

Executive Director's Report 1/18/19

Education

Classes and other presentations

Since the Board's last regularly scheduled meeting, 77 employees and two (2) have aldermen attended classes here on December 18, and January 8 and 17. There are 72 scheduled for classes on January 29 and February 7 and 19.

All Board classes cover sexual harassment.

On January 7, 2019, staff made a 60 minute presentation to 27 employees in the Civilian Office of Police Accountability (COPA), at the request of its Director.

On January 14, 2019, staff made a 90 minute presentation for 65 employees of the Office on Inspector General, at his request.

On-line Training

For City employees. All but 17 City employees completed the 2018 required ethics training by the deadline. After sending probable cause letters to non-completers, as required by law, we determined that 17 violated the Ordinance for failing to timely complete the training and posted their names yesterday. We assessed no fines, because they all completed the training within the statutory grace period.

For aldermen. All 50 aldermen completed the training on time.

For appointed officials. We are finalizing 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). An Ordinance was submitted to City Council at our request, and at the request of the Mayor's Office, that would provide that all appointed officials are subject to the Ordinance's prohibition against sexual harassment. The proposed amendment is attached.

For lobbyists. While the 2017-2018 lobbyist training cycle was completed on July 1, 2018, we are working on the 2018-2019 training program, and I'm pleased to report that several lobbyists requested and were provided with soft copies of the last training, because they said it was so helpful.

City Council Educational Initiative/Handbook

In conjunction with the Law and Finance Departments, IG, and members and staff 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, and attended briefings with aldermen on December 4 to finalize 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, covering topics from political activity to social media to recusals.

Amendments to the Ordinance.

I have suggested and had a chance to review and share with legal staff and the Chair the various drafts of the ethics reform package that the Mayor intends to submit to City Council on January 23 as they pertain to the Ordinance. We will discuss this, time permitting, in Executive Session. In addition, this is an opportunity for the Board to propose additional reforms and amendments to the Ordinance.

Council on Governmental Ethics Laws (“COGEL”)

COGEL’s 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 current and next 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 are serving on the conference’s program committee, and will be reaching out to various elected and appointed officials, attorneys, public figures, and media personnel to serve on panel discussions or otherwise contribute to the Conference. We will co-host the Conference with our colleagues at the Cook County Board of Ethics, Chicago Board of Election Commissioners, Illinois State Board of Elections, and Illinois State Executive Ethics Commission, as well as possibly other local agencies involved in ethics or freedom of information administration.

As President-elect of COGEL, I also serve on the Program and Host committees, and continue to Chair the Publications committee. The 2019 Conference is an opportunity to showcase our agency, our mission, our ethics, campaign financing, lobbying, and election administration colleagues at the City, County, and State levels. And I am hoping that our Board members will lend support to make the 41st Conference nonpareil.

Executive Editorship – Public Integrity/Guardian issue

I am a member of the 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 in the midst of a joint project between this journal and the COGEL Guardian to bridge gaps between academics and practitioners. The first edition of the 2019 COGEL Guardian will be published around April 15, 2019.

Sister Agency Ethics Officers

We met on December 18 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.

2019 Statements of Financial Interests

On or before March 1, notices to about 3,750 City employees and officials will be sent via email and U.S. first class mail advising them of the requirement to file 2019 Statements of Financial Interests before June 1. This will include individuals identified by each Ward or alderman who fall into the definition in the Ordinance of “City Council employee” even though they are paid as independent contractors.

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 – Board staff tracks and notifies each candidate in writing of the filing requirement. To date, 182 known qualified candidates (not including incumbents) for the February 2019 Consolidated Municipal Election have been notified to file, and 181 have done so; the one who hasn't has a ballot challenge hearing scheduled before the Board of Election Commissioners. We post all filed Statements on our website. Two (2) candidates were found in violation of the Ordinance for failure to file by their deadline, and were fined \$250 and \$500, respectively. Their names and violations were posted on our website.

I again want to acknowledge here the fine work of the reporters at thedailyline.com, who enable us to contact newly declared candidates as they are reported, thereby enabling us to make candidates' information publicly available to the electorate.

