

Executive Director's Report April 15, 2024

Amendments to the City's Ethics Laws

The Board's own proposals. On January 24, 2024, our proposals were submitted to the full City Council through the Chair of the City Council's Committee on Ethics and Government Oversight, 47th Ward Ald. Matt Martin. They are designated O2024-0007359, and are posted on the City Clerk's website here:

<https://occpodstoragev1.blob.core.usgovcloudapi.net/matterattachmentspublic/78f11f46-552f-4b49-b357-cdb7b2f130ec.pdf>

We have met numerous times with the Mayor's IGA team, the Law Department, and with Ethics and Government Oversight Committee Chair Ald. Matt Martin (47th) and his staff to discuss these further and work on a substitute. We are informed that a substitute ordinance will likely be introduced in May, for passage in June. If enacted, it: i) would impose tighter regulations with respect to City Council independent contractors; ii) address the use of photographs of City property (such as Chicago Police or Fire Department insignia, badges, uniforms, or equipment) in electioneering communications, and, among other things, subject political fundraising committees to the Ordinance's restrictions, thereby granting the Board and Inspector General ("IG") jurisdiction over such committees in this respect; iii) address electioneering communications addressed to City employees or officials, and impose a "stand by your ad" requirement such that candidates for City office must certify that they have reviewed all electioneering communications disseminated by their authorized political fundraising committees; iv) clarify the political activity prohibitions; and v) close a gap in the City's campaign contribution limitations law (we are told that work is being done on a public financing law, which, if enacted, would moot this recommendation).

Lobbying Law Revisions. Substantial revisions to the City's lobbying laws were passed into law by the City Council on December 13, 2024. We posted them here: https://www.chicago.gov/content/dam/city/depts/ethics/supp_info/GEO-2019-color%20through%20July%202024.pdf. Board legal staff worked closely with representatives from the City Council's Committee on Ethics and Government Oversight, Mayor's Office, Law Department, and the philanthropic and public charity communities on these amendments. On behalf of the Board, I extend my thanks and congratulations to all who were involved in this effort, especially to the Chair of the City Council's Committee on Ethics and Government Oversight, 47th Ward Alderperson Matt Martin, and his amazing staff. The new laws take effect on July 1, 2024.

By way of highlight, the amendments: i) re-impose thresholds for all individuals that must be met before they would be required to register as lobbyists (more than 20 hours in lobbying as defined, or expending or being compensated more than \$1,250 for lobbying as defined, per calendar quarter); ii) exempt individuals who lobby solely on behalf of any non-profit with an operating budget or a net assets or fund balances of less than \$5 million dollars; iii) cap all lobbying fines at \$20,000 per violation; iv) add a "self-defense communication" exemption from lobbying for non-profits; v) codify Board opinions from late 2019-early 2020 that non-profit personnel who serve on advisory committees at the City's request are not thereby lobbying unless they advocate for new resources or programs for their own non-profit; and vi) clarify which actions constitute "administrative action" and "legislative action."

The Board has been working closely with the Committee on education and outreach efforts.

2024 Statements of Financial Interests

On March 1, 4,058 City employees and officials were sent email notice of their requirement to file 2024 Statements of Financial Interests ("FIS forms") on or before May 1, 2024, with the link to file electronically. To date, approximately 2,985 have filed. Reminders have been sent to all individuals who have not yet filed on March 15 and 29, and another notice will be sent April 12, and a final notice sent on April 26.

Forms filed in 2015 and after are posted and viewable here, where they stay for seven (7) years after they are filed:

<https://webapps1.chicago.gov/efis/search>

Education

On-line Training

For all employees and officials. To date, approximately 16,750 employees and 14 elected officials have completed the all-new 2024 online training (their deadline is before January 1, 2025), and 289 lobbyists have completed their training

(their deadline is before July 1, 2024). In the next few weeks, we will post the appointed officials training, for approximately 550 appointees to City boards and commissions (their deadline is before January 1, 2025).

Classes and other presentations

We cancelled all in-person classes from March 2020 on, given the course of the pandemic. We extended all training deadlines accordingly, and will restart them in May, in our offices and at various locations throughout the City.

