



ETHICAL PRACTICES BOARD

2016

Annual Report



Betsy Hodges, Mayor ~ Barbara Johnson, City Council President
Virginia ("Rae") Bly, 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 2016 chair of the EPB was Ms. Virginia (“Rae”) Bly. Ms. Bly was first appointed to the Board in November 2015, and is currently serving a term to expire on January 2, 2018. Ms. Bly is a former attorney for the Minnesota Department of Human Services (“DHS”) where she served as the Director of the DHS Compliance Office Management and Policy Division as well as the DHS Ethics Officer. She is certified by the Society of Corporate Compliance and Ethics as a Certified Compliance and Ethics Professional, as well as being a licensed attorney.

Mr. Walter Bauch was originally appointed to the EPB in August 2010, and is currently serving a term to expire January 2, 2018. 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, probate litigation, real estate, insurance defense and personal injury, business and business litigation, professional responsibility and appellate practice. He is a family law mediator and, since 1994, has served as a Hennepin County Conciliation Court Referee.

Ms. JP Hagerty was originally appointed to the EPB in January 2012 and is currently serving a term to expiring in January 2020. Ms. Hagerty is a 15 year resident of the Windom Park neighborhood of northeast Minneapolis. She is completing a Masters in Organizational Leadership at St. Catherine’s University, St. Paul. Ms. Hagerty is a senior strategic project manager in Allina Health's Strategic Portfolio Management Office

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.

2016 Accomplishments

The primary activities and accomplishments of the Ethical Practices Board and assigned staff in 2016 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 approximately 535 citizen volunteers serving on approximately 55 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 his/her 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 364 of the approximately 535 appointments were filled. Of the filled memberships, training compliance is at 46%.

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 no longer have to travel to the 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. However, COMET technology interface difficulties have prevented employees from successfully participating in the ethics education module from start to finish. As a result, only 73.3% of all employees, regular and seasonal, were in compliance with the required Ethics Code education as of December 31, 2016. The percent compliant is down from 88.5% in 2014 and 82.6% in 2015. Interdepartmental efforts continue to work toward resolution of the technology interface issue.

A ten-minute political activity electronic training module was completed in summer of 2016. Nearly 100% of employees and all elected officials completed this training notwithstanding the COMET technology difficulties.

The Ethics Officer continues to present ethics education at all new employee orientations. This in-person training will continue as it is important for all new employees to have more intensive training at the beginning of their City employment, as well as an ethics discourse opportunity with the Ethics Officer.

Electronic ethics education remains on the Board's work plan as a new electronic training module is being developed for the next three-year refresher training cycle.

