



# ETHICAL PRACTICES BOARD

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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 2014 chair of the EPB was Mr. Walter Bauch. Mr. 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 serves, since 1994, 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 expire on January 2, 2017. Ms. Hagerty is a 12 year resident of the Windom Park neighborhood of northeast Minneapolis. She has a BA in Biology from UNC Charlotte, a Project Management Certification from the University of Minnesota, and is working on a Masters in Organizational Leadership at St. Catherine’s University, St. Paul. Ms. Hagerty is a business project manager in Allina Health’s Strategic PMO. Ms. Hagerty is the 2015 chair of the Ethical Practices Board.

Ms. Patricia Kovel-Jarboe was first appointed to the EPB in September 2005 and served through January 2, 2015. Ms. Kovel-Jarboe is a former professor at the University of Minnesota and was also an administrator at the University of Minnesota. The EPB thanks Ms. Kovel-Jarboe for her decade of service to the City and the always thoughtful and insightful wisdom she shared during her years on the EPB.

Ms. Cassandra Ward Brown was appointed to the EPB in January 2015 and is currently serving as the Board’s Vice-Chair. Her term expires January 2, 2018. Ms. Ward Brown is the Principal of National Alternative Dispute Resolution, LLC in Minneapolis. She has been a trial attorney since 1995, practicing

primarily in the areas of employment law and insurance defense, and she is a Rule 114 Qualified Neutral. Her current practice focuses on ADR, including arbitration and mediation, ethics representation and consultation, and employment-related investigations. She is also a FINRA and AAA Arbitration Panelist. Ms. Ward Brown served for six years on the Lawyers Professional Responsibility Board as a member and as a Panel Chair presiding over ethics proceedings. She also served for six years on the Fourth Judicial District Ethics Committee. She has previously served as Conciliation Court Judge and Referee, Commissioner, and Hearing Officer for the Minneapolis Civil Rights Department, and currently serves as a Commissioner and Hearing Officer for Condemnations Proceedings. Prior to becoming an attorney, Ms. Ward Brown was a Commissioned Officer in the U.S. Army Military Police Corps.

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.

## **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.

## **2014 Accomplishments**

The primary activities and accomplishments of the Ethical Practices Board and assigned staff in 2014 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 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.

#### **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. The Dr. Bill videotape was replaced with a video featuring Ethics Officer Burt Osborne in 2005. 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. Ethics Code education is also provided at each new employee orientation session. In addition, the Ethics Officer often provided Ethics Code education to individual departments or divisions as well as to the individual City boards and commissions.

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 Ordinance education requirement and their duty to ensure their employees attend ethics education.

Since 2010 the Board's work plan 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 may be viewed here: <http://wwwdocs.minneapolismn.gov/ethics/>. 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. Approximately 30% of the City's employees took the electronic refresher training module in 2014 and 5% attended in-person classes. This resulted in 88.5% of all employees, regular and seasonal, being in compliance with the required Ethics Code education as of December 31, 2014.

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 the more intensive training at the beginning of their City employment, as well as an ethics discourse opportunity with the Ethics Officer.

An electronic assisted Statement of Economic Interest (e-SEI) form was rolled out in 2014. SEI is the form City local officials must use to disclose information about their personal financial interests. The form has sections for information about occupation, employer and sources of compensation. It also has sections to disclose information about interests in securities, real property and the horse racing industry. The new e-SEI form provides detailed explanations of the information requested for each step of the form. Such explanations can assist the discloser to complete the form accurately at the time of completion without being dependent upon Ethics Officer availability for questions.

Electronic ethics education remains on the Board's work plan as completion of the political activity refresher segment is in progress. In addition, planning activities have begun to create an electronic ethics game for the upcoming three-year refresher training cycle, 2017-2019.

