

Executive Director's Report
December 16, 2024

Board Members

We have heard nothing further from the Mayor's Office regarding potential re-appointments of members David Daskal and The Honorable Barbara McDonald (Ret.), whose terms expired on July 31, 2024. That said, the law is clear that they "hold office until [their] successor [if someone other than themselves] has been appointed and has qualified," per §2-156-310(b).

I again urge the Mayor to re-appoint both David and Barbara, who are dedicated and conscientious Board members.

Statement Regarding a Recent Article in the Media

On Sunday, December 15, the Chicago Tribune printed a page 1 article entitled "Paper tigers Intentionally weak government oversight gives Illinois public officials cover for corruption"

<https://www.chicagotribune.com/2024/12/15/illinois-weak-government-oversight/>.

In addition to echoing the statements of our Chair, I wish to add the following:

-- From January 1998 through May 2010, the Board had authority to investigate signed and sworn complaints alleging violations of the Ordinance by City Council members, but never had the authority to initiate its own investigations in matters involving City Council members. We post on our website a table of all Board-initiated investigations and enforcement actions. <https://www.chicago.gov/content/dam/city/depts/ethics/general/EnforcementMatters/Invest-Index.pdf> The table does not include complaints against City Council members received that were, by law, referred to the City Council's Committee on Committees, Rules and Ethics. The Board was required to refer complaints it had no authority to investigate to that Committee. This index does include Board investigations of signed and sworn complaints alleging ethics violations by City Council members. There are more than 225 total Board-initiated investigations, or, after January 1, 2013, Board-initiated enforcement actions (cases where no factual investigation from the Office of Inspector General (OIG) was required. Each is described to extent allowed by law.

--The Board publishes and updates an ongoing list of every case referred to it by the former Office of Legislative Inspector General and the OIG. The Board received its first referral from the OIG in early 2015. This ongoing table is here: <https://www.chicago.gov/content/dam/city/depts/ethics/general/EnforcementMatters/PublicScorecard.pdf>

--Not including fines assessed for violations of the filing and training requirements of the Governmental Ethics Ordinance (these fines total in the tens of thousands of dollars), the Board has assessed \$357,552 in fines, the largest single fine being an "eye-popping" \$90,000 fine, which was paid in full, and the Board has over the years recommended that City personnel be suspended without pay or terminated for violations of the law, and they were so suspended or terminated.

--In nine (9) cases, involving elected officials or former elected officials the Board has assessed fines totaling \$107,000. The Board's fines in three (3) cases based on investigations by the OIG, totaling \$90,000, are being challenged in confidential administrative proceedings, pursuant to Article V of the Governmental Ethics Ordinance. These cases depend on the strength of the OIG's investigation, as these proceedings are adversarial.

--Based solely on Board-initiated enforcement actions, the Board has assessed a total of \$201,000 in fines in 20 separate matters. (Fines in three (3) matters totaling \$7,500 were vacated, pursuant to the terms of public settlement agreements made with respondents, who upheld their obligations under those agreements.)

--Finally, articles like these pay no attention to the Board's other, critical work: education, advice, and regulation, which together make up about ¾ of the Board's work. Unfortunately, attention is paid only to how many fines the Board has issued and how many elected officials it has publicly found to have violated the ethics laws. This gives the public a distorted, incomplete picture of the work of this agency, which is similar to the work of all of its cohort agencies in New York City, Los Angeles, Philadelphia, Atlanta, San Francisco, San Diego, Denver, Seattle, and Detroit. I am exceedingly proud of the work that our agency does. And I reiterate that every decision made by this Board is free of political influence, and to state or even imply otherwise is categorically false. When respondents or their counsel argue successfully that they did not violate the law, the Board dismisses the matters. There are times when a Board decision may seem surprising or

unexpected to members of the public or the media, but the Board considers the legal arguments and entire factual record before it in every case, and comes to considered, thoughtful decisions.

2024 Statements of Financial Interests

To date, all but one (1) individual required to file has filed. We assessed \$15,350 in fines, and made public the names of all 72 City officials and officials found to have violated the law for late filing.

All forms filed in 2017 and after are posted and viewable here, where they stay for seven (7) years after they are filed:

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

Sister Agencies

We will meet next with our ethics counterparts from the Cook County Board of Ethics, CTA, CHA, CPS, City Colleges, Park District, Metropolitan Pier & Exposition Authority, and RTA, in March 2025.

2025 Budget

We had our budget hearing on Saturday, November 9. The Mayor's budget recommendation is for \$981,875, down 3.7% from our 2024 appropriation of \$1,019,835. This reduction pertains to a non-attorney vacancy we have carried and are unlikely to be able to fill in 2025.