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, 2016**

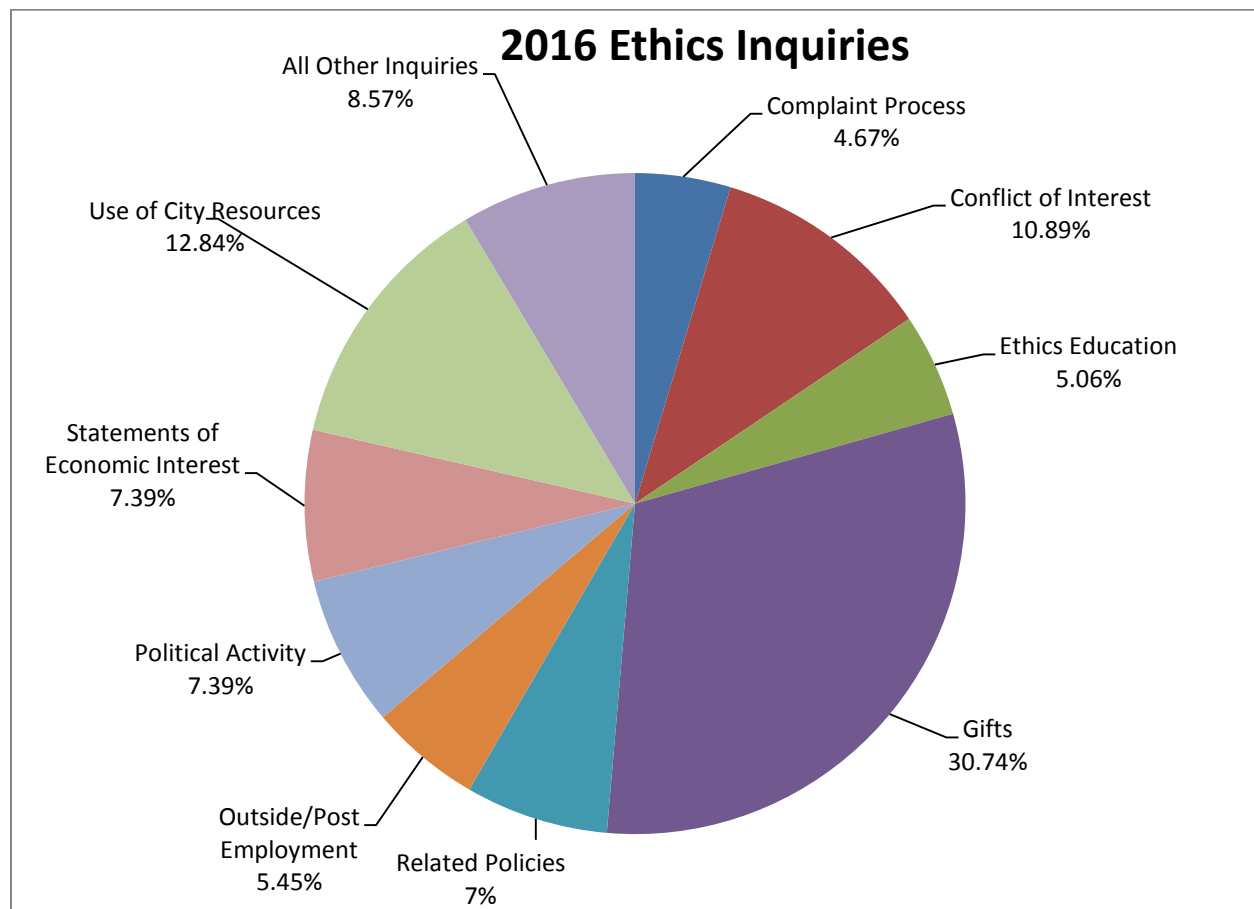
Department	COMET Reported Number of Employees	Employees Up-to-date with Ethics Education	Employees out of Compliance	Refresher Training Due in 2017
311	29	17	12	8
911	73	66	7	28
ASSESSOR	37	36	1	7
ATTORNEY	106	38	68	14
CAPITAL IMPROVEMENTS	42	39	3	2
CITY CLERK	52	38	14	6
CITY COORDINATOR	24	13	11	1
CIVIL RIGHTS	25	20	5	3
COMMUNICATIONS	11	7	4	3
COMMUNITY PLANNING & ECONOMIC DEVELOPMENT	224	163	61	19
CONVENTION CENTER	202	166	38	158
EMERGENCY MANAGEMENT	6	6	0	4
ESTIMATE & TAXATION	4	0	4	0
FINANCE AND PROPERTY SERVICES	230	160	70	53
FIRE DEPARTMENT	413	111	302	79
GENERAL FUND CONTINGENCY	2	1	1	0
HUMAN RESOURCES	52	25	27	8
INFORMATION TECHNOLOGY	80	57	23	24
INTERGOVERNMENTAL RELATIONS	8	1	7	0
INTERNAL AUDIT	3	3	0	1
MAYOR	10	10	0	10
MINNEAPOLIS HEALTH DEPARTMENT	102	56	46	29
NEIGHBORHOOD COMMUNITY RELATIONS	17	7	10	4
POLICE DEPARTMENT	1014	917	97	11
PW-Business Administration	15	14	1	7
PW-Fleet Services	79	71	8	60
PW-Sanitary Sewer	54	48	6	2
PW-Solid Waste & Recycling	130	128	2	92
PW-Storm Water	40	32	8	4
PW-Traffic & Parking Services	135	73	62	36
PW-Transportation Maintenance & Repair	245	184	61	127
PW-Transportation Planning & Programming	13	13	0	6
PW-Transportation Engineering & Design	61	60	1	25
PW-Water Treatment & Distribution	205	150	55	52
REGULATORY SERVICES	175	145	30	47
Totals	3918	2873	1045	930

II. Ethics Inquiries

From January 1, 2016 through December 31, 2016, the Ethics Officer answered 259 telephone and email inquiries regarding ethics.¹ The number of inquiries increased slightly from 216 inquiries in 2015. The substantive topics of 2016 inquiries were as follows:

The top three categories of inquiries did not change from last year: Gifts, Use of City Resources and Conflict of Interest. The calls related to gifts remained the most frequent category of inquiry for the seventh consecutive year. A substantial portion of the employee ethics education sessions are devoted to gifts and it is encouraging that employees will call the Ethics Officer when faced with uncertain situations. Questions related to gifts are highly fact dependent and not easily answered by FAQ or other informational brochures.

