

Executive Director's Report September 30, 2024

Board Members

I 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 shall "hold office until [their] successor [if someone other than themselves] has been appointed and has qualified," per §2-156-310(b). I urge the Mayor to re-appoint both members, who are dedicated and conscientious.

Amendments to the City's Ethics Laws

The City Council passed the following amendment on September 18. It takes effect on October 20. I am deeply gratified that the City Council enacted this law, with the Mayor's support:

<https://ocprodstoragev1.blob.core.usgovcloudapi.net/matterattachmentspublic/4894e81c-69b4-452c-8796-1067aae5cdd1.pdf>. The amendment:

1. Codifies Mayoral Executive Order 2011-2, which prohibited lobbyists from contributing to the Mayor or Mayor's authorized political committee. The law now provides that no lobbyist or any entity in which a lobbyist owns more than 7.5% may contribute in any amount to the Mayor or to any Mayoral candidate (or their committees). The penalty for the first violation is 3x the amount of the contribution (with a 10-day safe harbor provision if the contribution is returned or a return requested); the penalty for any successive violation is a 90-day suspension of their lobbyist registration; and
2. Clarifies the gift restrictions by correcting a scrivener's error in §2-156-142(e); and
3. Clarifies what must be disclosed by filers of annual Statements of Financial Interests as to compensation received in the previous calendar year from any person that was doing business with the City at any time during that preceding year, §2-156-160(a)(2).

These last two (2) changes were proposed by the Office of Inspector General.

The Board's own proposal. 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 were designated O2024-0007359, and are posted on the City Clerk's website here:

<https://ocprodstoragev1.blob.core.usgovcloudapi.net/matterattachmentspublic/78f11f46-552f-4b49-b357-cdb7b2f130ec.pdf>. We were informed by Ald. Martin's staff that there are no current plans to hold a committee hearing on these proposed amendments. We are unsure of the reasons. This is most disappointing; we believe these amendments are timely and important. We will continue to work toward their passage, and garner support among City Council members and the Administration. If enacted, they would: i) impose tighter regulations with respect to City Council independent contractors; ii) address the use of City property (such as Chicago Police or Fire Department insignia, badges, personnel 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 sent to City employees or officials, and imposed 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 that allows officers, directors, shareholders, and employees of a person subject to the Ordinance's \$1,500 annual contribution limit to elected officials and candidates to contribute on top of contributions made by the person unless they are reimbursed for that contribution. Our peer cities New York and Los Angeles have already closed an analogous gap in their political contribution laws.

Public Financing. As was widely reported, Chair Martin submitted a bill that would provide for public financing of City Council elections. It is O2024-10156, posted here <https://chicityclerkelms.chicago.gov/Matter/?matterId=EDD300D1-E028-EF11-840A-001DD804F643>. We are carefully following the progress of this proposal.

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>

Education

Mandatory Online Training

To date, approximately: i) 26,130 employees, 18 City Council independent contractors, and 44 elected officials have completed the 2024 online training (their deadline is before January 1, 2025); and ii) 210 appointed officials have completed their training (their deadline is 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 for those City officials and employees required to attend them once every four years (about 3,500). To date, approximately 1,450 City employees and employees have attended.

We will continue to conduct two (2) classes each week in our office, through May 2025. We have held other classes for various City Council members and staff at their offices, and in City Hall. And, we have conducted two (2) classes for Mayoral staff, two (2) for staff of the IG and the Department of Aviation, and one (1) each for the Law Department and for the Department of Animal Care and Control, and for the Civilian Commission for Public Safety and Accountability (CCPSA).

All Board classes and educational programs cover sexual harassment.

Advisory Opinions

Since the Board's June meeting, we have issued 852 informal advisory opinions – another very busy period. The leading categories for informal opinions were, in descending order: Gifts; Travel; Political Activity; Lobbying; Campaign Financing; Outside employment; City Property; and Post-employment.

The leading City departments from which requesters came in this period were, in descending order: City Council; Mayor's Office; Chicago Police Department/Civilian Office of Police Accountability (COPA)/Community Commission for Public Safety and Accountability (CCPSA); Department of Public Health; Chicago Public Library; Department of Law; Department of Housing; Office of Inspector General; City Treasurer; Department of Aviation; and Department of Business Affairs and Consumer Protection (BACP).

