



BOARD OF ETHICS
CITY OF CHICAGO

FOR IMMEDIATE RELEASE
JANUARY 13, 2020

On January 13, 2020, the Board of Ethics released the first three binding advisory opinions* on various situations frequently encountered by non-profit organizations. These opinions reflect the fundamental principle of Chicago's lobbying law – if an individual is by another person or organization to influence City administrative or legislative actions, that activity should be done transparently, either through official documented administrative processes or through registration and reporting of lobbying activity.

Specifically, these advisory opinions make clear that the following activities do **not** constitute activity:

- Serving on a City task force, commission, or advisory council, unless as a member the individual is advocating for their own employer to receive City contracts, grants, programmatic aid, etc.
- Making “routine asks” on behalf of an employer or community group that are subject to standardized processes in City administration, including applying for any permits or licenses. Common activities that fall in this category are block party or parade permit applications, street signs, speed bumps, or requests for additional garbage carts.
- Participating as a reviewer of responses for City-issued Request for Proposals (RFP), Request for Information (RFI), or Request for Qualifications (RFQ).
- Accessing City resources that are generally available to the public, for example placing an order with a local alderman's office for cleaning supplies so that one's employer can work on cleaning the neighborhood.
- Merely inviting a City official to an event, or to visit a business or community meeting. If, at the event, there are requests made for specific City administrative or legislative action, only the person “doing the ask” or pressing for the action would be required to register as a lobbyist and file quarterly activity reports.
- Acting as a language interpreter when accompanying an employee or anyone else to a meeting with City officials or employees.
- Communicating any message to a City official indirectly, such as through general newsletters, social media posts, or newspaper ads.
- Meeting with aldermen or other City officials on behalf of a coalition of organizations if an individual is representing only the coalition, and does not state their affiliation with their employer, and is not paid by the coalition.
- Signing a letter of support for policy change if one is doing as part of optional volunteer activity that is not part of one's job responsibilities, even if one's nonprofit employer supports the change.

The advisory opinions further clarify that the following activities **do** constitute lobbying activity:

- Making any direct communication to a City employee or official that would constitute lobbying [as defined] if done in person, including sending emails or letters or direct messages on social media or other messaging application through non-public message portals.
- A paid employee who, on behalf of their employer, a nonprofit, signs onto a letter of support for policy change submitted to a City official or employee.

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Ethics and transparency are keystones of the Lightfoot administration. This past Fall, Mayor Lightfoot and the Board of Ethics partnered to conduct trainings and listening sessions with nonprofit stakeholders in the lead up to the extension of lobbyist registration laws to cover previously uncovered nonprofits. However, as the January registration deadline approached, more organizations became alert to these new transparency requirements and brought forward case specific questions for the Board's consideration.

In order to ensure a smooth implementation of the change and careful consideration of industry-specific questions, enforcement of non-profit registration was delayed by three months to April 20, 2020. In these three months, the Board will continue to issue binding advisory opinions clarifying key concerns brought forward by the nonprofit community.

The Board will also be releasing, for public comment and formalization, draft Rules and Regulations covering lobbyist registration for individuals paid by nonprofit organizations.

*There are Case Nos. 19037.A.1, A.2, and A.3, the full text of which can be found on this page:
https://www.chicago.gov/city/en/depts/ethics/supp_info/ao_-_lobbyist.html



BOARD OF ETHICS
CITY OF CHICAGO

ADVISORY OPINION

January 14, 2020

Chicago, IL 606

Re: Case No. 19037.A.1, Lobbying

Dear [Attorney]:

At its meeting yesterday, in the case captioned above, the Board approved an advisory opinion in response to the questions you posed in writing to our Executive Director on November 25, 2019, on behalf of your clients. For ease of reading, the Board's answers are printed in *red italics*.

We appreciate your conscientiousness, and your posing of these questions, as they will help not only your clients, but others in similar circumstances as the City and Board of Ethics move to implement the amendments to Article IV of the Governmental Ethics Ordinance (the "Ordinance") on April 20, 2020. The Board recognizes and deeply appreciates the contributions your clients and others like them make to the City and its residents.

The Board appreciates your request, and the opportunity to advise you. If you have further questions about this or any other matter, please contact our legal staff.

William F. Conlon, Chair

enclosure

ADVISORY OPINION

CASE No. 19037.A.1

HYPOTHETICAL SITUATIONS AS PRESENTED BY THE REQUESTORS

Note: each situation presented by the requestors is indented; each Board response/determination is unindented and printed in ***bold italics***.

