



ETHICAL PRACTICES BOARD

2018

Annual Report



Jacob Frey, Mayor ~ Lisa Bender, City Council President
J.P. Hagerty, Chair ~ Susan L. Trammell, Ethics Officer

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Introduction

The Ethical Practices Board (“EPB”) was created in 2003 with the passage of the City’s Ethics in Government Ethics Code (“Ethics Code”), codified at M.C.O. Ch. 15. Section 15.210 of the Ethics Code establishes the EPB and outlines the powers and duties of the EPB, which include issuing advisory opinions and investigating complaints from City employees and members of the public that the Ethics Code has been violated. The Ethics Code sets forth some specific standards which no City official or employee should violate and, as importantly, sets forth aspirations for ethical conduct that go above and beyond the minimum requirements of the Ethics Code.

Further, Ethics Code §15.210(f) states:

The ethical practices board shall prepare and submit an annual report to the mayor and the city council detailing the ethics activities of the board and the city during the prior year. The format of the report must be designed to maximize public and private understanding of the board and city ethics activities. The report may recommend changes to the text or administration of this Code. The city clerk shall take reasonable steps to ensure wide dissemination and availability of the annual report of the ethical practices board and other ethics information reported by the board.

This annual report is respectfully submitted to the Mayor and to the City Council in response to the requirements of the Ethics Code.

Appointment and Membership

The 2018 members of the EPB were Walter Bauch, Mehmet Konar-Steenberg and JP Hagerty. JP Hagerty was the EPB’s 2017 chair.

Walter Bauch was originally appointed to the EPB in August 2010, and is currently serving a term to expire January 2, 2021. Mr. Bauch is a partner with the law firm of Collins, Buckley, Sauntry & Haugh, PLLP, in St. Paul. He practices in the areas of family law, insurance defense and personal injury, business and business litigation, and appellate practice. He is a family law mediator and, since 1994, has served as a Hennepin County Conciliation Court Referee.

JP Hagerty was originally appointed to the EPB in January 2012 and is currently serving a term to expire in January 2, 2020. Ms. Hagerty is transplant to Minnesota and has been a resident of the Windom Park neighborhood of Northeast Minneapolis for 15 years. She is employed as a Strategic Project Manager for Allina Health. Prior to joining Allina Health, she held various leadership roles at the University of Minnesota. Ms. Hagerty’s credentials include, a Master’s degree in Organizational Leadership from St. Catherine University, a Health Care Compliance Graduate Certificate from Mitchell Hamline’s Health Law Institute, a project management certificate from the U of MN, and a Bachelor’s degree from the UNC Charlotte.

Mehmet Konar-Steenberg was appointed to the EPB in March 2018 to fill a vacancy created by the resignation of Ms. Virginia Rae Bly upon completion of her term ending January 2, 2018. Mr. Konar-Steenberg will serve a term expiring January 2, 2021. Mr. Konar-Steenberg is the Briggs & Morgan/Xcel Energy Chair in Energy and Environmental Law at Mitchell Hamline School of Law (“Mitchell Hamline”). At Mitchell Hamline, he oversees the government practice curriculum and teaches administrative law,

constitutional law, environmental law, and property law courses. Previously, he both served as a Minnesota assistant attorney general representing the MPCA and the DHS and represented cities and counties through the League of Minnesota Cities and the Minnesota Counties Insurance Trust while in private practice at Greene Espel PLLP.

Ethics Code §15.220 provides that the City Attorney shall designate an assistant city attorney as the City's Ethics Officer. Susan Trammell was designated Ethics Officer in February 2006 and continues to serve in that role.

Mission

The Mission of the Board is to promote integrity in City government by providing the services set forth in Ethics Code §15.210(e). These services include providing interpretations of the Ethics Code, responding to allegations of Ethics Code violations, and providing policy advice to the Ethics Officer.

2018 Accomplishments

The primary activities and accomplishments of the Ethical Practices Board and assigned staff in 2018 included:

I. Ethics Education

Requirements of the Ethics Code

The Ethics Code requires attendance at an ethics education seminar within six months of becoming a local official or employee and every four years thereafter for local officials and every three years thereafter for employees. The Ethics Code states that the education seminars are to be designed and implemented by the Human Resources Department to educate local officials and employees about their duties and responsibilities under the Ethics Code. Department heads are responsible for ensuring that all of their employees attend the required ethics education seminars.

