust evaluation of financial and personal interests are important to identify and eliminate conflicts of interest in government.

Key Ethics Take-Aways:

- Disclosure and robust evaluation of financial and personal interests are important to identify and eliminate conflicts of interest in government.
- The presider and the body should use the Code of Ethics criteria to determine whether a financial or personal interest is substantial.

Whether your interest is substantial is not reviewable by the Board of Ethics. The Assembly has sole jurisdiction in this area.

Whether you properly disclose all financial and personal interests in a matter is reviewable by the Board of Ethics.

The Chair and Assembly should use the Code of Ethics criteria to determine whether a financial or personal interest is substantial.

Criteria, AMC 1.15.035D.

Whether a financial or private interest is substantial. Determination of whether a financial or private interest is substantial shall be made by the elected body on a case-by-case basis. The elected body shall be the final authority on whether a financial or private interest as disclosed is substantial under this Code. The board does not have jurisdiction to reweigh the factors considered by the board for a differing interpretation by the board of substantial interests appropriate for consideration include one or more of the following:

1. Whether the financial or private interest held by the elected official or household member is a substantial part of the matter under consideration;
2. Whether the financial or private interest varies directly and substantially with the outcome of the official action;
3. Whether the financial or private interest is immediate and known or conjectural and dependent on factors beyond the official action;
4. Whether the financial or private interest is 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 elected official or household member belongs.

Accessed 10/21/2015.

- Whether your interest is substantial is not reviewable by the Board of Ethics. The Assembly, Commission, or Board has sole jurisdiction in this area.



- Whether you properly disclose all financial and personal interests in a matter is reviewable by the Board of Ethics.

ACCOMPLISHMENTS

Let's repeat:



- **Whether you properly disclose all financial and personal interests in a matter is reviewable by the Board of Ethics.**

Proper disclosure is the individual responsibility of the Assembly member and must be done so in accordance with the provisions of the Code of Ethics. The jurisdiction of the Board to determine violation for participation in a matter is limited to the sufficiency of the disclosure, not the ruling of the Chair or Body. A member of the Body will not be sanctioned for acting in compliance with the determination of the Body if the financial or private interest is fully and fairly disclosed.

Procedure for Disclosure:

- **Step One:** Prior to comment, deliberation, or decision on a matter before the Assembly, an Assembly member should disclose the nature of the interest in sufficient detail to permit the other members to determine if the interest is substantial.
- **Step Two:** If sufficient, the Chair may make a ruling based on the initial disclosure.
- **Step Three:** If the Chair needs more information to make a determination or the Body disagrees with the Chair's ruling, substantial financial or private interest may be determined with evaluation and balancing of the following factors:
 1. Whether the financial or private interest is a substantial part of the matter under consideration.
 2. Whether the financial or private interest directly and substantially varies with the outcome of the official action.
 3. Whether the financial or private interest is immediate and known or conjectural and dependent on factors beyond the official action.
 4. Whether the financial or private interest is 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.
 6. Other factors deemed appropriate by the presiding official under the specifics of the disclosure and the nature of the action.
- **Step Four:** The decision of the Chair may be overridden by a majority vote of the Body.
- **Step Five:** The Assembly member should yield and participate or not participate in accordance with the ruling of the Chair or the will of the body. 

In further response to the broad confusion regarding disclosures of potential conflict of interest, the Board of Ethics sent a letter to the chair of certain boards and commissions whose members may have more frequent potential for conflict of interest to provide general guidance to the membership.

The letter read, as follows:

Dear Chair of the [Name of the Board/Commission],

The Board of Ethics recognizes that many members of your [Board/Commission] may periodically have potential conflicts of interest. As you know, the Code of Ethics requires impartiality on the part of members of boards and commissions, and specifically forbids acting on a matter in which a member (or a member of his/her immediate family) has a "substantial financial interest" or a "prejudicial personal interest."

A conflict of interest occurs when an individual has a financial or private interest or is in a situation that would lead a reasonable person to question the impartiality of their judgment. From this perspective, if a member believes that they may have a potential conflict of interest,

- (1) they should disclose the potential conflict to the [Board/Commission] before any action or discussion on the matter takes place. This disclosure should be on the record and comprehensive enough to allow the [Board/Commission] to make an informed judgment about the nature of the conflict.
- (2) The [Board/Commission] should then deliberate and vote on whether the conflicting interest is "substantial" or "prejudicial" (see below for relevant section of the Code of Ethics¹). If, by a majority vote, the [Board/Commission] determines that a substantial financial or prejudicial personal conflict of interest exists, then the [Board/Commission] member may not participate in any way, including discussions on the particular matter. The chair of the [Board/Commission] should recuse the member from the matter entirely.

The Board of Ethics appreciates the opportunity to provide the above guidance. Should you have any questions please feel free to contact us.

The provisions of the *New Code of Ethics* regarding potential conflicts of interest recognize that in a representative democracy, the representatives are drawn from society and therefore, cannot and should not be without personal and financial interest in the decisions and policies of government. As before, disclosure of a potential conflict of interest must take place before participation in official action. A decision of whether the financial or private interest disclosed is substantial must be determined on a case-by case basis, with evaluation and balancing of the same factors brought over from the *Old Code of Ethics* and other factors under the specifics of the disclosure and the nature of the action. The general rule remains 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.

ECPV 2017-1 came to the Board via filing by a resident of the Municipality of Anchorage requesting the Board of Ethics to determine a possible violation of (*New Code of Ethics*) AMC 1.15.110E regarding political activity in the workplace. The Complainant stated that during a public meeting of the Anchorage School Board, a Board member wore an article of clothing signifying advocacy of a partisan position.



ACCOMPLISHMENTS

Based on its review, the Board of Ethics determined that the facts alleged in the complaint, if true, failed to constitute a violation of the *New Code of Ethics*. The prohibition regarding political activity as described in AMC 1.15.110E applies to employees and board members only. The *New Code of Ethics* defines “board member” as *members of the public appointed to serve on a municipal authority, board, or commission*. Members of the Anchorage School Board are considered to be “elected officials” of the Municipality and not employees or board members. Further, the Board informed the Complainant that the *New Code of Ethics* specifically provides that *elected officials may voice their political or partisan opinions as part of their usual or customary duties with ... limited use of Municipal resources*. (AMC 1.15.110C.2)

The structure of the *New Code of Ethics* pulls the provisions regarding political activity together into one section that clearly separates the elected official as a public servant who is expected to have political and partisan opinions. As such, elected officials ...

- *may voice their opinion as part of their usual and customary duties,*
- *may use their titles when engaging in political or partisan activity on behalf of themselves, and*
- *may appear in support or in opposition to any ballot measure.*

C. Requests for an Advisory Opinion

| Historical Summary – Requests for an Advisory Opinion | | | | | | | | | | |
|---|------|------|------|------|------|------|------|------|------|------|
| 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 |
| 4 | 9 | 1 | 14 | 5 | 2 | 2 | 5 | 7 | 10 | 4 |

Upon request or referral by the Municipal Clerk, Municipal Attorney, or Municipal Ombudsman, the Board of Ethics is to consult with and advise current and former employees, appointed officials, or elected officials *on matters involving ethical conduct, to include applicability and interpretation of municipal ethics laws*. To promote preventative instruction and advice, advisory opinions are published on the Municipal Website at <http://www.muni.org/Departments/Assembly/Ethics/Pages/AdvisoryOpinions.aspx>.



In 2016, several of the requests for an advisory opinion included questions regarding limitations on current Municipal employees to perform certain roles and if allowed, management of potential for conflict of interest. For example ...