The requestors write:

“Based on our understanding that nonprofit organizations should not be “penalized” for responding to requests for input or expertise from the City, we, the requestors, believe that each of the following hypothetical situations falls within an exception to “lobbying” under the Amended Ordinance. We accordingly conclude that no lobbyist registration or reporting obligation is triggered by the following scenarios.

“We, the requestors, respectfully ask that the Board confirm our conclusions. If you disagree with our conclusions, we respectfully ask that you explain the reasons that you do not agree.”

Scenario 1: The City Asks a Nonprofit Executive Director for Input

A mid-level staff person at the City’s Department of Family and Support Services (“DFSS”) calls an Executive Director of a nonprofit organization asking for “input regarding a new City initiative aimed at fighting homelessness, including real estate development, zoning, bond issuance, and various service contracts.” The Executive Director provides the City with his informed views and insights regarding how the City’s initiative might be structured, including how ordinances might be drafted or amended to best achieve the City’s goals. The Executive Director also offers these views to DFSS in the hopes that the City will adopt his views, thus serving his nonprofit and his nonprofit’s constituents.

We conclude that the Executive Director’s actions fall within an exception to the definition of “lobbying” and that no registration or reporting obligation is triggered.

Response: The Board agrees. These actions constitute examining or discussing “broad social, economic and similar problems,” and thus fall into the exception from lobbying in §2-156-220(e)(3) of the Ordinance.

Scenario 2: The City Asks a Nonprofit’s Employee to Join an Advisory Group

A nonprofit foundation’s employee is emailed by a City official to be part of an advisory group to assist the City and grant-making foundations in aligning their work and approaches to specific topics. The nonprofit employee’s work on the advisory group is expected to “influence the strategic direction of the City” and of the foundation for which she works. The advisory group may develop recommendations or priorities for legislative and administrative action by the City.

We conclude that the employee’s actions fall within an exception to the definition of “lobbying” and that no registration or reporting obligation is triggered.

We would reach the same conclusion even if, rather than responding to a direct invitation from the City official, the nonprofit employee instead completes an application to be considered for appointment to the advisory group.

Response: The Board agrees. These actions constitute: (1) providing technical advice or assistance; and/or (2) examining or discussing “broad social, economic and similar problems,” and thus fall into the exceptions from lobbying in §2-156-220(e)(2) and (3) of the Ordinance. The Board adds that, if an employee of a nonprofit is invited by a City official or employee to serve on an advisory group to assist the City, then communications with City employees or officials made in furtherance of participating in that group do not constitute lobbying unless the employee advocates or communicates for their own nonprofit employer to receive a City grant, contract, or other City action apart and distinct from employers of other advisory group members.

Scenario 3: The Mayor invites a nonprofit CEO to attend and participate in a funders meeting

The Mayor convenes a “funders meeting” and invites the CEO of a nonprofit organization to attend. In addition to extending an invitation to the nonprofit’s CEO, the Mayor also invites other foundation leaders from the City to attend. The purpose of the funders meeting is to “exchange ideas, priorities, and information about foundation and City investments” with the objective of learning from one another and potentially shifting priorities and strategic investments as a result of what is learned. It is likely that the meeting will include discussion of potential City action. The CEO accepts the Mayor’s invitation and participates in the funders meeting.

We conclude that the CEO’s actions fall within an exception to the definition of “lobbying” and that no registration or reporting obligation is triggered.

We would reach the same conclusion even if the CEO, in addition to participating in the meeting, helped the City plan the meeting, including by inviting other funders, setting the agenda, and establishing initial goals for the meeting.

Response: The Board agrees. These actions constitute: (1) providing technical advice or assistance; and/or (2) examining or discussing “broad social, economic and similar problems,” and thus fall into the exceptions from lobbying in §2-156-220(e)(2) and (3) of the Ordinance. The Board adds that, if the CEO (or any other paid employee) of a nonprofit is invited by a City employee or official, such as the Mayor, to participate in a meeting to assist the City, then communications with City employees or officials made in furtherance of participating in that group do not constitute lobbying unless the CEO advocates or communicates for their own nonprofit employer to receive a City grant, contract, or other City action apart and distinct from employers of other advisory group members.

Scenario 4: The Mayor invites an employee who splits her time between a family office and a nonprofit to participate in a funders meeting

A family office compensates an employee who splits her time between the family office and the nonprofit organization. The employee is only paid by the family office and does not receive any portion of her salary from the nonprofit organization. The Mayor invites the employee to attend the funders meeting, as described in Scenario 3 above. The nonprofit does not compensate the employee for attending meetings with the

Mayor and the terms of the employee's professional engagement with the nonprofit are silent on meetings with the Mayor. Attending this type of engagement is not a typical part of the employee's job, but because the Mayor invites her, the employee goes.