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, 2014**

Department	Training Received in 2014	HRIS Reported Number of Employees	Employees out of Compliance	Will Change to Out of Compliance in 2015
311	10	26	1	11
911	36	68	16	3
ASSESSOR	9	34	5	10
ATTORNEY	18	104	7	6
INFORMATION TECHNOLOGY	29	60	13	13
CITY CLERK excluding election judges and elected officials	13	58	29	3
CITY COORDINATOR	1	17	4	9
CIVIL RIGHTS	6	24	4	5
COMMUNICATIONS	3	10	4	2
CONVENTION CENTER excluding stage hands	169	185	8	2
CPED	23	214	55	95
EMERGENCY MANAGEMENT	5	6	0	1
FINANCE	50	222	70	36
FIRE DEPARTMENT	82	392	36	2
HEALTH	45	100	2	25
HUMAN RESOURCES	11	47	13	8
INTERGOVERNMENTAL RELATIONS	0	10	4	5
INTERNAL AUDIT	0	2	0	1
MAYOR	3	12	6	0
NEIGHBORHOOD & COMMUNITY ENGAGEMENT	4	17	5	3
POLICE DEPARTMENT	29	930	49	18
PUBLIC WORKS	444	888	72	128
REGULATORY SERVICES	62	156	10	61
<b>Totals</b>	<b>1052</b>	<b>3582</b>	<b>413</b>	<b>447</b>

## **Board and Commission Ethics Code Education**

The Ethics Code requires the approximately 515 citizen volunteers serving on our more than 42 boards, commissions and advisory committees (collectively “boards”) to attend ethics education upon beginning their service and every four years thereafter. When the Ethics Code was adopted nearly all members of the City’s boards attended ethics education. Since the beginning of 2004, however, membership on the City’s boards has experienced substantial turnover but ethics education was not held when new members began serving their terms. In 2008 the Ethics Officer began presenting ethics education sessions focusing mainly upon conflicts of interest.

Providing in-person ethics education to these boards proved to be challenging because the boards often meet in the evening and their agendas are tightly packed. In 2009 the Ethics Officer worked with a donor to create an interactive computerized ethics education course for these boards. The City Council accepted this gift by resolution dated June 12, 2009. The computerized training is web-based and 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.

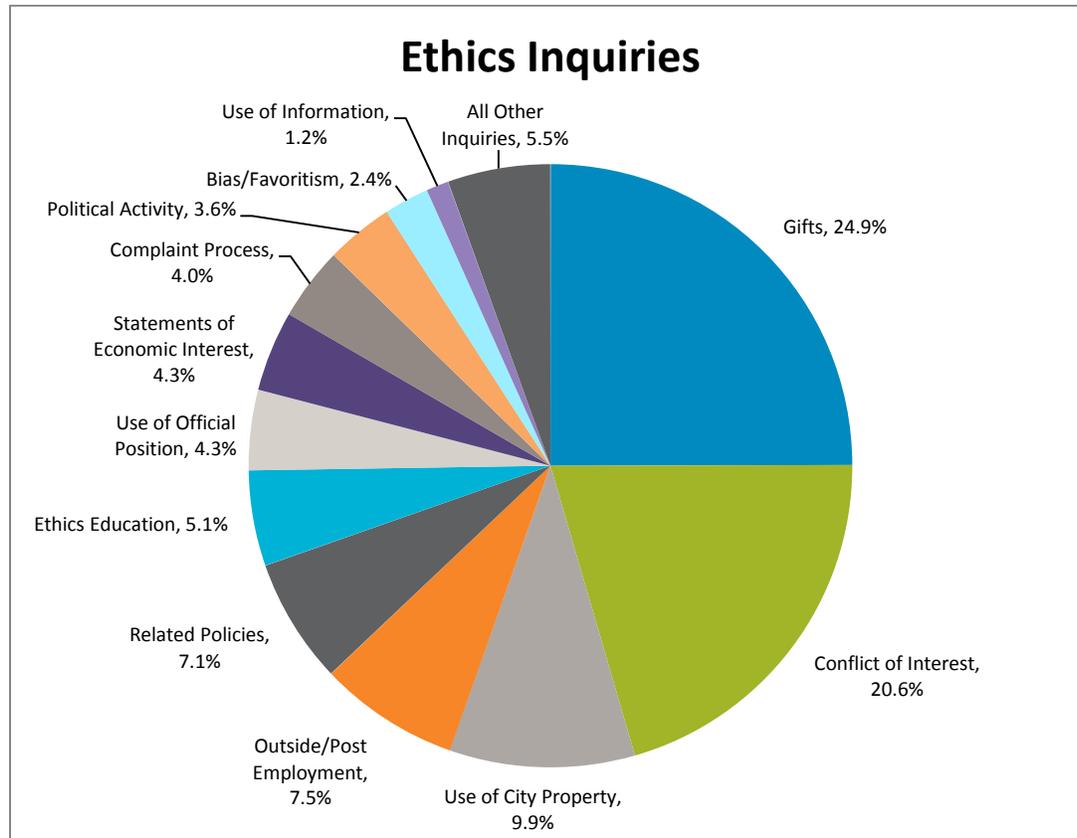
In 2010 and 2011 the Ethics Officer collaborated with the City Clerk’s office to communicate more often with liaisons of boards about the obligations of their board members and to incorporate the required ethics education into the appointment process. This collaboration has resulted in 217 members taking the required ethics education. Compliance in 2012, however, dropped again to 47% but rose to 58% in 2013.