“Yes, Dear!” ...

(*Advisory Opinion 2016-4*) The issue before the Board of Ethics was whether review and approval of a proposed rezoning project in the

Municipality's PACE system by the Director of the Office of Management and Budget violated the Code of Ethics when the OMB Director's wife represented the project proponent.

Advisory Opinion: The Board of Ethics concluded that the OMB Director's approval of the PACE item did not violate the Old Code of Ethics. According to AMC 1.15.025B. (Old Code of Ethics), a municipal employee shall not participate in an official action in which the employee or a member of the employee's family has a substantial or private interest...if the employee's duties could influence the official action...(and) whether the financial or private interest varies directly and substantially with the outcome of the official action. Although there was an official action taken by the OMB Director in approving the PACE item to move it forward and onto the Assembly meeting agenda, and his wife did have a substantial financial interest in the Assembly's decision on whether to approve the rezoning; the official action was largely administrative or ministerial in nature because it had little or no bearing on the outcome of the Assembly's decision. **To avoid any potential conflicts of interest or appearance of impropriety in the future, the Deputy OMB Director should review as part of the workflow approval process any PACE items pertaining to future projects for which the OMB Director's wife is a representative.**

"You can't serve two masters!" ...

(Advisory Opinion 2016-3) The issue before the Board of Ethics was whether a Municipal employee, not working in the Planning or Building Department, can serve on the Planning & Zoning Commission, Urban Design Commission, Platting Board, or Zoning Board of Examiners and Appeals.



Advisory Opinion: By Code, a Municipal land use board may have jurisdiction to review certain administrative decisions and as an executive within the Administration, the requestor is considered to be an extension of the Administration, and therefore not an impartial adjudicator for purposes of general due process considerations and duty of loyalty. Therefore, **the Board of Ethics concluded that it would be a conflict of interest for the Municipality to appoint any executive employee to serve on a land use adjudicatory board during the employee's tenure.**



"You're hired!" ...

(Advisory Opinion 2016-2) The issue before the Board of Ethics was whether a Municipal employee can provide consultation services for a fee regarding a subject matter of which the employee has experience from a previous position with the Municipality.

Advisory Opinion: The Board of Ethics found that the consulting arrangement would not constitute a violation of the Code of Ethics

ACCOMPLISHMENTS

so long as the Requestor does not provide private consulting services for one year on any land use matters in which the Requestor personally and substantially participated while previously working for the Municipality; does not disclose any confidential information obtained previously working for the Municipality; does not use Municipal time, facilities, or other resources to conduct the consulting business; and informs her supervisor in writing of the proposed consulting work so that it may be appropriately managed in light of current duties.

Summary of 2016 Advisory Opinions: (These descriptions are provided as summaries only and are not authoritative. Please see the actual opinions for detailed information.)

| | |
|-----------|--|
| 2016-10 | <p>The issue before the Board of Ethics was whether a member of the Mayor’s household can serve on a nonprofit board(s) that may receive MOA Grant Funds.</p> |
| Response: | <p>The <i>Old Code of Ethics</i> (AMC 1.15.035I) is clear that the Mayor (and his household members) can <i>serve without compensation as a voting member of a public body or charitable nonprofit organization receiving funding from the municipal or school district budget</i>. Because the Board can see no way in which the Mayor could effectively remove himself entirely from the process of grant-making for his own grant fund (AMC 1.15.035I.1-2), if the public body or charitable nonprofit organization elects to apply for funding from the Mayor’s community grant program during the tenure of the household member, the question should come back before the Board for further consideration.</p> |
| 2016-9 | <p>A local chiropractic and massage business offered a complimentary chiropractic adjustment and/or one-hour massage to one person from each fire station in Anchorage. The Anchorage Fire Department inquired as to whether this offer violates the Municipal Code of Ethics.</p> |
| Response: | <p>The Board of Ethics decided that the proposal did not violate the <i>Old Code of Ethics</i>; however, no formal opinion was issued.</p> |
| 2016-8 | <p>Withdrawn on May 26, 2016.</p> |
| 2016-7 | <p>The issue before the Board of Ethics was whether a Municipal employee who is a bidder for a Municipal public solicitation could be given an exception to the 7-day notice by publication on the Municipal Website of the form declaring intent to respond to public solicitation.</p> |
| Response: | <p>The Board’s opinion upheld the 7-day notice requirement by Code. The requestor was informed verbally.</p> |

| | |
|--------|---|
| 2016-6 | <p>The issue before the Board of Ethics was whether the <i>Old Code of Ethics</i> allows a current Municipal employee for the Anchorage Water and Wastewater Utility to operate a private business to treat and bottle water from Eklutna Lake.</p> <p>Response: The Board of Ethics concluded that the proposed private water treatment and bottling business would not violate the <i>Old Code of Ethics</i> so long as the Requestor did not use Municipal time, facilities, or other resources to conduct private business.</p> |
| 2016-5 | <p>The Board of Ethics was asked to review the practice of accepting donations from Dollars for Dogs (DFD), a 501C nonprofit organization, to ensure that there is no appearance of impropriety, gifts, conflicts of interest, or any other ethical dilemmas.</p> <p>Response: After careful review of the structure and relationship between DFD and the Anchorage Police Department with special attention on potential concerns including gifts, undue influence, and the appearance of impropriety; the Board of Ethics concluded that no ethical dilemmas exist in this relationship. The fact that DFD is an organization directly set up to support the canine unit is not unusual and in fact, is the exempt purpose for which the IRS grants nonprofit status.</p> |
| 2016-4 | <p>← See first example on Page 12.</p> |
| 2016-3 | <p>← See second example on Page 13.</p> |
| 2016-2 | <p>← See third example on Page 13.</p> |
| 2016-1 | <p>The issue before the Board of Ethics was whether the <i>Old Code of Ethics</i> permits the Department of Health and Human Services, acting through the Department of Law, to use Municipal resources to engage outside counsel for advice regarding potential sponsorship of an existing employee’s work visa.</p> <p>Response: The Board of Ethics found that retention of outside counsel by DHHS through the Department of Law to seek general advice on the responsibilities and liabilities of the Municipality of Anchorage when sponsoring an employee’s work visa does not constitute diversion of Municipal funds for a purpose unrelated to Municipal business in violation of AMC 1.15.020A.7, but instead constitutes the use of Municipal resources to procure general legal advice applicable to Municipal employment practices. Any advice provided to the Department of Law regarding this specific situation would remain on file with that department and could be applied in future situations involving potential visa sponsorship.</p> |

ACCOMPLISHMENTS

Summary of 2017 Advisory Opinions: (These descriptions are provided as summaries only and are not authoritative. Please see the actual opinions for detailed information.)

| | |
|------------------|--|
| 2017-4 | The issue before the Board of Ethics was whether an elected member of a service area board may be appointed to an advisory commission. |
| Response: | <u>Application of the New Code of Ethics:</u> Historically, the <i>Old Code of Ethics</i> distinguished between Municipal employees, Municipal board and commission members, and Municipal elected officials. The <i>Old Code of the Ethics</i> was thought by many to preclude both employees and elected officials from simultaneously serving on boards and commissions, and such was the practice city-wide. The <i>New Code of Ethics</i> recognizes an exception to the practice by distinguishing between elected officials and board members. The <i>New Code of Ethics</i> defines “board members” to include members of limited service area boards regardless of whether they are elected or appointed. Additionally, in this case, neither entity has review or decision-making authority over the decisions of the other entity and thus, the concern regarding any conflict created by sitting on two entities is not present. The Board determined that under the facts of this case, the <i>New Code of Ethics</i> does not preclude service on both the service area board and the advisory commission. However, in the interest of the public trust, the Board advised the Requestor to recuse himself from voting as a board member on any matter in which he participates or votes as a commissioner. |
| 2017-3 | See example beginning below and continuing to Page 17.  |
| 2017-2 | Withdrawn on February 6, 2018. |
| 2017-1 | The issue before the Board of Ethics was whether the Code of Ethics permits the Anchorage Port Director to register as an advisor and accept compensation regarding his expertise as a marine port executive. |
| Response: | The Board of Ethics was unable to provide a timely advisory opinion and the request was withdrawn by the Requestor. |

Links to advisory opinions can be found on the Municipal Website at <http://www.muni.org/Departments/Assembly/Ethics/Pages/AdvisoryOpinions.aspx>.