We conclude that the employee's actions fall within an exception to the definition of "lobbying" and that no registration or reporting obligation is triggered.

Response: On its face, the employee is not being paid or otherwise compensated by the nonprofit for her efforts on its behalf and is not undertaking to attend the funders' meeting "as a matter of professional engagement," per §2-156-010(p)(i) and (ii), thus it would appear that she is not "lobbying" on behalf of the nonprofit. However, this conclusion is provisional: the Board would need to be assured that she is not really lobbying on behalf of the "family office," which pays her, and would thus need to review the relationship between the nonprofit and the family office.

Scenario 5: Funding for Certain City Positions and Programs

- (a) A representative from the Mayor's office contacts a nonprofit organization asking for funding for a newly created City staff or consultant position. The Mayor's office representative speaks to the nonprofit's Director of Finance and asks whether the nonprofit would be willing to donate \$125,000 to fund the new City staff position (either directly or through a funder collaborative). The representative tells the Director of Finance that the City would be in charge of the selection and hiring process of the individual who will fill the new City staff position. The nonprofit organization's responsibility would be to provide \$125,000 to fund the staff position. After speaking with the nonprofit's Board of Directors, the Director of Finance confirms that the nonprofit organization will fund the new position.

We conclude that the Director of Finance's actions fall within an exception to the definition of "lobbying" and that no registration or reporting obligation is triggered.

Response: The Board agrees: the nonprofit's Director of Finance has not undertaken to influence any City administrative or legislative action.

- (b) A nonprofit focused in a particular program area wants to lessen the burdens of government by providing funding for a particular City staff position that does not currently exist. The Executive Director of the nonprofit contacts a representative from the Mayor's office and informs her that the nonprofit would provide the funding for this new position if the City will create the role and fill it.

We conclude that the Executive Director's actions fall within an exception to the definition of "lobbying" and that no registration or reporting obligation is triggered.

Response: The Board disagrees: the Executive Director is attempting to influence a City administrative action, namely persuading the City to create and fill the new position. This is lobbying.

- (c) Same facts as in (b), except that the nonprofit organization wants to further its mission by funding a new program at the City. The Executive Director of the nonprofit contacts a representative from the

Mayor's office and informs her that the nonprofit would provide the funding for the new program if the City will staff and run it.

We conclude that the Executive Director's actions fall within an exception to the definition of "lobbying" and that no registration or reporting obligation is triggered.

Response: The Board disagrees: the Executive Director is attempting to influence a City administrative action, namely persuading the City to create and fill the new position. This is lobbying.

Scenario 6: City Asks for Guidance Regarding a Development Contract

The City asks for input regarding whether a new development should be built in a certain neighborhood. The City sends a written request to a nonprofit organization, asking for the nonprofit's opinion on whether the new development should be built. A few days later, after researching the pros and cons of building the new development in the neighborhood, the paid CEO of the nonprofit organization sends the City a written reply. In the reply, the CEO states, "I believe that the new development would be beneficial to the City and neighborhood; however, the City would have to change its zoning laws because the new development would violate the current zoning laws." In addition to sincerely believing that the new development would benefit the City and the neighborhood, the CEO also hopes that the City changes its zoning laws because it would allow the nonprofit she works for to add additional outreach programs.

We conclude that the CEO's actions fall within an exception to the definition of "lobbying" and that no registration or reporting obligation is triggered.

Response: The Board agrees: the CEO and the nonprofit are providing nonpartisan analysis, study, and research, within the exception to lobbying in §2-156-220(c). Two notes: (i) the City's request for the nonprofit's opinion need not be in writing for this exception to apply, although we would advise the CEO to refer to the original request from the City in the written reply; and (ii) the CEO's hope that the City will change its zoning laws for the reasons you cite does not make this lobbying, although if the CEO's written response explicitly recommends changing the zoning laws so that her organization's work may expand, that would constitute lobbying.

Scenario 7: Paid Advisor Negotiates Contract on Behalf of Client

The City contracts with a nonprofit educational organization to run an after-school program. The nonprofit organization's contract with the City is ending and both the City and nonprofit want to enter into a new contract. The nonprofit organization hires an experienced paid advisor to negotiate on the nonprofit's behalf. During negotiations, the paid advisor makes informed and well-researched suggestions regarding the City's educational policy that would ultimately help the nonprofit's after-school program. The nonprofit hopes that the City agrees to the suggested policy changes.

We conclude that the advisor's actions fall within an exception to the definition of "lobbying" and that no registration or reporting obligation is triggered.

