

EMWJ



City of Chicago  
Richard M. Daley, Mayor

ADVISORY OPINION  
Case No. 93009.A  
Statement of Financial Interests Filing  
Requirement

To:

Board of Ethics  
Dorothy J. Eng  
Executive Director

Date: April 28, 1993

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On March 22, 1993, the Board of Ethics Office received your letter asking the Board to find that the members of the Chicago Committee on Urban Opportunity are not required to file a Statement of Financial Interests ("FIS"). On March 26, the Board determined that under section 2-156-150(a)(iii), the members of the Committee, with the exception of the director, are not required to file FIS forms with this office. The facts and analysis are as follows.

Section 2-156-150(a)(iii) of the Governmental Ethics Ordinance states that a Statement of Financial Interests must be filed by "each appointed official, except a member of an agency that is solely advisory in nature and has no authority to make binding decisions, to enter into contracts or to make expenditures, other than expenditures necessarily incurred for research in connection with its advisory functions . . . ."

Under the Ordinance definition, an official is limited to one who serves on a City agency. (§ 2-165-010(q)) Therefore, an appointed official need not file an FIS form if his or her agency is 1) not a City agency under the Ordinance or 2) falls within the exception provided in section 2-156-150(a)(iii).

The Chicago Committee on Urban Opportunity is clearly a City agency. It is established by City ordinance under chapter 2-148 of the Municipal Code. Therefore, the decisive question is whether the Committee fits the Ordinance's qualifications for exception from the filing requirement.

At its meeting of February 19, 1992, the Board had concluded that the Committee does not meet the qualifications for exception from the filing requirement because the Board believed that the director has the authority to enter into



agreements and contracts on behalf of the Committee. Therefore, the Board determined that members of the Chicago Committee on Urban Opportunity are required to file FIS forms.

In your letter you argued that while the director has the power to enter into contracts, the Committee is distinguishable from the director. You stated that the Committee's role is solely to advise the director, as well as other individuals and entities.

According to section 2-148-010 of the Municipal Code, the Mayor appoints the members of the Committee and designates one of them to act as director. Section 2-148-020, entitled "Membership," states that the Committee "shall cooperate and consult with and advise the mayor, the director of the committee, the city council, city, county, state and federal departments, private agencies and officials in carrying out" its program to combat poverty. On the basis of this section, you argued that the Committee is distinguishable from the director, who is one of the several people and entities to which the Committee offers advice. Section 2-148-030 specifically provides that it is the director, rather than the Committee, who is granted powers and duties, which include entering into agreements and obligations.

According to a city employee \_\_\_\_\_, the director is intended to be a paid employee of the City. You stated in your letter that the Committee no longer has a director and that "any surviving functions of the director" are now the responsibility of the Commissioner of the Department of Human Services, who is not a member of the Committee. You also stated that the role of the Committee in relation to the Department of Human Services is purely advisory. However, the Municipal Code does not reflect this change in the status of the director.

It is clear that the director, as provided in the Municipal Code, has the power to enter into agreements and obligations. However, the Municipal Code language establishing this power refers only to the director, not to the Committee. The Board of Ethics concludes, from the language of the Municipal Code, that the Municipal Code grants the power to enter into agreements and obligations solely to the director and that the role of the Committee is to advise the director and other individuals and agencies. Therefore, the Board determines that the director is subject to the FIS filing requirement but that the other members of the Committee are not.

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Our determination in this case is based on 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.

Catherine M. Ryan  
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Chair

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