“What did your Mom say?” ...

(*Advisory Opinion 2017-3*) The issue before the Board of Ethics was whether the owner of an athletics supply business and coach at an Anchorage School District (ASD) school can sell sporting



goods from the business to the school at which the owner coaches and other schools within ASD.

Advisory Opinion: The Board of Ethics did not issue an advisory opinion regarding this potential conflict of interest. In this particular case, ASD had already determined that under its own conflict-of-interest policies, the Requestor was prohibited from entering into contracts for the sale of sporting goods to the school at which he coached. Also, ASD granted the Requestor a waiver to conduct business with other ASD schools so long as the disclosure, competitive bidding, and other terms of the waiver were followed. As it did in this instance, **ASD has the authority to adopt conflict-of-interests policies more stringent than those of the Municipal Code of Ethics.** Any opinion of the Board concerning the facts of this case under the Municipal Code of Ethics would be superseded by ASD’s application of its own more stringent policies.

D. Code of Ethics Rewrite – *New Code of Ethics*



Since 2007, past and current Board of Ethics members identified through the course of their work with the Municipal Code of Ethics a list of sections that were problematic and needed to be re-written to address issues of lack of clarity and congruency. Although over recent years, some of these issues were addressed through minor amendments, most of the problems were symptoms of the organizational structure and lack of consistency in the then current Code, creating difficulty with fair application and guidance. Most notable of the improvements to the *Old Code of Ethics* was an amendment, approved by the Assembly in 2014, pertaining to AMC 1.15.025H *Gifts to Municipal employees*. This amendment rewrote the section and was designed to bring more clarity and to provide consistent and clear limitations. The success of this rewrite turned the mindset of the members away from amendment and towards re-writing and re-organizing the Code of Ethics.

In early 2015, Assembly Chair Traini asked the members of the Board of Ethics to rewrite the Municipal Code of Ethics in its entirety with the goals of unifying, simplifying, and shortening. Upon the advice of Board Counsel, the members began the rewrite process by using the State of Alaska’s Code of Ethics as a model and identifying the gaps between the necessary provisions of the Municipal Code of Ethics and the State’s Code of Ethics. Instead of editing, revising, or deconstructing the current Municipal Code, Board Counsel began the process by drafting from the State’s Code.

Beginning in 2016, the Board shifted its focus away from a model Code of Ethics. Board Counsel drafted a first attempt to unify and simplify the current Municipal Code

ACCOMPLISHMENTS

of Ethics by opposing one of the problematic structural components of the current Code and eliminating the separation of three entities governed by the Code: municipal employees, elected officials, and appointed officials. **In September of 2016**, the Board cleared their agenda and began meeting weekly, exclusively on the Code of Ethics rewrite. With the assistance of then Assembly Counsel, Julia Tucker, one of the drafters of the 2007 Code of Ethics, the Board reviewed the new draft Code section-by-section to understand the original intent of each section, identify and reconcile any issues with each section, and confirm that the scope of the current Code of Ethics was covered by the new draft. The Board met for five drafting meetings in 2016 and finished the year with a substantial rewrite.

In 2017, the Board continued their weekly drafting meetings through January and by January 25, 2017, a final draft was presented to the Assembly Ethics and Elections Committee for their review. An Assembly Rules Committee meeting was scheduled for March 17, 2017 where the members of the Board of Ethics and Board Counsel met with Assembly members to present and answer questions regarding proposed Assembly Ordinance No. 2017-42, an ordinance of the Anchorage Municipal Assembly repealing and reenacting Anchorage Municipal Code Chapter 1.15, Code of Ethics. After review and some suggestions from Assembly members, the ordinance was introduced at the Regular Assembly Meeting of March 7, 2017, and amended and approved at the Regular Assembly Meeting of March 21, 2017.

Ten years later, after implementation in 2007 of a *New* Code of Ethics at the request of a former Assembly chair, the Municipality of Anchorage has a *New-er* Code of Ethics by request of another Assembly chair: unified, simplified, and shortened (from 43 pages) to 16 pages – but, still shy of the Chair Traini’s request for a 5-page Ethics Code. Who knows what may happen ten years from now?

The New Code of Ethics is reproduced in its entirety as Appendix A to this publication.



<http://www.muni.org/Departments/Assembly/Ethics/Pages/Default.aspx>

The Board of Ethics webpage can be accessed from three different locations on the Municipal Website, www.muni.org.

1. Access is linked directly on the Assembly's **Items of Interest** homepage from right-side navigation:



- [New Municipal Code of Ethics and Board of Ethics Webpage](#)
- [Anchorage Municipal Code](#)

2. Access is linked through the Assembly's homepage from the link to the Municipal Clerk's homepage, then **Assembly Boards and Commissions** webpage:

Assembly

- ▶ Meetings-Agendas
- ▶ Meetings-Watch Now Online
- ▶ Meetings-Conduct and Procedures
- ▶ Items of Interest
- ▶ About Us-Member Profiles
- ▶ District Maps
- ▶ Committees
- ▶ **Boards and Commissions**
- ▶ **Municipal Clerk**

Municipal Clerk

- ▶ Assembly
- ▶ Municipal Clerk
- ▶ Elections
- ▶ Licensing
- ▶ **Boards and Commissions**
- ▶ Lobbying
- ▶ Assembly Legislation
- ▶ Contact Information

Assembly Boards and Commissions

Board of Ethics

The Board of Ethics is a five-member board appointed by the Mayor, approved by the Assembly, and staffed by the Municipal Clerk. The duties of the Board of Ethics are derived from the Municipal Code of Ethics (AMC 1.15). The purpose of the Ethics Code is to set clear and reasonable standards for public officials and employees of the Municipality. The Board of Ethics promotes an understanding of these standards by providing advisory opinions, investigating notifications of potential violation, resolving potential conflicts, reviewing disclosure forms, and developing Ethics Training. The Board of Ethics holds regular meetings monthly and special meetings as needed.

3. Access is linked through the Mayor's Corner from the Mayor's **Boards & Commissions** webpage:



Mayor's Corner

- ▶ Board Commission List
- ▶ How to Serve
- ▶ Information for Commissioners
- ▶ Upcoming Meetings
- ▶ Ethics Information

Boards & Commissions

Established by Municipal Charter or Municipal commissions are groups of local residents

Interested in Serving on a Board or

We have a new and easy online application. references ready in a PDF format. [Please click](#)

The format of the Board of Ethics webpage has changed to accommodate direct access to the *New* Code of Ethics. The main body of the webpage is arranged as an index with the subsection title and a link to the Code referenced. All forms, some additional information regarding instructions for filing, and some historical Board opinions and responses are located conveniently under the appropriate subsection title.