Response: the Board agrees, assuming the nonprofit's paid adviser has not advocated for these educational policy suggestions explicitly to advance the interests of the nonprofit's after-school

program, but has advanced them as a matter of general policy (cf. (ii) above, in our response to Scenario 6).

Scenario 8: Paid Nonprofit Employee on an Email Chain Where a Contract Negotiation is Taking Place

Assume the same facts as Scenario 7 above. However, a paid employee of the nonprofit is included on an email chain, in which the nonprofit's paid advisor suggests that the City makes educational policy changes. At no point does the paid employee respond to any emails regarding any educational policy changes. However, the paid employee does respond to the City's emailed questions regarding the current structure of the nonprofit's contract with the City.

We conclude that the employee's actions fall within an exception to the definition of "lobbying" and that no registration or reporting obligation is triggered.

Response: The Board agrees: the nonprofit's paid employee has merely provided factual background as to the current City contract and has not thereby undertaken to influence any City administrative or legislative action.

Scenario 9: Mayor's Office Asks for Recommendations for Office Position

The chief of staff for the Mayor's office is tasked with helping the Mayor fill office positions in the administration. Having trouble finding qualified candidates for a certain position, the chief of staff sends an email to a nonprofit's paid CEO asking for suggestions regarding qualified candidates who could interview for the position. The chief of staff follows up his email with a telephone call to the CEO. During their telephone conversation, the CEO gives the chief of staff the names of three individuals whom the CEO believes would be qualified to fill the new position and worthy of consideration. Based on the recommendation of the CEO, the chief of staff interviews the three individuals and hires one of the individuals.

We conclude that the CEO's actions fall within an exception to the definition of "lobbying" and that no registration or reporting obligation is triggered.

Response: The Board agrees: The CEO has merely provided "technical advice or assistance" within the exception in §2-156-220(e). The Board does not here reach a conclusion if, in addition to offering three names, the CEO urges the Chief of Staff to hire one of the individuals and gives reasons for the recommendation.

Scenario 10: Paid Executive Director of Nonprofit asks City to Reissue Request for Proposal

The City's Department of Public Health issues a Request for Proposal ("RFP") to nonprofits providing certain services within the City of Chicago. The City's RFP was vague and left the Executive Director of a nonprofit organization with many questions. The Executive Director soon realizes that the leadership of many other nonprofit organizations had the same reaction. After speaking with the City official in charge of issuing the RFP about this widespread concern and confusion, the Executive Director asks the City

official (both on behalf of the Executive Director's own nonprofit and on behalf of other nonprofits) to reissue the RFP, requesting that the RFP have greater clarity.

We conclude that the Executive Director's actions fall within an exception to the definition of "lobbying" and that no registration or reporting obligation is triggered.

Response: The Board agrees: the Executive Director's communications with the Department of Public Health are pursuant to the RFP process, thus within the exception to lobbying in §2-156-010(p), namely "responding to a City request for proposals or qualifications."

Scenario 11: Alderwoman Calls and Asks a Paid Nonprofit Staffer a Question

An Alderwoman wants to create a community center in her district. Unsure of where to build the community center, the Alderwoman asks various organizations and district citizens for their opinions. One morning, the Alderwoman calls a nonprofit organization to speak with one of the nonprofit's paid high-level staff members. The Alderwoman asks the staff member, "Where do you think we should build the community center?" The staff member replies, "There is a vacant lot down the street from our offices that would be perfect because young children currently play there after school." The staff member makes this suggestion because he knows that his organization would like to work with the children that play in the vacant lot. The staff member believes that building a community center would assist the nonprofit organization in working with the children because the building would provide the nonprofit with a safe location to meet with and work with the children.

We conclude that the staffer's actions fall within an exception to the definition of "lobbying" and that no registration or reporting obligation is triggered.

Response: The Board agrees: the staffer is providing technical advice or assistance within the exception to lobbying in §2-156-220(e). Note that the fact the hope that the staffer's advice or assistance would also assist the nonprofit's efforts does not make this lobbying, although if the staffer's response explicitly recommends the location so that his or her nonprofit organization's work may expand, that would constitute lobbying. (Cf. Scenario 6, above.)