The inquiry category “Other” contains miscellaneous inquiries which range from requests for a copy of the Ethics Code to how to file a complaint to information about serving on the Board to ethics education requirements. 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.

Category, Ethics Code Section	Percentage Inquiries 2013	Percentage Inquiries 2014	Percentage Inquiries 2015	Percentage Inquiries 2016
Aspirations, 15.10,15.20,15.130 & 15.180	0.5%	0.0%	0.5%	0.8%
Fiduciary Duty, 15.30	0.0%	0.4%	0.5%	0.0%
Conflict of Interest, 15.40	16.2%	20.6%	12.1%	10.9%
Lobbyists, 15.40(b)(4)	1.0%	0.0%	0.0%	0.0%
Gifts, 15.50	22.8%	24.9%	27.0%	30.8%
Outside & Post Employment, 15.60 & 15.90	3.6%	7.5%	9.3%	5.4%
Use of Official Position, 15.70	2.5%	4.3%	1.4%	0.0%
Statements of Economic Interest, 15.80	8.6%	4.3%	7.0%	7.4%
Use of City Resources, 15.100	5.1%	9.9%	8.8%	12.8%
Political Activity, 15.110	6.6%	3.6%	2.3%	7.4%
Loans, 15.120	0.0%	0.0%	0.5%	0.8%
Required Reporting, 15.140	0.0%	0.4%	0.0%	0.0%
Discrimination / Harassment, 15.150	0.0%	0.2%	0.0%	0.4%
Nepotism, 15.160	2.0%	0.4%	0.5%	0.8%
Use/disclosure of Information, 15.170	0.5%	1.2%	1.4%	0.0%
Bias/Favoritism, 15.190	0.0%	2.4%	5.1%	1.6%
Inappropriate influence, 15.200	0.0%	0.0%	0.0%	0.8%
Ethical Practices Board, 15.210	2.0%	0.8%	0.9%	1.2%
Complaint Process, 15.230	6.6%	4.0%	10.2%	4.7%
Contracts, 15.250	0.0%	0.8%	0.5%	1.2%
Ethics Education, 15.260	8.6%	5.1%	3.2%	5.6%
Related Policies	8.1%	7.1%	6.5%	7.0%
Miscellaneous	4.1%	2.0%	2.3%	1.2%

III. Ethics Complaints and Ethics Report Line

Ethics Complaints

In 2016, the Ethics Officer received 38 total complaints alleging 69 violations directly and 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 19 reports of Ethics Code violations. In addition, the HR Investigative Unit reported 29 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 number of complaints and the increase in 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 2016.

The complaints were reported by the following methods:

Reporting Method ³	2011	2012	2013	2014	2015	2016
Ethics Officer	3	5	9	8	24	12
Ethics Report Line – Internet	7	5	13	18	10	10
Ethics Report Line – Telephone	6	7	15	17	19	13
Ethics Report Line – Email	0	0	0	10	0	0
Required Reporting by Department	8	7	4	32	74	19
311 – Citizen Reporting	2	0	2	0	1	0
Employee Self Reporting	0	0	0	1	0	0
Totals	26	24	43	86	128	54

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

Year	Ethics Report Line as a Percent of Total Reports
2009	57%
2010	54%
2011	50%
2012	50%
2013	65%
2014	51%
2015	23%
2016	43%

The use of the Ethics Report Line, both internet and phone, as a reporting mechanism has remained fairly constant as a percentage of reports in recent years. The apparent decline in use of the Ethics

² The Human Resources Investigative unit reported 29 complaints in 2016, including the complaints received via Ethics Report Line. Nineteen of the complaints resulted in Anti-Discrimination, Harassment & Retaliation (“ADH&R”) investigations and ten of the complaints were returned to the applicable departments as non-ADH&R complaints. Only the Ethics Report Line HR Investigative Unit numbers are included on the chart above.