- **Topic Links** to the most searched for information regarding Municipal ethics.

- **Link to MuniCode** for direct access to AMC 1.15.

- **Links to the text of subsections** of AMC 1.15 with subject titles.

- **Links to webpages** with frequently asked questions and additional instructions for filing.

- **Links to filing forms** related to the subsection.

BOARD OF ETHICS

On March 21, 2017, the Anchorage Assembly approved an ordinance repealing and reenacting the Municipal Code of Ethics which became effective immediately. Due to the rewrite, all forms prescribed by the Board of Ethics have been revised. *Please dispose of all old forms.*

New Code of Ethics:

AMC 1.15 . . .

- .010 Title.
- .020 Purpose.
- .030 Scope.
- .040 Use of Municipal Resources.
- .050 Gifts.
 - Form:** Request for Gift Exception by a Public Servant
 - Form:** Disclosure by an Elected Official of a Gift in Excess of \$500 Received for an Event Related to Official Government Business, Education, or Information Gathering
- .060 Conflicts of Interest.
 - Form:** Disclosure by the Mayor of a Potential Conflict of Interest
 - Form:** Notice of Intent to Respond to Public Solicitation by a Public Servant
 - Questions** about filing a notice of your intent to respond to a public solicitation?
- .070 Elected Officials - Consultation, Representation, and Appearance on Behalf of Private Interests on a Matter of Municipal Government.
- .080 Charitable Nonprofit Board Member Service.
- .090 Contemporaneous Employment or Service.
- .100 Interest in Municipal Contract or Business with Municipality.
 - Form:** Disclosure of Economic Interest in a Municipal Contract or Business by a public Servant
 - Form:** Notice of Intent to Respond to Public Solicitation by a Public Servant
- .110 Political Activity.
- .120 Confidentiality and Use of Nonpublic Information.

TOPIC LINKS:

- [How to Request an Advisory Opinion, AMC 1.15.150: Form and History](#)
- [How to File an Ethics Complaint, AMC 1.15.160: Form and History](#)

ANNUAL REPORTS:

[2014-15 Annual Report to the Anchorage Assembly](#)

BOARD OF ETHICS MEMBERS:

| Name | Term Ends |
|---------------------------|------------|
| Theodore Carlson | 10/14/2019 |
| Dr. Terrence Kelly, Chair | 10/14/2019 |
| Jack McKenna | 10/14/2018 |
| David Nesbett | 10/14/2020 |
| Marsha Olson | 10/14/2018 |

STAFF CONTACTS:

- Deitra Ennis, Deputy Municipal Attorney
- Lisa Toussaint, Admin. Hearing Officer
- Barbara A. Jones, Municipal Clerk
- Lisa Schleusner, Deputy Municipal Clerk

- **Links to the Board members' appointment documents.**

Topic Links are located on the right-side navigation and currently contain two topics that make up the majority of the Board's work: *Requests for an Advisory Opinion* and *Ethics Complaints for Potential Violation*. The webpage makes information regarding these two topics easily locatable and includes links to **frequently asked questions**, **the applicable Code**, **the filing form**, and access to the **Board's opinions** since 2007 and responses since 2009.

Requesting an Advisory Opinion

Who can request an advisory opinion?

To request written advice from the Board of Ethics regarding the applicability and interpretation of the Code of Ethics related to actions, rights, or conflict personal to the requestor, **you must be one of the following**:

Current, Former, or Potential ...

- Municipal Employee
- Appointed or Elected Member of a Municipal Authority, Board, or Commission
- Elected Official
- Municipal Clerk
- Municipal Ombudsman
- Municipal Attorney

How do I file a request for an Advisory Opinion?

1.15.150 Advisory Opinions.

- 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.
- The municipal clerk, the municipal ombudsman, and the municipal attorney

Requests for an Advisory Opinion

Current Advisory Opinions under the **New** Code of Ethics ...

| | | |
|---------|---------------------|---|
| 2018-03 | Request | The issue before the Board is how a recently appointed Planning Director with many years of experience working with a private company who provides professional developmental services, including moving planning and engineering projects through the Municipal process for approval, can manage potential conflicts of interest in the performance of municipal duties. |
| | Response | |
| 2018-02 | Request | The question before the Board is whether a property manager can offer a covered parking space at no charge to Municipal employees who have a municipal-owned vehicles assigned to them. |
| | Response | |
| 2018-01 | Confidential | The question before the Board is whether the spouse of an elected official can be employed with a non-profit entity that receives substantial funding from the Municipality and manage conflict of interest, appearance of impropriety. |
| | Response | |
| 2017-04 | Request | The question before the Board is whether an elected member of a service area board may be appointed to an advisory commission. |
| | Response | |
| 2017-03 | Request | The question before the Board is whether the owner of an athletics supply business and coach at an Anchorage School District school can sell sporting goods from the business to the school at which the owner coaches and other schools within the Anchorage School District. |
| | Response | |
| 2017-02 | Informal | WITHDRAWN - February 6, 2018. |
| 2017-01 | Request | WITHDRAWN - June 27, 2017. |

Years from 2007 to 2016 under the previous Code of Ethics ...

| | | |
|---------|----------------|--|
| 2016-10 | Request | The issue before the Board is whether a member of the Mayor's household can serve on a non-profit board(s) that may receive MOA Grant Funds. |
|---------|----------------|--|

- **Link to the Assembly ordinance repealing and re-enacting AMC 1.15, Code of Ethics.**

[.130 Restrictions on Employment After Leaving Service.](#)

[.140 Board of Ethics.](#)

[.150 Advisory Opinions.](#)

[Questions](#) about requesting an advisory opinion?

[Form:](#) Request for an Advisory Opinion

[Advisory Opinions](#) (2007-Present)

[.160 Ethics Complaint for Potential Violation.](#)

[Questions](#) about filing an ethics complaint for potential violation?

[Form:](#) Ethics Complaint for Potential Violation

[Ethics Complaints for Potential Violation](#) (2009-Present)

[.170 Annual Report.](#)

[.180 Definitions.](#)

To access the new Code of Ethics through the approving ordinance, click on this link ... [AO 2017-42, As Amended](#)

Municipal Board of Ethics

632 West 6th Ave Ste 250 Anchorage, Alaska 99501
Meeting Date: _____

Phone: 343-8111 Municipal Clerk: Barbara A. Jones

CONFIDENTIAL Request for an Advisory Opinion CONFIDENTIAL

Anchorage Municipal Code Chapter 1.15 CODE OF ETHICS, sec. 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 proceedings 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 reported to the board in the inquiry.

D. **Request for advice is confidential unless confidentiality is waived by the person requesting an advisory opinion.**

AMC 1.15.090 Public Access. All persons within the scope of this code including former board members, and elected officials.

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

Please describe your request:

With appropriate consent

I Waive Confidentiality I Request Confidentiality

In accordance with AMC 1.15, I understand that advisory opinions are required to be posted on the Municipal Website. The Board shall make sufficient efforts to protect the privacy of the persons who have requested anonymity. AMC 1.15.150.F. I affirm to the best of my knowledge that my statement is true, correct, and complete.