Scenario 12: The Mayor asks a Nonprofit Board Member to Participate on a Panel

The Mayor's office sends a written request to a member of the Board of Directors of a nonprofit organization, the mission of which is to fight homelessness in the City. The Director is compensated for her role as a director. The written request asks the Director to participate on a moderated panel for a discussion about the City's fight against homelessness. The Panel includes the Director, Mayor, and other individuals focused on limiting homelessness in the City. The Director expects many City politicians to attend the panel discussion. The Director accepts the Mayor's offer to participate in hopes that his participation would add value to the debate concerning homelessness in the City. During the panel, the moderator asks the panel for specific policy ideas that the City could adopt that would help lower the rate of homelessness in the City. The Director provides three well-researched and informed policy proposals that she thinks would be beneficial. She also hopes that the politicians in attendance would take her ideas and implement them into law.

We conclude that the Director's actions fall within an exception to the definition of "lobbying" and that no registration or reporting obligation is triggered. We would reach the same conclusion if, instead of sending the Director a written request, the Mayor called the Director and asked the Director to participate.

Response: The Board agrees: the Director's actions and statements constitute "nonpartisan analysis, study, and research" and/or "examin[ation] of discuss[ion of] broad social, economic and similar problems" within the exception in §2-156-220(e). This is true regardless whether the Mayor's Office's invitation to participate on the panel discussion is written or oral, and would remain so if the Director were unable to participate in the panel discussion but sent in the same comments to the Mayor's Office in writing.

Scenario 13: An Executive Director asks the Mayor to Support Legislation in Springfield

The Executive Director of a nonprofit organization focused on reducing homelessness has been following proposed legislation in Springfield that, if adopted, would make important contributions to supportive housing efforts in Chicago. The Executive Director calls the Mayor and several Alderman and asks that they contact various legislators in Springfield to voice support for the proposed legislation.

We conclude that the Director's actions fall within an exception to the definition of "lobbying" and that no registration or reporting obligation is triggered.

Response: The Board disagrees: the Executive Director's phone calls constitute lobbying. The Board has previously addressed this kind of situation (albeit not per se involving nonprofit organizations). See Case No. 89124.A:

https://www.chicago.gov/dam/city/depts/ethics/general/AO_Lobby/89124.A.pdf. See also the Settlement Agreement in Case No. 17011.10.LOB:

https://www.chicago.gov/content/dam/city/depts/ethics/general/AO_Lobby/2017/17011.10.LOB.pdf. Asking the Mayor and aldermen to contact legislators in Springfield constitutes lobbying under the Ordinance because it constitutes an attempt to influence the actions of the Mayor and aldermen in their capacities as elected City officials (i.e. it is "administrative action") to influence a decision that is pending before a non-City government entity, unless the evidence shows that the City officials had already formulated their position and that position was consistent with the nonprofit's.

Scenario 14: An Executive Director asks the City to Create or Change City Policy

A nonprofit organization is focused on supporting low-income and disadvantaged Chicago neighborhoods through a variety of advocacy, job placement, and coalition-building activities. This work can include efforts directly on behalf of individuals as well as on behalf of collaborations of other nonprofits. The Executive Director on occasion will call the Mayor's office, various Aldermen, and City department heads to ask that they consider revising or creating City policies to better address the needs of the nonprofit's service community.

We conclude that the Director's actions fall within an exception to the definition of "lobbying" and that no registration or reporting obligation is triggered.

January 14, 2020

Response: it depends: if, in these phones calls (or in emails or letters addressed to the Mayor's Office, aldermen, etc.) the Executive Director makes references to specific City policies that he or she urges be revised, this would constitute lobbying. But making general suggestions that refer to overall approaches the City may or should take would not constitute lobbying.

RELIANCE: The Board's determinations and this opinion are based solely on the application of the Ordinance to the fact-based questions presented. This opinion may be relied upon only by any person involved in a specific transaction or activity with respect to which this opinion is rendered.

RECONSIDERATION: The advisory opinion is based on the facts set out in it. If there are additional material facts and circumstances that were not made available to the Board when it considered this case or any of the hypothetical addressed in it, you may request reconsideration of this opinion. The Board can reconsider its opinion only if the request contains an explanation of material facts or circumstances that were not before the Board in its deliberations on the opinion. Per Rule 3-8 of the Board's Rules and Regulations, a request for reconsideration must: (i) be in writing; (ii) explain the material facts and circumstances that are the basis for the request; and (iii) be received by the Board within fourteen days of the date of the signing of the opinion, that is, before the close of business on January 27, 2020.

Signed / s.i.B

William F. Conlon, Chair



BOARD OF ETHICS
CITY OF CHICAGO

CONFIDENTIAL
ADVISORY OPINION
Case No. 18037.A.2, Lobbying

January 13, 2020

Associate Director, [Nonprofit]

Chicago, IL 606

Dear [Associate Director]

On December 9, 2019, our Executive Director received your email with 20 separate fact scenarios. On each, you requested an advisory opinion addressing whether the actions described (if performed by paid staff of your employer, [NFP] would constitute lobbying under the amendments to the Governmental Ethics Ordinance (the "Ordinance") approved by City Council on July 24, 2019.

