

EMWS



[REDACTED]

**CONFIDENTIAL**

[REDACTED]  
[REDACTED]  
[REDACTED]

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**Re: Case No. 95033.Q**  
**Representation**

**Dear [REDACTED]:**

On [REDACTED] 1995, you telephoned the Board of Ethics to ask if you, as a City employee, are prohibited by the Governmental Ethics Ordinance from serving in a volunteer capacity with the [REDACTED] Network of [REDACTED] College.

Under the facts you presented, the Ethics Ordinance does not prohibit your proposed involvement with the group. However, it does impose certain restrictions on your activities, of which you should be aware. This letter summarizes provisions which are relevant to your situation.

**FACTS:** You are a [REDACTED] for the [REDACTED] Division of the Department of [REDACTED]. You stated that in your City position you monitor the process by which local businesses seek Minority-owned Business Enterprise ("MBE") or Women-owned Business Enterprise ("WBE") certification from the City. You told staff that you work with applicants to ensure that they provide the appropriate materials required for certification, such as proof of minority ownership, copies of state and federal tax returns, a financial balance sheet, and a notarized completed application. In addition, you may conduct an on-site visit to the applicant. Because the City seeks to award a certain percentage of City contracts to MBE and WBE businesses, this certification increases opportunities for designated businesses.

For the past six months, you have participated in forming the [REDACTED] Network of [REDACTED] College (the "Network"). You stated that the group includes alumni of [REDACTED] College who have started their own business, or are thinking of starting their own business. The group is a "sounding board" which allows participants the opportunity to share problems and experiences encountered in business.



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According to a letter from the Network that will appear in the [REDACTED] College [REDACTED] newsletter, the group intends to offer mini-courses for entrepreneurs on three consecutive Saturdays in the fall.

You told staff that your participation in the Network would be voluntary. At the Network's meetings and mini-courses, you said, you would like to distribute and explain public information on the procedures involved in obtaining MBE and WBE certification from the City.

In a [REDACTED] 1995 letter to [REDACTED], the City's [REDACTED], you stated that: (1) you would not work on, or discuss with another [REDACTED] City employee, a case involving a Network participant; and (2) you would not be compensated for your participation with the Network.

**LAW AND ANALYSIS:** After reviewing the information you presented, staff concludes that nothing in the Ethics Ordinance prohibits your described association with the Network. However, several provisions of the Ethics Ordinance impose restrictions on your conduct as both a City employee and as a member of the group. We explain these below. Furthermore, our analysis of your situation and our conclusions are based upon your statement that you would not be compensated for your service with the Network. In the event you are to receive compensation for your services, we advise you to contact staff to determine the Ordinance's application to the changed circumstances.

First, because your proposed activities with the Network are not unrelated to your City position and responsibilities, we draw your attention to § 2-156-050, "Solicitation or Receipt of Money for Advice or Assistance," which states, in relevant part:

No official or employee ... 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 you from accepting money or any other thing of value in return for advice or assistance on matters concerning the City's operation or business. You informed us that you would serve the Network in a volunteer capacity -- you would receive no

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[REDACTED]

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compensation for your participation. Thus, provided you receive no money or other thing of value, this section does not prohibit you from presenting publicly available information on the MBE and WBE certification process to Network members.

Second, § 2-156-090(a), "Representation of Other Persons," states, in relevant part:

No elected official or employee may represent, or have an economic interest in the representation of, any person other than the City in any formal or informal proceeding or transaction before any City agency in which the agency's action or non-action is of a non-ministerial nature; provided that nothing in this subsection shall preclude any employee from performing the duties of his employment...

This section prohibits you from undertaking any conduct that would constitute representing the Network or its participants before any City agency, including the Department of [REDACTED]. As the Board of Ethics has interpreted it, the term "representation" applies to a broad range of activities in which one person acts as a spokesperson for another person or seeks to communicate and promote the interests of one party to another. Representing others before the City includes actions such as making personal appearances before City agencies on behalf of others; making telephone contact with City employees and officials on behalf of others; and submitting written requests and proposals to City agencies, employees or officials on behalf of others. Representation also includes signing any proposals, contracts, or other documents that are submitted to City agencies on the Network's behalf.

Other relevant provisions include § 2-156-060, "City-Owned Property," which prohibits you from using City time and resources to obtain a personal benefit or to promote the interests of the [REDACTED] Network. In addition, § 2-156-070, "Use or Disclosure of Confidential Information," prohibits you from using or revealing any confidential information that you have acquired through your City employment. Confidential information, for purposes of this provision, is defined as any information that may not be obtained pursuant to the Illinois Freedom of Information Act.

Finally, § 2-156-020, "Fiduciary Duty," states:

Officials and employees shall at all times in the performance of their public duties owe a fiduciary duty to the City.

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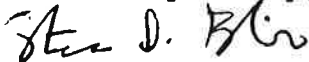
This section places an obligation upon you, as a City employee, to give undivided loyalty to the City in the discharge of your public duties, to use your City position and City time responsibly and in the best interest of the public, and prohibits you from using your City position to obtain a private benefit.

In an effort to assure your compliance with the Ordinance, you stated in your letter to [REDACTED] that you would not work on, or discuss with other City employees, any applications filed by or matters involving Network participants. In addition, you informed staff that you had discussed such recusal with [REDACTED], Director of Personnel for your department. You said the department will allow you to recuse yourself in the described situations. Your ability to recuse yourself in related situations alleviates problems that could arise in the event your relationship with this organization changes.

Kindly note our conclusions are based solely on the application of the City's Governmental Ethics Ordinance to the facts stated in this letter. If the facts are incomplete or incorrect, please notify us, as a change in the facts may alter our conclusions. Please note that other rules or laws may apply to this situation, and that a City department may adopt and impose rules stricter than those contained in the Ethics Ordinance.

We appreciate your calling us about this matter, and your willingness to abide by the standards of the Governmental Ethics Ordinance. Please do not hesitate to contact us if you have any further questions or need further guidance.

Yours very truly,



Steven I. Berlin  
Deputy Director

Approved by:



Dorothy J. Eng  
Executive Director

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