



ETHICS REVIEW BOARD  
CITY OF NEW ORLEANS

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Jason Rogers Williams  
President  
Council of the City of New Orleans  
City Hall, Room 2W50  
1300 Perdido Street  
New Orleans, Louisiana 70112

Dear Councilmember Williams:

I write to you as President of the Council of the City of New Orleans (“Council”) to inform the Council about a resolution adopted by the City of New Orleans Ethics Review Board (“ERB”) at its meeting on December 16, 2015. For the following reasons, the ERB recommends that the Council adopt an ordinance incorporating by reference and adopting certain provisions of the Louisiana Code of Governmental Ethics.

Under the Louisiana Constitution, only the Louisiana Board of Ethics is empowered to enforce the Louisiana Code of Governmental Ethics. Article 10, section 21 of the state constitution provides as follows:

The legislature shall enact a code of ethics for all officials and employees of the state and its political subdivisions. The code shall be administered by one or more boards created by the legislature . . . .

*See* La. Const. art. 10, § 21 (1974). Interpreting this provision, the Louisiana Board of Ethics has previously advised the ERB that the ERB is not empowered to enforce the state ethics code.

The state constitution does not, however, prohibit local codes of conduct or local ethics ordinances. Moreover, state statutory law expressly permits such codes or ordinances. Louisiana Revised Statutes section 33:9612.1 provides that:

The governing authority of a local governmental subdivision may adopt and enforce local codes of conduct or ethics ordinances. Any such code or ordinance may regulate the same or similar activity as regulated by the provisions of the Code of Governmental Ethics, R.S. 42:1101 et seq., subject to the provisions of this Section.

See La. Rev. Stat. § 33:9612.1(A).

Empowered by this statute—and unconstrained by the state constitution—the City of New Orleans has undertaken to “regulate the same or similar activity as regulated by the provisions of the [state] Code of Governmental Ethics.” *Id.* Indeed, the City’s Home Rule Charter mandates that “[t]he [city] Code of Ethics shall incorporate by reference and adopt the provisions of the Louisiana Code of Governmental Ethics and shall provide for such other, more stringent provisions as the Council may deem appropriate.” See Home Rule Charter of the City of N.O. art. IX § 9-402(2).

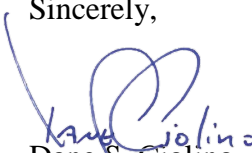
Although the Home Rule Charter requires the City Council to “incorporate by reference” and to “adopt” the provisions of the state ethics code, it has not done so. The Code of Ordinances of the City of New Orleans merely references the state ethics code as an independent set of standards governing the conduct of city employees. The Code of Ordinances does not, however, expressly “incorporate” or “adopt” the substance of the state ethics code. See N.O. Code of Ord. § 2-741 (noting that the state code exists and observing that it “applies to all officials and employees of the city”); *id.* § 2-742 (requiring the city’s CAO to distribute the state ethics code to city officials); *id.* § 2-743 (requiring the city’s CAO to advise officials and employees how to obtain advisory opinions from the state ethics board); *id.* § 2-744 (noting that the city’s ethics code is intended only to supplement the state ethics code); *id.* § 2-774 (noting that other “laws, rules, and policies established by the federal and state government . . . prescribe standards of conduct for government and city employees”). Indeed, “Subdivision III. City Code of Ethics” of the Code of Ordinances makes no effort to “incorporate” or to “adopt” provisions of the state ethics code.

To comply with the city’s Home Rule Charter, the Council should adopt an ordinance incorporating by reference and adopting the substantive provisions of the state ethics code. More particularly, the City Council should amend “Subdivision III. City Code of Ethics” to include a section with this language:

**Section 2-7XX.** The City Code of Ethics adopts and incorporates by reference the following parts of the Louisiana Code of Governmental Ethics, Louisiana Revised Statutes Title 42, Chapter 15: Part I (General Provisions); Part II (Ethical Standards for Public Servants); and, Part IIa (Unethical Election Practices).

If the Council should have any questions regarding this resolution, please do not hesitate to contact me.

Sincerely,

  
Dane S. Ciolino  
General Counsel