In 2014, training reminders were sent during both the spring and fall appointment cycles to all board and commission liaisons along with instructions as to how to take the electronic ethics education. In 2014, however, only 75 members took the required ethics education. Additionally, with resignations, new appointments and returning members neglecting to take refresher education, the percent of members in compliance currently stands at 48%.

As the City Clerk’s office moves forward with plans for both a spring and a fall orientation for new board members, the electronic ethics education will be incorporated into that orientation. Education efforts will continue with board liaisons as to their cooperation with the recordkeeping required for tracking the status of their members’ training, and the necessary member reminders when the refresher training is due.

## II. Ethics Inquiries

From January 1, 2014 through December 31, 2014, the Ethics Officer answered 234 telephone and email inquiries regarding ethics.<sup>1</sup> The number of inquiries increased slightly from 197 inquiries in 2013. The substantive topics of 2014 inquiries were as follows:



The top two categories of inquiries did not change from last year: Gifts and Conflict of Interest. The calls related to gifts remained the most frequent category of inquiry for the fifth 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.

Not included as a substantive inquiry category are the 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. This year a substantial number of electronic ethics education inquiries were received, resulting in a substantial increase in the number of miscellaneous inquiries. Changes over the years in inquiry percentages are depicted in the following chart:

<sup>1</sup> 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 2011	Percentage Inquiries 2012	Percentage Inquiries 2013	Percentage Inquiries 2014
Aspirations, 15.10,15.20,15.130 & 15.180	2.2%	0.0%	0.5%	0.0%
Fiduciary Duty, 15.30	0.6%	0.0%	0.0%	0.4%
Gifts, 15.50	29.3%	30.2%	22.8%	24.9%
Conflict of Interest, 15.40	8.8%	15.5%	16.2%	20.6%
Lobbyists, 15.40(b)(4)	0.6%	0.0%	1.0%	0.0%
Outside & Post Employment, 15.60 & 15.90	11.0%	9.8%	3.6%	7.5%
Use of Official Position, 15.70	5.5%	1.8%	2.5%	4.3%
Statements of Economic Interest, 15.80	6.1%	2.0%	8.6%	4.3%
Use of Property, 15.100	8.3%	4.1%	5.1%	9.9%
Political Activity, 15.110	2.2%	6.5%	6.6%	3.6%
Required Reporting, 15.140	0.0%	0.8%	0.0%	0.4%
Discrimination / Harassment, 15.150	0.0%	1.4%	0.0%	0.2%
Nepotism, 15.160	0.6%	3.6%	2.0%	0.4%
Use/disclosure of Information, 15.170	1.6%	0.5%	0.5%	1.2%
Bias/Favoritism, 15.190	1.6%	0.9%	0.0%	2.4%
Inappropriate influence, 15.200	0.6%	0.0%	0.0%	0.0%
Ethical Practices Board, 15.210	0.0%	0.5%	2.0%	0.8%
Complaint Process, 15.230	4.4%	3.2%	6.6%	4.0%
Contracts, 15.250	1.1%	1.2%	0.0%	0.8%
Ethics Education, 15.260	1.6%	3.2%	8.6%	5.1%
Related Policies	12.1%	17.6%	8.1%	7.1%
Miscellaneous	3.3%	4.1%	4.1%	2.0%

Minneapolis is not the only city to track inquiries related to its Ethics Code. The following chart contains information from other cities and the City of Minneapolis:

	Approximate Number Persons Covered	2014 Inquiries	Top Three Substantive Inquiries
<b>New York City</b>	325,000	4,833	1. Outside Employment 2. Gifts 3. Post-employment
<b>Chicago</b>	31,700	5,824	1. Gifts & Travel 2. Lobbying 3. Post-employment
<b>Philadelphia</b> 7/1/13 – 6/30/14	25,575	271	1. Financial Disclosure 2. Political Activity 3. Gifts
<b>Atlanta</b>	9,435	100	1. Conflict of Interest 2. Gratuities/Gifts 3. Food
<b>Honolulu</b> 7/1/14 – 6/30/15	9,000	397	1. Misuse of City Position/Resources 2. Conflict of Interest 3. Failure to File Financial Disclosure
<b>Austin, Tx</b>	8,385	339	1. Use of City Resources 2. Conflicts of Interest 3. Gifts
<b>Minneapolis</b>	4,400	253	1. Gifts 2. Conflicts of Interest 3. Use of City Property

