

## **Executive Director's Report** **9/14/18**

### **Board Members' Term Renewal**

I'm pleased to report that the terms of Zaid Abdul-Aleem and Daisy Lezama will (I trust) be renewed for a four-year term, at the City Council meeting on September 20. On behalf of the entire staff, I want to again thank all Board members, who volunteer your time and expertise to this agency and to the citizens of Chicago.

### **Education**

#### **Classes and other presentations**

Since the Board's last regularly scheduled meeting, 98 employees and officials attended classes on here on July 31, August 7, 16, and 28, and September 6.

100 are scheduled for classes here on September 18 and 27, and October 4 and 16.

All classes cover sexual harassment.

On July 31, the Executive Director gave a class for the staff of the First Ward.

On September 12, the Executive Director participated in a "town-hall" style class for all employees in the Department of Aviation, at the invitation of its new Commissioner. Also presenting were the Commissioner of Human Resources, the Inspector General, the City's Chief FOIA attorney, and the Managing Deputy Commissioner of the Department of Aviation. 150 employees attended, but all presentations were recorded so that all departmental employees can view them.

Classes are being scheduled for all personnel in the Office of the City Treasurer, at his request, and for all hearing officer at the City's Department of Administrative Hearings, at the Director's request.

The Executive Director served as a panelist on "State and Local Campaign Finance Laws" and "State and Local Lobbying, Ethics and Gift Laws" for the Practicing Law Institute in Washington, D.C. on September 7. The program will be repeated in San Francisco on October 5. Other panelists will be from the law firms of Skadden, Arps, Slate, Meagher & Flom, and Nielsen Merksamer, Parrinello, Gross and Leoni, and the Executive Director of the Massachusetts Office of Campaign and Political Finance.

The office is still working with the Chicago Police Department's the Instructional Design and Quality Control Section and helping them design a curriculum on ethics scenarios for an Ethical Decision-Making class.

### **On-line Training**

**For Lobbyists.** All but 27 lobbyists completed their mandatory annual training before the July 3, 2018 deadline. The 27 were found in violation of the Ordinance, and their names were be posted on our website on July 31. All of them have completed their training, so no fines are ongoing. Four (4) were fined \$200; one (1) was fined \$400, for a total \$1,200 in fines.

Although the Ethics Ordinance does not require that annual lobbyist training cover sexual harassment, this training for lobbyists does. It is as important to educate potential victims of sexual harassment about their

rights as it is to reinforce what constitutes sexual harassment (and applicable penalties) to potential harassers.

**For City employees.** To date, 22,176 employees have completed the annual 2018 on-line training program, which also includes a unit on sexual harassment (drafted by our colleagues in the City's Department of Human Resources). This is about 72% of the total scheduled. 86 are in progress.

**For aldermen.** The training for aldermen was posted, and to date, four (4) have completed it. Please note that, on June 29, two reporters viewed the training, with particular attention to the unit on sexual harassment.

**For appointed officials.** We are working on a PowerPoint for all appointed officials, including members of this Board. Currently the sexual harassment section is being reviewed by the Department of Human Resources, which is revising the City's EEO Policy, and may include appointed officials within its ambit. When the program is completed, we will email it to all appointed officials, and have them complete it, with the Assistance of the Office of Legislative Counsel and Government Affairs (which is responsible for coordinating the appointments of all Mayoral appointees/appointed officials).

### **City Council Educational Initiative/Handbook**

In conjunction with the Law Department, IG, and members of the City Council, including representatives from its various caucuses, the Board met January 16 and February 27, March 27, April 16, and May 21 to work on a "handbook" that will address and provide guidance on certain issues common to aldermen and their staff; these include some ethics ordinance issues. The Board, Law Department, and IG are acting under the guidance of the City Council on this project, in an effort to identify and promote various best practices. The Board submitted its extensive comments and entries on August 8, and the Law Department submitted its comments after that. However, the version to be produced is currently in the hands of the IG for any additions it intends to make. There will be more on this later.

### **Council on Governmental Ethics Laws ("COGEL")**

The 2018 annual conference will be in Philadelphia in December, but the 2019 annual conference will be here in Chicago, at the Michigan Avenue Marriott in early December of that year. We will work closely with the Mayor's Office, City Council, and Budget Office to ensure a successful conference. We expect about 450 ethics, campaign financing, lobbying, freedom of information, and election administration officials from across the U.S. and Canada to attend, plus private practitioners and academics. We will serve on the conference's program committee, and will be reaching out to various local officials and media personnel to serve on panel discussions.

### **Executive Editorship – Public Integrity/Guardian issue**

I am pleased to report that I was named to the (~ 60 member) Executive Editorial Board of the journal Public Integrity, which is affiliated with the American Society for Public Administration. It is published by Taylor & Francis six (6) times a year. We are working on a joint project between this journal and the COGEL Guardian, to bridge gaps between academics and practitioners.

The second edition of the COGEL Guardian was published earlier this week. I am its editor, and head of COGEL's Publications Committee.

