

Advisory Opinion No. 93-20

The Conflicts of Interest Board (the "Board") has received a request for an opinion from a high-level, elected City official, requesting an opinion as to whether, consistent with the conflicts of interest provisions of Chapter 68, his newly-appointed counsel may continue serving as an officer of the county committee of a political party and as a member of that party's State executive committee, in light of his City employment. The official has also requested an opinion as to whether his counsel may teach as an adjunct professor at two local law schools, both of which have business dealings with the City. The official has advised the Board that his counsel would teach courses on general negotiation and drafting skills and that this work would be performed in the evenings.

Charter Section 2604(b)(15) provides that no public servant who is charged with substantial policy discretion, as that term is defined by rule of the Board, may be a member of the national or state committee of a political party or serve as an officer of a county committee. Section 1-02 of the Board's

rules provides that a public servant is deemed to have substantial policy discretion if he or she has major responsibilities and exercises independent judgment in connection with determining important agency matters. Public servants with substantial policy discretion include, but are not limited to, agency heads, deputy agency heads, assistant agency heads and public servants in charge of any major office, division, bureau or unit of an agency.

Charter Section 2604(a)(1)(b) provides that no regular employee of the City shall have an interest in or position with a firm that is engaged in business dealings with the City, such as the two law schools where the public servant wants to teach. However, a public servant may hold such a position where the holding of the position would not conflict with the purposes and interests of the City, if, after the written approval of the head of the agency involved, the Board determines that the position involves no such conflict. See Charter Section 2604(e).

It is the Board's opinion that the individual in question, as counsel to a high-level, elected City official and thus responsible for the legal affairs of the official's office, is among the class of public servants who are deemed to have substantial policy

discretion, pursuant to the aforementioned rule. This individual has advised the Board that as counsel to the elected official, he advises the official on legal issues affecting his powers and duties under law, the functioning of his office, and the needs of his constituents, and that he also researches and makes recommendations on various other factual and legal issues. In sum, he acts as the elected official's legal advisor on a variety of issues, including issues which may have City-wide significance. Accordingly, the Board has determined that it would violate Charter Section 2604(b)(15) for this public servant to continue serving as an officer of the county committee of a political party and as a member of that party's State executive committee.

The Board has also determined, based on the City official's representations and his approval of his counsel's outside teaching activities, that the public servant's adjunct teaching positions with two local law schools would not conflict with the purposes and interests of the City.

Sheldon Oliensis
Chair

Benjamin Gim

Beryl R. Jones

Robert J. McGuire

Shirley Adelson Siegel

Dated: July 12, 1993