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Advisory Opinion
Case No. 93021.A, Outside Employment
██████████, Mayor's Office for People with
Disabilities

Date: August 19, 1993

You are the ██████████ of the Mayor's Office for People with Disabilities ("MOPD"), and on June 17, 1993 you asked for guidance from the Board of Ethics on behalf of ██████████. Mr. ██████████ is a MOPD employee and would like to give seminars on the Americans with Disabilities Act ("ADA") and on developing sensitivity toward people with disabilities. These seminars will be given outside of the hours of his City job. He will conduct these seminars for employees of companies in the private sector, and these companies will pay him for his services. You asked whether the Governmental Ethics Ordinance prohibits Mr. ██████████ from giving these seminars. It is the Board's opinion that Mr. ██████████ proposed seminars are not prohibited by the Ordinance. Our analysis follows.

FACTS: As a ██████████ ██████████ ██████████, Mr. ██████████ works in the areas of reasonable accommodation and assistive technology. A reasonable accommodation request allows a person with a disability to request an adjustment in the work situation in order to compensate for the disability and to facilitate job performance. Assistive technology refers to the equipment available to aid people with disabilities. When a City employee with a disability requests reasonable accommodation, Mr. ██████████ investigates the request and serves as technical advisor in the processing of the request. He stated that he gives advice to City departments on the assistive technology available to meet requests for reasonable accommodation, and is responsible for educating his department on the state-of-the-art assistive technology available. Mr. ██████████ said that he has no decision-making power over personnel or over the purchase of equipment.

You confirmed that in his City employment Mr. ██████████ makes no final decisions on whether to



grant accommodations or on what equipment to purchase. However, he does make recommendations to City departments about appropriate accommodations and equipment.

Prior to entering City service, Mr. [REDACTED] gained experience through a college internship on age-related recreational issues for people with disabilities. Because of this experience, he did some work as a consultant on issues involving people with disabilities before he began to work for the City.

Mr. [REDACTED] would like to provide training on sensitivity toward people with disabilities and on the ADA to private sector groups and businesses. He would give these seminars, for pay, outside of the hours of his City job. Mr. [REDACTED] stated that, in order to comply with the Ordinance, he would conduct these seminars only for groups and businesses that have no financial dealings with the City. He said that his seminars would disseminate common-sense and publicly-available knowledge about interacting with and understanding the perspectives of people with disabilities. He would not deal with the legal aspects of the ADA, nor would he be giving information specifically pertinent to dealing with the City of Chicago, as the City has no policies beyond Federal Regulations.

You stated that sensitivity training as such would not give anyone an advantage in seeking business with the City. In your opinion, an unfair advantage could be gained from taking Mr. [REDACTED] seminars only if someone producing rehabilitative or assistive technology were to take the seminar and he were then to recommend that person's products.

Mr. [REDACTED] stated that his current duties for the City do not involve giving sensitivity-training seminars. However, in his previous job for the City as a [REDACTED] he gave sessions on sensitivity training to the Taxicab Accessibility Program ("TAP") and to the employees of the Park District. The person who now holds his former job continues the sessions with TAP. Sensitivity training of the Park District employees is not being continued.

You stated that the director of MOPD, [REDACTED], receives many requests to give sensitivity-training sessions. Mr. [REDACTED] gives some sensitivity training to the private sector as part of the work of MOPD, but he is unable to meet all the requests. You also said that MOPD is considering expanding its involvement in giving such seminars and may begin to charge a fee, at least to cover costs, for this service. You believe that there may be more demand for sensitivity training in the private sector than MOPD could meet.

LAW AND ANALYSIS: The Ordinance does not prohibit a City employee from working outside of his or her City job per se; however, it does contain provisions which restrict what may be done in outside employment. The provision of the Ordinance most relevant to this situation is § 2-156-050, "Solicitation or Receipt of Money for Advice or Assistance," which states:

No official or employee, or the spouse or minor child of any of them, shall solicit or accept any money or other thing of value including, but not limited to, gifts, favors, services or promises of future employment, in return for advice or assistance on matters concerning the operation or business of the City; provided, however, that nothing in this section shall prevent an official or employee, or the spouse of an official or employee from accepting compensation for services wholly unrelated to the official's or employee's City duties and responsibilities and rendered as part of his or her non-City employment, occupation or profession.

