



CITY OF CHICAGO



BOARD OF ETHICS

To: The Honorable Pat Dowell, Chair,
Honorable Members, City Council Budget and Government Operations Committee
Date: October 21, 2022
From: Steven I. Berlin, Executive Director

OPENING STATEMENT/FISCAL YEAR 2023 BUDGET

Overview and Mission: Good morning, Madame Chair and Members of the Committee on Budget and Government Operations. I appreciate the opportunity to address you, and your flexibility with respect to today's scheduling. Now in our 35th year, the Board of Ethics administers, interprets, and enforces Chicago's Governmental Ethics Ordinance (the "Ordinance"). We promote integrity, transparency and accountability in City government by giving thousands of pieces of confidential advice each year, educating City employees and officials, vendors, lobbyists, and others subject to the Ordinance, regulating their conduct, and enforcing the Ordinance by adjudicating cases involving apparent violations of it. The Board has five (5) major program areas.

Highlights of 2022 Achievements and 2023 goals:

1. EDUCATION: 92% of the City's workforce, plus 315 appointed officials, 35 City Council members, and all 831 registered lobbyists, have completed our mandatory 2022 on-line ethics training programs. The deadline for officials and employees is before January 1, 2023. Violators are subject to daily \$250 fines and having their names and violations made public. An all-new 2023 employee/elected official program will be available in February 2023; an all-new 2023 appointed official program will be available in March 2023; and an all-new 2023 lobbyist program will be available in December 2022.

Earlier this year, with invaluable assistance from our colleagues at the Department of Human Resources ("DHR") we migrated all our on-line programs to the City's e-learning system. This has two (2) main benefits: 1) users can complete it from any pc, including their own home pc (not just City pcs or those with VPN connections); and 2) an annual savings of \$1,000 per year in software licensing fees, and \$1,500 in narration fees. We revise all our programs annually, and all cover sexual harassment (we coordinate the content with our DHR colleagues). We also offer personalized training for community groups, Ward Offices, vendors, and City departments, upon request. We have 33 educational guides posted on our website; we revise these regularly. So far in 2022, we have created four (4) new guides—including guides to the key amendments to the Ordinance enacted by the City Council in July 2022, which took effect on October 1, 2022.

In 2023, we intend to produce ethics training videos in conjunction with the Mayor's Office.

We suspended in-person classes in March 2020 due to the pandemic. Conditions allowing, in 2023 we will restart regular in-person training. We will also focus on public outreach and offer speakers for neighborhood meetings and Ward nights throughout the City. During the pandemic, we have continued outreach efforts to explain the law governing lobbying by paid representatives of non-profit organizations and discussions of potential amendments to it.

2. CONFIDENTIAL GUIDANCE AND CASEWORK: In my 29+ years with the Board, I've learned that *the most effective way to prevent misconduct and foster a culture of ethical conduct is to enable and encourage persons to seek confidential ethics advice before they act*. Thus, the Board's advisory function, coupled with regular education, is our most critical responsibility. Since October 2021, we have issued 3,429 confidential advisory opinions: 75% to City personnel (City Council remains the

department to whose officials and employees we have issued the most opinions, followed by the Mayor's Office and Chicago Police Department). Fifteen % were issued to lobbyists or potential lobbyists; the remaining 10% were issued to attorneys, contractors, candidates, and campaign contributors. Of these, we issued six (6) *formal* opinions. We publish formal opinions on our website, with confidential information redacted out (a common practice among government ethics agencies). We also have a searchable index and summary of all 920+ formal opinions issued by the Board since its inception as an Executive Order Board in 1986. In 2022, we upgraded that index to include fast links to the full text of every opinion.

The vast majority of opinions we issue are *informal*, either telephonic or by email, or in person. They remain confidential. Persons who receive Board opinions can rely on them in the event of an Inspector General ("IG") or other investigation, or if their conduct is questioned.

The Board also works with other City departments (and "sister agencies," including the MWRD) to develop or revise their own conflict of interest or gift policies, and in 2022 we worked on revisions to the City's Personnel Rules. We also meet regularly with ethics officers from our sister agencies: the CTA, CPS, CCC, CHA, MWRD, Park District, Cook County Assessor's Office, and Cook County Board of Ethics, to discuss ongoing matters of mutual concern and give assistance and advice.

3. FINANCIAL DISCLOSURE: By law ~3,850 employees and officials must file annual Statements of Financial Interests ("FIS"). We distribute, collect, and make publicly available forms going back seven (7) years from the date of filing. For 2022, we found 102 employees and officials in violation of the law for failure to timely file, assessed \$40,600 in fines, and made their names, violations, and fines public, as required by law. We work with our ethics liaisons in all departments and ward and committee offices to assist with filing compliance and ensure that new hires required to file do so timely.