2024 COGEL Conference

From December 8-11, I was in Los Angeles, attending the 46th Annual Conference of the Council on Governmental Ethics Laws. Among other matters discussed, I will say I was in awe of our colleagues at the Los Angeles City Ethics Commission, as LA voters passed (with 75+% of the vote) Charter Amendment ER, which, among other things, guarantees the agency a budget, and guarantees that any measures they submit to City Council will receive a hearing within 180 days. See: <https://laist.com/news/politics/2024-election-california-general-ethics-commission-reforms>

Education

Mandatory Online Training

To date, approximately: i) 33,195 employees, 29 City Council independent contractors, and 45 elected officials have completed the 2024 online training (their deadline is before January 1, 2025); and ii) there still remain 171 appointed officials who have not yet completed their training (their deadline is also before January 1, 2025).

11 lobbyists missed their July 1 deadline, and were sent notices of probable cause, affording them the opportunity to explain why they were late. Four (4) were found in violation of the Ordinance, and their fines continue to accrue at \$250 per day.

Mandatory In-person Classes and other presentations

In-person classes began again in May 2024 for those City officials and employees required to attend them once every four years (about 3,000). To date, approximately 2,290 City employees and employees have attended.

We conducted a class for new hires in the Mayor's Office on November 20. In late January 2025, we will resume classes at a rate of two (2) classes each week through May 2025. We have held other classes for various City Council members and staff at their offices, and in the Council chambers in City Hall. We have conducted three (3) classes for Mayoral staff (including one on October 16 for the Mayor, Chief of Staff, and several senior Mayoral aides), one (1) for staff of the IG, two (2) for the Department of Aviation, and one (1) each for the Law Department, Department of Animal Care and Control, and the Civilian Commission for Public Safety and Accountability (CCPSA).

All Board classes and educational programs cover sexual harassment.

Advisory Opinions

Since the Board's November 4 meeting, we have issued 351 informal advisory opinions – another busy period. The leading categories for informal opinions were, in descending order: Gifts; Travel; Political Activity; Lobbying; Post-employment; Campaign Financing; City Property; and Lobbying.

The leading City departments from which requesters came in this period were, in descending order: City Council; Chicago Police Department/Civilian Office of Police Accountability (COPA)/Community Commission for Public Safety and Accountability (CCPSA); Mayor's Office; Department of Cultural Affairs and Special Events; Office of Inspector General; Department of Planning and Development; and Chicago Fire Department.

75% of all inquiries came from City employees or elected officials; the remainder came 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 14.

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 70 formal opinions.

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 922), 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 us, others issue them confidentially and enable requesters to rely on them in the event of an investigation or enforcement.

Lobbyists Filings

Currently 862 individuals are registered as lobbyists, and we have collected \$399,950 in 2024 registration fees.

The deadline for filing Q3 activity reports was before October 22, 2024. I am pleased to report that, *for the third straight quarter, all lobbyists filed within the statutory deadline.*

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.

Waivers

Since July 1, 2013, the Board has had authority to grant waivers from certain provisions in the Ethics Ordinance. The Board has granted ten (10) and denied three (3) waiver requests. In accordance with the law, all granted waivers are posted here: https://www.chicago.gov/city/en/depts/ethics/supp_info/Waivers.html

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>

There are no such matters currently pending.

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.

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

There are currently 11 completed IG ethics investigations in various stages of the adjudicative process. 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>.

In the first, 23045.IG, is a confidential administrative hearing pursuant to §2-156-392 is underway. The City is represented by the law firm Hinshaw & Culbertson, and the matter is being heard before ALJ Frank Lombardo. The Board is pursuing a \$20,000 fine.

In the second and third, 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. The Board found 12 violations in 23054.IG and voted to pursue a \$60,000 fine (at its April 2024 meeting). In 23055.IG, at its May 2024 meeting the Board found two (2) violations, and voted to pursue the maximum penalty of \$5,000 per violation. The subject made offers to settle both matters, which the Board rejected. At its June meeting, the Board voted to proceed with a confidential administrative hearing on both matters. The City is represented by Anthony Masciopinto, from the firm of Kulwin, Masciopinto and Kulwin. ALJ Frank Lombardo has been assigned to both matters.

In the fourth, 23067.IG.1, .2, .3, and .4, the IG delivered its completed investigation to the Board on December 30, 2023. The matter involves four (4) employees from the same City department (one of whom is now retired). The IG concluded that one of them had a prohibited financial interest in City contracts, and that two of 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 the *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 appropriate, petition the Board for a probable cause finding with respect to that fourth employee. The IG reviewed the matter and then petitioned the Board for a probable cause finding with respect to all four (4) employees; the Board found probable cause as to each subject. One (1) met with the Board in June, another in July; and a third in September. At the Board's October 21 meeting, it found all four (4) individuals in violation of the Ordinance and assessed a total \$28,500 in fines. The matter is on today's agenda.

In the fifth, 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 Board requested and received clarification from the IG on certain factual issues; at its May 2024 meeting the Board voted to seek further clarification from the IG based on the factors set out by the U.S. Supreme Court in *Lindke v. Freed*: https://www.supremecourt.gov/opinions/23pdf/22-611_ap6c.pdf. The IG responded, and the matter has been continued, pending guidance from the federal courts regarding the interpretation of *Lindke*.