Board and Commission Ethics Code Education

The Ethics Code requires the resident volunteers serving on approximately 50 boards, commissions and advisory committees (collectively "boards") to attend ethics education upon beginning their service and every four years thereafter. A 2009 gift of web-based computerized training permits the board members to participate in the training at their own convenience. The City Clerk's office is automatically notified of the board member's completion of the training when the member reaches the end of the training materials and supplies the member's name and board membership.

The City Clerk's office has moved forward both a spring and a fall orientation for new board members through which it communicates the electronic ethics education requirement to newly appointed members. The City Clerk's office also regularly communicates with board liaisons to remind the appointed members when their refresher training is due. At the time this report was created, only 406 of the 452 appointments were filled. Of the filled memberships, training compliance is at 80%. This is a vast improvement over the 58% compliance at the end of 2017 and the highest compliance since tracking began in 2009.

Employee Ethics Code Education: Historical Perspective and Current Statistics

Upon passage of the Ethics Code in March of 2003, a concerted effort was made to provide Ethics Code education to the entire City workforce, the elected officials and the members of the City's boards and commissions. To this end, a videotaped training featuring "Dr. Bill" was produced and the vast majority of covered persons attended ethics education prior to March 31, 2004. Beginning in October 2006, Ethics Officer Susan Trammell began conducting in-person ethics education seminars for city employees, elected officials and the members of the City's boards and commissions. In collaboration with the Human Resources Department Training and Development division ("Training and Development"), a city-wide employee Ethics Code refresher class was offered twice each month through 2012 in conjunction with required Respect in the Workplace education.

In 2009, the Ethics Code was amended to require refresher ethics education every three years for employees instead of every four years. The ordinance change resulted in a large number of regular employees falling out of compliance. Much effort was invested in 2009-2011 to provide ethics education opportunities to employees and remind department heads of the Ethics Code's education requirement and their duty to ensure their employees attend ethics education.

Since 2010, the Board's work plan has included an objective to implement electronic ethics education training for City employees. In 2012, the City Council appropriated \$40,000 of 2011 rollover funds for development of electronic-based ethics education refresher training for all city personnel. The Ethics Officer collaborated with staff from the Communications and Information Technology departments to create a new electronic ethics refresher training program which was rolled out to employees in 2013. The thirty-minute electronic training module discusses conflicts of interest, issues related to outside employment, gifts and use of City property. Staff from several departments volunteered to act in the video segments to illustrate ethical issues that employees could face as they perform their duties. The training received a 2014 honorable mention in the National Association of Telecommunications Officers and Advisers' government programming awards.

With the rollout of the electronic training module, employees are no longer required to travel to a classroom location and take the refresher training during pre-set times. The electronic training module was added to COMET's Learning and Development portal in Fall of 2015 for automatic reporting upon electronic training completion. In 2018, in collaboration with the Human Resources Training and Development team, a second-generation electronic training module was developed and rolled out for the next three-year refresher training cycle. As of December 31, 2018, 83.1% of employees, regular and seasonal, are compliant with the required Ethics Code education. The percent compliant is consistent with the 82.7% compliant as of December 31, 2017.

A ten-minute political activity electronic training module outlining the do's and don'ts employees must follow during election season was completed in summer of 2016. Nearly 100% of employees and all elected officials completed this training in 2016 notwithstanding the COMET technology difficulties. The training module remains active in COMET and employees who want to engage in political activity are encouraged to watch the video. COMET records indicate that the political activity video was accessed 44 times in 2018.

The Ethics Officer, or a designee, presents ethics education at all new employee orientations. In 2018, the Ethics Officer, or a designee, conducted 23 in-person trainings for new employees, new supervisors and elected officials. This in-person training will continue as it is important for those new to the City or assuming new responsibilities to have more intensive training as well as an ethics discourse opportunity.

