

**BOARD OF ETHICS**  
**OPEN SESSION MINUTES**  
November 16, 2016, 3:07 p.m.  
740 North Sedgwick, Suite 500

**BOARD MEMBERS PRESENT**

William F. Conlon, Chair  
Zaid Abdul-Aleem  
Stephen W. Beard  
Mary T. Carr  
Frances R. Grossman  
Dr. Daisy S. Lezama

**STAFF PRESENT**

Steven I. Berlin, Executive Director  
Lisa S. Eilers, Deputy Director  
Richard J. Superfine, Legal Counsel  
Ana Collazo, Attorney Investigator  
Edward Primer, Program Director

**BOARD MEMBERS ABSENT**

Nancy C. Andrade

**MEMBER OF THE PUBLIC PRESENT**

Heather Cherone, DNAinfo, Reporter

**I. APPROVAL OF MINUTES**

The Board VOTED 5-0 (Nancy C. Andrade and Stephen W. Beard, absent) to approve the Open Session Minutes of the October 19, 2016 meeting.

**II. CHAIR'S REPORT**

None

**III. EXECUTIVE DIRECTOR'S REPORT**

**A. Education**

**Classes and Other Presentations**

Since the last Board meeting, 68 employees attended classes that were held on October 20, November 1 and November 15. There are 132 scheduled for classes on November 29, and December 1, 8, 15 and 20. Staff has set the schedule for 2017 classes as well.

On October 24, staff met with a visiting delegation of anti-corruption officials from Kazakhstan, at the request of the Mayor's Office and World Chicago.

On November 17 (rescheduled from October), and December 1, the Executive Director will conduct two 90 minute seminars for the Police Superintendent and all Deputy Superintendents of the Chicago Police Department, at Police Headquarters.

On December 2, staff will conduct a seminar for Senior Staff of the Department of Buildings, at the request of the Commissioner, made in response to an Inspector General investigation (this is also a rescheduled date).

### **On-line Training**

To date, 26,619 employees and 7 aldermen have completed the 2016 version of the on-line mandatory ethics training course, and 167 employees and officials are in progress. There are currently 31,022 scheduled, but this number will continue to decrease over the rest of 2016.

### **New Educational Materials**

The Board has two (2) PowerPoints educational programs on its website, and the Department of Human Resources is placing the first one in the packets of newly hired City employees, with a certification that they have completed it. Departmental and Aldermanic ethics officers are assisting us in having departing employees and officials complete the second one, which covers the Ordinance's post-employment/revolving door restrictions. To date, our records show that 234 have completed the new employee program, and 87 have completed the departing employee program.

## **B. Advisory Opinions**

Since the last Board meeting on October 18, staff has issued 295 informal and three (3) formal confidential advisory opinions. During this time, the leading categories have been, in descending order: gifts, travel, post-employment, outside employment, financial interest in City business, political activity, and campaign financing. The leading City departments from which requesters came in this period were (in descending order): City Council; Mayor's Office; Chicago Police Department; Department of Public Health Chicago Public Library; and Department of Cultural Affairs and Special Events.

62% of these were from City employees in administrative or management positions, 20% from non-administrative/managerial employees, 7% from department heads, 10% from City elected officials, and the rest from lobbyists, City appointed officials, ethics officials at City "sister" agencies, and members of the public, vendors, and the media. 50% came via email; 49% via telephone; the remainder via walk-ins.

## **C. Website Modifications/Advisory Opinions**

Staff has completed the posting (in redacted form, per the Ordinance's confidentiality requirements) and indexing on its website **every** formal written advisory opinion issued by the Board or issued by the staff and reported to or approved by the Board since the agency's inception in 1986 (a total of 856 opinions). The search engine is now complete, and will be posted later this month. It will enable users to search by keyword for each of these cases, and will provide a summary of the holding of each case, and another column showing the keywords for that case, and instructions for reading the full text of the case, in redacted form.

The phase after this will be to publish reports of the investigations conducted by the Board of alleged violations of the Governmental Ethics Ordinance (not of the former Campaign Financing Ordinance) between 1987 and 2013. The investigations themselves are confidential, but the Board is authorized to publish summary reports of its investigations, findings and recommendations (and has done so in the past) There are approximately 45 of these.

Staff is in the process of updating all of its 17 educational brochures posted on our website.