All Board classes and educational programs cover sexual harassment. We are reaching out to all City Council offices to schedule classes for them at Chicago Public Library facilities or their offices. We are also in the process of scheduling in-person classes for Mayor Johnson and key members of his team.

In conjunction with the staff of the Committee on Ethics and Government Oversight, on March 7 and 14 we presented classes to ~75 representatives from non-profit entities. We likely will present more between now and July 1, when the new law takes effect. We also have several tutorials on our website to assist lobbyists and others in understanding the new lobbying laws, and using our ELF System, here:

https://www.chicago.gov/city/en/depts/ethics/supp_info/elinstructions.html

On April 11, we made a presentation on our work for students from Ohio Northern University.

We have a class scheduled for all personnel in the Office of the City Treasurer, for April 24.

Advisory Opinions

Since the Board's February meeting, we have issued 846 informal advisory opinions – another very busy period. The leading categories for informal opinions were, in descending order: Travel; Gifts; Political activity; Statements of Financial Interests; City property; Outside employment; Lobbying; Campaign financing; and Post-employment.

The leading City departments from which requesters came in this period were, in descending order: Chicago Police Department/Civilian Office of Police Accountability (COPA)/Community Commission for Public Safety and Accountability (CCPSA); City Council; Mayor's Office; Department of Public Health; Department of Finance; Department of Housing; Chicago Public Library; Department of Law; Department of Planning and Development; Department of Cultural Affairs and Special Events; and the Chicago Fire Department. 72% of all inquiries came from City employees or elected officials, the remainder from attorneys, vendors, lobbyists or potential lobbyists.

Please note also that we continue to receive record numbers of complaints from members of the public: since the last Board meeting, we have received more than 15. We refer complainants to agencies that can help them, typically the IG.

Informal opinions are confidential and not made public, but are logged, kept, and used for training and future advisory purposes. This same practice occurs with our colleagues at the New York City Conflicts of Interest Board, who issue roughly the same number of informal opinions. They form the basis for much of our annual and periodic educational programs. Formal opinions are made public, in full text, with names and other identifying information redacted out. In the past five (5) years, the Board has issued 67 formal opinions. There is one formal opinion on today's agenda for Board approval, addressing the post-employment restrictions.

Summary Index of Formal Advisory Opinions/Text of all Formal Advisory Opinions

The full text of every formal Board opinion issued since 1986 is posted on the Board's website (more than 920), redacted in accordance with the Ordinance's confidentiality provisions, here:

https://www.chicago.gov/city/en/depts/ethics/auto_generated/reg_archives.html.

Redacted formal opinions are posted once issued or approved by the Board. Summaries and keywords for each of these opinions—and a link to each opinion's text, which we added since the August Board meeting—are available on the Board's searchable index of opinions, here:

<https://www.chicago.gov/content/dam/city/depts/ethics/general/Publications/AOindex.docx>.

A few other ethics agencies have comparable research tools. We are unaware of jurisdictions that make their *informal* opinions public — though, like we do, others issue them confidentially and enable requesters to rely on them in the event of an investigation or enforcement.

Lobbyists Filings

Currently 825 individuals are registered as lobbyists, and we have collected \$326,625 in 2024 registration fees. Q1 activity reports must be filed no later than Monday, April 22, 2024.

On April 11, we posted a current list of registered lobbyists and their clients here:

<https://www.chicago.gov/content/dam/city/depts/ethics/general/LobbyistStuff/LISTS/lobbyistlist.xls>

Lobbyists' filings dating back to 2014 can be examined here: https://webapps1.chicago.gov/elf/public_search.html.

Sister Agencies

We met with all of our sister agency ethics counterparts on February 27, and will next meet in June.

Waivers

Since July 1, 2013, the Board has had authority to grant waivers from certain provisions in the Ethics Ordinance. The Board has granted eight (8) and denied three (3) waiver requests.

Summary Index of Board-Initiated Regulatory Actions/Adjudications/pre-2013 Investigations

We post a summary index of all investigations, enforcement and regulatory actions undertaken by the Board since its inception in 1986 (other than those for violations of filing or training requirements or campaign financing matters). It includes an ongoing summary of all regulatory actions the Board undertook without an IG investigation, based on probable cause findings the Board makes as a result of its review of publicly available information, where no factual investigation by the IG is necessary. *See*

<https://www.chicago.gov/content/dam/city/depts/ethics/general/EnforcementMatters/Invest-Index.pdf>

The Board makes public the names of all violators and penalties it assesses when authorized by law to do so. But only in those that occurred after July 1, 2013, can the Board release the names of those found to have violated the Ordinance. Since July 1, 2013, there have been nearly 90 such matters.