### **Sister Agency Ethics Officers**

We met on June 19 with our ethics counterparts at other local governmental agencies: the Cook County Board of Ethics and the Ethics Officers from the Chicago Public Schools, City Colleges of Chicago, and Chicago Housing Authority. Topics discussed were our respective roles in investigating or adjudicating

claims of sexual harassment, political activity (given that we are in election season) and contracting with the government entity. Our next meeting is scheduled for September 18.

### **2019 Budget**

We submitted our 2019 appropriation request, and asked for a modest increase in non-personnel costs, in part to cover hosting expenses for the 2019 COGEL Conference, which will be held at the Marriott Michigan Ave. in December 2019, and to replace the software we use for lobbyist training.

### **2018 Statements of Financial Interests**

On March 1, notices to 3,727 City employees and officials went out via email and U.S. first class mail to advising them of the requirement file 2018 Statements of Financial Interests before June 1. This includes 47 identified individuals who fall into definition in the Ordinance of “City Council employee” even though they are paid as independent contractors. To date, all filed. We posted the names of all 30 violators on our website.

Forms are posted on our website as soon as they are processed by staff – our goal is to have all filed forms posted within 24 hours of when they are filed. Once posted, they reside on the Board’s website for seven (7) years from the date of filing, after which they are removed and destroyed, pursuant to the Board’s Document Retention Schedule kept with the Illinois Secretary of State and Local Records Commission of Cook County.

### **Candidates’ Statements of Financial Interests**

Pursuant to §2-156-150(d)(iii), each person who qualifies as a candidate for elected City office must file a Statement of Financial Interests with the Board within five (5) days after so qualifying. By following media reports – particularly those by [thedailyline.com](http://thedailyline.com) – Board staff tracks and notifies each candidate in writing of the filing requirement. To date, 77 known qualified candidates (not including incumbents) for the February 2019 Consolidated Municipal Election have been notified to file, and 68 have done so. We post all filed Statements on our website.

I want to acknowledge here the fine work of the reporters at [thedailyline.com](http://thedailyline.com), who enable us to contact newly declared candidates as they are reported, and thereby enable us to make candidates’ information publicly available to the electorate.

Note: incumbents also must file, but their forms are posted and searchable through different page, and their deadline was before June 1, 2018.

### **Advisory Opinions**

Since the Board’s last meeting on July 23, we have we issued 601 informal advisory opinions (and one (1) formal opinion, which is on today’s agenda). The leading categories were, in descending order: travel; lobbying; gifts; political activity; prohibited conduct (reverse revolving door); lobbying; City property; and post-employment. The leading City departments from which requesters came in this period were (in descending order): Chicago Police Department; City Council; Mayor’s Office; Department of Planning and Development; Department of Aviation; Chicago Public Library; Department of Law; and Department of Transportation.

Informal opinions are not made public but are logged, kept, and used for training and future advisory purposes. 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.

### **Revised Educational Brochures**

We have revised all of our 24 “Plain English” and other educational brochures, and published a new one explaining the “trade skill exception” to the post-employment prohibitions. In light of the Mayor’s decision not to seek re-election, the Mayoral Executive Orders covering political contributions to the Mayor (from contractors, lobbyists, and City employees and appointed officials) are now moot.

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

All formal Board opinions issued since 1986 are posted on the Board’s website (900 of them), redacted in accordance with the Ordinance’s confidentiality provisions. Redacted opinions are posted once issued by or reported to the Board. Further, summaries and keywords for each of these opinions are available on the Board’s searchable index of opinions. Only a handful of 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.

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

We post the 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.

The Board makes public the names of all violators and penalties it assesses where authorized by law to do so. There have been, to date, 113 such matters, but only in those that occurred after July 1, 2013 can the Board release the names of those found to have violated the Governmental Ethics Ordinance.

The document makes clear that, despite comments made in the media over the last decade, the Board has been a robust enforcement agency, not a “do-nothing” agency. This continues through the Board’s ongoing regulatory actions, described above, and with respect to lobbying and campaign financing, even though the Board no longer has investigative authority.

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

We post and continually update, on our website, an ongoing investigative record showing the status of every completed investigative report brought to the Board by both the IG (a total of seven (7) 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. It is updated as appropriate, consistent with the Ordinance’s confidentiality provisions.

Whenever the IG presents the Board with a completed ethics investigation, 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 evidence submitted in its completed ethics 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 investigations are commenced within two (2) of the last alleged act of misconduct. Then, if the Board finds that the evidence presented shows that there is 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. The Ordinance provides that this meeting is *ex parte* – no one from the City’s Law Department or IG is present. The Board may request clarification from the IG as to any evidence adduced in its investigation before making a probable cause finding. 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.

Three (3) of these seven (7) IG matters remain pending.