**D. Ongoing Investigative Record**

We continue to post on the Board's website an ongoing investigative record showing the status of every completed investigative report brought to the Board by both the Inspector General ("IG") (a total of 2 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 that were presented to the Board by the former Office of the Legislative Inspector General. It is updated as appropriate, consistent with the Ordinance's confidentiality provisions. However, as there have been no completed investigative reports sent to the Board in nearly one full year, there has been little to update.

**E. 2017 Budget Appropriation and Hearing**

As was reported in the media, on October 20, the Executive Director and other members of the staff appeared before the City Council's Committee on Budget and Government Operations for our annual budget hearing. The Mayor's recommendation for our 2017 budget totals \$825,807. This reflects a decrease of 7.5% in our non-personnel accounts.

**F. 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 he or she 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 he or she may self-report to the inspector general or, if he or she fails to do so within two weeks, the Board must make that report. There was one (1) such instance since the last Board meeting, and it will be discussed in Executive Session.

Since the time this provision (§2-156-070(b)) became effective, the Board has advised three (3) aldermen, one (1) aldermanic staffer, and two (2) department heads or former department heads that their past conduct violated the Ordinance. In 3 of these 5 cases, one involving an alderman, the second an aldermanic staffer, and the third a former department head, the Board concluded that the apparent violations were *not* minor or technical, and the individuals self-reported to the then-appropriate inspector general. To date, we have received no reports of commenced investigations (in the case of the former LIG) or completed investigations (from either the IG or LIG) of any of these matters. In the other cases, the Board sent confidential letters of admonition, as required by Ordinance.

**G. 2016 Statements of Financial Interests**

On March 1, 2016, 3,575 employees and officials were notified via email of their requirement to file 2016 Statements of Financial Interests. The deadline for these employees and officials to file was May 31, 2016, at 11:59:59 pm. As of June 1, all but 130 had filed. 79 of these individuals were determined to have violated the Ordinance (they failed to rebut the finding of probable cause to conclude that they had violated the Ordinance), and 8 became subject to fines, per the Ordinance. There remain 2 who have not yet filed, and to date, the Board collected \$3,325 in fines. On July 26, the Board referred 4 cases of those who had not paid their fine to the Law Department for collection; all of those are settled. As required by Ordinance, on June 23, 2016 the names of every violator was published on the Board's website, and those who accrued fines were noted as well.

**H. Council on Governmental Ethics Laws (COGEL) Annual Conference**

From December 10 through 14, the Executive Director and Staff Attorney Ana Collazo will attend the 38th COGEL Conference in New Orleans. COGEL is the only organization of government ethics, lobbying, campaign financing and FOIA professionals of its type. I am also pleased to announce that Chicago has been chosen again as the host City for 2019's Conference, having last hosted the event in 2008.

**I. Lobbyists-Regulation and Enforcement**

As of today, there are 621 lobbyists registered, and the Board has collected \$339,950 in registration fees. This figure represents about 41% of our operating budget.

Quarterly activity reports were due from lobbyists on October 20, 2016. Reminder notices were sent on September 22, 2016. 44 missed the filing deadline. Pursuant to §2-156-270, we sent letters on October 24, 2016 to those who had still not filed - 42 - giving them their legislative 10-day notice of late filing, thus giving them 10 days in which to file or they would be considered in violation of the Ordinance and, thereafter, would be sent a due process letter stating that probable cause had been found that they were in violation of the Ordinance. Two (2) lobbyists were sent due process letters on November 10, 2016 and found in violation for failing to file a third quarter activity report on time. Their names will be published on our website on or about November 22, 2016, as the due date to file or acceptably explain their late filing is November 22, 2016. If either lobbyist does not file or acceptably explain the late filing, these lobbyists will be fined \$1,000 per day until filing and the fine will be published along with their names.

The Board has notified all lobbyists that it is instituting mandatory electronic filing for all lobbyist registrations, reports, and terminations, beginning in January 2017.

**J. Freedom of Information Act**

Since the last regularly scheduled Board meeting, the office has received one (1) new request under the Freedom of Information Act. The request was for records regarding two

(2) lobbyists covering two (2) years; the requestor was sent a .pdf of the located records, and given the link to our website where those records reside.

*(At 3:15 p.m. member Stephen W. Beard joined the meeting.)*

#### **IV. OLD BUSINESS**

1. Case No. 13039.OLIG, Merits Hearing Conducted Pursuant to §2-156-392
2. Requests for Advisory Opinions

These matters were deferred until executive session.

