

COOK COUNTY BOARD OF ETHICS
69 West Washington Street, Suite 3040
Chicago, Illinois 60602

IN THE MATTER OF) Case No.: 2016I13
Namrita NELSON, Analyst,) Entered: August 29, 2017
Cook County Board of Review)
)

NOTICE OF DETERMINATION

Before the Cook County Board of Ethics (“Board”) is the question of whether Namrita Nelson, Analyst at the Cook County Board of Review (“Board of Review”), performed prohibited political activity on County time in violation of the Cook County Ethics Ordinance (“Ethics Ordinance”). *See* Cook County Code of Ordinances (“County Code”), § 2-583(c). For the reasons that follow, the Board finds in the affirmative.

FACTUAL BACKGROUND

The Board has reviewed the Final Report (“Report”) issued by Board staff in Investigation 16I13, and accepts in full the facts set out in that Report. These facts are summarized briefly as follows:

In the course of a routine audit of visitor logs kept by the Cook County Clerk’s Election Department (“Clerk’s Office”), the Board staff discovered that Nelson logged in on several occasions in the spring of 2016, a period during which the signatures on the ballot access petitions of Democratic Cook County Board of Review candidate Marty Stack were being challenged by incumbent Republican Board of Review Commissioner Dan Patlak. (Report at 1.) One of these dates was June 7, 2016. (*Id.* at 2.) Nelson’s sign-in time is not clear from the face of the visitor log, but appears to be either 9:11 a.m. or 11:11 a.m. (*Id.*) Her sign-out time was 11:19 a.m. (*Id.*)

Board staff reviewed Nelson’s time and attendance records from the Cook County Comptroller’s Office and the Board of Review. (*Id.*) These records reflect that on June 7, 2016, Nelson was paid in full as a regular workday despite never signing in at the Board of Review to do her government job or taking any leave time during the 8 minutes or 2 hours that she was demonstrably engaged in political activity at the Clerk’s Office. (*Id.* at 2-3.)

When interviewed, Nelson acknowledged that she performed campaign work on a volunteer basis for Patlak in June 2016. (*Id.* at 3.) She has been a volunteer for Republicans of Wheeling Township (“ROWT”) since 2008. (*Id.*) ROWT is a political organization in the township where Commissioner Patlak resides. (*Id.*) Commissioner Patlak’s chief of staff, Ken Jochum, and several other Board of Review employees who work for Commissioner Patlak also

volunteer or have volunteered for ROWT. (*Id.*) Nelson acknowledges that she initially met Commissioner Patlak in 2009 through his wife, a personal contact of Nelson's, and after sending him her resume, she was interviewed and subsequently hired. (*Id.*)

Nelson indicated that on June 7, 2016, she stopped by the Board of Review but did not sign in because she was not sure exactly how many hours she was going to work that day, and because she knew she was going to spend time at the Clerk's Office doing non-governmental, political work that day. (*Id.* at 4-5.) Nelson stated that she was leaving for India in a few days,¹ and she was not planning on being paid for stopping by the office. (*Id.*)

Nelson was equivocal in her explanation for why she did not take benefit time that day. (*Id.*) Initially, she stated that she did not recall if she submitted a request to use benefit time on June 7, 2016. (*Id.* at 5.) But she later asserted, "I mean the situation is just that the person who was compiling the time must have made an error because obviously I tried to ask for time, for comp time, but I got paid and I never realized that I got paid." (*Id.*) Nelson stated that she is fully aware that she is not permitted to perform political activity on County time, "[s]o if there's ever been a mistake, it's been a mistake." (*Id.* at 4.)

Nelson stated that she is not aware of the Board of Review having a written time and attendance policy. (*Id.*) There is a requirement that employees submit a leave request form before taking time off, but during the summer months, when the Board of Review is less busy, Nelson's practice was to call in and use unplanned vacation days. (*Id.*) She stated that she would have been instructed at some point on the time and attendance procedures at the Board of Review, but does not recall when. (*Id.* at 5.)

When asked if Nelson is aware of other Board of Review employees performing political activism, Nelson stated, "I mean everyone, well not everyone, quite a few people have political interests. I mean, that's sort of the nature of the kind of people that get attracted to a job like this." (*Id.*) Yet when asked if an interest in politics helps resolve the Board of Review's property tax cases, Nelson stated, "Not even a little bit. It's not at all related." (*Id.*) When asked if party affiliation or activism would be relevant at all to the work of an employee at the Board of Review, Nelson stated, "not at all." (*Id.*)

ANALYSIS

Section 2-583(c) of the Ethics Ordinance provides:

County employees shall not intentionally perform any prohibited political activity during any compensated time (other than vacation, personal, or compensatory time off). County employees or officials shall not intentionally misappropriate any County property or resources by engaging in any prohibited political activity for the benefit of any campaign for elective office or any political organization or political committee.