### III. Ethics Complaints and Ethics Report Line

#### Ethics Complaints

The Ethics Officer received 63 total complaints alleging 103 violations during 2014. 2014 was a year notable for complaints with multiple reports about the same incidents. Because of anonymous reporting, it is impossible to determine in all situations whether the same complainant was filing duplicate reports or if more than one complainant was filing a complaint about an alleged incident. Although only one complaint was opened for each alleged incident, 28 reports were filed regarding six separate incidents.

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. The Ethics Officer received 32 such reports in 2014.<sup>2</sup> 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 2014.

The complaints were reported in the following methods:

Reporting Method <sup>3</sup>	2009	2010	2011	2012	2013	2014
Ethics Officer	14	4	3	5	9	8
Ethics Report Line - Internet	11	4	7	5	13	18
Ethics Report Line - Telephone	13	9	6	7	15	17
Ethics Report Line - Email	0	0	0	0	0	10
Required Reporting by Department	8	6	8	7	4	32
311 – Citizen Reporting	0	1	2	0	2	0
Employee Self Reporting	0	0	0	0	0	1
<b>Totals</b>	<b>46</b>	<b>24</b>	<b>26</b>	<b>24</b>	<b>43</b>	<b>86</b>

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 but increased significantly in 2013. The decline in the 2014 percentage is due almost entirely to a combination of the multiple complaint filings and the increased department reporting. If the numbers are adjusted for those factors, the percentage of Ethics Report Line reports rises to 64%, a percentage more in line with 2013 statistics.

<sup>2</sup> The Human Resources Investigative unit reported 46 complaints in 2014, including the complaints received via Ethics Report Line. Twenty-five of the complaints resulted in Anti-Discrimination, Harassment & Retaliation (“ADH&R”) investigations and eight of the complaints were returned to the applicable departments as non-ADH&R complaints. Thirteen of the complaints required counseling but not investigation.

<sup>3</sup> Three complaints were reported utilizing multiple reporting mechanisms so the reporting method numbers will not equal the number of complaints received.

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%

The subject matter of the one hundred forty (147) allegations<sup>4</sup> covered the entire Ethics Code as well as other management concerns:

Subject Matter, Ethics Code Section	2009	2010	2011	2012	2013	2014
Fiduciary Duty, 15.30	0	6	2	3	0	2
Conflict of Interest, 15.40	3	2	1	5	1	1
Gifts, 15.50	7	1	0	0	1	0
Outside Employment, 15.60	5	0	2	3	2	1
Use of Official Position, 15.70	9	2	1	7	0	4
Statements of Economic Interest, 15.80	0	0	0	0	0	0
Post-employment, 15.90	3	0	0	0	0	0
Use of City Property or Time, 15.100	22	8	7	18	17	10
Political Activity, 15.110	1	1	1	0	1	0
Required Reporting of Fraud, 15.140	0	0	0	0	2	1
Discrimination/Harassment, 15.150 <sup>5</sup>	3	3	2	2	27	14
Nepotism, 15.160	0	1	1	0	3	4
Use/Disclosure of Information, 15.170	1	0	4	4	3	3
Bias or Favoritism, 15.190	4	2	1	4	11	15
Inappropriate Influence, 15.200	0	0	2	3	0	2
Contract Compliance, 15.250	0	0	0	0	0	1
Employee Relations	11	9	3	3	4	1
Other Policy Violations	0	0	2	3	0	2
Compliance with other Laws	0	0	2	0	2	3
Ethical Aspirations	2	1	1	4	1	6
Other	4	0	0	2	1	4

Complaints related to the use of city property or time have historically been a substantial portion of total complaints and that trend continued in 2014. 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”).<sup>6</sup> 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 2014.

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

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

<sup>6</sup> See footnote 3, *supra*.