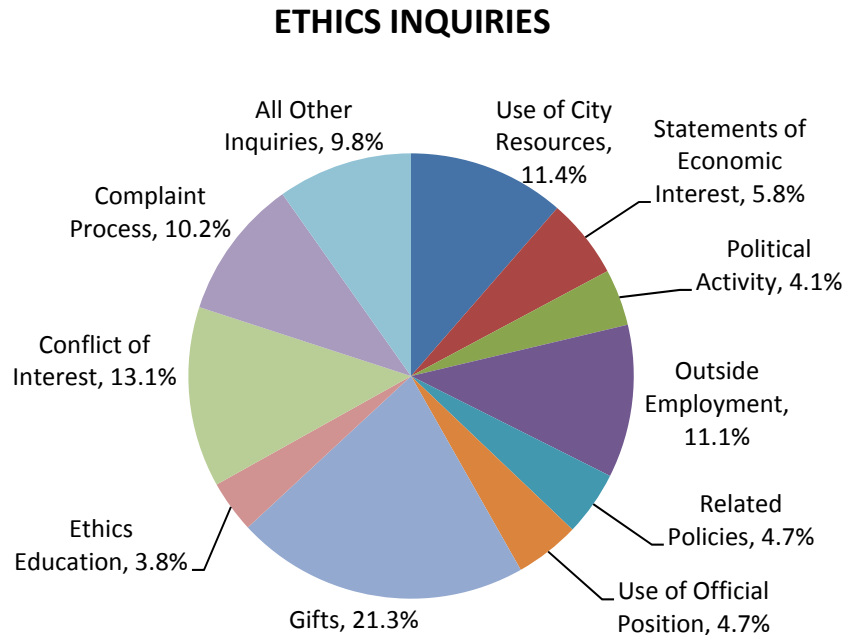
The following chart depicts the Ethics Code education status of the employees of each department.

**Employee Ethics Education Status by Department
As of December 31, 2018**

Department	COMET Reported Number of Employees	Employees Up-to-date with Ethics Education	Employees out of Compliance	Refresher Training Due in 2019
311	32	32	0	6
911	75	27	48	10
ASSESSOR	37	27	10	13
ATTORNEY	118	100	18	14
CITY CLERK	77	77	0	1
CITY COORDINATOR	37	19	18	5
CIVIL RIGHTS	32	26	6	8
COMMUNICATIONS	11	6	5	5
COMMUNITY PLANNING & ECONOMIC DEVELOPMENT	244	239	5	111
CONVENTION CENTER	212	202	10	2
EMERGENCY MANAGEMENT	8	7	1	1
FINANCE AND PROPERTY SERVICES	249	208	41	75
FIRE DEPARTMENT	430	324	106	8
HUMAN RESOURCES	55	44	11	5
INFORMATION TECHNOLOGY	94	76	18	11
INTERGOVERNMENTAL RELATIONS	10	5	5	1
INTERNAL AUDIT	5	5	0	0
MAYOR	15	13	2	0
MINNEAPOLIS HEALTH DEPARTMENT	115	93	22	11
NEIGHBORHOOD COMMUNITY RELATIONS	18	8	10	2
POLICE DEPARTMENT	1071	908	163	61
PUBLIC WORKS	1119	1005	114	172
REGULATORY SERVICES	184	80	104	43
Totals	4248	3531	717	565

II. Ethics Inquiries

From January 1, 2018 through December 31, 2018, the Ethics Officer answered 343 telephone and email inquiries regarding ethics.¹ The number of inquiries increased slightly from 314 inquiries in 2017. The substantive topics of 2018 inquiries were as follows:



The top three categories of inquiries (Gifts, Conflict of Interest and Use of City Resources) changed from 2017 (Conflict of Interest, Gifts and Outside Employment). Calls related to gifts moved from second place in 2017 to once again become the most frequent inquiry. Gifts has been the top inquiry category for 8 of the last 9 years. Most conflict of interest inquiries involve employees' outside employment and board and commission members' professional lives coming before their board or commission.

The inquiry category "Other" contains all categories of inquiries constituting less than 3.5% of total inquiries. Changes over the years in inquiry percentages are depicted in the following chart:

¹ Inquiries presented during education sessions and in person immediately after ethics education sessions are not included in the numbers.