There are currently five (5) such matters pending, all of which are on today's agenda. Four (4) involve political contributions made to Mayor Johnson or his authorized political committee by registered lobbyists, in apparent violation of Mayoral Executive Order 2011-2

(https://www.chicago.gov/content/dam/city/depts/ethics/general/Ordinances/ExecutiveOrders1_6.pdf); one (1) involves a lobbyist's failure to disclose that contribution on a 2023 Quarterly Activity Report, as required by the Ordinance.

Summary Index of Ongoing/Past IG/LIG Investigations/Adjudications

There are currently 12 completed IG ethics investigations in the process of adjudication, or recently concluded. More information on these cases is posted here:

<https://www.chicago.gov/city/en/depts/ethics/provdrs/reg/svcs/ongoing-summary-of-enforcement-matters.html>.

The first, 23045.IG, was sent to the Law Department for the drafting of charges and a confidential administrative hearing, pursuant to §2-156-392. The City is being represented by the law firm of Hinshaw & Culbertson, and the matter will be heard before ALJ Frank Lombardo. The Board is pursuing a \$20,000 fine.

In the second, 23050.IG, the Board found probable cause; it met with the subject's counsel in November 2023 and concluded that the subject bribed a City employee and imposed the maximum fine of \$5,000. The matter might be settled, but the subject earlier expressed the desire to proceed to a confidential administrative hearing, pursuant to §2-156-392, and the matter was assigned to ALJ Frank Lombardo. Charges were drafted. The City is being represented by the law firm of Kulwin, Masciopinto and Kulwin, LLP.

In the third, 23053.IG, the Board found probable cause at its November 2023 meeting. The Board met with the subject's attorney at the February meeting and voted 4-0 to pursue a \$1,001 fine, concluding that the subject violated the Ordinance

by delivering a gift bag to a City employee worth in excess of \$50. The subject paid the fine on March 27, 2024.

In the fourth and fifth, 23054.IG and 23055.IG, the Board found probable cause at its November 2023 meeting. The Board met in February with the subject's attorney. After that meeting, the Board requested further clarification from the IG, received that clarification, and presented it to the subject's counsel. Both matters are on today's agenda; the Board vote to pursue a fine or take other action as specified in §2-156-385(4).

In the sixth case, 23059.IG, the IG submitted its petition for the Board to make a probable cause finding on November 14, 2023. The Board found probable cause at its December 2023 meeting. At its February meeting, the Board voted 4-0 to assess a \$2,000 fine, concluding that the subject violated the Ordinance by improperly giving a City employee \$200 in cash and a personalized coffee mug. The subject is paying the \$2,000 fine over a four-month period.

In the seventh case, 23063.IG, the IG delivered its completed investigation and probable cause petition to the Board on November 20, 2023. A company co-owned by the subject, a City employee, and his spouse, received \$1,325 in City funds as compensation for electrical work performed by the company, in apparent violation of the financial interest in City business prohibition. The Board voted unanimously that this constituted a minor violation.

In the eighth case, 23066.IG, the IG delivered its completed investigation and probable cause petition to the Board on December 26, 2023. The Board found probable cause at its January 2024 meeting. The subject and their attorney will meet with the Board today to attempt to rebut the Board's finding. The case involves allegations that the subject, a City employee, failed to disclose, on several Statements of Financial Interests, income received in excess of \$1,000 from a company the subject owned.

In the ninth case, 23067.IG.1, .2, and .3, the IG delivered its completed investigation to the Board on December 30, 2023. The matter involves three (3) employees from the same City department; the IG concluded that one of them had a prohibited financial interest in City contracts, and that the others knew of this violation but failed to report it to the IG as required by §2-156-018(a). At its January 2024 meeting, the Board voted to refer the matter back to the IG, because the evidence adduced in the IG's investigation appears to show that a *fourth* employee from the same department also violated §2-156-018(a) by failing to report the violation to the IG. The Board requested that the IG review its investigation, and if it agrees with the Board, properly petition the Board for a probable cause finding with respect to that fourth employee.

