

Advisory Opinion No. 90-7

A community school board member who is an attorney has requested an opinion as to what extent the conflicts of interest provisions of Chapter 68 of the Charter prohibit his representation of private clients in litigation against the City.

The Board has been advised that community school boards, while independent of the Board of Education, are subject to policies set by the Board of Education and to directives of the Chancellor. The Board of Education also funds community school boards to reimburse the out-of-pocket expenses of their members, who are unsalaried.

Relevant Charter Sections

A public servant whose primary employment is not with the City, such as a community school board member, is prohibited from appearing as an attorney against the interests of the City in any litigation, action or proceeding to which the public servant's agency is a party. Charter Section 2604(b)(7). The agency served by a member of a community school board is the board to which he or she has been elected. Charter Sections 2601(19), 2601(3).

In light of the relationship between the Board of Education and community school boards, it would also be a conflict with the proper discharge of a community

school board member's duties for the member to appear

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as attorney or counsel against the interests of the City in any litigation to which the Board of Education is a party. Charter Section 2604(b)(2).

Conclusion

For the reasons set forth above, it is the opinion of the Board that it would be a conflict of interest under Chapter 68 for a community school board member who is an attorney to appear as attorney or counsel against the interests of the City in any litigation, action or proceeding to which either the member's community school board or the Board of Education is a party.

Merrell E. Clark, Jr.  
Chair

Robert J. McGuire

Beryl R. Jones

Dated: July 5, 1990