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MEMORANDUM

[REDACTED]

Re: Hypothetical Political Activity  
Case No. 92005.A'

Date: February 19, 1992

[REDACTED]

Do the prohibitions on political activity include contributing to fundraisers for judicial candidates? The [REDACTED] the Board determines that attendance at fundraisers for judicial candidates should be viewed in the same manner as attendance at fundraisers for legislative and executive candidates. [REDACTED]

At the present time, a number of people are running for judicial office. According to Key to Government in Chicago and Suburban Cook County and the Illinois Board of Elections, the way in which incumbent judges seek reelection differs from the way in which nonincumbent and appointed incumbent judicial candidates seek first-time election. Incumbent judges may run for reelection without opposition and without party label. They appear on a special ballot called the Judicial Retention Ballot. In order to remain in office, judges must receive yes votes from three-fifths of those who vote on the question. On the other hand, as in most elections, nonincumbent candidates and appointed incumbent candidates for judge must run on a partisan ticket with opposition. Judicial candidates are nominated at primary elections or by petition and elected at the general or judicial elections.

Sections 2-156-320, 2-92-410, 2-56-150 of the Municipal Code prohibit certain board members and employees of the City from engaging in "political



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activity" as defined in section 2-156-010(s) of the Ethics Ordinance. That section defines "political activity" in relevant part as:

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(15) Paying or making a political contribution or a contribution for any political party, political fund, candidate for elected office, candidate for political party office, any committee thereof or committee which contributes to any of the foregoing.

The hypothetical question is: Do the prohibitions on political activity include contributing to a fundraiser for a judicial candidate? The Board previously determined in case no. 90014.A that mere attendance at a political fundraiser is not considered political activity. However, subsection (15) includes as political activity "making a political contribution . . . for any . . . political fund, candidate for elected office . . ." Therefore, contributing to a fund raiser for a candidate for elected office is prohibited. It is clear that contributions to fundraisers for nonincumbent and appointed incumbent judicial candidates would be included under subsection (15) because such candidates run on a partisan ticket with opposition, as do most candidates. The question that remains is whether subsection (15) applies to contributions to fundraisers for incumbent judges running for reelection without opposition or party label.

In case no. 89146.Q, the staff concluded that an employee who was prohibited from engaging in political activity was not prohibited from serving as an investigator at election sites for the Chicago Board of Election commissioners. In this case the relevant part of the political activity definition was subsection (8), which prohibits: "acting as recorder, watcher, challenger or similar officer at the polls on behalf of a political party or a candidate in an election." The staff reasoned that since the activity in question was non-partisan, in other words, not on behalf of a political party or candidate, it would not constitute political activity.

In the present case, it may be argued that incumbent judges running for reelection on the Judicial Retention Ballot are nonpartisan, since they do not run under a party label. However, since subsection (15) specifically includes any political candidate running for elected office, [REDACTED] candidates on the Judicial Retention Ballot are included in subsection (15), even if their candidacies are

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officially nonpartisan.

The [REDACTED] Board determines that buying a ticket or making a contribution in order to attend a fundraiser for a judicial candidate, whether for retention or first-time election, is political activity. Therefore, any City employee or official prohibited by the Municipal Code from engaging in political activity is prohibited from attending a fundraiser for a judicial candidate if attendance entails purchasing a ticket or making some other contribution.

MK:92005.M