Signature of Requestor: _____ Date: _____

Printed Name: _____ Phone Number: () - _____

Email Address: _____

Mailing Address: _____

Ethics | Municipal Clerk: Barbara A. Jones
632 West 6th Avenue Ste 250 907-343-4311

| | | | | |
|-----------------|--------------------------------|-------------|------------------------|-----------------|
| My Neighborhood | Contact Us | eNewsletter | RSS | Employee Search |
| ADA Compliance | Privacy Statement & Disclaimer | Jobs | Municipal Services A-Z | For Employees |

OFFICIAL WEB SITE OF THE MUNICIPALITY OF ANCHORAGE, ALASKA
632 West 6th Avenue, Anchorage, Alaska 99501

AMC 1.15.140G. – Ethics Education Program: The Board shall develop an ethics education program, including a guide to the Code of Ethics. In keeping with this provision of the *New Code of Ethics*, the Board has set the goal of developing a presentation for new Municipal board and commission members regarding ethics training. Modeled after a presentation given to the Assembly members at their 2017 Assembly Retreat, the training would concentrate on management of potential conflicts of interest.

The Municipal Code of Ethics
A Crash Course for Assembly Members

Purpose: Honor the Public Trust

"Ethical behavior involves the commitment to take individual responsibility in creating a government that earns the trust and respect of its citizens."



Four Key Ethical Issues

- Use of Municipal Resources
- Gifts
- Conflict of Interest
- Political Activity

Use of Municipal Resources

Basic Principle: municipal resources that you have access to via your position as a municipal public servant should be used only for municipal purposes.

Use of Municipal Resources

Can you use an office phone for a private call?
Yes, within reason.
De Minimus use is permitted.



Use of Municipal Resources

What about charitable uses of muni resources?
OK provided approved by assembly chair, mayor (or designee)



Gifts

Basic Principle: do not accept gifts if they will create bias or the appearance of bias.

Gifts

"a public servant may not accept gifts:

- (1) from an individual or entity with interests that may be substantially affected by the performance of the person's official municipal duties
- (2) Under circumstances where the timing and nature of the gift would cause a reasonable person to question the person's judgment in exercising official municipal duties" (1.15.050)

Some Exceptions



A Case

• A civic organization wants to fly you to a conference where you will learn about issues important to the municipality. May you accept this gift?

Conflict of Interest

Basic Principle: Don't participate in official actions in which you have a personal interest such that (1) it prevents you from putting the public interest first; or (2) diminishes the public trust.

Conflict of Interest

As with gifts, integrity and the appearance of integrity matter.



Conflict of Interest

Rule: you should not participate in official action if you, or a member of your immediate family, has a "substantial" interest in that matter. (1.15.060 D)

What is a Substantial Interest?

1. Is the interest a substantial part of the matter?
2. Does the interest vary directly and substantially based on the outcome of official action?
3. Is the interest immediate and known or conjectural and based on factors beyond official action?
4. Is the interest significant monetarily?
5. Is the interest one generally possessed by the public or a large class of persons?
6. Are there other factors in this particular case that would seem to undermine objectivity or public trust?

Who Decides? NOT YOU!!!

- You must disclose any unique interest you or your immediate family has on a matter.
- Do not refrain from disclosure because you believe the interest is not substantial.

The Assembly Decides

- The decision of the Assembly on the substantiality of your interest is final and cannot be reviewed by the Board of Ethics.
- Your disclosure (or lack thereof) is reviewable by the Board of Ethics.

A Case

You are a veteran thinking about sponsoring an ordinance that will create a small economic benefit for veterans.

Is this a conflict of interest?

Political Activity

Basic Principle: do not use municipal resources to influence elections of candidates, bonds, or ballot measures; or for supporting a cause, party or partisan action.



Political Activity

Exceptions: You may appear before governmental bodies, civic organizations, community councils and media representatives to support or oppose a bond measure.

You may incur limited costs (e.g. time, vehicle, clerical) in doing so.



Political Activity

Exceptions: Voicing opinions within usual municipal duties (with limited costs)

You may use your title but may not imply you are speaking on behalf of the Assembly

Educating the public on issues.



A Case

You want to sponsor an Assembly resolution condemning poor pay for philosophy professors. Doing so will require use of some municipal resources.

May you do so?

I'm Not Sure. What Should I Do?!

- Contact Dee
- Seek Advisory Opinion from Board of Ethics (can be confidential)



Ethics Investigation

Any adult resident of the municipality may file a notice of potential violation against a public servant for alleged violations of the ethics code.

Ethics Investigation

- If the board accepts the notice, it will launch an investigation.
- If the complaint is against you, you will receive notice from the Ethics Board with an outline of the process.
- If you file a notice, make sure to observe confidentiality or it will be dismissed by the Board.

EXECUTIVE SUMMARY

August 2018

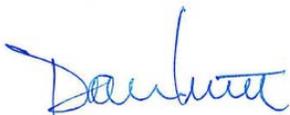
2018 is again a strong year for the Board of Ethics with a full complement of five members. Two new members have joined the Board after the resignation of Ms. King and the hiring of Ms. Windt Pearson to the position of Municipal Attorney. Jack McKenna is an attorney from the local law firm of Birch Horton Bittner & Cherot and Ms. Olson is an Assistant Professor of Communication at the University of Alaska Anchorage. Veteran and returning Board members include: Ted Carlson, former Assembly Member and retired APD Captain; Dr. Terry Kelly, UAA professor and instructor in the subject matters of logic, philosophy, and ethics; and David Nesbett, a shareholder and owner of his own law firm of Nesbett & Nesbett, fills the seat reserved for an attorney member of the Alaska Bar Association. In addition, the Board is extremely grateful for the continuing contributions of Dee Ennis, Deputy Municipal Attorney, and Lisa Toussaint, Administrative Law Judge.

The Board is excited to maintain this diversity, experience, and expertise to its evolving agenda. The returning members of the Board also provide a level of stability and consistency when arriving at a variety of decisions both before and after the changes were made to the Code of Ethics.

Into the 2018 year, the Board has completed its work on one request for an advisory opinion along with several “drop-in” requests from various Assembly members and Municipal personnel, and begun processing two new requests for an advisory opinion and one new ethics complaint of potential violation. The Board will continue its efforts to facilitate compliance with the rules regarding disclosure of present economic interests for members of Municipal boards and commissions with the goal of developing an ethics training presentation on the subject for board and commission members.

Finally, the Board sincerely enjoyed working closely with the Anchorage Assembly during the rewrite of the Ethics Code and very much looks forward to continuing this positive working relationship in the years to come.

Sincerely,



David Nesbett, Current Member and Past Chair in 2016 and 2017



MUNICIPAL CODE OF ETHICS

Effective March 21, 2017



“When you say ‘ethical’ do you mean marginally ethical, semi-ethical, or appearing to be ethical?”

1.15.010 Title.

This chapter may be cited and referred to as the Code of Ethics.

1.15.020 Purpose.

- A. Public Trust. Holding public office or employment is a public trust. The proper functioning of democratic government requires ethical behavior by public officials and employees. Ethical behavior involves the commitment to take individual responsibility in creating a government that earns the trust and respect of its citizens. All who serve the municipality have a solemn responsibility to avoid improper conduct.
- B. Intent. The assembly intends this code to be interpreted to promote fair, honest, and impartial dealings with members of the public, to ensure proper use of municipal resources, and to avoid or manage conflicts of interest and potential conflicts of interest.
- C. Appearance of Impropriety. Where provisions of this chapter differ from the common law principle that an appearance of impropriety alone is sufficient to establish a conflict of interest or an ethical violation, the provisions of this chapter supersede the common law.
- D. No Private Cause of Action. Nothing in this chapter shall be interpreted to create a private cause of action against an official, executive, or employee of the municipality or the municipality, authority, or school district.

