STATE OF LOUISIANA
DEPARTMENT OF STATE CIVIL SERVICE
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November 20, 2017

Mr. Brendan M. Greene
Executive Counsel
Department of City Civil Service
1340 Poydras Street, Suite 900
New Orleans, Louisiana 70112

Re: **Louisiana Board of Ethics**
Docket No. 2017-1115

Dear Mr. Greene,

The Louisiana Board of Ethics, at its November 17, 2017, meeting, considered your request for an advisory opinion as to the application of the Code of Governmental Ethics (Code) to members of the Civil Service Commission for the City of New Orleans ("Commission").

The Commission is comprised of five members who are appointed by the New Orleans City Council to overlapping six-year terms. Four of the members are nominated by the presidents of designated local universities. The fifth member is a City of New Orleans employee who is first nominated by fellow employees, and then appointed to the Commission by the City Council. The current employee-member is an active member of the New Orleans Fire Department and holds the rank of Captain as a classified employee. You seek guidance on two situations involving the employee-member.

THE VOTING RESTRICTIONS IMPOSED ON THE EMPLOYEE-MEMBER OF THE COMMISSION REGARDING MATTERS THAT MAY IMPACT THE EMPLOYEE-MEMBER'S JOB CLASSIFICATION.

La. R.S. 42:1112A provides that no public servant shall participate in a transaction in which he has a personal substantial economic interest of which he may be reasonably expected to know involving the governmental entity. La. R.S. 42:1102(21) defines a "substantial economic interest" as an economic interest which is of greater benefit to the public servant or other person that to a general class or group of persons.

Therefore, the Board concluded, and instructed me to inform you, that the employee-member of the Commission is not prohibited from voting on matters which may affect his job classification as a whole, as the employee-member would not have a substantial economic interest greater than the general class or group of employees in the same classification. An example of this would be an across-the-board raise for the entire classification.

However, the employee-member would be prohibited from voting on a matter where he has a personal substantial economic interest and there is no general class of persons. An example of a prohibited transaction would be a raise for his classification when he is the only employee, or one of just a few employees, in the classification. In the event, the employee-member's classification contains a limited number of persons, the Board suggests that the employee-member seek an additional advisory opinion as to the specific circumstances of the transaction prior to participating in the matter.

THE VOTING RESTRICTIONS IMPOSED ON THE EMPLOYEE-MEMBER REGARDING MATTERS BROUGHT BEFORE THE COMMISSION BY ENTITIES FOR WHICH THE EMPLOYEE-MEMBER SERVES AS AN OFFICER.

La. R.S. 42:1112B(3) provides that no public servant shall participate in a transaction involving the governmental entity in which, to his actual knowledge, any person of which he is an officer, director, trustee, partner, or employee has a substantial economic interest. La. R.S. 42:1102(16) defines "person" as an individual or legal entity other than a governmental entity, or an agency thereof.

As a result, the Board concluded, and instructed me to inform you, that the current employee-member would not be prohibited from participating in matters in which the New Orleans Fire Department may have a substantial economic interest, while he is employed as a Captain with the Fire Dept., as the Fire Dept. is a governmental entity.

However, please be aware that the employee-member is prohibited from participating in matters in which any person (i.e. a private legal entity), for whom he serves as an officer, director, trustee, partner, or employee, has a substantial economic interest.

RECUSAL PROVISIONS

Additionally, the Board concluded, and instructed me to inform you, that if any appointed member of a board or commission in the discharge of a duty or responsibility of his office or position, would be required to vote on a matter which vote would be a violation of R.S. 42:1112(A) or (B), he shall recuse himself from voting pursuant to La. R.S. 42:1120.4. The appointed member shall also be prohibited from participating in discussion and debate concerning the matter. La. R.S. 42:1120.4B.

This advisory opinion is based solely on the facts as set forth herein. Changes to the facts as presented may result in a different application of the provisions of the Code of Governmental Ethics. The Board issues no opinion as to past conduct or as to laws other than the Code of Governmental Ethics, the Campaign Finance Disclosure Act, the Lobbyist Disclosure Act, and conflict of interest provisions in the gaming laws. If you have any questions, please contact me at (800)842-6630 or (225)219-5600.

Sincerely,

LOUISIANA BOARD OF ETHICS

David M. Bordelon
For the Board