The end-of-the-year status of the 2013 carryover complaints and 2014 complaints are as follows:<sup>7</sup>

Pending – 14	Discipline imposed – 4
Unsubstantiated, no action taken – 20	Coaching – 24
Department action taken – 5	No jurisdiction – 1
Complainant failed to cooperate – 1	Closed, no investigation (Rule 7.6) – 5
Administrative Closure – 2	Other – 1

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 Network tracks statistics related to the reports made through its clients' compliance lines:

Original Incident Reports	2012 % City	2012 % The Network	2013 % City	2013 % The Network	2014 % City	2014 % The Network
Anonymous Reports	83.3%	49.2%	65.6%	44.4%	70.2%	39.9%
Non-Anonymous Reports	16.7%	50.9%	34.4%	55.6%	29.8%	60.1%
Escalated Incident Reports	0.0%	1.1%	0.0%	0.9%	0.0%	0.8%
Previously Reported to Management	33.3%	28.9%	31.3%	25.4%	23.4%	22.3%
Caller Callbacks	8.3%	10.4%	7.1%	10.4%	22.1%	6.8%

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.

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

## IV. Code Interpretation through Policy Development

In 2009 the Ethics Officer collaborated with the City’s Human Resources Department to establish protocol to include ethics compliance as an issue in all employee exit interviews. The following ethics question is now included in all on-line and paper versions of the employee exit survey for employees who voluntarily leave the employ of the City:

**Policy Compliance** - Management adherence to the Ethics in Government Code.

1 - Very Dissatisfied 2 - Somewhat Dissatisfied 3 - Somewhat Satisfied 4 - Very Satisfied

Check if this is a factor in your departure

During 2014 the City experienced a total of 210 voluntary employee separations: 116 retirements and 94 resignations. Fourteen of the employees voluntarily separating from the City participated in the Employee Exit Survey and all 14 of those participants answered the question related to management adherence to the Ethics in Government Code.

**Exiting Employee Perception of  
Management Adherence to the Ethics Code**

	Very Dissatisfied	Somewhat Dissatisfied	Somewhat Satisfied	Very Satisfied	Factor in departure
<b># of Responses</b>	1	1	2	10	0
<b>%</b>	7.1%	7.1%	14.3%	71.4%	NA

Once exit surveys are received, copies are shared with the appropriate Human Resources Generalist. If the identity of the employee is known, the Human Resources Generalist may further investigate the answers of the exit survey. Human Resources also forwards all exit surveys with negative responses to the Ethics Officer.

## V. Proposed Ordinance Amendments

The Board recommends the following amendments to the Ethics Code:

### 1. Changes to the Conflict of Interest Provision, § 15.40

The Board recommends amendment to the definition of financial interest as contained within the conflict of interest provision of the ethics code. This amendment is based upon the language contained in the model ethics code produced by CityEthics.org. The premise for the amendment is that city officials and employees should not prefer, over the public interest, their own interests or the interests of their family or business associates. While there are other relationships that should be included in the definition – including romantic relationships short of domestic partnership, and close friends and associates – these relationships are not included due to inherent difficulties in defining them. The proposed amendment also clarifies that it is the potential conflict of interest, not the marital status, that is at issue.

A potential amendment is:

**15.40. Conflicts of interest.** (a) Definition of conflicts of interest. A local official or employee, whether paid or unpaid, shall avoid any situation that might give rise to a conflict of interest. A conflict of interest

is present when, in the discharge of official duties, a local official or employee participates in a governmental decision, action or transaction in which he or she has a financial interest, except when that financial interest is no greater than that of another member of his or her business classification, profession or occupation or in matters involving city litigation when that financial interest is no greater than that of another member of the public impacted by the litigation. A financial interest is any interest, including loans, which shall yield, directly or indirectly, a monetary or other material benefit to the local official or employee (other than monetary or material benefits authorized by the city). A financial interest of a local official's or employee's employer (other than the City of Minneapolis), his or her associated business, or member of his or her household, including a spouse, domestic partner, or dependent, and their employers or associated businesses, and shall also be considered a financial interest of the local official or employee. The following assets shall not be considered a financial interest for purposes of this section:

- (1) Ownership of shares in a diversified mutual fund.
- (2) Membership in a pension plan or employee benefit plan.
- (3) Ownership of bonds or publicly traded securities with a market value of less than two thousand five hundred dollars (\$2,500.00).
- (4) Ownership of a whole life insurance policy.