#### **V. NEW BUSINESS**

3. Public Notice of 2017 Board of Ethics Meeting Schedule

The Board considered staff's proposed **2017** schedule of regularly-scheduled Board of Ethics meetings. The Board then VOTED 6-0 (Nancy C. Andrade, absent) to approve the staff recommendation as follows:

January 18, Wednesday	July 19, Wednesday
February 15, Wednesday	August 16, Wednesday
March 15, Wednesday	September 20, Wednesday
April 19, Wednesday	October 18, Wednesday
May 17, Wednesday	November 15, Wednesday
June 14, Wednesday	December 13, Wednesday

4. Semi-Annual Review of the Confidentiality of Executive Session Minutes under the Illinois Open Meetings Act.

This matter was deferred until executive session.

The Board VOTED 6-0 (Nancy C. Andrade, absent) to adjourn into Executive Session at 3:23 p.m. under: (i) 5 ILCS 120/2(c)(1) to discuss the appointment, employment, compensation, discipline, performance, or dismissal of specific employees of the public body or legal counsel for the public body, including hearing testimony on a complaint lodged against an employee of the public body or against legal counsel for the public body to determine its validity; and (ii) 5 ILCS 120/2(c)(4) to hear and discuss evidence or testimony in closed hearing as specifically authorized pursuant to Governmental Ethics Ordinance Sections 2-156-385 and -392, and the Board's Rules and Regulations, 4., as amended, effective October 23, 2014, presented to a quasi-adjudicative body, as defined in the Illinois Open Meetings Act, provided that the body prepares and makes available for public inspection a written decision setting forth its determinative reasoning.

At 4:50 p.m., the Board VOTED 6-0 (Nancy C. Andrade, absent) to reconvene into open session.

Heather Cherone of DNAinfo joined the open session at this time. At the end of the Board meeting she was given a copy of the final advisory opinion issued by the Board in Case No. 16032.A, Gifts, Offer of Sporting Event Tickets to City Officials and Employees.

## **VI. MATTERS CONSIDERED AND ACTED UPON BY THE BOARD IN EXECUTIVE SESSION**

### **I. APPROVAL OF EXECUTIVE SESSION MINUTES IN OPEN SESSION**

The Board VOTED 6-0 (Nancy C. Andrade, absent) to approve the executive session minutes of the October 19, 2016 meeting discussed in executive session.

### **II. CASES**

#### **A. Advisory Opinion**

1. **Case No. 16032.A, Gifts, Offer of Sporting Event Tickets to City Officials and Employees**

The Board VOTED 6-0 (Nancy C. Andrade, absent) to approve a draft advisory opinion finalizing the Board's determinations at its October meeting, and addressing questions that have arisen since that time. The opinion holds that the Ordinance prohibits City officials or employees from purchasing face-value tickets from an entertainment or sporting event's host, for high-demand events where a reasonable person would expect to have to pay in excess of \$50 over face value, unless the officials or employees perform an appropriate ceremonial function at the event, and that there must be a clear and direct connection between the person's performance of the ceremonial duty or action and the nature and location of the event itself. The opinion also discusses related situations, such as accepting offers from a personal friend, or buying last-minute tickets on the secondary market, and accepting tickets through one's outside employment or community activities.

2. **Case No. 16040.C, Prohibited Political Activity**

The Board VOTED 6-0 (Nancy C. Andrade, absent) to determine, based on Board precedent, that a situation reported by a City Council employee constituted a minor violation of the Ordinance, and to admonish the employee accordingly. The employee informed Board staff on November 7, by phone and email, that he had inadvertently and mistakenly sent an email with political content to constituents from an email address used for official City business, and then, on staff's advice, the employee re-sent the email from an appropriate email address.

### **III. OLD BUSINESS**

3. **Case No. 13039.OLIG, Merits Hearing Conducted Pursuant to §2-156-392**

The Board VOTED 6-0 (Nancy C. Andrade, absent) to issue an order denying a subpoena objection made pursuant to the Governmental Ethics Ordinance, and setting forth dates for the filing of documents in a pending administrative hearing litigation.

#### IV. CASES *(cont.)*

##### B. Query Summary

The Board heard staff's summaries on these matters involving guidance given by staff to requestors based upon clear Board precedent or other applicable laws or rules.