In the sixth, 24004.IG, the IG delivered its completed investigation to the Board on February 27, 2024. It involves attempted bribery of a City building inspector. The Board found probable cause at its April 2024 meeting. At its May meeting, the Board voted to pursue the maximum fine of \$5,000. The subject indicated, through counsel, that he now wishes now to pay the fine with a payment plan, and the matter is on today's agenda. The Board previously voted to send the matter to the Law Department for a confidential hearing.

In the seventh, Case 24013.IG, a completed investigation was delivered to the Board on June 10. The IG concluded that a City employee who was an unsuccessful candidate for City elected office in 2023 misused City-owned property. The Board found probable cause at its July meeting. At its October 21 meeting, the subject met with the Board. After that meeting, the Board voted to determine that the subject violated the Ordinance and assess a \$1,500 fine. We await a response from the subject as to whether they wish to pay the fine, attempt to settle, or proceed to a confidential administrative hearing. The matter is on today's agenda.

In the eighth, Case 24015. IG, a completed investigation was delivered to the Board on June 25. The IG concluded that a

City employee improperly supervised their relative, in violation of §2-156-130 of the Ordinance. The Board found probable cause at its July meeting. The subject submitted a written response to the Board in an attempt to rebut the Board's probable cause finding. At its September meeting, the Board voted to find two violations and to assess the maximum fine—which is actually \$7,000. The first violation carries with it a maximum fine of \$2,000 because it occurred prior to September 28, 2019; the second occurred when the maximum fine was \$5,000. The subject has agreed to pay the fine in full, and has already paid part of the fine and requested a payment plan. The matter is on today's agenda.

In the ninth, Case No. 24018.IG, a completed investigation was delivered to the Board on August 8, 2024. The IG concluded that an elected official from a non-City jurisdiction lobbied the City, in violation of the "cross-lobbying" ban, §2-156-309 of the Ordinance. At its September meeting, the Board voted to refer the matter back to the IG for further investigation, and the IG responded in November. The matter is on today's agenda for a status report.

In the tenth, Case 24020.IG, a completed investigation was delivered to the Board on August 27, 2024. The IG concluded that a former City employee failed to disclose, on Statements of Financial Interests filed for years 2019-2021, that they had a financial interest in real estate located in the City in four (4) instances. The Board found probable cause at its September meeting, and the subject is entitled to meet with the Board. The matter is on today's agenda.

In the eleventh, Case No. 24025.IG, a completed investigation was delivered to the Board on December 2. The IG concluded that a City official misused their title and City authority in a dispute with a private business. The matter is on today's agenda for a finding of probable cause.

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 publicly issue an 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 is 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 12 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.

Litigation

Czosnyka et al. v. Gardiner et al., docket number 21-cv-3240. The Board and the City of Chicago were previously dismissed out of this case, but, in light of the Supreme Court’s decisions in *O’Connor-Ratcliff v. Garnier* (docket # 22-324) and *Lindke v. Freed*, we are following the matter as it continues. As reported in late August, <https://news.wttw.com/2024/08/30/federal-judge-who-ruled-ald-gardiner-violated-first-amendment-admonishes-him-approaching> the matter is ongoing in light of the relatively involved analysis required under the Supreme Court’s *Lindke* decision.

When we are now asked about when, if ever, City elected officials may block people from their official and/or their personal or political sites, we refer them to the City’s Law Department, which can advise them per the Supreme Court’s analysis. These are no longer ethics questions.

Open Meetings Act/FOIA Challenges

The Board is currently involved in six (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) A review of the propriety of adjourning into executive session during the Board’s July 18, 2022 meeting under OMA;
- (4) A review of the Board not producing certain records pursuant to FOIA;

(5) A review of the propriety of the Board's method of taking final action at its April 15, 2024 and May 13, 2024 meetings.

(6) A review of the Board's proceedings in both Open and Executive Session as to Case No. 24019.Q, at its September 30, 2024 meeting.

The Board has worked with the Law Department and responded to each except the last, which was received on December 13.

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

Freedom of Information Act

Since the last Board meeting, the Board has received six (6) requests.

The first request included seven (7) requests for: employee listings, Statements of Financial Interests, board records, lobbyist filings, compliance records, confidential records and rules; we advised that we are not authorized to release confidential information, we were the wrong department for some requests, located no records on another, and provided links to the lobbying and Statement of Financial interests records.

The second request was for board minutes; we responded that we needed an address to which to send the record.

The third request was for executive session board minutes, which we denied.

The fourth request was for open session board minutes, and an open session audio was provided.

The fifth request was for records regarding a Police district advisory committee, we advised that we had no responsive documents.

The sixth request was for police, library, and 311 reports; we advised that we were the wrong department.