## **2. Changes to outside employment reporting requirements of § 15.60(e)(1)**

The outside employment section of the Ethics Code requires employees, including those employees who are appointed local officials, to disclose their proposed outside employment to avoid situations where the proposed employment is likely to interfere with the proper discharge of the employee's public duty or create a conflict of interest materially impairing the employee's ability to serve the City. The ordinance, as written, requires notification of an employee's department head prior to accepting outside employment. Questions have arisen regarding to whom a department head should report outside employment. The Board is proposing an amendment that would require a department head to report such activity to the executive committee.

The Board is also proposing exempting employees in two job titles from the reporting requirement. The first job title is election judge. Election judges are considered City employees but are employed for a very limited purpose and a very limited period of time. Minneapolis Election Judges must:

- Be a United States citizen
- Be an eligible voter in the State of Minnesota
- Be able to read, write and speak English
- Not be a candidate at that election
- Not be the spouse, parent, child, stepchild, sibling or stepsibling of any election judge serving in the same precinct or of any candidate at that election
- Not be a challenger
- Disclose their political party preference

For many of the election judges, their service is either pro bono or in addition to their regular employment. Election judge applicants disclose their recent employment/volunteer experiences that relate to interacting with the public or other election judge duties through the hiring process. Requiring the election judges to also disclose their other employment on the Outside Employment form is onerous, does not add any value to the election judge hiring process, and does not further the goals of the Outside Employment ordinance.

The second job title proposed to be exempted from the Outside Employment reporting requirement is that of Stagehand/Production Technicians. These are temporary intermittent positions at the

Convention Center. The employees in these positions set up and tear down exhibitions. The employees filling these duties also perform similar duties all across the United States. The average number of hours worked by these employees in 2014 was 49 hours though some worked as few as four hours in a year. The manner in which the Convention Center fills these positions means that every single one of these employees is likely to have other employment and potentially hundreds of other jobs to disclose. Requiring the disclosure of other employment on the Outside Employment form is onerous, does not add any value to the Stagehand/Production Technician hiring process, and does not further the goals of the Outside Employment ordinance.

A potential amendment is:

**15.60. Outside employment.**

\* \* \*

(e) An appointed local official, as defined in section 15.280(m)(2) of this ordinance, or an employee shall:

(1) ~~Notify his or her department head before accepting outside employment or entering into a contract for services. Notification shall be in writing on the form prescribed by the city clerk.~~

(2) ~~Not use city facilities or equipment to solicit or perform outside work. This provision shall not apply to sworn employees of the police or fire department who use city facilities or equipment for outside work in accordance with written department policies.~~

~~(3)~~ (2) Not solicit or perform outside work during the local official's or employee's hours of employment. The written ~~permission~~ notification must address the use of vacation or compensatory time, if applicable.

(f) An appointed local official, as defined in section 15.280(m)(2) of this ordinance, or an employee shall provide notification before accepting outside employment or entering a contract for services. The notification shall be in writing on the form prescribed by the ethics officer.

(1) An employee, other than a department head, shall provide the notification to his or her department head.

(2) A department head shall provide his or her notification to the chair of the appropriate appointing authority.

(3) An election judge employed on a temporary basis is exempt from this notification requirement.

(4) A stagehand/production technician employed on a temporary basis is exempt from this notification requirement.

**3. Annual Statement of Economic Interest Filings, § 15.80**

This past legislative session, the Minnesota legislature amended Minnesota Statute § 10A.09, the state requirement related to statements of economic interest, to require annual filings. Previously, state law, like the City's Ethics Code, only required a supplemental filing if information on the previous filing changed. The Board recommends amendment to keep the Ethics Code consistent with state law requirements.

A potential amendment is:

**15.80. Statements of economic interest.**

\* \* \*

(b) Each individual who is required to file a statement of economic interest shall file a ~~supplementary~~ an annual statement on April 15 the last Monday in January of each year that he or she remains a local official ~~if information on the most recently filed statement has changed.~~ A local official

~~shall file a supplementary statement within ten (10) days after becoming aware of an inaccuracy in any previously filed statement.~~

(c) Within thirty (30) days after leaving office, a local official shall file a statement of economic interest covering the period from the end date of the most recent statement through the last day of service as a local official if information on the most recently filed statement has changed.

#### **4. Changes to the Use of Property Provision, § 15.100**

The prohibition against the unauthorized use of destruction of city property has not been altered since the Ethics Code was adopted in 2003. Various issues have arisen over the years regarding the scope of the section. The board believes that the use of the word “property” is too narrow and the use of the word “resources” more accurately describes the activities that should be covered by the section. In addition, the Ethics Officer and the Board have received many questions related to misuse of employee time and supervisors requiring employees to perform tasks unrelated to the employees’ official duties. As all of these activities fall within the realm of ethics, the Board proposes adding clarifying language to the section.