1.15.030 Scope.

This code applies to:

- A. Employees – all employees of the municipality of anchorage, including employees of a corporate authority owned by the municipality and employees of the anchorage school district;
- B. Board Members – members of the public appointed to serve on a municipal authority, board, or commission and board members of limited road service areas (LSRA) whether elected or appointed;
- C. Elected Officials – assembly members, mayor, school board members, and board members of general service areas; and
- D. Public Servants – all persons within the scope of this code, including employees, board members, and elected officials.

1.15.040 Use of Municipal Resources.

- A. Municipal resources include, but are not limited to funds, facilities, tools, equipment, vehicles, property, consumable resources, and employees and employee time. Municipal resources shall be used for municipal public purposes, which shall be defined to include:
 - 1. The performance of municipal duties, including educational and outreach programs;
 - 2. Occasional and limited use of municipal resources for community service or charitable fundraising purposes if duly authorized by the chair of the assembly, the mayor, or the mayor's designee;

NEW CODE OF ETHICS

3. Use of municipal resources as further addressed in the mayoral directives (policies and procedures), as well as an annual umbrella charitable fundraising program designated by the mayor for participation by public servants.
- 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.
- C. Except to the extent the general public has the same access to or as otherwise authorized, a municipal employee shall not use facilities, equipment, data, or supplies of the municipality to support an employee's personal endeavors, including contemporaneous service or employment.

1.15.050 Gifts.

- A. Definition: A "gift" is an item of value, including but not limited to money, cash equivalents, services, discounts, meals, and entertainment. Gifts that are not connected with the recipient's status as a public servant are outside the scope of this chapter.
- B. General Rule: To avoid undue influence or the appearance of undue influence, a public servant may not accept a gift from an individual or an entity with interests that may be substantially affected by the performance of the person's official municipal duties under circumstances where the timing and nature of the gift would cause a reasonable person to question the person's judgment in exercising official municipal duties.
- C. Examples: Unless other factors of influence are present or inconsistent with the general rule, a public servant may accept the following gifts:
 1. An item given for a special occasion by municipal coworkers.
 2. A perishable item given for consumption or display, by member(s) of the public or a classroom expressing general appreciation or holiday cheer, shared with an office, work group, or classroom.
 3. A discount, prize, or award available to public sector employees generally, or to a large business category of public employees.
 4. A monetary award or commemorative item presented in recognition of meritorious, civic, or voluntary service presented by a recognized civic, philanthropic, or non-profit charitable organization.
 5. An item, homemade or handmade, crafted by the giver.
 6. An occasional gift or meal worth \$50.00 or less.
 7. Tickets, including entry and meal, to events held by a non-profit organization.
 8. Tickets, including entry and meal, to civic events hosted by government agencies, civic organizations, or community service clubs consistent with the mission of the public servant's work group.
 9. Items such as employee travel discounts, vendor-provided accommodations, training, and payment of employee registration fees that are approved by the appropriate supervisor for legitimate governmental purposes.
- D. Supplemental Rules for Anchorage School District (ASD) Employees: In addition to the items set forth in subsection C, ASD employees may accept the following items:

1. Supplies, equipment, monetary and in-kind gifts made through the PTA, parent forum, booster club, other similar community groups, or the principal.
2. Contributions from ASD business partners.
3. Tickets for events or trips for which an ASD employee serves as a mentor or chaperone.
4. Discounts for educational supplies.

E. Supplemental Rules for Elected Officials:

1. A campaign contribution to an elected official or candidate for municipal office which is reported by a public servant in accordance with state law is not considered a gift.
2. An elected official may receive sponsor provided registration fees, travel expenses, accommodations, and meals for an event related to official government business, education, or information gathering. If the value of these received items exceeds \$500 in total, an elected official must file a disclosure to the municipal clerk in the form prescribed by the board of ethics and posted on the municipal website at least 3 days prior to the event.

F. Reservation for Exceptions: The board or a municipal ethics officer may review and approve a gift which is consistent with the public policy concerns underlying limitations on gifts to public servants (influence, appearance of influence, conflict of interest, public trust). Gifts may be redirected for disposition to a charitable organization or return to the donor.

G. Traveling While Campaigning or Fundraising: If a current municipal employee or elected official is a candidate for elected municipal, state, or federal office, any engagement in campaigning or fundraising for elected office while on paid travel status for the municipality shall be disclosed by trip report. The travel expense payable under municipal travel regulations, including airfare, shall be adjusted and the candidate shall be responsible for the greater of:

1. The pro rata share of travel expense attributable to the time spent campaigning or fundraising for elected public office; or
2. The adjustment made for personal travel by a non-candidate while on authorized municipal travel, if any.

1.15.060 Conflicts of Interest.

A. Minor or Substantial Conflict of Interest: The assembly recognizes that in a representative democracy, the representatives are drawn from society and, therefore, cannot and should not be without personal and financial interests in the decisions and policies of government. Standards of ethical conduct need to distinguish between those minor and inconsequential conflicts that are unavoidable in a free society, and those conflicts of interest that are substantial and material.

B. Public Interest: A public servant shall place the public interest above any financial or private interest when taking official action. If a public servant's private relationships or interests prevent the servant from placing the public interest above a financial or private interest, or will diminish the public trust, the public servant shall disclose this fact on the record and shall be excused from participation.

C. Definition of Official Action: For purposes of this code, official action means participation in a process, including deliberation, in which a decision or recommendation is reached.

NEW CODE OF ETHICS

- D. Official action does not include:
1. Clerical or ministerial action on a matter. For purposes of this chapter, ministerial describes an act or duty that conforms to an instruction of prescribed procedure with limited or no use of judgment by the person performing the act or duty.
 2. Action on a matter that does not substantially evaluate or impact the merits of the recommendation or decision.
- E. General Rule – Conflict of Interest and Official Action: 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. Prior to participation in official action, the public servant shall disclose financial or private interests for determination of whether they are substantial.
- F. Substantial Financial or Private Interest: Whether the financial or private interest disclosed is substantial shall be determined on a case-by-case basis, with evaluation and balancing of these factors:
1. Whether the financial or private interest is a substantial part of the matter under consideration.
 2. Whether the financial or private interest directly and substantially varies with the outcome of the official action.
 3. Whether the financial or private interest is immediate and known or conjectural and dependent on factors beyond the official action.
 4. Whether the financial or private interest is 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.
 6. Other factors deemed appropriate by the presiding official under the specifics of the disclosure and the nature of the action.
- G. Procedure for Disclosure:
1. Employee: A municipal employee shall disclose to the designated ethics officer the nature of the interest and how the employee's duties could influence the official action. The ethics officer shall determine if the interest is substantial, or refer the matter to the board of ethics.
 2. Board Members and Elected Officials:
 - a. Prior to comment, deliberation, or decision on a matter coming before the body, the member or official shall disclose the nature of the interest in sufficient detail to permit the other members of the body to determine if the interest is substantial.
 - b. If the presiding officer exercises parliamentary authority by making an initial ruling on a disclosure of financial or private interest, the decision of the presiding officer may be overridden by the majority vote of the body.
 - c. The member of the body making the disclosure shall not rule or vote on whether the financial or private interest is substantial.
 - d. A member or official shall not be sanctioned for acting in compliance with

the determination of the body if the financial or private interest is fully and fairly disclosed.

