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MEMORANDUM

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Board of Ethics

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To: [redacted]
Department of [redacted]

From: *Albert F. Hofeld*
Albert F. Hofeld
Chairman, Board of Ethics

Re: Case No. 90056.A
ADVISORY OPINION

Date: March 13, 1991

On September 14, 1990, you telephoned about the possibility of hiring Person A, a hearing officer in the [redacted] Department, for a concurrent position as a hearing officer in the Department of [redacted]. While the Board was able to answer your particular question, an advisory opinion could not be rendered until we performed further research to determine the status of vouchered employees under the Governmental Ethics Ordinance. In this matter, the Board has concluded that vouchered employees are not considered employees under the purview of the Governmental Ethics Ordinance, and for this reason Person A may hold both positions.

FACTS: Person A is presently an administrative hearing officer in the Department of [redacted]. In this capacity, Person A's duties include rendering opinions for disciplinary hearings, discharge hearings, and police and fire hearings when a potential employee fails the background check. He/she spends less than twenty hours per month performing these duties, for which he/she submits a bill and is paid by a voucher check.

The administrative hearing officer position in the Department of [redacted], for which Person A has applied, requires between fifteen and twenty hours of service to the Department of [redacted] per week. The duties include listening to an alleged violator's case and making a decision as to its viability, but do not require representing any party at department hearings. This officer will be paid \$35 per hour out of the Department budget by a voucher check.



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ISSUE: Whether Person A is permitted, under the Ethics Ordinance, to hold the position of administrative hearing officer in the Department of [redacted] and of administrative hearing officer in the Department of [redacted] concurrently. The question which must be answered in addressing this issue is whether Person A in his/her status as a vouchered employee, is subject to the Governmental Ethics Ordinance.

LAW: Section 2-156-010 (j) (Prior Code Section 26.2-1(j)) defines the term employee as "an individual employed by the City of Chicago, whether part-time or full-time, but excludes elected officials and City contractors."

ANALYSIS: Under the above definition, it is unclear whether vouchered employees should be considered as employees or as contractors. The Department of Law states, in a letter to the Board of Ethics dated January 24, 1991, that vouchered employees do not hold appointments or titles associated with their City services and do not receive employee benefits. Therefore their relation with the City is in the form of a personal contract. For this reason, vouchered employees are City contractors and not City employees.

Based on the above interpretation of the definition of "employee" by the Department of Law, the Board of Ethics concludes that vouchered employees are not subject to the Governmental Ethics Ordinance and for this reason, Person A can hold both the position of administrative hearing officer for the Department of [redacted] and of administrative hearing officer for the Department of [redacted] without violating the Governmental Ethics Ordinance.

We appreciate your bringing this matter to the Board's attention and your willingness to follow the ethical standards embodied in the Ordinance. The Board's determination in this case is based upon the facts as presented here. If they are incorrect or incomplete, please notify us immediately, as any change in the facts may alter our decision. We enclose a sheet which sets forth the Board's procedural rules after it renders a decision. If you have any further questions regarding this matter or some related issue, please do not hesitate to contact us.

rct/90056.M2

cc: Kelly Welsh, Corporation Counsel
Department of Law

NOTICE OF RECONSIDERATION AND RELIANCE

Reconsideration: This advisory opinion is based on the facts outlined in this opinion. If there are additional material facts or circumstances that were not available to the Board when it considered this case, you may request reconsideration of the opinion. A request for reconsideration must (1) be submitted in writing, (2) explain the material facts or circumstances that are the basis of the request, and (3) be received by the Board of Ethics within fifteen days of the date of this opinion.

Reliance: This advisory opinion may be relied upon by (1) any person involved in the specific transaction or activity with respect to which this opinion is rendered and (2) any person involved in any specific transaction or activity that is indistinguishable in all its material aspects from the transaction or activity with respect to which the opinion is rendered.