ETHICS INQUIRIES - HISTORICAL

Category, Ethics Code Section	Percentage Inquiries 2015	Percentage Inquiries 2016	Percentage Inquiries 2017	Percentage Inquiries 2018
Aspirations, 15.10,15.20,15.130 & 15.180	0.5%	0.8%	0.6%	0.0%
Fiduciary Duty, 15.30	0.5%	0.0%	0.6%	0.0%
Conflict of Interest, 15.40	12.1%	10.9%	16.9%	13.1%
Lobbyists, 15.40(b)(4)	0.0%	0.0%	0.0%	0.0%
Gifts, 15.50	27.0%	30.8%	16.6%	21.3%
Outside Employment, 15.60	9.3%	4.2%	10.2%	11.1%
Post-employment, 15.90	0.0%	1.2%	3.8%	1.4%
Use of Official Position, 15.70	1.4%	0.0%	2.9%	4.7%
Statements of Economic Interest, 15.80	7.0%	7.4%	7.6%	5.8%
Use of City Resources, 15.100	8.8%	12.8%	8.3%	11.4%
Political Activity, 15.110	2.3%	7.4%	8.0%	4.1%
Loans, 15.120	0.5%	0.8%	0.0%	0.6%
Required Reporting, 15.140	0.0%	0.0%	0.0%	0.0%
Discrimination / Harassment, 15.150	0.0%	0.4%	0.3%	0.6%
Nepotism, 15.160	0.5%	0.8%	1.0%	0.6%
Use/disclosure of Information, 15.170	1.4%	0.0%	2.2%	0.9%
Bias/Favoritism, 15.190	5.1%	1.6%	2.5%	1.1%
Inappropriate Influence, 15.200	0.0%	0.8%	0.6%	0.0%
Ethical Practices Board, 15.210	0.9%	1.2%	0.6%	1.4%
Complaint Process, 15.230	10.2%	4.7%	5.1%	10.2%
Contracts, 15.250	0.5%	1.2%	0.0%	0.0%
Ethics Education, 15.260	3.2%	5.6%	4.5%	3.8%
Related Policies	6.5%	7.0%	6.1%	4.7%
Miscellaneous	2.3%	1.2%	1.6%	3.2%

III. Ethics Complaints and Ethics Report Line

Ethics Complaints

In 2018, a total of 46 new complaints alleging 73 allegations were received and 12 complaints were carried over from prior years. The Ethics Officer received 28 complaints alleging 51 violations, either directly or through the Ethics Report Line. Ethics Code §15.230(c) requires a supervisor or department head to notify the Ethics Officer of a report of an alleged Ethics Code violation and the subsequent outcome; this required reporting resulted in an additional 18 reports alleging 21 Ethics Code violations. In addition, the HR Investigative Unit reported an additional 43 complaints.² The Ethics Officer has been working with Departments regarding the required notifications. More departments are complying with the reporting requirement, and both the complaint numbers and the required reporting by department numbers reflect this compliance effort. Most notably, the police department and public works, two of the City's largest departments, made significant efforts to notify the Ethics Officer – and, when appropriate, the Internal Auditor – of ethics situations in 2018.

² The Human Resources Investigative unit reported 43 complaints in 2018, including 3 discrimination/harassment complaints received via Ethics Report Line. Anti-Discrimination, Harassment & Retaliation (“ADH&R”) investigations were conducted for 25 complaints and 18 of the complaints were returned to the applicable departments as non-ADH&R complaints. Only the Ethics Report Line discrimination/harassment complaints are included on the chart above.

The complaints were reported by the following methods³:

Reporting Method ³	2013	2014	2015	2016	2017	2018
Ethics Officer	9	8	24	12	17	8
Ethics Report Line – Internet	13	18	10	10	14	17
Ethics Report Line – Telephone	15	17	19	13	10	3
Ethics Report Line – Email	0	10	0	0	0	0
Required Reporting by Department	4	32	74	19	4	18
311 Reporting	2	0	1	0	0	1
Employee Self Reporting	0	1	0	0	0	1
Totals	43	86	128	54	45	48

The historical usage of the Ethics Report Line is as follows:

Year	Ethics Report Line as a Percent of Total Reports
2011	50%
2012	50%
2013	65%
2014	53%
2015	23%
2016	43%
2017	58%
2018	42%

The use of the Ethics Report Line, as a reporting mechanism, has remained fairly constant as a percentage of reports in recent years. The apparent decline in use of the Ethics Report Line during 2015 and 2016 was due almost entirely to two factors: multiple filings for the same complaint; and increased department reporting. The decreased 2018 Ethics Report Line usage percentage is also attributable to the increased departmental reporting of ethics violations.