A potential amendment is:

**15.100. City property and resources.** (a) A local official or employee shall not engage in or permit the unauthorized use or destruction of city property, funds, or resources.

(b) A local official or employee shall not direct or request subordinates to use official time to perform any activities other than official activities.

#### **5. Changes to the Political Activity Provision, § 15.110**

The current political activity Ethics Code section has not been amended since the Ethics Code was adopted in 2003. The current ordinance only speaks to use of “official authority or influence to compel any person to apply for membership in or become a member of any political organization, to pay or promise to pay a political contribution, or to take part in political activity.” The current ordinance does not cover other impermissible uses of city resources for political activity. During past election seasons, the Communications Department has published “Election Do’s and Don’ts for Employees” in Minneapolis Matters. The proposed amendment encompasses the “do nots” previously communicated.

A potential amendment is:

#### **15.110. Political activity.**

\* \* \*

(c) A local official, employee or candidate for elective office shall not use city facilities, property, funds, personnel, the city logo, the city seal or other city resources to engage in political activity.

#### **6. Changes to the Ethical Practices Board Provision, §15.210**

Ethics Code §15.210 sets forth the process for appointing members to the Board. During the last appointment process a question arose regarding whether an applicant would be excluded from applying for the Board due to City employment as an election judge. This question leads the Board to believe that some modifications should be made to the ordinance. The Board proposes excluding election judge service as a disqualifier and limiting the City restrictions to current employees and local officials as well as placing a five year limitation for former employees and local officials.

A potential amendment is:

**15.210. Ethical practices board.**

\* \* \*

(c) No member of the ethical practices board may be a current local official or current city employee; the related person of a current local official or current city employee; a candidate for elected public office; a former elected local official or former city employee during the five (5) year period subsequent to leaving city office or employment; a person who, for compensation, represents the private interests of others before the city council or mayor; or a paid campaign worker or political consultant of a current local official. For purposes of this section, “employee” does not include a person who serves for compensation or pro bono as an election judge.

**6. Ethical Practices Board Reporting of Complaint Findings, § 15.240(b)**

In the handling of ethics complaints, the Board has become aware of potential conflicts with the Minnesota Government Data Practices Act and the Open Meeting Law regarding the Board’s reporting of its findings. In particular, the current sanctions ordinance section requires the Board to report findings regarding an elected official to the Mayor, Ways and Means/Budget Committee and the City Council regardless of whether the Board has made a factual finding sustaining those allegations. The Board is recommending adding language to the ordinance to clarify that any such reporting should be consistent with the Minnesota Government Data Practices Act and Open Meeting Law and only to report on sustained allegations involving elected officials. In addition with the change in City Council committee structure, the Board is recommending a change of language to allow for future flexibility in reporting.

A potential amendment is:

**15.240. Sanctions.**

\* \* \*

(b) The ethical practices board shall review allegations of violations of this Code of ethics by an elected official, a department head, or an appointed local official who is a member of a city agency, authority or instrumentality listed in section 15.280(m)(3) or (4) of this Code. Once the review is complete the ethical practices board shall report its sustained findings and any recommendations for discipline regarding an elected official to the mayor, the ~~ways and means/budget~~ assigned committee and the city council consistent with the Minnesota Government Data Practices Act and open meeting law. The ethical practices board shall report findings and any recommendations for discipline regarding a department head to the appropriate appointing authority consistent with the Minnesota Government Data Practices Act and open meeting law. The ethical practices board shall report sustained findings and any recommendations for discipline regarding an appointed local official who is a member of a city agency, authority or instrumentality ~~listed in~~ as defined in section 15.280(m)(3) or (4) of this Code to the appropriate appointing authority consistent with the Minnesota Government Data Practices Act and open meeting law.

**7. Ethics Education Changes and Exemptions, § 15.260**

The Board is recommending two changes to the Ethics Education ordinance. The first change is to substitute the phrase “participate in” for the word “attend”. This change better reflects the potential offerings of ethics education in both an in-person classroom setting and in an interactive electronic education option. The Board is further recommending the exemption of Election Judges and

Stagehands/Production Technicians from the training requirement. The rationale for this exemption is explained above in the discussion about exempting employees in these job titles from the outside employment reporting requirement.

