

**Executive Director's Report**  
**November 13, 2023**

**Amendments to the City's Ethics Laws**

We posted a draft of the Board's proposed amendments to the City's ethics laws after the Board's August meeting, and sought public comment. We received one set of comments, from the Better Government Association (BGA), which we greatly appreciate. On today's agenda is our set of *revised* recommendations. If the Board so votes, we will either forward these to the Mayor and full City Council, through the Chair of the Council's Committee on Ethics and Government Oversight, 47<sup>th</sup> Ward Ald. Matt Martin, or post them for further public comment.

The Board would submit them to the Mayor and City Council pursuant to its powers and duties under §§2-156-380(e), (f), and (g) of the Governmental Ethics Ordinance. These sections grant the Board the power and duty to "consult with City agencies, officials, and employees on matters concerning ethical conduct," "recommend such legislative action as it may deem appropriate to effect the policy of [the Ethics Ordinance]," and "conduct research in the field of government ethics ... to effect the policy and purpose of [the Ethics Ordinance]."

The Board's *revised* proposals: i) would impose tighter regulation of 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 by, among other things, subjecting political fundraising committees to the Ordinance's restrictions, thereby granting the Board and Inspector General jurisdiction over such committees in this respect; iii) address improper coercive electioneering communications addressed to City employees or officials, and impose a "stand by your ad" requirement that candidates for City office certify that they have reviewed all electioneering communications disseminated by their authorized political fundraising committees; iv) clarify the political activity prohibitions; and v) address closing a gap in the City's campaign contribution limitations law, realizing that work is being done on a public financing law, which, if enacted, could moot this recommendation.

The proposals do *not* address changes to the City's lobbying laws, or the latest proposals to make the position of Alderperson full-time. (Those are, respectively, the subjects of O2023-0002937: <https://occprodstoragev1.blob.core.usgovcloudapi.net/matterattachmentspublic/c818c624-07b7-4297-9821-549ab3c0b0ce.pdf>,

O2023-2167: <https://occprodstoragev1.blob.core.usgovcloudapi.net/lsmatterattachmentspublic/b6c99d86-fa94-4462-9d4a-14f7f1c6e2ff.pdf>

and O2023-0002228: <https://occprodstoragev1.blob.core.usgovcloudapi.net/matterattachmentspublic/66607fc5-83d1-40e9-a76d-4771988d09cb.pdf>).

However, we have researched how our peer cities handle this City Council outside employment issue (New York City, Philadelphia, Washington DC, Atlanta, San Diego, Los Angeles, San Francisco, and Seattle), and will make this information available to the public and the City Council's Committee on Ethics and Government as appropriate.

As to lobbying law revisions, Board legal staff has been meeting and will continue to meet with representatives from the Mayor's Office, Law Department, City Council's Committee on Ethics and Government Oversight, and the philanthropic and public charity communities on amendments. An online meeting with non-profit community members will be held on October 18. On July 19, Chair Martin introduced O2023-0002937 to the City Council. A substitute is currently in draft form. It includes activity and/or compensation thresholds, such that individuals would be required to register once they lobby a specified number of hours in a calendar quarter and/or are compensated a specified amount or more for lobbying in a calendar quarter. Note: 1) this is similar to how peer cities like New York, Philadelphia, and Los Angeles regulate lobbying on behalf of non-profits and others; and 2) as in some of those cities, it will require personnel who lobby to keep time records, and make reasonable calculations as to their hours and compensation (as many are not compensated explicitly for lobbying, unlike for-profit contract lobbyists).

## **2023 Statements of Financial Interests**

On February 28/March 1, as required by law, we notified 3,925 City employees and officials required to file 2023 Statements of Financial Interests (“FIS forms”) of their requirement to file before Tuesday, May 2, with the link to file electronically. We were in regular contact with our ethics liaisons in all departments, ward offices, and City Council committees, sending them the names of those who’ve not yet filed. As provided by law, we sent all non-filers regular reminders to file by the deadline. On May 15, we found 70 officials and employees in violation of the Ethics Ordinance, though that number was reduced to 62, given additional facts we subsequently learned.

To date, 4,037 have filed. All required filers have now filed. We assessed a total of \$16,750 in fines for 2023. All of this is posted on our website, here:

<https://www.chicago.gov/content/dam/city/depts/ethics/general/FIS/2023/2023%20FIS%20Violations%20Posting%20May%2015.pdf>

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

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

Finally, all newly elected officials, including members of the Community Councils for Public and Safety and Accountability (CCPSA) filed before they took their oath of office, and we posted their forms on our website as well.