¹ Nelson stated that she took a trip to India using approximately three to four weeks of comp time in the summer of 2016.

“Prohibited political activity” includes “[i]nitiating for circulation, preparing, circulating, reviewing, or filing any petition on behalf of a candidate for elective office or for or against any referendum question,” and “[p]reparing for, organizing, or participating in any political meeting, political rally, political demonstration, or other political event.” County Code, § 2-562.

Nelson admitted that she was at the Clerk’s Office conducting political activity during the County workday on June 7, 2016, without taking benefit time. The evidence is that she engaged in this activity intentionally and without mistake or coercion. Nelson was then paid for the entire day, as if she did not, spend some portion of it (potentially up to two hours) engaged in prohibited political activity.

Public employees engaging in campaign politics while being paid taxpayer dollars is, at its core, one of the most serious offenses in the Ethics Ordinance. It is one of only two prohibitions that every unit of local government in the State of Illinois is required by law to prohibit. 5 ILCS 430/70-5. It is the only offense in the County’s Ethics Ordinance that can be met with criminal sanctions. County Code, § 2-602(c). It is one of the offenses, which when committed, triggers the public’s deepest anxieties about the entrenched and self-serving nature of government officials and employees.

County employees who intentionally engaged in prohibited political activity during the regular workday bear the burden of ensuring that they are not doing so on compensated time. While Nelson may assert that her failure to take any benefit time at all on June 7, 2016, was unintentional – or even, that the failure was that of the timekeeper – it was Nelson’s responsibility to properly account for time when she was engaged in an activity that, when done improperly, is both wrongful and so detrimental to the reputations of every other County official, employee or appointee who appropriately separates their campaign-related activities from the services and programming they are compensated with public funds during their work day to provide.

The Board has significant concerns about other issues raised, but not fully explored, by the Report, including: (1) the apparent absence of a written Board of Review time and attendance policy; (2) the informal nature of the Board of Review’s hiring practices, and in particular, the potential use of political affiliation to hire for non-policymaking positions at the Board of Review; (3) the apparent practice of permitting FLSA-exempt employees to accumulate several weeks of comp time each year; and (4) the apparent coordinated use of this ample comp time for political activity in support of elected County officials. The Board directs its staff to continue to investigate these issues despite the Board’s resolution of the particular allegations against the respondent in this matter.

CONCLUSION

The Board has considered the Report in this case and orders that, as a consequence of Namrita Nelson’s failure to take appropriate benefit time on June 7, 2016, she be fined in the amount of \$374.94, the equivalent of 10 hours’ pay. This fine, in part, reflects that Nelson was paid for eight hours of time on June 7, 2016, despite only stopping by the office to finish some tasks before heading to the Clerk’s Office to engage in political activity, and despite failing to request any time off for that day. The fine also reflects that Nelson spent anywhere from eight

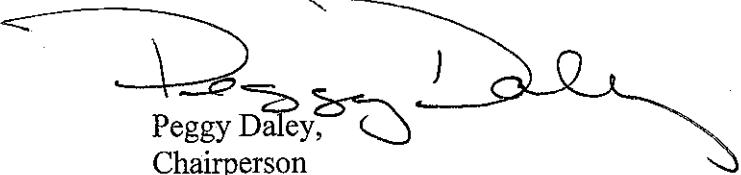
minutes to two hours and eight minutes conducting prohibited political activity on a day for which she was compensated as a regular workday. This fine is intended to deter Nelson from performing prohibited political activity on County time and disregarding Countywide and Board of Review time policies in the future. The Board also notes that this fine is modest relative to the Board's authority under Section 2-602(a) to impose a fine of up to \$5,000.00 per violation of Section 2-583, but is proportional to the magnitude of the violation in this case.

In the alternative, if the Comptroller's Office and the Board of Review are amenable, Nelson may elect to be deducted 10 hours of vacation, personal or comp time from her accrued leave balance. Nelson must indicate her election to the Board of Ethics within 30 days of the date of this Order, unless she intends to request reconsideration under Section 5.17 of the Board's Amended Rules and Regulations.

IT IS SO ORDERED.

August 29, 2017

THE COOK COUNTY BOARD OF ETHICS


Peggy Daley,
Chairperson