The subject matter of the 73 complaint allegations covered the entire Ethics Code as well as other management concerns:⁴

Subject Matter, Ethics Code Section	2013	2014	2015	2016	2017	2018
Fiduciary Duty, 15.30	0	2	5	0	0	0
Conflict of Interest, 15.40	1	1	2	4	3	2
Gifts, 15.50	1	0	1	1	0	2
Outside Employment, 15.60	2	1	4	2	6	2
Use of Official Position, 15.70	0	4	2	2	5	1
Statements of Economic Interest, 15.80	0	0	0	0	0	0
Post-employment, 15.90	0	0	0	0	0	0
Use of City Property or Time, 15.100	1	1	2	1	1	2

³ Occasionally complaints are reported utilizing multiple reporting mechanisms. For those years in which complainants utilized multiple reporting methods, the reporting method numbers will not equal the number of complaints received.

⁴ Some complaints contained more than one allegation so these numbers will not equal the number of complaints received.

Subject Matter, Ethics Code Section	2013	2014	2015	2016	2017	2018
Political Activity, 15.110	1	0	0	1	2	2
Loans	0	0	0	0	1	0
Required Reporting of Fraud, 15.140	2	1	0	0	4	1
Discrimination/Harassment, 15.150 ⁵	27	14	13	16	10	7
Nepotism, 15.160	3	4	2	4	0	1
Use/Disclosure of Information, 15.170	3	3	72	1	4	3
Bias or Favoritism, 15.190	11	15	9	7	20	14
Inappropriate Influence, 15.200	0	2	2	2	1	0
Contract Compliance, 15.250	0	1	0	0	0	0
Management Issues/Employee Relations	4	1	5	9	5	5
Other Policy Violations	0	2	3	0	3	2
Compliance with Other Laws	2	3	1	0	0	6
Ethical Aspirations, 15.10, 15.20, 15.130, & 15.180	1	6	0	6	3	1
Other	1	4	6	2	8	4

In past years, complaints related to the use of city resources have historically been a substantial portion of total complaints. The number of bias or favoritism allegations, however, increased sharply in 2017 and that trend continued in 2018. While a bias and favoritism allegation can be a complicated subject, it basically amounts to a supervisor or manager favoring a particular employee or group, thereby leaving excluded employees at an unfair disadvantage. Bias and favoritism cases are difficult to prove; often complainants have alleged favoritism as they've seen co-worker getting opportunities the complainants weren't receiving, yet upon further investigation, it turned out those co-workers were actually out-performing the complainants. In fact, of the bias or favoritism complaints closed this year, only two complaints resulted in coaching and no complaints resulted in discipline. It is important to be aware of this trend in bias or favoritism complaints because bias or favoritism at work can ultimately be damaging to the City, its employees, and the City's work environment. Policies, procedures and training programs should be reviewed to ensure they are as neutral and objective as possible.

Discrimination and harassment allegations involving protected classes are investigated by the Human Resources Lead Investigator for violations of the ADHR Policy whereas discrimination and harassment complaints containing non-protected class allegations are forwarded to the appropriate department for investigation.⁶ If the 53 complaints received directly by HR's ADHR Policy investigators are considered, discrimination and harassment allegations – consisting of both protected class and non-protected class allegations – become the most frequently alleged Ethics Code violation.

The end-of-the-year status of the 12 carryover complaints and the 46 new 2018 complaints are as follows:⁷

- | | |
|---------------------------------------|---|
| Pending – 13 | Discipline imposed – 2 |
| Unsubstantiated, no action taken – 22 | Coaching – 11 |
| Department action taken – 5 | No jurisdiction – 2 |
| No Probable Cause – 1 | Closed, no investigation (Rule 7.6) – 1 |
| Complainant failed to cooperate – 1 | Administrative Closure – 3 |

The Ethics Officer has taken the opportunity, while assisting departments with the handling of these complaints, to review and suggest changes to the departments' internal policies. Such reviews and

⁵ Does not include the 43 complaints received directly by HR's ADHR Policy investigators. See footnote 3, *supra*.