At its meeting today, the Board approved as its advisory opinion in this matter the responses below. For ease of reading, the Board's answers are in [red brackets] following the text of each scenario.

We appreciate your conscientiousness, and your posing of these questions, as they will aid not only your organization, but others in similar circumstances as the City and Board move to implement the amendments to Article IV of the Ordinance.

RELIANCE: The Board's determinations and advice are based solely on the application of the Ordinance to the questions presented. This opinion may be relied upon by any person involved in the specific transaction or activity with respect to which this opinion is rendered.

RECONSIDERATION: The advisory opinion is based on the facts and hypothetical situations set forth below. If there are additional material facts and circumstances that were not available to the Board when it considered this case or any of the hypothetical addressed in it, you may request reconsideration of this opinion. The Board can reconsider its opinion only if the request contains an explanation of material facts or circumstances that were not before the Board in its deliberations on the opinion. Per Rule 3-8 of the Board's Rules and Regulations, a request for reconsideration must: (i) be in writing; (ii) explain the material facts and circumstances that are the basis for the request; and (iii) be received by the Board within fourteen days of the date of the signing of the opinion, that is, before the close of business on January 27, 2020.

The Board appreciates your request, and the opportunity to advise you. If you have further questions about this or any other matter, please contact our legal staff.

William F. Conlon, Chair

HYPOTHETICAL SITUATIONS

1. [NFP] Chicago staff is asked by the Mayor's office to convene stakeholders around social issues and develops a report that is distributed by the Mayor's office. Ongoing conversations with policy staff are held for the purposes of convening and drafting recommendations. [This activity does not constitute lobbying. It falls into the exception to lobbying in §2-156-220 (e) for persons who undertake nonpartisan analysis, study and research, or examine or discuss broad social, economic, and similar problems.]
2. [NFP's] Chicago staff calls an Aldermanic office urging their support or opposition for an ordinance or resolution. [This is lobbying, as it constitutes an attempt to influence legislation action, per §2-156-010(p).]
3. [NFP's] Chicago staff reaches out to CDPH and ask for their support on a piece of state legislation. [This is lobbying, as it constitutes an attempt to influence City administrative action, namely CDPH's support (which is administrative action) on a piece of legislation pending elsewhere. The Board addressed this in Case No. 89124.A: https://www.chicago.gov/dam/city/depts/ethics/general/AO_Lobby/89124.A.pdf.]
4. [NFP's] Chicago staff member is invited to sit on a city-led task force and advocates for the city to invest in mental health resources, specific programs designed to advance mental health access, etc. but not services provided by [NFP's] Chicago office. [This activity does not constitute lobbying. It falls into the exception to lobbying in §2-156-220 (e) for persons who undertake nonpartisan analysis, study and research or technical analysis or advice, or who examine or discuss broad social, economic, and similar problems.]
5. [NFP's] Chicago staff sit on a city-led task force or advisory group and provide information on a partially city funded program provided by [NFP's] Chicago (i.e. a social services helpline available to all city residents). [This activity does not constitute lobbying. It falls into the exception to lobbying in §2-156-220 (e) for persons who undertake nonpartisan analysis, study and research or technical analysis or advice, or who examine or discuss broad social, economic, and similar problems.]
6. [NFP's] Chicago staff speaks over the phone to any city employee or elected official and discuss a matter of legislative or administrative policy. [The Board does not have enough facts to answer this. If the nonprofit staffer is attempting to persuade the City employee or official to take a position in support of or against a particular, specific policy, it is lobbying; if the discussion is more general, and the staffer is explaining the effect of current policy on the nonprofit without a "call to action" or specific request in mind, it is likely not lobbying.]
7. [NFP's] Chicago staff urges a CPD official to reconsider the department's de-escalation policies or practices. [This constitutes lobbying under §2-156-010(p) as an attempt to influence administrative action.]
8. [NFP's] Chicago staff work with CPD, CFD and/or OEMC to provide training to staff on mental health de-escalation, self-care, etc., and does or does not receive compensation for this work. [NFP] has ongoing discussions with city staff about this program. [This activity does not constitute lobbying. It falls into the exception to lobbying in §2-156-220 (e) for persons who provide technical analysis or advice.]
9. [NFP's] Chicago produces a document outlining recommendations for building an effective mental health system in the City of Chicago. Distributes to Mayor's office & agency staff, taking meetings to clarify any questions or recommendations with staff. [This would constitute lobbying unless you were providing this document in response to an oral or written request from City officials or employees. And, it would constitute lobbying even if you provide this document in response to such a request if it specifically mentions that [NFP] itself should perform the services described or receive a City grant or contract to do so.]
10. [NFP's] Chicago staff conducts standard ongoing negotiations of a contract with the city. [Ongoing contract negotiations with the City do not constitute lobbying. On the other hand, attempting to persuade City officials or

employee to consider issuing a Request for Proposals (RFP) or Request for Qualifications (RFQ), would constitute lobbying, per §2-156-010(p).]

