

EL



**Advisory Opinion
92026.A, Political Activity
[REDACTED], Commission on [REDACTED]**

Date: September 16, 1992

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Board of Ethics

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On July 27, 1992, [REDACTED] a member of the staff of the Commission on [REDACTED], called the Board of Ethics to request an opinion to determine whether a member of the Commission is prohibited by the City of Chicago Municipal Ordinance from running for political office in another country. The Board determines that the Governmental Ethics Ordinance defines political activity to include United States politics only; therefore the Municipal Code's ban on the political activity of members of the Commission on [REDACTED] does not preclude a Commission member from seeking office in another country.

FACTS: A member of the Commission on [REDACTED] is considering running for political office in another country. He sits ex officio on the Commission by virtue of his position as [REDACTED]. He is a citizen of Country X and not of the United States; he has been a resident of the United States since 1978. Members of the Commission on [REDACTED] are not paid; they may receive reimbursement for expenses, but in practice, do not.

LAW AND ANALYSIS: Section 2-92-410 of the Municipal Code prohibits a member of the Commission on [REDACTED] from engaging in "political activity" as defined in Chapter 2-156 of the Municipal Code of Chicago, as amended.

The Governmental Ethics Ordinance, § 2-156-010(s), describes and enumerates the "political activity" that is prohibited.

Section 2-156-010(s) states:

"Political activity" means:

- (1) Serving as an officer of a political party, of a political club, or of an organization relating to a campaign for elected office ("organization"); as a member of a national, state or local committee of a political party, club or organization; as an officer or member of a committee of a political party, club or organization; or being a candidate for any of these positions;



- (2) Organizing or reorganizing a political party, club or organization;
- (3) Directly or indirectly soliciting, receiving, collecting, handling, disbursing, or accounting for assessments, contributions, or other funds for any political party, political fund, candidate for elected office, candidate for political party office, or any committee thereof or committee which contributes to any of the foregoing;
- (4) Organizing, selling tickets to, promoting, or actively participating in a fundraising activity of a public office holder, candidate in an election or political party, political club or an organization;
- (5) Taking an active part in managing the political campaign of a candidate for public office in an election or a candidate for political party office;
- (6) Becoming a candidate for, or campaigning for, an elective public office in an election;
- (7) Soliciting votes in support of or in opposition to a candidate for public office in an election or a candidate for political party office;
- (8) Acting as recorder, watcher, challenger or similar officer at the polls on behalf of a political party or a candidate in an election;
- (9) Driving voters to the polls on behalf of a political party or a candidate in an election;
- (10) Endorsing or opposing a candidate for public office in an election or a candidate for political party office in a political advertisement, a broadcast, campaign literature, or similar material, or distributing such material;
- (11) Serving as a delegate, alternate, or proxy to a political party convention;

- (12) Addressing a convention, caucus, rally, or similar gathering in support of or in opposition to a candidate for public office or political party office;
- (13) Initiating or circulating a nominating petition for elective office;
- (14) Soliciting, collecting, or receiving a political contribution or a contribution for any political party, political fund, candidate for elected office, candidate for political party office, or any committee thereof or committee which contributes to any of the foregoing; or
- (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 subsection of most direct relevance is (6), which refers to becoming a candidate for elective office. Other provisions would be implicated in a candidacy as well: a candidate is likely to engage in political organizing (2), soliciting funds (14), promoting fundraising for the candidacy (3), (4) and (14), soliciting votes (7), addressing political gatherings in support of the candidacy (12), and related activities.

The provisions at issue, both in § 2-92-410 and those defining political activity, were passed together by the City Council on May 10, 1989.

The definition of political activity in § 2-156-010(s) nowhere expressly includes or excludes activity in other countries. Therefore the Board has looked at the intent of the Ordinance as revealed in both its language and in other information available to it. The Board has also looked at whether the purpose of the Ordinance is served by banning certain City officials from engaging in political activity in countries outside the United States.

Subsection(s) (1) refers expressly to "national, state or local" political clubs and organizations. The word "national" is not defined. However, by being placed alongside and distinguished from "state" -- a term applicable to intermediate political units in the United States, but in almost no other countries -- the term "national" refers to the federal level in the United States, and not to national politics of other countries.

The terms "national, state or local" are not repeated in the subsequent subsections, numbers (2) through (15). However, the Board interprets the terms "national, state or local" to apply to the entire list of political activities. The list -- with thirteen of the fifteen subsections making a direct reference to party politics and the other two referring to candidacies -- is clearly meant to be inclusive of all kinds of partisan politics in the United States, and thus to include local, state and federal levels of all the activities listed. If the terms "national, state or local" apply to the entire list of activities, they also limit the activities included to those of United States politics.

Further, the language indicates that the Ordinance's definition of political activity is addressed specifically to United States politics. The subsections refer, for example, to poll watchers, delegates and alternates to party conventions, political caucuses, and nominating petitions. The drafters of the provision affirm that the section of the Governmental Ethics Ordinance defining political activity was written to refer solely to United States politics; according to a member of the Corporation Counsel's office, who was a leading participant in drafting these provisions, there had been no intent to refer to or to ban any official or employee's political activity outside the United States.

As revealed by documents surrounding the passage of the provisions in question, the ban was designed to assure that partisan politics, and its related dependencies and biases, is removed from certain governmental functions. The purpose of the prohibition against political activity on the part of members of the Commission on Human Relations is to assure Commission members' independence, impartiality, and freedom from partisan bias with respect to the matters before them. The purpose is not threatened by a Commission member's candidacy for office in another country, and so is not served by reading the ban on political activity in the broadest possible manner, to prohibit political activities in or relating to foreign countries.

All restrictions on the political activity of public employees implicate the First Amendment of the United States Constitution. The Board's interpretation of the Municipal Code assures that the First Amendment is not encroached upon by a ban so broad that it encompasses politics outside the United States and reaches circumstances that were not part of the problem the ban was designed to solve.

CONCLUSION: The Board determines that the definition of political activity in the Governmental Ethics Ordinance is limited to United States politics only. Therefore the Municipal Code's ban on the political activity of certain officials does not extend to politics of other countries. This determination is consistent with the

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language of the Municipal Code and the intent of the drafters of the provisions in question. This determination also serves the purposes of the ban: to assure that the officials are independent, impartial and free from partisan bias with respect to the matters before them.

Therefore, based on the application of the Governmental Ethics Ordinance to the facts presented in this opinion, the Board concludes that a member of the Commission on [REDACTED] is not precluded from seeking [REDACTED] office in another country.

Catherine M. Ryan

Catherine M. Ryan
Chair

NOTICE OF RECONSIDERATION AND RELIANCE

Reconsideration: This advisory opinion is based upon the facts which are outlined in this letter. 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 which are the basis of the request, and (3) be received by the Board of Ethics within fifteen days of the date of this letter.

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 which is indistinguishable in all its material aspects from the transaction or activity with respect to which the opinion is rendered.