#### 4. Case No. 16034.Q. Campaign Financing

Staff reported that an employee requested an opinion addressing several questions arising under the campaign contribution sections of the Ordinance, and that it advised the employee:

(i) The manager of an LLC seeking to do business with the City, thus subject to the \$1500 per year/per candidate contribution limit, does not violate the Ordinance by making a contribution greater than \$1,500 in a single year, unless the manager was reimbursed by the LLC for the contribution. Should an investigation show that, then the manager and LLC would be treated as a "single person" and their contributions aggregated; both would then violate the Ordinance. Moreover, were there such reimbursement, there might be an additional violation by both: this could be a pseudonymous contribution, made other than in the name of the true donor; and

(ii) If a person makes a \$1,000 campaign contribution to a City elected official, in January, then, later in the same calendar year, becomes a registered lobbyist, then, as a registered lobbyist, makes another contribution to the same official's committee in the same calendar year, causing total contributions to exceed \$1,500 for the calendar year, the person has violated the Ordinance. The \$1,500 contribution limitation applies per restricted source/per reporting/calendar year/per elected official or committee. When the person becomes a registered lobbyist, the person assumes the status of a restricted/limited contribution source for that reporting/calendar, and may not make an excessive contribution during the same year; and

(iii) Finally, to avoid a determination of a violation, there would need to be a refund so that total contributions from this lobbyist to this official/committee do not exceed \$1500 for the year. However, the Ordinance does not require the lobbyist to request it until both parties receive the 10-day notice provided for in the Ordinance, unless an investigation shows that the violation was "knowing" on both the part of the contributor/lobbyist and recipient elected official/committee at the time the contribution that put the total amount for the year at more than \$1500.

5. Case No. 16035.Q, Post-Employment

Staff reported that a high-ranking departing City employee requested an advisory opinion applying the Ordinance's post-employment restrictions to the employee's proposed post-City position. Based on the facts provided, staff advised the employee that: (1) she is permanently prohibited from assisting or representing anyone other than the City, including but not limited to her new employer, on the specific contracts and grants she worked on while at the City, for the full term of those agreements; (2) she is prohibited from lobbying her former department for two years; (3) for one-year after her effective termination date, she is prohibited from assisting or representing her new employer (or any other person), even behind the scenes, with respect not only to a specific grant she worked on while at the City, but as to any other funding request that would be sent to or through her former City division; (4) she noted in her records the contract PO numbers for reference should an issue later arise in her post-City employment; and (5) she is prohibited from using or revealing confidential information she acquired through her City employment.

Staff also advised her of potential monetary penalties, pursuant to §§2-156-485 and -510, for a violation of the post-employment restrictions, and that she can contact the Board again for further guidance should an issue arise during her restriction period.

6. Case No. 16036.Q, Employment of Relatives

Staff reported that a City employee requested an advisory opinion addressing the following situation: the employee works on a project with a City contractor who employs his relative. The Ordinance prohibits officials or employees from exercising contract management authority over a City contractor that employs a relative of such official or employee. Staff advised the City employee that he could continue working with the City contractor because the facts showed the employee did not exercise contract management authority over the contractor, because the employee did not: (i) formulate the scope of the City contract; (ii) supervise the City contractor; nor (iii) supervise the City contract. Instead, the City employee's actions comprised performance only under the City contract in his activities with the City contractor.

**C. Referred Complaint Report**

The Board heard staff's report on these matters, involving complaints that were referred to either the Office of the Inspector General or the appropriate department.

7. Case No. 16033.C, No Jurisdiction

Staff reported that on October 13, 2016, the Board received a letter from an anonymous complainant alleging that an employee filed misleading information on her 2016 Statement of Financial Interests form. Pursuant to §2-156-380(a) of the

Ordinance, staff treated the matter as a complaint and referred it to the Office of Inspector General for action as it deems appropriate.

8. Case No. 16037.C, No Jurisdiction

Staff reported that on November 4, 2016, the Board received an anonymous written complaint alleging that a high-ranking employee was misusing City resources by doing personal work on City time. Pursuant to §2-156-380(a) of the Ordinance, staff treated the matter as a complaint and referred it to the Office of Inspector General for action as it deems appropriate.

**V. NEW BUSINESS**

9. Semi-Annual Review of the Confidentiality of Executive Session Minutes under the Illinois Open Meetings Act.

The Board VOTED 6-0 (Nancy C. Andrade, absent) to confirm that the Executive Session Minutes of the Board from August 1987 to August 17, 2016 remain confidential, on the ground that the need for confidentiality still exists as to those minutes, with the exception of those that have already been made publicly available by vote of the Board.

**VI. OTHER BUSINESS**

10. Pending Case List

At 4:56 p.m., the Board VOTED 6-0 (Nancy C. Andrade, absent) to adjourn the meeting.