11. [NFP's] Chicago staff conducting standard end-of-contract re-negotiation with the city. [These activities would not constitute lobbying if the original contract provides for this re-negotiation. However, if the original contract does not contemplate a process for extending the contract, then approaching the City to consider and then negotiate a new, successor contract, would constitute lobbying, as it would be an attempt to influence City administrative action.]

12. [NFP's] Chicago staff is solicited by a city official to provide input on a policy matter verbally. [This would not constitute lobbying and would fall into the exceptions in §2-156-220(e) provided the nonprofit's staff does not urge that the nonprofit itself gain more work thereby.]

13. [NFP's] Chicago staff responds to DFSS request for information as a grant requirement. [This action does not constitute lobbying, per §2-156-010(p), which provides that "solely responding to a City request for proposals or qualifications" is not lobbying. The Board finds that responding to a Request for Information (RFI) is not materially different from these other activities and likewise falls into this exception.]

14. [NFP's] Chicago staff bring a non-staff volunteer to speak at a public hearing. [This activity does not constitute lobbying. It falls into the exception in §2-156-220(d), for persons who testify publicly before any City agency, department, board or commission.]

15. [NFP's] Chicago staff sends an action alert urging non-staff advocates to call their alderman in support of the city budget. [This is an important question: it does not constitute lobbying. The City's Governmental Ethics Ordinance does not regulate grassroots lobbying, which would include a membership organization urging its members to contact City officials or employees regarding pending administrative or legislative action.]

16. [NFP's] Chicago staff contact our local Alderman to request assistance for a city permit or license. [This would not constitute lobbying if this assistance is part of the regular, typical permit or license application process, as it would then fall under the exception in §2-156-010(p), which states that "solely submitting an application for a City permit or license" is not lobbying.]

17. [NFP's] Chicago staff signs the organization on to a letter urging the City of Chicago to increase [subject matter] funding for the city, but an individual's name is not on the letter. [This kind of general request or exhortation does not constitute lobbying unless it is tied to a specific piece of legislation or program.]

18. [NFP's] Chicago helpline staff calls DFSS on behalf of a helpline caller (client) seeking connection to housing services for the caller. [This kind of action does not constitute lobbying, as it is merely a request for routine City services on behalf of a client of the nonprofit organization.]

19. [NFP's] Chicago staff reaches out to give an award to the Commissioner of the Department of Public Health and to honor them at a fundraiser. [NFP's] Chicago office provides a compensated ticket. [The invitation alone is not lobbying, and in fact would be a permissible gift to the Department Head, assuming it is not in cash or check or gift card. Should lobbying in fact occur, such as, for example, urging the Department Head to approve a pending policy or support a measure pending before the Mayor's Office or City Council, then the staff from the nonprofit would be required to register, and the cost of the invitation would need to be disclosed on the next quarterly activity report as a lobbying expenditure.]

20. [NFP's] Chicago reaches out to a CPD supervisor to provide unsolicited, specific commendation regarding the professional conduct of a police officer. [This kind of action does not constitute lobbying, as it is not the kind of "administrative action" intended to be covered by the definition of lobbying in §2-156-010(p).]



BOARD OF ETHICS
CITY OF CHICAGO

January 13, 2020

CASE No. 19037.A.3

HYPOTHETICAL SITUATIONS

At its meeting today, the Board of Ethics approved the responses to the following questions posed by its legal staff as its advisory opinion in this matter.