## **2024 Statements Financial Interests**

In late January 2024, we will contact all departments, ward offices, City Council committees, and the Mayor’s Office of Intergovernmental Affairs, to compile the list of all those City employees and officials who will be required to complete these Statements for 2024.

## **Education**

### **On-line Training**

**For all employees and officials.** To date, approximately 30,120 employees (and 25 City Council members) have completed the 2023 mandatory online training (~ 95.6% of the expected total). In particular, we want to call out the Chicago Police Department (“CPD”) for singular mention—it is at 94% completion. The deadline for completing the training is before January 1, 2024. We are sending out weekly reminders via email to all who have not yet completed their training.

We are grateful to our colleagues at the Department of Human Resources for their invaluable assistance in migrating the training programs to the City’s e-learning management platform, as well as assisting us with the sexual harassment portions of each year’s training program. The migration enables users to take the training from *any* computer, including their home computers, and also saves the City \$5,000 in annual software licensing fees. Previous training programs were intentionally designed to be taken only from City computers, for security reasons.

**For all appointed officials.** To date, 299 appointed officials (63% of the expected total) completed the appointed official version of the training; their deadline is also before January 1, 2024.

**For lobbyists.** All registered lobbyists have now completed their training. As previously reported, the Board found five (5) in violation for failing to timely complete their training and assessed \$3,250 in fines. As required by law, we posted this information on our website here:

<https://www.chicago.gov/city/en/depts/ethics/provdrs/edu/news/2023/july/lob-training.html>

We will post all new online training programs in early 2024.

### **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 February. 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.

We presented a class to members of the Board of Health on October 25, and to incoming laborers from various departments on October 20 and 27.

### **Advisory Opinions**

Since the Board's last meeting, we have issued 357 informal advisory opinions—an intensely busy period. The leading categories for informal opinions were, in descending order: Gifts; Travel; Political activity; Campaign financing; City property; Lobbying; Outside employment; and Representation of other persons.

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; Law Department; Chicago Fire Department; Office of Inspector General; Chicago Public Library; Department of Cultural Affairs and Special Events; and Department of Planning & Development. 87% of all inquiries came from City employees or elected officials, the remainder from attorneys, vendors, lobbyists or potential lobbyists.

Again, I am pleased to report that the number of inquiries and complaints from members of the public continues; we received 21 in this period alone.

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 are no formal opinions on today's agenda for consideration.

### **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](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>.

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

### **Lobbyists Filings**

863 lobbyists are currently registered with us, and we have collected \$404,675 in 2023 registration fees. A current list of all lobbyists and their clients was posted last Thursday, November 9, 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](https://webapps1.chicago.gov/elf/public_search.html)

Third quarter lobbying activity reports were due before October 21. All lobbyists were sent *weekly* reminders of this deadline, beginning September 30. Lobbyists who did not timely file their reports were sent reminders on October 25, 2023 to file by 11:59 p.m. November 8, 2023.

### **Sister Agencies**

We have been consulting with our colleagues at the Chicago Public Schools (CPS) regarding the election next year of school board members. We met with our fellow ethics officers from all the sister agencies, as well as the Cook County Board of Ethics and Cook County Assessor's Office, in our offices on October 19.

## **Update of Vendor Databases**

As required by law, the City's Department of Assets, Information and Services ("AIS") maintains a database of persons/entities that are doing and have done business with the City (as that term is defined in the Ordinance) going back about eight (8) years, to aid political committees and candidates who receive political contributions in excess of \$1,500. That database was first developed in 1998. Recently we worked closely with the Mayor's Office, AIS, the Department of Finance, and the Department of Procurement Services to improve that database, and met with the City's sister agencies to assist them in making their lists of persons that have done business with them available and easy-to-use. The Ordinance provides that any person who relies on this list is not in violation of the Ordinance's contribution restrictions if the purported violation relates to the identity of the contributor. The new, improved database of persons who have done business with the City was posted here: [https://www.chicago.gov/city/en/depts/ethics/supp\\_info/list-of-contractors.html](https://www.chicago.gov/city/en/depts/ethics/supp_info/list-of-contractors.html) and several sister agencies have updated their databases as well.

