



CITY OF CHICAGO



BOARD OF ETHICS

MEMORANDUM

To: Board of Ethics

From: Legal Staff

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

Date: August 14, 2023

We attach a draft of proposed amendments to the Governmental Ethics Ordinance (the “Ordinance”), with commentary. We will post them up until the Board’s next meeting, on September 11, in order to solicit public comments and then incorporate helpful comments received. We’ll then have an amended version on the agenda for the September meeting. If the Board approves *that*, we’ll submit the package to the Mayor and City Council.

The Board would submit these pursuant to its authority in §§2-156-380(e), (f), and (g) of the Ordinance. These sections grant the Board the power and duty to “consult with City agencies, officials, and employees on matters concerning ethical conduct,” “recommend such legislative action as it may deem appropriate to effect the policy of [the Ordinance],” and “conduct research in the field of government ethics ... to effect the policy and purpose of [the Ordinance].”

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

1. Regulate City Council independent contractors. Except for using its bully pulpit to encourage the City Council itself to enact a rule prohibiting its members from hiring as their independent contractors (“i/c’s”) individuals on the City’s or its sister agencies’ do-not-hire lists, or encourage them to pass a law prohibiting the Department of Finance from paying for such independent contractors with City funds, the Board cannot regulate the hiring of independent contractors by City Council members. However, the Board *can* recommend that City Council i/c’s be subject to the Ethics Ordinance as though they were City employees, which this proposal *does*.

2. Restrict the use of images or photos of City property in electioneering communications. This is addressed in §§2-156-060 and -135, and the definition of City property in -010(e-1). It is intended to clarify and codify a prohibition on the use of photographic images of Chicago Police or Fire Department property, like squad cars or insignia, or of persons appearing in City uniform or wearing City departmental insignia in electioneering communications. We also address a clean-up of “prohibited” political activity, which is not really prohibited, but actually “restricted.”

3. Impose tighter restrictions on political contributions. Our proposal re-recommends that the City Council close a gap in the law that allows corporate owners, officers, directors, partners, and LLC members to contribute to candidates for elected City office (or their committees) to the extent allowed by the Illinois

Election Code (currently \$6,900 from any individual per each election cycle to any candidate committee), *on top of their entity's contributions*, provided they are not reimbursed for the contributions (or not individually subject to the Ordinance's \$1,500 annual limit, as, say, registered lobbyists). Some peer jurisdictions, notably New York City and Los Angeles, have addressed this and closed what remains a gap in Chicago's laws.

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

There are two topics this proposal does **not** address:

1. Regulation of lobbying by individuals on behalf of not-for-profit entities. As was widely reported, the Board has, since Fall 2019, worked closely with the current and prior administrations, the City Council's Committee on Ethics and Government Oversight, and representatives from the not-for-profit community on amendments that were introduced on July 19, in O2023-0002937: <https://occprodstoragev1.blob.core.usgovcloudapi.net/matterattachmentspublic/c818c624-07b7-4297-9821-549ab3c0b0ce.pdf>

We *do* have comments on the submitted ordinance, which we will convey directly to its sponsor, Ald. Matt Martin (47th Ward), Chair of the City Council's Committee on Ethics and Government Oversight. We hope our comments will be incorporated into a substitute ordinance.

2. City Council members' outside income. The Board has long--and studiously--remained agnostic on this issue, as there are good arguments on both sides: should City Council members be allowed to have outside jobs? There are currently two proposals before the Ethics and Government Oversight Committee, O2023-2167: <https://occprodstoragev1.blob.core.usgovcloudapi.net/lsmatterattachmentspublic/b6c99d86-fa94-4462-9d4a-14f7f1c6e2ff.pdf> and O2023-0002228: <https://occprodstoragev1.blob.core.usgovcloudapi.net/matterattachmentspublic/66607fc5-83d1-40e9-a76d-4771988d09cb.pdf>), that would limit certain types of City Council members' outside income. Our proposal does not address this issue—we hope the Council debates it, and we can help the City Council consider each side, as we researched how peer cities handle this, and will provide that research to the Council. *See* <https://www.chicagotribune.com/politics/ct-chicago-city-council-aldermen-outside-work-20230605-tnds4yug7bfstngh7urcy7jeji-story.html>. Besides these two current proposals, other proposals aiming at similar results have been submitted by other City Council members in past years, but none was enacted.

attachment

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

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