70% 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 25.

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 69 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 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.

There is one (1) such opinion on today’s agenda for the Board to approve.

Lobbyists Filings

Currently 859 individuals are registered as lobbyists, and we have collected \$377,125 in 2024 registration fees.

We are pleased to report that, for the second consecutive quarter, all lobbyists complied with the deadline to file their activity reports; the reports were due no later than July 20.

The deadline for filing Q3 activity reports is no later than October 20, 2024. Lobbyists have been sent regular reminders.

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 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, on October 29.

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 12 completed IG ethics investigations in various stages in 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>.

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 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 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 in each matter. The City will be 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 July; two (2) will meet with the Board today. We have not been able to reach the fourth, who is no longer employed by the City.

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 its decision in *Lindke v. Freed*: https://www.supremecourt.gov/opinions/23pdf/22-611_ap6c.pdf. The matter is on today's agenda.

The sixth case, 24004.IG was presented by the IG 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 that he wished to hire an attorney and contest the Board's determinations in a confidential administrative hearing. The matter is assigned to ALJ Frank Lombardo.

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. The matter is on today's agenda for a finding of a violation--the subject did not attempt to rebut the Board's probable cause finding.

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 matter is on today's agenda for a finding of a violation--the subject submitted a written response to the Board in an attempt to rebut the Board's probable cause finding.

In the ninth, Case 23016.IG, a completed investigation was delivered to the Board on June 27. The IG concluded that a former City employee violated the Ordinance's post-employment prohibitions, in violation of §2-156-100(b) of the Ordinance. The Board found probable cause at its July meeting. The matter is on today's agenda for a finding of a violation--the subject's attorney will appear.

In the tenth, 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. The matter is on the agenda for a potential finding of probable cause.

In the eleventh, 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 matter is on the agenda for a potential finding of probable cause.

In the twelfth, Case 24021.IG, a completed investigation was delivered to the Board on August 27, 2024. The IG concluded that a former appointed official failed to disclose various board memberships and non-City income received on filed Statements of Financial Interests for years 2017-2019. The matter is on the agenda for a potential 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/PublicScorecard.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 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.

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 still.

When we are now asked about when, if ever, City elected officials may block persons 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.

Open Meetings Act/FOIA Challenges

The Board is currently 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) 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.

The Board has worked with the Law Department and responded to each. The Board awaits replies from the Illinois Attorney General.

On September 18, we were advised by the Attorney General that the Board had improperly discussed three (3) items in closed session at its May 22, 2022 meeting. To comply with the Attorney General's decision, the Board will vote to amend its Open session minutes from that meeting to include discussions of these matters, and make the recording of the Closed session discussion of those matters available.

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. That challenge was dismissed by the PAC.

Freedom of Information Act

Since the last Board meeting, the Board has received eleven (11) requests.

The first request was for records addressing gifts to employees and guidance and training thereon. We sent a link to the Ordinance and the gift chapter from the current online training given to employees and officials.

The second was for aldermanic disclosures from 1994 to the present; we responded by providing the link to our website, which contains all such disclosures filed since 2009

<https://www.chicago.gov/city/en/depts/ethics/provdrs/reg/svcs/alderrecusals.html>, and offered the requestor the opportunity to review earlier disclosures at our offices, dating back to 1997, when the law first required them..

The third was for denials based on the exception in Section 7(1)(g) in the Illinois Freedom of Information Act. We advised the requestor that we had no responsive records.

The fourth was for our agency's FOIA request log. We sent it.

The fifth was for records the Board may have concerning a specific individual; we responded by requesting that the request be narrowed.

The sixth was the same as the third; we sent the same response.

The seventh was for impoundment records; we advised the requestor we had no responsive records.

The eighth was for vendor records; we advised the requestor we had no responsive records.

The ninth was for business and personal records; we responded that the request need be narrowed.

The tenth was for written and recorded executive session minutes; we responded that the State law exception applies.

The eleventh was for emails not involving this agency; we responded that the request was addressed to the wrong department.