



OHIO ETHICS COMMISSION

THE ATLAS BUILDING
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COLUMBUS, OHIO 43215
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Advisory Opinion No. 84-001
February 16, 1984

Syllabus by the Commission:

The Ohio Ethics Law and related statutes do not prohibit a city fire chief or other city official or employee from serving on the board of a non-profit corporation created by the city and other jurisdictions to provide contract paramedic services, provided that he is serving in his official capacity as designated by city council, and that no other conflict of interest exists.

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You asked whether the Ohio Ethics Law and related statutes prohibit a city fire chief or other city official or employee from serving on the board of a non-profit corporation created by several municipalities to provide contract paramedic services.

You stated, by way of history, that the city plans to enter a contract with a non-profit corporation that provides paramedic services to several municipalities. You indicated that the non-profit corporation was created by the governments of these jurisdictions to provide necessary paramedic services to their communities. The code of regulations establishing the non-profit corporation provides that the fire chief of each municipality will serve as trustee for the corporation to represent the interests of the city and secure the best possible service for the citizens from the non-profit corporation. You asked whether the Ohio Ethics Law and related statutes prohibit the fire chief or any other city official or employee, including a council member, from serving on the board of this non-profit corporation.

In Ohio Ethics Commission Advisory Opinion No. 83-010, the Commission held that a city council member is not prohibited from serving on the board of non-profit corporation that was created by the city and other business and academic interests to promote research and community development, provided that the council member serves on the board in his official capacity as directed by council. The non-profit corporation was created with funds provided by the city, the local chamber of commerce, and a state university located in the jurisdiction; it was contemplated that there would be a contractual relationship among the various parties. Thus, the non-profit corporation was doing business with the governmental entity, but the Commission held that there would be no conflict of interest for the following reason:

In the instant case, the city council seeks to designate a member of council to represent the interests of the city on the board of the non-profit community development corporation. The official designation by a sovereign governmental entity, requiring that a council member serve on the board of the non-profit community development corporation in his official capacity, is

sufficient to demonstrate that the public official does not have a prohibited personal interest in the public contract.

Under the same reasoning, the Ohio Ethics Law and related statutes would not prohibit a city fire chief or other city official or employee from serving on the board of a non-profit corporation created by several municipalities to provide contract paramedic services to their communities. As in the earlier opinion, the fire chief would not have a prohibited personal interest in the contract with the non-profit corporation because he is designated by the municipal government to represent its interests on the board. Thus, there would not be a dual interest in which private considerations would detract from his serving the public interest.

However, this result depends on a number of criteria that were present in Advisory Opinion No. 83-010, but were not expressly discussed. These criteria are as follows: (1) the governmental entity must create or be a participant in the non-profit corporation; (2) any public official or employee connected with the jurisdiction, including a council member, may be designated to serve on the non-profit corporation, but the elected legislative authority or the appointed governing body must formally designate the office or position to represent the governmental entity; (3) the public official or employee must be formally instructed to represent the governmental entity and its interests; and (4) there must be no other conflict of interest on the part of the designated representative. Assuming these criteria are met, the fire chief or any other city official or employee, including a council member, would not have a prohibited personal interest in a public contract.

The conclusions of this opinion are based on the facts presented and are rendered only to questions arising under Chapter 102. and Section 2921.42 of the Revised Code.

Therefore, it is the opinion of the Ohio Ethics Commission, and you are so advised, that the Ohio Ethics Law and related statutes do not prohibit a city fire chief or other city official or employee from serving on the board of a non-profit corporation created by the city and other jurisdictions to provide contract paramedic services, provided that he is serving in his official capacity as designated by city council, and that no other conflict of interest exists.


Richard D. Jackson, Chairman
OHIO ETHICS COMMISSION