- e. The jurisdiction of the board to determine a violation under this chapter by an elected official for participation in a matter after disclosure of a financial or private interest is expressly limited to the sufficiency of the disclosure.
- 3. **Mayor:** The potential for conflict of interest presented by a financial or private interest held by the mayor shall be disclosed prior to action to either the municipal ethics officer, or to the board of ethics for determination and management of the potential for conflict of interest. Advice rendered by the ethics officer is subject to review by the board.
- 4. **Rule of Necessity:** The board may apply the rule of necessity when the assembly is legally required to act and it lacks enough members to take valid official action solely due to assembly members being disqualified by shared or substantially similar conflict of interest from participating in the matter.
- 5. **Certification of Election:** An assembly member's candidacy in a municipal election does not preclude the assembly member's participation in certification of the municipal election.

1.15.070 Elected Officials – Consultation, Representation, and Appearance on Behalf of Private Interests on a Matter of Municipal Government.

- A. **Dual Representation:** Dual representation by an elected official can cause a conflict of interest between the discharge of official duties and the representation of the other interest.
 - 1. **Paid Representative or Consultant:** An elected official shall not serve as a paid consultant on a private interest or as a paid representative of any person or entity before a municipal department, administrative agency, utility, or elected or appointed public body of the municipality.
 - 3. **Private Interest:** By reason of their position, elected officials may appear to have the ability to exercise undue influence. An elected official shall not:
 - a. Appear on behalf of any private interest before the school board or the assembly;
 - b. Appear on behalf of any person or entity in an adjudicatory matter before an appointed public body of the municipality.
 - c. Exceptions to a and b:
 - i. The elected official, or a member of the elected official's household, is a party or has an ownership interest or a private interest in an adjudicatory matter before the public body; or
 - ii. The elected official is appearing at the specific request of the elected or appointed public body. An elected body shall not request the appearance of a member of the elected body under this subsection unless the elected official's participation in the matter pending before the elected body has been properly excused under the procedures of the elected body.

B. **Constituent Services:** Nothing in this section is intended to prevent an elected official

from making verbal or written inquiries on behalf of constituents or the general public or from requesting explanations or additional information, provided that the elected official is not charging a fee for this service.

1.15.080 Charitable Non-Profit Board Member Service.

Elected officials and members of their immediate family may serve without compensation as voting or non-voting members of a charitable nonprofit organization receiving funding from the municipal or school district budget.

- A. The elected official shall disclose the board member service before participating in official action by the municipality on the budget or other matter involving the board or commission of a public body or charitable nonprofit organization.
- B. If the elected body finds a substantial conflict in requiring a member to participate in action before the elected body, the elected body may in its sole discretion excuse participation or divide the question to avoid a conflict on the whole.
- C. The mayor's disclosure shall be to the board of ethics.

1.15.090 Contemporaneous Employment or Service.

- A. Employee: A municipal employee shall not render services to, or accept employment with, persons or 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.
- B. Elected officials:
 - 1. Except where authorized by ordinance, an elected official shall not hold other municipal employment or elected state office.
 - 2. An elected official of the municipality other than the mayor may serve as a non-elected employee of the state.
 - 3. The mayor holds a full time position of employment with municipal authority presumed incompatible and in conflict with serving as an employee to another person or entity.
 - a. If due to specific circumstances or unfairness, the mayor seeks relief from this presumption, the mayor shall present the circumstances and proposal for management of the potential conflict of interest to the board of ethics for an advisory opinion.
 - b. Absent factors that clearly present a potential for adversely affecting the mayor's availability, productivity, or independence of judgment in performing municipal duties, a financial interest or corporate office, held by the mayor in a business or economic enterprise managed by others is not other employment under this chapter and the presumption does not apply.
 - c. The mayor's request and the board's advisory opinion to the mayor are public records.
- C. Independent Contractor: An independent contractor engaged through competitive bidding does not hold municipal employment for purposes of this section.

1.15.100 Interest in Municipal Contract or Business with Municipality.

- A. Disclosure upon employment, appointment, or election: Within 30 days of commencement of service, a public servant shall submit a written disclosure of whether or not the public servant or member of the public servant’s immediate family or household has an economic interest in a municipal contract or in an entity engaging in business with the municipality. The disclosure shall be made to the municipal clerk in the form prescribed by the board of ethics.
- B. Acquisition of interest in municipal contracts and business by public servant, immediate family, or household:
 - 1. Notice: Prior to the application, bid, or response for the grant, contract, lease, or other municipal business, including but not limited to bids on foreclosed properties, a public servant shall:
 - a. Submit a notice of intent to respond to public solicitation in the form prescribed by the board of ethics to the municipal clerk for review by the board or municipal ethics officer;
 - b. File the notice with the municipal Clerk for electronic publication no less than seven days in advance of the deadline for submitting a response to the solicitation; and
 - c. Provide a copy of the notice to the municipal purchasing officer with the public servant’s response.
 - 2. Criteria: A public servant, or member of the public servant’s immediate family or household, may not acquire, receive, apply for, be a party to, or have a personal or financial interest in a municipal grant, contract, or lease, unless:
 - a. The public servant does not take official action that could directly affect the request for services, nor the award, execution, or administration of the grant, contract, or lease.
 - b. If this requirement is not met, the public servant may request additional review by the board of ethics.

1.15.110 Political Activity.

- A. Definitions – for purposes of this chapter, the following terms are defined:
 - 1. Political Activity – an act for the purpose of influencing the outcome of an election. Election includes ballot, bond, or candidate elections.
 - 2. Partisan Activity – an act for the purpose of supporting a party, cause, or action.
 - 3. Advocacy – an act in support of a political or partisan position.
 - 4. Education – presenting information from a position of neutrality.
- B. Compliance with APOC: Compliance with the alaska public offices commission (APOC) requirements under state statute is outside of the scope of this chapter. Elected officials have an independent duty to comply with APOC.
- C. Use of Municipal Resources for Political or Partisan Activity Prohibited: A public servant shall not use or authorize the use of municipal resources for political or partisan activity with the following exceptions and subject to independent APOC requirements:

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1. The mayor, school superintendent, member of the assembly, and member of the school board, or their executive designee, may:
 - a. Appear before the assembly, the school board, appointed bodies of the municipality, community councils, civic organizations, and media representatives in support or in opposition to any ballot measure coming before the voters in a municipal election; and
 - b. Incur associated but limited expenses, such as employee time, use of municipal vehicle, and clerical costs.
2. Elected officials may voice their opinions as part of their usual and customary duties with similar limited use of municipal resources.

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.
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.
3. Employees may not appear in their uniforms or substantially similar dress when engaging in political or partisan activity.

E. Political Activity in the Workplace: Employees and board members shall not engage in political activity while at the workplace or in the performance of work duties, including wearing campaign buttons. An exception to this is bumper stickers on personal vehicles in municipal parking facilities, except to the extent that such activity is prohibited by the municipal election code addressing political persuasion near polling locations.

F. Partisan Activity in the Workplace: Employees and board members shall not engage in partisan activity addressing municipal matters while at the workplace or in the performance of work duties. Fundraising in the workplace shall be addressed by the assembly and administration through policy.

G. Candidates: No public servant shall expend municipal resources for the support, opposition, or endorsement of candidates for any elected government entity.

H. Education: Nothing in this chapter prohibits the use of municipal resources for the purpose of education regarding municipal matters subject to assembly and administration policies.

1.15.120 Confidentiality and Use of Nonpublic Information.

No public servant shall use, disclose, or release confidential or nonpublic information gained through the person's municipal position unless authorized by law or order of the court.