1. Must an individual employed or compensated by a nonprofit register as a lobbyist by serving on a City task force, commission or advisory council? [No: this service constitutes providing technical advice or assistance, examining or discussing broad social, economic and similar problems, or undertaking nonpartisan analysis, study or research, per the exceptions in §2-156-220(e) of the Governmental Ethics Ordinance (the "Ordinance"). However, this exception does not extend to advocating for one's own nonprofit employer to receive City contracts, grants, programmatic aid, etc. Such advocacy would constitute lobbying if the person is paid or compensated by the nonprofit on whose behalf they so advocate.]
2. Does making "routine asks" for constituent services, such as block party requests, constitute lobbying? (Or, stated differently: (i) should a nonprofit restrict those making such "asks" on its behalf to only staff registered as lobbyists?; (ii) does it constitute lobbying if an organization's employee sends a letter to an alderman requesting the alderman's assistance in repairing a curb outside the organization's office of the organization?) [This does not constitute lobbying, as it falls into the exception for solely applying for permits and licenses. Requesting routine City services, such as block party or parade permits, additional garbage receptacles, etc. does not constitute lobbying even if one does it on behalf of one's employer – regardless of whether that employer is a nonprofit or for profit entity.]
3. If two nonprofits work together to sponsor/facilitate a program or event in a community, and one of the nonprofits reaches out to their alderman or another city official with regard to the event, do paid employees from each nonprofit need to register as lobbyists, or does the responsibility to register and report sit with the nonprofit staff person who actually made contact with the official? [Merely inviting an alderman or City employee to the event is not by itself lobbying, nor is inviting an alderman to visit one's place of business. For there to be lobbying, there must also be an attempt to influence a specific City administrative or legislative action. If there is, only the individual(s) who actually contact the alderman/City personnel to influence such action would engage in lobbying and need to register as lobbyists and file quarterly activity reports.]
4. Does participating as a reviewer of responses to a City-issued Request for Proposals, Information, or Qualifications (RFP, RFI or RFQ, respectively) constitute lobbying? [No: this service constitutes providing technical advice or assistance, per the exception in §2-156-220(e) of the Governmental Ethics Ordinance].

5. Is an individual who acts as a language interpreter lobbying when accompanying an organization's paid employee to a meeting with City officials or employees [No. This interpreter is there only to provide technical advice or assistance. However, the organization's paid employee may be lobbying if attempting to influence City administrative or legislative action.]
6. Is it lobbying if paid employees from a nonprofit place orders with an alderman's office for cleaning supplies provided by the City so their employer can clean the neighborhood? [No. This action does not constitute an attempt to influence City administrative or legislative action.]
7. See the ad below, from AARP, published in a radio station's daily email to its listeners. Have those paid employees of AARP who placed it with the station thereby engaged in lobbying? [No: this activity does not constitute lobbying under the Governmental Ethics Ordinance. This is an example of grassroots or indirect lobbying, including a call to action. However, chapter 2-156 of the Municipal Code does not cover grassroots lobbying nor require those organizing grassroots campaigns to register as lobbyists.]



8. Cf. #7, above: would it constitute lobbying, requiring registration and reporting, if paid employees of an organization: (i) "tweet at" a City elected official, even using hashtags, for example:

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"#MayorLightfoot: I/we urge that you oppose the proposed ordinance recently introduced to City Council;" or (ii) take out a full page ad in the Tribune with the same text; or (iii) on their organization's Facebook page or website place this same content? [No. In order for there to be lobbying under the Ordinance, there must be direct communication with City officials or employees, such as emails, letters, faxes, texts, phone calls, memoranda submitted to these officials by personal delivery, mail, or email, etc. Using the internet or social media to spread messaging like this is not direct contact. However: should a paid employee of a nonprofit whose twitter or Facebook page is followed (or "friended") by a City official, and the employee sends the official a direct message through one of these social media platforms, that would constitute lobbying assuming the message's substance does not fall into one of the Ordinance's exceptions in either §§ 2-156-010(p) or -220.]

9. If a paid employee of a nonprofit signs on to another nonprofit organization's letter of support for a policy change, and that letter is submitted to a City official or employee, has this employee engaged in lobbying? [Yes: because this employee is representing his or her nonprofit employer in an effort to influence City administrative or legislative action, assuming that the letter's content does not fall within one of the exceptions to lobbying in either §§ 2-156-010(p) or -220 of the Ordinance.]
10. What if a paid employee of a nonprofit participates in a volunteer working coalition comprising paid employees of other nonprofits, meets with a group of aldermen as part of the coalition, and the coalition orally or in a written submission urges actions that does not fall into any of the exceptions to lobbying in either §§ 2-156-010(p) or -220 of the Ordinance? [The answer depends on whether this nonprofit employee is representing the volunteer coalition only (which would not constitute lobbying), or their employer, which would constitute lobbying on behalf of the employer. To answer that question, the Board would need to examine the facts, for example, does the coalition have its own letterhead on which any written submission is made? This would tend to indicate that the paid employees are acting on behalf of the volunteer coalition, and not lobbying. But a fact that could indicate lobbying: are signatories to any written submission identifying their own respective employers as they sign the submission?]

signed/sib

William F. Conlon, Chair