³ One complaint was reported utilizing multiple reporting mechanisms so the reporting method numbers will not equal the number of complaints received.

Report Line is due almost entirely to two factors: multiple filings for the same complaint; and increased department reporting. If the numbers are adjusted for those factors, the Ethics Report Line complaints as a percentage of total ethics complaints rises to 62% and 60%, respectively. These usage percentages are more in line with historical statistics.

The subject matter of the 148 complaint allegations⁴ covered the entire Ethics Code as well as other management concerns:

Subject Matter, Ethics Code Section	2011	2012	2013	2014	2015	2016
Fiduciary Duty, 15.30	2	3	0	2	5	0
Conflict of Interest, 15.40	1	5	1	1	2	4
Gifts, 15.50	0	0	1	0	1	1
Outside Employment, 15.60	2	3	2	1	4	2
Use of Official Position, 15.70	1	7	0	4	2	2
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	7	18	17	10	21	16
Political Activity, 15.110	1	0	1	0	0	1
Required Reporting of Fraud, 15.140	0	0	2	1	0	0
Discrimination/Harassment, 15.150 ⁵	2	2	27	14	13	16
Nepotism, 15.160	1	0	3	4	2	4
Use/Disclosure of Information, 15.170	4	4	3	3	72	1
Bias or Favoritism, 15.190	1	4	11	15	9	7
Inappropriate Influence, 15.200	2	3	0	2	2	2
Contract Compliance, 15.250	0	0	0	1	0	0
Management Issues/Employee Relations	3	3	4	1	5	9
Other Policy Violations	2	3	0	2	3	0
Compliance with other Laws	2	0	2	3	1	0
Ethical Aspirations, 15.10, 15.20, 15.130, & 15.180	1	4	1	6	0	6
Other	0	2	1	4	6	2

Complaints related to the use of city resources have historically been a substantial portion of total complaints and that trend continued in 2016. Discrimination and harassment allegations involving protected classes are investigated by the Human Resources Lead Investigator for violations of the Anti-Discrimination, Harassment, and Retaliation Policy (“ADHR Policy”).⁶ Discrimination and harassment complaints containing non-protected class allegations are forwarded to the appropriate department for investigation. Taking into account the ADHR Policy complaints, discrimination and harassment allegations, consisting of both protected class and non-protected class allegations, were the most frequent allegations in 2016.

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

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

⁶ See footnote 3, *supra*.

The end-of-the-year status of the carryover complaints and 2016 complaints are as follows:⁷

Pending – 5	Discipline imposed – 7
Unsubstantiated, no action taken – 25	Coaching – 13
Department action taken – 9	No jurisdiction – 0
Complainant failed to cooperate – 1	Closed, no investigation (Rule 7.6) – 2
Administrative Closure – 2	Other – 0

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 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 Internal Auditor Will Tetsell. 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:

Original Incident Reports	2014 % City	2014 % Vendor Client	2015 % City	2015 % Vendor Clients	2016 % City	2016 % Vendor Clients
Anonymous Reports	70.2%	39.9%	78.4%	37.5%	91.7%	40.7%
Non-Anonymous Reports	29.8%	60.1%	21.6%	62.5%	8.3%	59.3%
Caller Callbacks	22.1%	6.8%	5.6%	8.1%	18.9%	7.9%

For all years of Ethics Report Line operation, the City's anonymous reporting is significantly higher than that of The Network's other clients. Anonymous callers are instructed to re-contact the Network 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.

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

IV. Proposed Ordinance Amendments

The Board has no proposed ordinance amendments at this time.

2016 Volunteer Hours

The three members of the Board collectively spent approximately 63 hours on work related to the Board during the 2016 calendar year. This year's business before the Board only necessitated the Board holding bi-monthly meetings and two special meetings. On average, each member spent three hours per meeting on Board-related activities which is consistent with prior years.

2017 Work Plan

Approved by the Ethical Practices Board – 1/17/2017

The 2017 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 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 game for the next three-year cycle of ethics education.

Ethics Code Review

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

Ethical Practices Board Structure

- Research best practices relating to scope of board authority.

Statements of Economic Interest

- Collaborate with City Clerk and Intergovernmental Relations to pursue statutory amendments to the filing of the Statements of Economic Interest requirements.

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 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.