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

Advisory Opinions

Since the Board's last meeting on December 14, we have issued 301 informal advisory opinions. The leading categories were, in descending order: gifts; travel; lobbying; City property; political activity; campaign financing; 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; Department of Public Health; Chicago Public Library; Cultural Affairs and Special Events; Business Affairs and Consumer Protection; and Chicago Fire Department.

Informal opinions are not made public but are logged, kept, and used for training and future advisory purposes. (This is the same practice that 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.

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

Every formal Board opinion issued since 1986 is posted on the Board's website (902 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, 116 such matters – including two (2) on today's agenda – 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, hardly 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 eight (8) 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 in which the IG believes there have been any 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 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 warrants a *prima facie* 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 request clarification from the IG as to any evidence adduced in its investigation before making a probable cause finding (and indeed 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 is unable to rebut the Board’s *prima facie* probable cause finding, the Board may enter into a settlement agreement – all settlement agreements are made public – or the Board or subject may decide to proceed to a merits hearing that is not open to the public. That hearing would be 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 his or her attorney. At the conclusion of the hearing, the ALJ submits his or her findings of fact and law to the Board, which can accept or reject them, based solely on the record of the hearing. The Board will then issue a public opinion in which it finds one or more violations of the Governmental Ethics Ordinance (or finds none) and impose appropriate fines.

While this process may appear cumbersome, it was added to the Ordinance and became effective on July 1, 2013, based on the specific recommendations of the Mayor’s Ethics Reform Task Force in Part II of its 2012 Report. Its primary purpose is to balance due process for those investigated by the IG with an accurate and precise adjudication by the Board of Ethics and the public’s right to know of ethics violations.

On our website, we have a publication that describes this process in detail:

<https://www.chicago.gov/content/dam/city/depts/ethics/general/Publications/EnforceProcedures.pdf>

Three (3) of these eight (8) IG matters remain pending:

Case No. 18012.IG (corresponding to IG Case #16-0240). On April 16, 2018, the IG presented the Board with its fifth completed investigation and petition for probable cause. At the Board's May 2018 meeting, it dismissed one part of the IG's petition but made a *prima facie* finding of probable cause in the other. The matter involves potential violations of the Ordinance's post-employment provisions by a former alderman (the Ordinance's post-employment provisions prohibit 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. On the agenda for today's Board meeting is approval of a settlement agreement with the former alderman for a \$5,000 fine, and a finding of probable cause against the former alderman's employer, for employing a lobbyist who failed to register as required by the Ordinance. The employer is subject to a fine between \$500-\$2,000.

In Case No. 18023.IG (corresponding to IG Case #17-0148), 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 (and identified as a former Water Management employee), violated the Ordinance by accepting gifts to a Cubs' post-season game 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 made a *prima facie* probable cause finding at its July 2018 meeting. The Board met with the subject and his attorney on December 14, 2018, sustained its finding of probable cause and proposed settling the matter with the former employee for a fine of \$500. On today's agenda are approval of a settlement agreement with the former employee for a \$500 fine, and a finding of probable cause against the gift-giver, who is subject to a fine between \$1,001 - \$5,000.

In Case No. 18039.IG (corresponding to IG Case # 17-0082), the final investigative report was sent to our office on November 30, 2018. The case involves prohibited gifts offered to a current and a now-former City employee from a City subcontractor. The case is on today's agenda for a status report, but staff's analysis and recommendations as to a probable cause finding will be presented at the Board's February 2019 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 (2) 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 (1) mid-level City employee in an operating department, one (1) department head and one (1) former department head that their past conduct violated the Ordinance. In three (3) of these 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's 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 confirmed 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

Lobbyists' annual re-registrations and 4th Quarter activity reports are due before Tuesday, January 22. All registered lobbyists were notified via email of this deadline on December 20, 2018. To date, there are currently 301 registered lobbyists, and we have collected \$116,975 in registration fees. There are still 4 ½ days for lobbyists to register, and we anticipate about 830 registrations.

Freedom of Information Act

Since the last regularly scheduled Board meeting, the office received two new requests under the Freedom of Information Act. The first request was for a copy of a 2011 candidate's Statement of Financial Interests; the form was located and sent to the requestor. The second request was for copies of "employment notifications." After the requestor explaining what she meant, we responded that we had no records responsive to her request.