

Ethics Matters in Chicago



Introduction

The Board of Ethics is pleased to announce *Ethics Matters in Chicago*, a semi-annual publication that covers various topics related to government ethics and campaign financing. This inaugural Spring 2010 issue will explain Statements of Financial Interests: why some are required to complete the “ethics form,” and others are not. And, in this issue, we will try to help you understand who and what a “lobbyist” is, and how that may affect you.

We hope you enjoy this newsletter, and find it informative and useful. Feel free to send us comments, questions, thoughts and criticisms. This is a good way for us to reach you, and vice-versa!

Who are we?

In 1987, the Board of Ethics was established as an independent City department to administer and enforce the City Governmental Ethics and Campaign Financing Ordinances. These laws help ensure that City officials and employees perform their public responsibilities impartially and do not use their public positions for private gain, and help to foster public confidence in the integrity of City government. The Ordinances authorize the Board of Ethics to provide confidential guidance and advisory opinions on matters and situations covered by these laws, to design and conduct educational programs for City governmental personnel, lobbyists, and others, to regulate lobbyists and campaign contributors; to distribute and maintain disclosures filed by City employees and officials, and to receive, refer or investigate complaints.

The Board’s members are appointed by the Mayor for staggered four-year terms and confirmed by City Council. Board members serve without pay. They are independent and can be removed only for cause, with the written approval of remaining Board members. The Board meets monthly and is staffed by seven full-time employees, including its Executive Director. Current Board members are: Miguel Ruiz (Chair), Thomas McCarthy, Michael Quirk, Lisa Taylor and John Wilhelm, M.D.

What's this publication about?

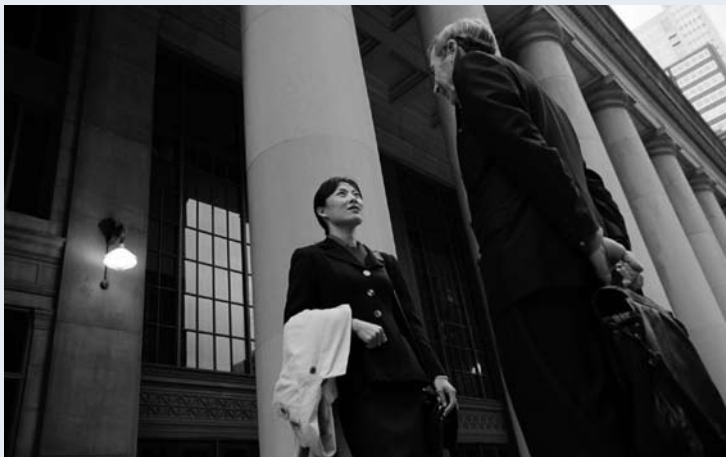
One of the Board's critical responsibilities is informing City employees and officials, persons with or seeking City contracts, lobbyists and the public about the ethical standards expressed in the Ordinances. Our goals are not only to reinforce the rules, but also to help City personnel recognize potential problems, and let them know where to seek confidential advice in resolving them. This publication is part of that effort.

Chicago is a leader in ethics education. It is one of few jurisdictions in the country requiring all its full-time employees (and aldermen) to com-

plete annual ethics training program. The Board designs and administers an on-line training program, which it revises each year, and which is completed by the City's approximately 34,000 personnel. The Ordinance also requires about 10% of the City's workforce to attend quadrennial "face-to-face" ethics seminars designed and conducted by the Board.

In this issue, we'll cover "ethics statements" that about 1/3 of you are about to file with us, and a topic that's hot every so often on the national scene: lobbying.

Ethics Statements: Statements of Financial Interest



Who files and when?

Those of you whose annual City salary is budgeted for 2010 at \$76,750 or more will be required to file a 2010 Statement of Financial Interests with the Board of Ethics. Note: this means your 2010 base salary. Even if your 2009 W-2 shows you earned more than this in 2009, due to overtime pay, that does not matter. We anticipate about 11,500 filers in 2010. All City elected officials file (aldermen file with the City Clerk), and about 500 members of City Boards and Commissions file too. If you must file, around March 1 we'll either mail you your form or have it sent to you through your department. As in past years, you'll have until May 1 to file it with us (this year, you get until c.o.b. Monday May 3, because May 1 is a Saturday), or you'll need to pay a \$20 late filing fee. So please file on time to avoid the fee. Around April 15 and May 15, we shall send reminders out to persons who haven't filed. If you don't file by May 31, you'll subject yourself to a determination by the Board that you've violated the law, and can be subject to employment sanctions. It's just not worth it.