⁶ See footnote 3, *supra*.

⁷ Some complaints contained more than one outcome so these numbers will not equal the number of complaints received.

revisions of policies assist departments in avoiding appearances of impropriety and promote a healthy, ethical culture in the City.

Ethics Report Line

The Ethics Report Line has been operational since June 1, 2008. All reports made through the Ethics Report Line are forwarded to the City’s Ethics Officer, Susan Trammell. If the report is an ADHR Policy report, it is also forwarded to the City’s Human Resources Lead Investigator, Steve Kennedy. If the report is a non-ADHR Policy allegation, it is also forwarded to the City’s Internal Auditor, Ginger Bigbie. This process is to ensure no complaint is overlooked. Once received, the reports are forwarded as required by the Ethics Code to the appropriate official for investigation, usually the Department Head and Human Resources Generalist for the applicable department. The Ethics Officer contacts the department periodically to check on the status of the investigation until the complaint is closed.

The Ethics Report Line vendor tracks statistics related to the reports made through its clients’ compliance lines:⁸

Original Incident Reports	2016 % City	2016 % Vendor Clients	2017 % City	2017 % Vendor Clients	2018 % City
Anonymous Reports	92%	58%	82%	56%	78%
Non-Anonymous Reports	8%	42%	18%	44%	22%
Caller Callbacks	19%	30%	17%	32%	14%

Although the vendor’s 2018 benchmarking data is not yet available, historically the City’s anonymous reporting is significantly higher than that of the vendor’s other clients. A lower rate of anonymous reporting is an indicator of trust in the system and the people who manage it. Anonymous callers are instructed to re-contact the hotline after a designated period-of-time to answer any questions the assigned investigator may have for the caller. The importance of calling back is stressed when the Ethics Report Line process is discussed during Ethics Education classes. Calling back is essential for the City to properly investigate anonymous complaints. The City’s anonymous callers generally do not re-contact the hotline and failure to do so has resulted in the inability to further investigate some complaints.

IV. Proposed Ordinance Amendments

The Board has no proposed ordinance amendments at this time.

⁸ NAVEX Global, *2018 Ethics & Compliance Hotline & Incident Management Benchmark Report* (2018).

2018 Volunteer Hours

The three members of the Board collectively spent approximately 33 hours on work related to the Board during the 2018 calendar year. This year's business before the Board only necessitated the Board holding bi-monthly meetings. On average, each member spent two hours per meeting on Board-related activities which is slightly less than prior years.

2019 Work Plan

Approved by the Ethical Practices Board – 1/15/2019

The 2019 work plan is predicated on the availability of City staff to complete the tasks requiring staff involvement.

Ethics Education

- Conduct new employee ethics education seminars.
- Consult with departments to determine the ethics education needs of contractors.
- Conduct ethics education seminars for departments as requested.
- Continue collaboration with the City Clerk's office to incorporate the required ethics education into the appointed board and commission appointment process.
- Continue collaboration with the City's Communication Department to create a communication strategy to promote awareness of both ethics and the Ethics Report Line.
- Continue collaboration with Human Resources and Information Technology to produce an electronic ethics education training for the next three-year cycle of ethics education.

Ethics Code Review

- Review the City's Ethics Code and propose potential amendments to improve effectiveness of the Code.

Ethical Practices Board Structure

- Research best practices relating to scope of board authority.

Code Interpretation through Policy Recommendations

- Assist departments with policy drafting upon request.

Ethics Inquiries

- Answer Ethics Code inquiries from employees, local officials and the public.

Ethics Complaints and the Ethics Report Line

- Manage complaints received directly as well as from the Ethics Report Line.
- Collaborate with the City's Enterprise Complaint Protocol Project.

Promote an Ethical Culture in the City of Minneapolis

- Reach out to departments to engage them in discussions about their ethical cultures and ways to improve the culture.