



CITY OF CHICAGO



BOARD OF ETHICS

MEMORANDUM

To: The Honorable Brandon Johnson, Mayor
The Honorable Matt Martin, Chair, City Council Committee on Ethics and Government Oversight, and
Honorable Members of the City Council

From: The Board of Ethics

By: 
William F. Conlon, Chair

Re: Proposed amendments to the Governmental Ethics Ordinance, with commentary

Date: November 14, 2023

Pursuant to the powers and duties of the Board of Ethics (“Board”) in §§2-156-380(e), (f), and (g) of the Municipal Code of Chicago (“MCC”), we hereby submit, as attached, our proposed amendments to the City’s Governmental Ethics Ordinance (the “Ethics Ordinance”) which is chapter 2-156 of the MCC, with our commentary. 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].”

All recommendations result from the Board’s extensive experience during the recently concluded Consolidated Municipal elections, and from administering and interpreting this law every day. All suggested changes are in **red**; all commentary and explanations are in **[blue brackets]**. The recommendations focus on five (5) areas:

1. Regulating City Council independent contractors. While the Board strongly encourages the City Council itself to consider enacting a rule prohibiting its members from hiring as their independent contractors (“i/c’s”) individuals on the City’s or its sister agencies’ do-not-hire lists, and/or enact a law prohibiting the Department of Finance from paying for such independent contractors with City funds, the Board cannot regulate the hiring of independent contractors by City Council members. However, the Board *can and in these proposals does* recommend that City Council i/c’s be subject to the Ethics Ordinance as though they were City employees.

2. Restrict the use of images or photos of City property in electioneering communications, and subject political fundraising committees to the restrictions prohibiting the improper use of City property in electioneering communications, or coercive electioneering communications addressed to City employees or officials. This is addressed in §§2-156-060, -135, and -140, and the definition of City property in -010(e-1). These amendments are intended to clarify and codify a prohibition on the use of photographic images of Chicago Police or Fire Department property, like squad cars or insignia, or of persons appearing in City uniform or wearing City departmental insignia in electioneering communications. They are also intended to ensure that candidates’ political fundraising committees may be held liable for disseminating electioneering

communications that improperly use City property or are coercive. The Board believes that such changes are critical to bolster public confidence that City resources are not used for improper political purposes, and that both candidates and their authorized political fundraising committees can be held accountable for violations of these laws.

The Board also recommends a clean-up of the “prohibited political activity” provision, §2-156-135—as such activity is not really prohibited, but actually “restricted”—no City property, resources, or compensated time can be used for them.

3. Impose a “stand by your ad law” for all electioneering communications made by a candidate for City elected office or by their authorized political fundraising committee(s). Candidates should not be able to avoid accountability for improper or coercive electioneering communications or the manner in which those communications are transmitted.

4. Impose tighter restrictions on political contributions. While the Board recognizes that work is currently being done by the City Council on a potential public financing law for Chicago elections, in the event such a law fails to get enacted, and until such a law gets enacted, the Board *continues* to recommend that the City Council close a gap in the Ethics Ordinance. That gap that allows corporate owners, officers, directors, partners, or LLC members to contribute to candidates for elected City office (or their authorized political fundraising committees) to the extent allowed by the Illinois Election Code (currently \$6,900 from any individual per each election cycle to any candidate committee), *on top of their entity’s contributions*, provided they are not reimbursed for the contributions (or not individually subject to the Ordinance’s \$1,500 annual limit, as, say, registered lobbyists). Other peer jurisdictions, notably New York City and Los Angeles, have addressed this and closed what remains a gap in Chicago’s laws.

5. Consider prohibiting lobbyists, including former City Council members, from being in the annex behind City Council chambers during meetings; and require lobbyists to report corrupt or unlawful activity. We have received reports that registered lobbyists, including but not limited to former City Council members, linger in the annex behind the Council chambers during City Council meetings and lobby current alderpersons and staffers who enter the annex to refill their coffee or go the restroom. The package of amendments that took effect October 1, 2022 prohibits lobbying on the floor of the City Council chambers (or committee room) during a meeting, but does not prohibit lobbying in the annex at any time. We recommend that the City Council consider simply prohibiting lobbyists from being in the annex or any hallway within the secured suite of offices that includes the Council chamber and committee room. Such a ban exists in several jurisdictions, notably the United States Senate¹ and the State of Washington’s House of Representatives.² We also note that the Better Government Association has called for a “full ban on former alderpersons from the floor of the City Council during sessions – an outdated special privilege that clearly flouts the nominal ban on lobbying at council meetings.” We recommend that the City Council consider amending its Rules to prohibit *all* lobbyists from being present or lobbying in the annex and secured hallways during meetings of the full Council or its committees, not just lobbyists who are former City Council members.

Further, we recommend that the City Council plug another gap in the laws by requiring lobbyists to report corrupt or unlawful activity in the same way that City employees and officials (and, as we recommend, i/c’s) must, per §2-156-018(a). We also recommend that the reporting requirement be amended so that a report to either the Board or to the Office of Inspector General would satisfy it

¹ See Rule XXIII.2(a)(1), “Privilege of the Floor,” which bans lobbyists (and foreign agents) to the floor of the Senate when it is session, <https://www.govinfo.gov/content/pkg/CDOC-113sdoc18/pdf/CDOC-113sdoc18.pdf#page=51>.

² See Rule 8(C), which bans lobbying in the house chamber or in any committee room “or lounge room” when the house or committee is in session, unless expressly permitted. <https://leg.wa.gov/House/pages/houserules.aspx>

There are two notable topics our proposals do **not** address:

1. Regulation of lobbying by individuals on behalf of not-for-profit entities. As was widely reported, the Board has, since Fall 2019, worked closely with the current and prior administrations, the City Council's Committee on Ethics and Government Oversight, and representatives from the not-for-profit community on amendments that were introduced on July 19, in O2023-0002937, and a substitute ordinance:

<https://occprodstoragev1.blob.core.usgovcloudapi.net/matterattachmentspublic/c818c624-07b7-4297-9821-549ab3c0b0ce.pdf>

The Board has conveyed its comments directly to that ordinance's sponsor, Ald. Matt Martin (47th Ward), Chair of the City Council's Committee on Ethics and Government Oversight, and his staff. The Board greatly appreciates and acknowledges the hard work done by representatives of the not-for-profit community, Ald. Martin and his staff, the Law Department, the Mayor's Office, and our Board's own staff.

2. City Council members' outside income. The Board has long--and studiously--remained agnostic on this issue, as there are good arguments on both sides: should City Council members be allowed to have outside jobs? There are currently two (2) proposals before the Ethics and Government Oversight Committee, 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>), that would limit certain types of City Council members' outside income.

Our proposal does not address this issue—we hope the Council debates it, and we can help the City Council consider each side, as we have researched how peer cities handle this, and can provide that research to the Council. See <https://www.chicagotribune.com/politics/ct-chicago-city-council-aldermen-outside-work-20230605-tnds4yug7bfstngh7urcy7jeji-story.html>. Besides these two current proposals, other proposals aiming at similar results have been submitted by other City Council members in past years, but none was enacted.

attachment