1.15.130 Restrictions on Employment after Leaving Service.

A. General One-Year Rule: An employee who leaves municipal service may not, for one year after leaving municipal service, represent, advise, or assist a person for compensation regarding a matter that was under consideration by the administrative unit served by the employee, if the municipal employee participated personally and substantially in the matter through the exercise of official action. In this subsection, "matter" includes a case, proceeding, application, contract, or determination but does

not include consideration of ordinances, resolutions, charter amendments, draft legislative measures, or the adoption of administrative regulations if consideration by the employee was only in the context of general application.

- B. Waiver: The assembly or school board may waive application of this restriction upon determination that a proposed action by a former employee is not adverse to the public interest. The waiver shall be by formal action and a copy shall be provided to the board of ethics.
- C. Municipality Option to Contract: The restriction on employment after leaving municipal service does not prohibit the municipality from contracting with a former employee to provide service on a matter on behalf of the municipality.
- D. Charter Prohibition: An assembly or school board member may not, for one year after leaving service, hold a compensated municipal office which was created, or the salary or benefits of which specially increased, during the elected official's last year in office by the body of which the elected official was a member. Charter Reference 17.04(b).

1.15.140 Board of Ethics.

- A. Members: The board of ethics shall consist of five members appointed by the mayor and subject to confirmation by the assembly. One member shall be a member of the alaska bar association.
- B. Additional Qualifications: In addition to qualifications set forth in section 4.05.035, board members may not:
 1. Hold elected or other appointed public office with any municipal, state, or federal governmental unit; or
 2. Hold political party office; or
 3. Publicly endorse, contribute to, or engage in any political or campaign activity on behalf of any candidate for elected municipal office or on behalf of a current public servant for any elected office; or
 4. Hold current employment with the municipality, the anchorage school district, or an enterprise or authority owned by the municipality.
- C. Training: Members of the board of ethics shall complete training provided through the board's legal counsel and assembly counsel.
- D. Removal: A member of the board of ethics may be jointly removed by the mayor and the assembly for good cause. A member of the board may not be removed during any lawful investigation or public hearing where the mayor, any member of the mayor's appointed staff, the assembly, or any member or employee of the assembly is the subject of the investigation or public hearing.
- E. Support: Support services from the office of the municipal clerk shall include staffing, preparation of minutes, agendas, and reports, maintenance of website, maintenance of files, and maintenance of other forms and informational materials.
- F. Legal Counsel: The municipal attorney's office shall be counsel to the board of ethics. In addition, the administrative hearing officer, when available, may serve as attorney for the board. The municipal attorney shall retain or appoint substitute legal counsel if the municipal attorney's office and the administrative hearing officer have a conflict that is not waived by the board.

- G. Ethics Education Program: The board shall develop an ethics education program, including a guide to the code of ethics.

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.
- E. The board may exercise discretion in responding to a request for an advisory opinion based on considerations listed in subsection 1.15.160A. The board shall provide the requestor with a concise written statement if the board declines to issue an advisory opinion.
- F. To promote preventive instruction and advice, the board shall publish on the municipal website through the municipal clerk, advisory opinions in a generic form to allow maximum clarity on context, issue, analysis, and decision. The board shall make sufficient deletions to prevent disclosure of the persons who have requested anonymity.

1.15.160 Ethics Complaint for Potential Violation.

- A. Any adult resident of the municipality may file a complaint alleging that a public servant's conduct violates the code of ethics.
1. The complainant shall identify the section of the code of ethics alleged to have been violated and substantiate the complaint by providing a written explanation of the reason for believing that a violation has occurred with any documentary and testimonial evidence supporting the allegation. If the complainant fails to provide the information specified, the board may exercise its discretion to decline to accept the complaint.
 - a. The fact that a complaint has been filed and the content of the complaint are confidential. Material breach of confidentiality by the complainant is a violation of this code.
 - b. If the board finds that confidentiality has been breached, the board may dismiss the complaint.
 2. The board may decline or cease its review of a complaint when it reasonably believes that:
 - a. There is presently available an adequate remedy for the grievance stated in the complaint;
 - b. The complaint relates to a matter that is outside the jurisdiction of the board or would be better handled in another forum;

- c. The complaint relates to an act of which the complainant has had knowledge for an unreasonable length of time;
 - d. The complaint is trivial or based on fanciful allegations;
 - e. The resources of the board are insufficient for adequate review;
 - f. The complainant lacks sufficient supporting information; or
 - g. The allegations, if true, fail to constitute a violation of the code of ethics.
- B. If the board accepts the complaint for further review, the board shall provide the respondent with the opportunity to appear and provide information. The board will make findings and issue a report.
- C. Based on its findings, the board may make recommendations for corrective action.
- D. If a complaint is received or is pending during a campaign period, the board shall suspend its review unless requested by the respondent or requested by a board member. The campaign period is defined as 45 days before a municipal election or the day on which an individual files as a candidate, whichever is later.
- E. Until the board completes a report for distribution as a public record, the board's review of a potential violation is confidential unless confidentiality is waived by the respondent. The board shall protect the confidentiality of complainants or witnesses coming before the board except insofar as may be necessary to enable the board to carry out its duties.

1.15.170 Annual Report.

The board of ethics shall prepare and present an annual report to the assembly rules committee for review and submission to the assembly.

1.15.180 Definitions.

The following words, terms, and phrases, and their verb forms and tenses, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- A. *Appear on behalf of* means accompany, represent, testify, or accompany those representing or testifying before the public body.
- B. *Appointed public body* of the municipality means any municipal commission, board, committee, authority, or public corporation created by ordinance with members of the public appointed subject to confirmation by the assembly or the school board, whether sitting in public session or executive session including advisory, appellate, management, quasi-judicial, and regulatory municipal entities.
- C. *Board* means the board of ethics.
- D. *Campaign period* means the period beginning 45 days before an election in which the candidate appears on the ballot in a municipal election or the day on which the individual files as a candidate for municipal office, whichever is later, and ending at the close of election day, or on the day that the candidate withdraws from the election, if earlier.
- E. *Confidential information* means information which by law or municipal code is not subject to public disclosure.
- F. *Contract* means a business contract, purchase order, lease, grant, loan, or similar instrument of municipal government.

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- G. *Economic interest* means a benefit, financial interest, special privilege, or contractual relationship.
- H. *Financial interest* includes the receipt of a pecuniary benefit and the expectation of receiving a pecuniary benefit.
1. A financial interest of a person includes a financial interest of any member of the person's household.
 2. A person has a financial interest in an organization if the person:
 - a. Has an ownership interest in the organization; or
 - b. Is a director, officer, or employee of the organization.
- I. *Immediate family* means:
1. The spouse, child (including a stepchild and an adoptive child), parent, sibling, grandparent, aunt, or uncle of the person;
 2. A parent or sibling of the person's spouse; and
 3. Any member of the person's household.
- J. *Municipal government* means government of the municipality of anchorage.
- K. *Municipality* means the municipality of anchorage, its legislative and administrative components, including enterprise activities and authorities, the anchorage school district, and the school board.
- L. *Organization* means any corporation, partnership, firm or association, whether organized for profit or not-for-profit.
- M. *Paid consultant* means a person who makes verbal or written inquiries on behalf of another person or entity, advises another person or entity, reports the status of matters to another person or entity, or otherwise confers with another person or entity, for a fee.
- N. *Personal advantage of another* means the use of supervisory or other work place status to leverage personal privileges outside the scope of another person's official duties and responsibilities to the municipality.
- O. *Private interest* means an interest affecting, belonging, or accruing to an individual or private entity as distinct from the public interest at large.



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