In the tenth case, 24003.IG, the IG delivered its completed investigation to the Board on February 2, 2024. The matter involves an investigation into the deletion of comments from an elected official's official social media account. The matter will be presented to the Board at today's meeting for consideration whether to find probable cause, or to remit the matter back to the IG for clarification.

The eleventh and twelfth cases, 24004.IG and 24005.IG, were both presented by the IG to the Board on February 27, with requests for probable cause findings. Each matter involves attempted bribery by residents/property owners of City Building inspectors. Both are on today's agenda for probable cause findings.

More complete summaries of these cases are available on our website, subject to the Ordinance's confidentiality requirements. We post on our website and continually update an ongoing investigative record showing the status of every completed investigation brought to the Board by both the IG since July 1, 2013, and the former Office of the Legislative Inspector General ("LIG"), since January 1, 2012, and the status of all 50 petitions to commence investigations presented to the Board by the LIG. We update this record as appropriate, consistent with the Ordinance's confidentiality provisions. See <https://www.chicago.gov/city/en/depts/ethics/provdrs/reg/svcs/ongoing-summary-of-enforcement-matters.html> and <https://www.chicago.gov/content/dam/city/depts/ethics/general/EnforcementMatters/PulbicScorecard.pdf>

Whenever the IG presents the Board with a completed ethics investigation in which the IG believes there have been violations of the Governmental Ethics Ordinance, the procedure that follows is governed by §2-156-385 of the Ordinance: the Board reviews the IG's report, recommendations, and the entirety of the evidence submitted in its completed investigation, including a review to ensure that the IG conformed with the requirement that it complete ethics investigations within two (2) years of commencing them (unless there is evidence that the subject took affirmative action to conceal evidence or delay the investigation), and that the ethics investigation was commenced within five (5) years of the last alleged act of misconduct.

If the Board finds that the evidence presented warrants a finding of probable cause to believe the subject violated the Ordinance, it notifies the subject of the allegations and affords the subject the opportunity to present written submissions and meet with the Board, together with an attorney or other representative present. The Ordinance provides that this meeting is *ex parte* – no one from the City’s Law Department or IG is present. Note that the Board may also request clarification from the IG as to any evidence found in its investigation before making a probable cause finding, or refer the matter back to the IG for further investigation (and has done so). The Board cannot administer oaths at this meeting but can and does assess the subject’s credibility and the validity and weight of any evidence the subject provides.

If the subject does not rebut the Board’s probable cause finding, the Board may enter into a public settlement agreement – or may find there was a violation and proceed to a hearing on the merits that is not open to the public. That hearing is held before an administrative law judge (ALJ) appointed by the Department of Administrative Hearings. The City would be represented by the Law Department (or a specially hired Assistant Corporation Counsel for that purpose), and the subject by their attorney. At the conclusion of that hearing, the ALJ submits findings of fact and law to the Board, which can accept or reject them, based solely on the written record of the hearing. The Board will then issue a public opinion in which it may find violations of the Ethics Ordinance and impose appropriate fines, or find no violation and dismiss the matter.

These processes are based on specific recommendations of then-Mayor Emanuel’s Ethics Reform Task Force in Part II of its 2012 Report—the primary purposes being to: (i) guarantee due process for all those investigated by the IG; (ii) ensure that only the Board of Ethics could make determinations as to whether a person investigated by the IG violated the Ordinance, given the Board’s extensive jurisprudence and unique expertise in ethics matters; and (iii) balance due process for those investigated by the IG with an accurate adjudication by the Board and the public’s right to know of ethics violations.

On our website, we have a publication describing this process in detail:

<https://www.chicago.gov/content/dam/city/depts/ethics/general/Publications/EnforceProcedures.pdf>

Note: fines range from \$500-\$2,000 per violation for non-lobbying or non-campaign financing violations that occurred before September 29, 2019, and \$1,000-\$5,000 per violation for such violations occurring between September 29, 2019, and September 30, 2022. For violations occurring on or after October 1, 2022, the fine range is between \$500 and \$20,000 per violation, and the Board may also assess a fine equal to any ill-gotten financial gains as a result of any Ordinance violation. Fines for unregistered lobbying violations remain at \$1,000 per day beginning on the fifth day after the individual first engaged in lobbying and continuing until the individual registers as a lobbyist.