Note: the Board sends out the vast majority of Statements by March 1. But if after March 1, you receive a raise or promotion into a budgeted annual salary rate of \$76,750 or more for 2010, you will need to file then. You can always fill out a form on our web site, but you still need to print it up, sign it, and get the original to us.

Who can look at these Statements?

Anyone. They are public records, subject to inspection under the Illinois Freedom of Information Act, as amended, and the Ethics Ordinance. The Board makes them available upon request. Note that all 2009 Statements are posted on the internet, and Statements filed in 2010 and after will be too. Pre-2009 forms (the Board keeps them for 7 years after filing, then destroys them) are available in their original paper format. The Board will no longer ask for the name of the requestor or notify you if and when your form is requested for inspection.

What is shown to the public?

Everything on the form, except confidential and private information, such as your home address, City id#, or social security # (older forms had these; since 2005, none do). Be assured that information is redacted out before any Statement is produced for inspection. And, we keep all filed forms under lock and key.

Hey—I know I filed my ethics statement already, so why are you bothering me again?

The Board hears this a lot. It means we don't have your current year's form. If you have already filed with us, you'll get a receipt from us—if you don't have a receipt from us, we don't have your form, and we are reminding you to file it. It's that simple. If you file a Statement of Economic Interests (the yellow form) with the Cook County Clerk, that does not mean you filed with us. You'll get a receipt from the Clerk too. But the two forms are completely separate. About 3,000 of us must file the yellow form, and some of us have to file both forms. Who files that yellow form is set by the Illinois Governmental Ethics Act (it's essentially based on job responsibility or title).



Lobbyists and Lobbying

Most government units in the country have lobbyists active before them, and regulate these lobbyists. Lobbying is a right that is guaranteed by the First Amendment of the U.S. Constitution. In Chicago, all individuals who lobby City government must register with the Board of Ethics. Unlike in some other government units, however, lobbyists' clients do not need to register here in Chicago. Here's a summary of how the City of Chicago regulates lobbyists:

First: Just who is a Lobbyist?

So just who is a "lobbyist?" Outside of K Street in Washington, D.C., hardly anyone calls him- or herself a lobbyist. You won't see business cards with that word on them. The short answer is that, like so many other things in the law, it depends on what an individual does, not what he or she calls him- or herself. The longer answer is that a lobbyist is any individual* who advocates or undertakes, on behalf of another person (like an employer or client) to influence a City of Chicago administrative or legislative decision or action. Sounds pretty broad. It is. The law gives a few examples of City actions that are covered: bond inducement ordinances, zoning matters, concession agreements, creation of tax increment financing districts, preparation of contract specifications, solicitation, award of administration of contracts, grants or loans, other procurement decisions, and the introduction or passage of ordinances, orders, motions or other matters before City Council. Chicago's is one of the most comprehensive lobbyist laws out there.

*Chicago no longer has entity, firm or company registration. This means that, if a company or firm has 10 individual employees who lobby City government, that's 10 registrations.

Second: Who isn't a Lobbyist?

The law gives some examples, and provides some exceptions. Staff members, employees, officers and directors of non-profits are not lobbying if they act on behalf of the non-profit. But a paid public relations or law firm acting on behalf of a non-profit is lobbying. Individuals who are solely responding to existing requests for proposals or qualifications (RFPs or RFQs) are not lobbyists. Individuals submitting applications for City permits or licenses are not lobbying. Lawyers representing clients in formal hearings are not lobbying. Media people are not lobbying by publishing editorials and opinions. Individuals who testify before City Council or other City commissions are not thereby lobbying.

Third: So what do I do if I think I'm being lobbied?