## **Chicago Casino**

As to the development of the Casino, we issued guidance on lobbying to all elected officials, at former Mayor Lightfoot's request, and we issued guidance on the restrictions in the Ordinance for the ~80 City employees and officials who worked on the process of selecting the Casino operator, also at Mayor's request. We worked closely with the Law Department, Mayor's Office, and the City's outside counsel (Taft, Stettinius and Hollister) to ensure that City personnel are informed of all reporting (and eventually, substantive ethics) requirements and prohibitions under the Illinois Gambling Act, 230 ILCS 10/1 et seq. Penalties for violating this law are severe: it is a Class 4 Felony under Illinois law, subjecting violators to fines up to \$25,000 and 1-3 years in prison. Note that the Gambling Act's reporting requirements are in addition to the restrictions in the Ethics Ordinance that would apply to those "applicants" who "communicate" with City officials or employees, such as the Ordinance's gifts restrictions and lobbyist registration requirements.

Given that the temporary casino in Medinah Temple may be operational by the date of the Board meeting, we worked with the Law Department on final guidance to be sent to all City governmental personnel as to applicable ethics rules, such as accepting gifts or food or drink—this guidance was issued on Friday, September 8.

## **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.

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

There are currently seven (7) completed IG ethics investigations awaiting or in the process of adjudication.

Two (2) of these, 23041.IG and 23045.IG, are on today's agenda for further action, after meetings with the respective respondents, pursuant to §§2-156-385 and -392.

A third, 23043.IG, was returned to the IG for further investigation in May 2023. The IG has completed its supplemental investigation, and the matter is on today's agenda. We anticipate continuing the meeting with the respondent in December, based on these supplemental investigative materials.

In the fourth, 23050.IG, the Board found probable cause and will meet with the respondent's counsel at today's meeting.

The remaining matters, 23053.IG, 23054.IG, and 23055.IG, were delivered to the Board on October 13 and 16, 2023. They are on today's agenda for findings 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 Office of Inspector General 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(3) and (4) 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 the Board may find there was a violation and the Board or the subject may 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 their 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 Shirley 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>. Still, we are following the cases argued recently before the U.S. Supreme Court in *O'Connor-Ratcliff v. Garnier* (docket # 22-324) and *Lindke v. Freed* (docket # 22-611), which involve blocking from personal or political accounts. Obviously we will follow the law as announced by the Supreme Court, and anticipate a decision next June.

### **Open Meetings Act/FOIA Challenges**

The Board is involved in five (5) challenges filed with the Illinois Attorney General by the same person. These request: (i) and (ii): reviews of the Board's discussions in Executive Session at two separate 2022 Board meetings; (iii) a review of two (2) Board Executive Session meetings in 2002 and alleges that the Board improperly denied requests for records discussed then; (iv) review of the Board's denial of the request to produce complaints against a City elected official and the Board's actions on those complaints; and (v) that the Board improperly discussed matters in Executive Session at its August and September 2023 meetings. The Board has worked with the Law Department and responded to each. The Board awaits replies from the Illinois Attorney General.

### **Freedom of Information Act**

Since the last Board meeting, the Board has received thirteen (13) requests.

The first request was for records related to a complaint filed against two people; the response advised the requestor of the law's confidentiality requirements.

The second request was for instructions regarding persons who are fined; we responded that we located no responsive records.

The third request was similar to the second request, and was for records of payments by a person who was assessed a fine by the Board; we responded that we located no responsive records.

The fourth request was for lobbyist filings; we responded that the requestor should access our website and provided the link.

The fifth request was for records showing the receipt and deposit of fines; we responded that we had located some records and provided them.

The sixth request was for the calendared Board meetings, lists of Board materials mandated to be provided to the public, complaints against employees, FOIA requests and pictures of employees; we responded with appropriate website links or copies of records, and an appropriate statement that records were not located or were subject to confidentiality. The seventh was for training materials for volunteers; we responded by sending a link to the Ordinance.

The eighth was for “cam footage”; we responded that we were the wrong department.

The ninth was for the email addresses of all 2022 FOIA requestors; we supplied the requestor with the first page of all emailed FOIA responses.

The tenth was for all FOIA requests from 2015 to the request date; we responded with 2020 to present based upon our local records disposition certificate.

The eleventh was for records of all 2023 terminated employees; we responded that we located were the wrong department.

The twelfth was for caller ID history for the FOIA officer’s government issued phone; we responded that we were the wrong department.

The thirteenth was under Federal FOIA; we responded that this was not a proper request.

**Employee Vaccination Status**

I’m pleased to report that all eight (8) staff members are fully vaccinated for Covid-19, and in compliance with the City’s policy on vaccinations.