A potential amendment is:

**15.260. Ethics education.** Each local official or employee shall attend an ethics education seminar within twelve (12) months of the effective date of this ordinance. New employees and local officials shall ~~attend-participate in~~ an ethics education seminar within six (6) months of becoming a local official or employee. Employees shall ~~attend-participate in an~~ ethics education seminars every three (3) years thereafter. Non-employee local officials and elected local officials shall ~~attend-participate in~~ an ethics education seminar every four (4) years thereafter. Employees in the job titles of election judge and stagehand/production technician temporary intermittent are exempt from this education requirement but shall be provided a copy of this code upon hire. The seminar shall educate persons as to their duties and responsibilities under this Code. The human resources department shall design and implement the ethics education seminars. Department heads are responsible for ensuring that all of their employees attend this training.

## **8. Clarifying and Supplementing Definitions, § 15.280**

Due to changes in the City's organization and due to the other proposed changes to the Ethics Code, the Board recommends the following potential amendments to definitions and new definitions:

(e) Department head means a person having ultimate responsibility and authority for the following units and their successors:

~~Assistant city coordinator, chief information officer~~  
~~Assistant city coordinator, city finance officer~~  
~~Assistant city coordinator, communications~~  
~~Assistant city coordinator, director, intergovernmental relations~~  
~~Assistant city coordinator, director of human resources~~  
~~Assistant city coordinator, emergency communications director~~  
~~Assistant city coordinator, Minneapolis Convention Center~~  
~~Assistant city coordinator, regulatory services and emergency preparedness~~  
~~City assessor~~  
~~City attorney~~  
~~City coordinator~~  
~~Commissioner of health~~  
~~Chief of fire~~  
~~Chief of police~~  
~~City clerk~~  
~~Director of the department of civil rights~~  
~~Director of the department of community planning and economic development director of public works.~~

311

911

City Assessor's Office

City Coordinator

Communications

Community Planning and Economic Development

Convention Center

Office of the City Attorney  
Civil Rights Department  
Emergency Management  
Finance and Property Services  
Fire Department  
Health Department  
Human Resources Department  
Information Technology  
Intergovernmental Relations  
Internal Audit  
Neighborhood and Community Relations  
Office of the City Clerk  
Police Department  
Public Works Department  
Regulatory Services

- (g) Employee means a person who holds a civil service classified or unclassified title or position in the city. The term "employee" shall not include a local official as defined by 15.280(m)(3) and (4), anyone in the hire of the park and recreation board or library board, or any independent contractor. The term "employee" shall include an elected local official as defined by 15.280(m)(1) unless specifically excluded.

New definitions:

Compensation means payments received in excess of \$50 in any month from an associated business, payments for services as an independent contractor, payments for other self-employment activity and income from rental property.

Household includes anyone whose residence is in same home, including non-related persons who are not rent payers or servants.

Outside employment means but is not limited to being an employee of an entity, forming a corporation, partnership or sole proprietorship, or entering in a contract, written or verbal, to provide goods or services in exchange for compensation.

## 2014 Expenses

Council on Governmental Ethics Laws membership	\$445
Ethics Report Line	\$4,250
Attorney III at 43% time (\$155,186 FTE per year)	\$66,730
Investigative Services	\$8,022
<u>Electronic Ethics Education</u>	<u>\$7,315</u>
	<b>\$86,762</b>

The Ethics Officer’s time has generally trended downward from a high of 48% in 2008 with a low of 23% in 2011. 2014 required more of the Ethics Officer’s time than average. The reported 2014 expenses do not take into account the incidental expenses such as an office, computer, telephone, office supplies, copying, postage, parking, mileage for training, and other expenses covered by the Office of the Minneapolis City Attorney.

Year	2006	2007	2008	2009	2010	2011	2012	2013	2014
<b>% Ethics Officer Time</b>	25%	37%	48%	47%	33%	23%	47%	32%	43%

## 2014 Revenue

During 2014 the Ethical Practices Board did not receive any income from grants, awards or donations.

## 2014 Volunteer Hours

The three members of the Board collectively spent approximately 63 hours on work related to the Board during the 2014 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.

# **2015 Work Plan**

## **As Approved by the Ethical Practices Board**

The 2015 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.
- Fully implement political activity electronic ethics education training for City employees, appointed officials and elected officials.
- 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.
- Begin collaboration with 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.

### **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 Internal Auditor'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.