There is no requirement that you talk to someone just because he or she says he is (or really is) a registered lobbyist. Likewise, you aren't violating the Ordinance if you talk to someone who is lobbying you but isn't registered. Rather, the burden of registering as a lobbyist falls on the lobbyist him- or herself. Individuals have a 5-day grace period from first engaging in lobbying activity to register with us. Individuals who fail to register can be subject to severe fines, and so can their clients. And, any contract that is entered as a result (even in part) from unregistered lobbying can be cancelled by the City. So an unregistered lobbyist wastes your time, your department's time, his or her own time, and his or her client's time (and money), and can be fined.

Here's the best piece of practical advice we can give you: if you think you're being lobbied, simply refer the potential lobbyist to the Board of Ethics. If we advise them that they need to register, they will. If you meet with hundreds of potential lobbyists each month, and most of these meetings go nowhere and do not lead to a second meeting, there is no point in pointing them all to us or having them register. Rather, the tipping point is when you and your department decide that you want to meet with them a second time. That's the time to have them contact us. We'll walk them through the registration process.

Note: by law, all department heads and the employees they designate as having "policy-making authority" must report to the Board of Ethics any individual who, they believe, has engaged in lobbying, if they have knowledge that the individual is not registered with the Board. Shortly, the Board will be asking each department head to identify these employees with policy-making authority.

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Fourth: Who's Registered?

As of this writing, the Board has about 650 registered lobbyists. About half of all lobbyists work on behalf of clients in real estate development. Nearly every City department has its lobbyists. Maybe you work with them every day. To view a current list of lobbyists and their clients, see: www.cityofchicago.org/lobbyistlist.htm

Fifth: What's entailed in a registration?

Lobbyists must register annually, and file activity reports semi-annually. All their registration papers and activity reports are available for public inspection. (They also must pay a registration fee of \$350 per year, and \$75 for each client after the first.) Their registrations and reports disclose who their clients are, what departments and actions they've lobbied on or before, what compensation and expenditures they've made, and an itemized list of gifts given to every

City employee or official. (So, know that if you accept a gift from a lobbyist—even that \$3 key chain—the lobbyist must report you as the recipient of the gift in a public filing.) Lobbyists must keep their registrations current: if they add a client, for example, they must file an amendment to disclose that client.

Sixth: Are there any substantive restrictions on lobbying?

Not directly. Lobbyists are prohibited from being paid for their lobbying services by a contingency fee (these laws have been on the books in Illinois and some other jurisdictions since the Civil War!). But the City does not require them to wear badges (some state legislatures do), or prohibit them from lobbying while the City Council is in session. And, lobbyists cannot give or offer anything of value (like a gift) to any City employees or officials (or their spouses, domestic partners, minor children or other immediate family members residing with them) based on an understanding City decisions or actions would be influenced thereby.

Someone You Should Know Executive Director, Steve Berlin



In December 2008, Steve Berlin, 50, was named by Mayor Daley and confirmed by the City Council as the Executive Director of the Board of Ethics. He had been serving as the Board's Acting Executive Director of the Board since October 1, 2006. He began his City career in September 1993 as the Board's Deputy Director.

Steve appears regularly at conferences and panels as a speaker on ethics in government, and is an active committee member of COGEL (the Council on Government Ethics Laws). He is a 1984 graduate of Northwestern University School of Law, and received his B.A. in history, cum laude, from Amherst College in 1980. In 1991, he earned an M.A. in Ethics from the University of Chicago Divinity School. Steve

joined the law firm of Altheimer & Gray in 1984 and then worked for Rudnick & Wolfe (now DLA Piper), both in Chicago. From 1990 until he joined the City, he was a Research Fellow for the American Judicature Society and the Park Ridge Center for Health, Faith and Ethics, both in Chicago. From 1991 through 2008, he taught Business Ethics and the Arts, and Legal Aspects of the Arts Business, as an Adjunct Professor at Columbia College Chicago.

A third-generation Chicagoan, Steve grew up in Wilmette and graduated from New Trier High School (West campus) in 1976. He lives in the Sauganash Woods neighborhood with his wife, two daughters and their I Pods.

If you have any suggestions for future content, or questions that you want answered in the next newsletter, kindly e-mail the Board of Ethics. Send your e-mail to doretha.jackson@cityofchicago.org.

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