On April 16, 2018, the IG presented the Board with its fifth completed investigation and petition for probable cause. In Case No. 18012.IG, at the Board's May 2018 meeting, it dismissed one part of the IG's petition but found probable cause in the other. The matter involves potential violations of the Ordinance's post-employment provisions by a former alderman (the Ordinance prohibits former aldermen from engaging in lobbying the City for one year after leaving office). The part of the case dismissed by the Board pertained to the alderman's job interviews with a potential post-City employer while that potential employer had matters pending. The Board found that there was no evidence in the IG's investigative record to show that the alderman acted on any matters involving the potential employer and that the employer had no matters pending before the alderman. The subject's attorneys were present at the July meeting. The Board will continue to discuss potential settlement of the matter.

The sixth IG matter, Case No. 18018.IG, was presented to the Board by the IG on May 25, 2018. It involves a petition for probable cause based on an IG investigation into whether a City employee had a prohibited financial interest in a City contract by virtue of owning 100% of a company that was named and paid as a subcontractor on a City contract for 6 years. At its June meeting, the Board considered the case, but could not find probable cause without a formal request for clarification as to when the IG commenced and completed its investigation. The Board sent its request on June 18, and also requested that, on all future investigations the IG clearly indicate the dates on which the instant investigations are commenced and concluded. The IG responded on June 27 and agreed to state the relevant investigation dates in its summary reports sent to the Board in future cases. The IG also explained that the date of a "Case Initiation Report" is the date it opens a case for investigation (in this case, that was May 23, 2016), and the date the investigation concludes is the date the IG "formally designates a case as closed in its case management system." In this case, that was the date it sent its notice to the subject: April 25, 2018. The Board found probable cause at its July 2018 meeting, and the subject will meet with the Board at its October 2018 meeting.

In the seventh IG matter, Case No. 18023.IG, the IG presented its completed investigative report and corroborating evidence on June 20, 2018. The case involves a now-former employee who, the IG concluded, violated the Ordinance by accepting gifts from a business over which he had official authority, in excess of the Ordinance's \$50 per source/per year limit, failed to report the gift on his annual Statement of Financial Interests, and provided advice or assistance on matters concerning City business that were not wholly unrelated to his City job. The Board found probable cause at its July 2018 meeting, and the subject will meet with the Board at its October 2018 meeting.

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.

### **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 IG or, if he or she fails to do so within two weeks, the Board must make that report.

Since the time this provision (§2-156-070(b)) became effective on July 1, 2013, the Board has advised three (3) aldermen, two (2) aldermanic staffers, one mid-level City employee in an operating department, and one (1) department head and one (1) or former department head that their past conduct violated the Ordinance. In three (3) of these six (6) cases, one (1) 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 aldermen and aldermanic staff self-reported to the former LIG, and the former department head self-reported to the IG. Since the time that all matters involving the former LIG were consolidated with the IG, the IG has informed us that it has no record that the LIG ever commenced an investigation in the matter involving the alderman, and that the matter involving the aldermanic staff was closed, apparently without further investigation by the LIG.

As noted above, the Board received a completed investigative report from the IG on May 26, 2017, with a petition for a probable cause finding. The case was based on the Board earlier conclusion that the subject appeared to have committed a past violation of the Ordinance that was not minor, and then advised the subject of the self-reporting-to-the-IG provisions in the Ordinance. After the IG investigated, and confirming the Board's earlier conclusion, the matter was settled for a \$1,500 fine. The agreement is posted on our website.

In the three (3) cases in which the Board determined that minor violations had occurred, the Board sent confidential letters of admonition, as required by Ordinance.

There is no legal requirement imposed on the IG to report back to the Board on any actions it takes on matters or persons referred to it by the Board, unless the IG completes an investigation and submits a petition for a finding of probable cause to the Board based on that investigation. This is unlike the arrangement in New York City between its Conflicts of Interests Board and Department of Investigation.

### **Lobbyists-regulation and enforcement**

There are currently 805 lobbyists registered with the Board. We have collected \$442,125 in fees for 2018 (which is 52% of our 2018 operating budget).

Second quarter activity reports were due before July 21. I am pleased to report that all lobbyists timely filed their second quarter activity reports; there were no violations.

Third quarter activity reports are due October 20; we will send out email reminders to all registered lobbyists on September 28.

### **Freedom of Information Act**

Since the last regularly scheduled Board meeting, the office has received eight (8) requests under the Freedom of Information Act. They were:

1. A request for a person's lobbying records, but, as there were none, we advised the requestor accordingly.
- 2-6. These were from the same requestor asking for: (i) the number of Board employees; (ii) the names of Board employees earning over \$50,000; (iii) the Board's address; (iv) the name of the "head" of the Board; and (v) the two highest salaries of Board employees. We responded by providing the requestor links to our website and that of the Office of Budget Management.
- 7-8. These were duplicate requests for the Board's schedules of retention regarding record destruction (provided by the Local Records Commission, by statute). As this was part of a City-wide request, we requested guidance (not yet received) from the Office of the Mayor and Department of Law as to their preferred method of responding to the requestor.