This section prohibits a City employee or official from accepting outside employment that involves giving advice or assistance on the operation or business of the City, unless the work is wholly unrelated to the employee's City duties and is rendered as part of his or her non-City profession.

Since the proposed seminars do not appear to be wholly unrelated to Mr. [REDACTED] City duties, the Board considered the issue of whether these seminars would constitute "advice or assistance on matters concerning the operation or business of the City." The seminars do not appear to be concerned with the operation or business of the City since the subject matter of the seminars is federal law and sensitivity toward people with disabilities. The seminars will not involve matters particular to the City. Further, a review of past Board cases indicates that the prohibition in § 2-156-050 against giving advice or assistance on matters concerning the operation or business of the City does not preclude outside employment teaching subject matter related to a City employee's job when: 1) the class or seminar could not give someone an advantage in obtaining business with the City, and 2) the City employee would not, in the employee's City job, have decision-making authority over his or her prospective students. (See Case Nos. 91103.A and 91057.A., which involve City employees teaching subjects related to their City duties.)

Following the interpretation of § 2-156-050 as developed in these cases, the Board concludes that Mr. [REDACTED] proposed

seminars do not constitute "advice or assistance on matters concerning the operation or business of the City" within the intended meaning of the Ordinance. His outside employment would be similar to that permitted in Case Nos. 91103.A and 91057.A because 1) the seminars he plans to offer would not give anyone an unfair advantage in seeking City business, and 2) he would not make decisions in his City job with any authority over individuals who take his seminars. This interpretation is further strengthened by the fact that the subject matter of Mr. [REDACTED] seminars would not involve particular affairs of the City.

The Board considered whether the facts that MOPD gives seminars similar to those Mr. [REDACTED] has proposed and that MOPD is considering expanding its involvement in offering such seminars causes his case to be sufficiently distinct from the above cases that it requires a different ruling. In Case No. 88168.A the Board stated that § 2-156-050 prohibits "a City employee from accepting private payment for performing services required by his City employment." In that case, the Board informed an employee of the City that the Ethics Ordinance would prohibit him from rendering services in his private capacity that the City was obligated to provide and that were customarily made as part of his City job.

There are important differences between Case No. 88168.A and Mr. [REDACTED] situation. In this case, it is not part of Mr. [REDACTED] job to conduct sensitivity-training seminars, nor is the City (or MOPD) obligated to provide such training to private businesses, although it may choose to do so. Thus it is the Board's opinion that Mr. [REDACTED] situation leads to a different result from that of Case No. 88168.A.

Although the Ordinance does not require Mr. [REDACTED] to refrain from giving seminars to groups that do business with the City, in order to avoid a violation of § 2-156-030 ("Improper Influence") and § 2-156-080 ("Conflicts of Interest"), he must refrain from giving seminars to anyone or to any business selling technology that he may be in a position to recommend to the City.

Please note that there are three additional sections of the Ordinance of which Mr. [REDACTED] should be aware. Section 2-156-020 of the Ordinance, entitled "Fiduciary Duty," obligates him to use his City position responsibly and in the best interest of the City. It requires him to exercise professional judgments free from conflicting duties to another entity and precludes him from using City time for a non-City job or for any private benefit. Section 2-156-060 prohibits him from using any City property or resources in his non-city employment

Case No. 93021.A
August 19, 1993
Page 5


or for any private benefit. Section 2-156-070 prohibits him from using or disclosing, other than in the performance of his official duties, confidential information gained in the course of or by reason of his City job.

CONCLUSION: From the facts presented, the Board concludes that Mr. ██████████ proposed seminars are not prohibited by the Ordinance.

Our determination in this case is based upon the application of the City's Governmental Ethics Ordinance to the facts stated in this opinion. If the facts presented are incorrect or incomplete, please notify the Board immediately, as any change in the facts may alter our opinion.

Other laws or rules also may apply to this situation. We note that a City department may adopt restrictions that are more stringent than those imposed by the Ethics Ordinance.

RELIANCE: This 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.



Catherine M. Ryan
Chair

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