Please note finally that, in all matters adjudicated or settled on or after July 1, 2013, the Board makes public the names of all violators and penalties assessed, or a complete copy of the settlement agreement. All settlement agreements are posted here: <https://www.chicago.gov/city/en/depts/ethics/provdrs/reg/svcs/SettlementAgreements.html>

Disclosures of Past Violations

July 2013 amendments to the Ordinance provide that, when a person seeks advice from the Board about past conduct and discloses to the Board facts leading it to conclude that they committed a past violation of the Ordinance, the Board must determine whether that violation was minor or non-minor. If it was minor, the Board, by law, sends the person a confidential letter of admonition. If it was non-minor, then, under current law, the person is advised that they may self-report to the IG or, if he or she fails to do so within two (2) weeks, the Board must make that report. In 11 matters, the Board has determined that minor violations occurred, and the Board sent confidential letters of admonition, as required by the Ordinance. These letters are posted on the Board’s website, with confidential information redacted out.

Litigation

Czosnyka et al. v. Gardiner et al., docket number 21-cv-3240. As was widely reported, Judge Sharon Johnson Coleman ruled on this matter on September 25, granting the plaintiffs’ motion for summary judgment. The decision is published here: <https://casetext.com/case/czosnyka-v-gardiner-2>. We are gratified that the Court explicitly cited this Board’s formal advisory opinion in Case 18038.A.1, which is posted here:

<https://www.chicago.gov/content/dam/city/depts/ethics/general/AO-City%20Owned%20Property/18038.A.1.pdf>.

The Board and the City of Chicago were previously dismissed out of this case.

We continue to be asked about when, if ever, City elected officials may block persons from their official and/or their personal or political sites. Our interpretation of the Governmental Ethics Ordinance has not changed since issuing our advisory opinion in Case No. 13038.A.1: <https://www.chicago.gov/content/dam/city/depts/ethics/general/AO-City%20Owned%20Property/18038.A.1.pdf>.

We of course are bound by the recent U.S. Supreme Court decisions in *O'Connor-Ratcliff v. Garnier* (docket # 22-324) and *Lindke v. Freed* (docket # 22-611), which involve blocking from personal or political accounts.

Open Meetings Act/FOIA Challenges

The Board is involved in five (5) challenges filed with the Illinois Attorney General by the same person. These challenges request: (1) a review of the propriety of adjourning into executive session during the Board's September 11, 2023 meeting under the Open Meetings Act ("OMA"). (2) A review of the propriety of adjourning into executive session during the Board's August 14 and September 11, 2023 meetings under OMA. (3) (i) A review of the propriety of adjourning into executive session during the Board's May 16, 2022 meeting under OMA; AND (ii) A review of the Board not producing certain records pursuant to the Freedom of Information Act ("FOIA"). (4) A review of the propriety of adjourning into executive session during the Board's July 18, 2022 meeting under OMA. (5) A review of the Board not producing certain records pursuant to FOIA. The Board has worked with the Law Department and responded to each. The Board awaits replies from the Illinois Attorney General.

In addition, on March 8, a sixth challenge was filed with the Illinois Attorney General's PAC by a citizen, alleging that the Board is in violation of the FOIA because it has no responsive document of instructions to persons assessed a fine by the Board as to how they should pay that fine. The challenge was dismissed by the PAC.

Freedom of Information Act

Since the last Board meeting, the Board has received seven (7) requests.

The first was for a document of instructions to people who are fined; we responded we had located no responsive records.

The second request was for a list of records the Board can produce; we responded by sending that list.

The third was for records regarding communications involving the requestor and CPD; we responded that we located no records.

The fourth was for subpoenas to the Board since January 1, 2022; we had responsive records and sent them.

The fifth request was for a document of instructions to people who are fined, and for the last three letters sent to individuals who were fined; we responded we had located no record as to the first part of the request, and sent records in response to the second part of the request.

The sixth request was for in-person inspection of 2022-24 FOIA denials; we responded with a proposed date/time to visit the office of the Board.

The seventh request was for litigation records; we responded that we were the wrong department.