Additionally, all candidates for City elected office must file FIS forms within five (5) days of qualifying as a candidate. We pro-actively contact all candidates (who have not already filed their forms) upon learning of their candidacy, and post their forms on our website as they are filed with us.

4. LOBBYING REGULATION: By law all individuals who lobby City personnel must register with the Board annually (there is a \$350 annual registration fee and \$75 fee per client after the first; the Board waives fees for individuals lobbying on behalf of tax-exempt non-profits) and file quarterly activity reports. Currently, 831 are registered; we have collected \$411,850 in fees (this represents 45% of our 2022 budget request and 46% of our 2023 request).

Since October 2021, 22 lobbyists were determined to have violated the Ordinance for failure to timely re-register or file activity reports. Seventeen were assessed \$24,000 in fines. One (1) was determined to have violated the Ordinance for failure to complete annual training on time and fined \$1,200. By law, we also make their names and violations public.

5. ENFORCEMENT: Adjudications of IG Investigations. Since October 2021 the IG has submitted one (1) completed ethics investigation to the Board for adjudication. It involves allegations that a City appointed official failed to disclose a financial interest in a matter pending before the City. In November 2021 the Board referred the matter back to the IG for further investigation, as the facts presented showed there may have been Ordinance violations, but *not* of the provision cited by the IG. The matter is still with the IG.

In another matter, which the IG referred to the Board in August 2021 (the IG's investigation itself having been requested by the Board), the IG delivered its completed investigative file and requested that the Board find probable cause to conclude that a formerly registered lobbyist violated the Ordinance on seven (7) separate occasions, by lobbying on behalf of entities for which the individual had not duly registered as a lobbyist, and failing to report lobbying activity as required. The Board found probable cause to conclude that the individual violated the Ordinance on each occasion. Neither the individual nor the attorney who represented them in the IG investigation responded to the Board to attempt to rebut the Board's findings. Accordingly, the Board determined that the individual violated the Ordinance and imposed a \$75,000 fine. The individual then asked the Board to reconsider the determination and fine. Both were denied, because the former lobbyist raised no new facts and had never timely responded to the Board's offers to appear and attempt to rebut its findings.

Since October 2021, the Board has referred 19 complaints to the IG for appropriate action, including investigation.

Board-Generated Enforcement Actions. The Board finds probable cause—confidentially—where evidence made available to it by a complainant or evidence already in the public domain indicates the Ordinance was violated but no factual investigation by the IG is needed. After making any probable cause finding—which is *not* a finding of a violation—the Board affords the person (and their attorney) the right to present evidence and arguments to rebut the finding, confidentially. If the finding is not rebutted, the Board can determine there were Ordinance violations and/or publicly settle the matter for fines, or, if no settlement is reached, make its determination public and impose appropriate fines. All Board determinations are appealable to the Cook County Circuit Court. Since October 2021, the Board has handled nine (9) such cases. Of these, the Board dismissed one (1) matter based on a citizen complaint without finding probable cause; another resulted in the Board requesting the IG to investigate arguments made by the subject in their defense; another, based on a citizen complaint, resulted in the Board determining a violation and assessing a \$1,000 fine (\$5,000 being the maximum fine); in another, the Board declined to find a violation and worked with the subject to ensure compliance with the Ordinance. In several others, the Board achieved compliance with the Ordinance by the various subjects, and in one (1) case, involving potential campaign finance violations, the Board requested that the IG investigate whether the contributors are “affiliated persons,” subject to one (1) single annual contribution limit. All these cases are all described in detail on the Board’s website. Note that amendments to the Ordinance effective October 1, 2022 require the Board to give any subject of a Board-initiated enforcement action at least 10 days’ written notice and an opportunity to respond before the Board can make a probable cause finding.

Further, since October 2021, the Board has received 32 citizen complaints, which is an all-time record. The Board handles every complaint by either finding probable cause, or referring the complaint or complainant to the appropriate agency.

Minor Violations. Since October 2021, the Board has determined that one (1) City employee and one (1) City official each committed a minor violation of the Ordinance. In the first case, a City employee self-reported that they met with other City employees and officials in their capacity as an officer of a non-profit group. In the second, a City official self-reported that they inadvertently sent an invitation to a political fundraising event from their City email account, then moments later realized the error, recalled the email and re-sent it from a non-City account. In both cases, the Board sent them a confidential letter of admonition, as required by law.

Detailed information about all ongoing and concluded adjudications and enforcement matters, including minor violations, and a guide to ethics enforcement procedures, are posted on our website and updated regularly. Names are made public only where permitted by law.

I welcome your questions.