

MILWAUKEE COUNTY ETHICS BOARD

2013 - ANNUAL ACTIVITIES REPORT

**GENERAL INFORMATION**

**ETHICS BOARD MEMBERSHIP**

**TERM EXPIRATION YEAR**

David B. Carr, Chairman	February 28, 2013*
Henry Hamilton III, (Nominee of NAACP)	February 28, 2014
Christian Flores (Nominee of Public Policy Forum)	February 28, 2015
Marcia F. Drame Vice Chair (Nominee of Milwaukee Bar Association)	February 28, 2016
Gary Manning (Inter-Faith Conference of Greater Milwaukee)	February 28, 2017
Carol Wichmann (Nominee of Women League of Voters)	February 28, 2018

\*On March 19, 2014, Michael G. Spector, nominee of the Greater Milwaukee Committee, replaced David Carr as a member of the Ethics Board. The Ethics Board will elect a new Chairperson at its May 6, 2014, meeting.

**EXECUTIVE DIRECTOR**

Veronica Robinson – Resigned November 2013\*

\*Robert J. Tuszynski – Appointed as Interim Director on January 22, 2014

**MAILING ADDRESS**

Milwaukee County Courthouse  
Room 212  
901 North 9th Street  
Milwaukee, Wisconsin 53233

**TELEPHONE**

(414) 278-5332

**STAFF**

Charmaine Gee, Administrative Assistant  
Marvic Rizio, Clerical Specialist – Resigned December 2013

**2013 BUDGET**

The 2013 adopted Ethics Board budget was \$77,516, an increase of \$15,408 or approximately 25% from 2012. Two major components of the budget are for support staff and outside counsel representation for the Board. Each year, predicting outside legal representation on behalf of the Board is nearly impossible. Fluctuations in the number of investigation requests, verified complaints, and requests for interpretations of Federal, State, and Municipal law cause fluctuations against the estimated amount approved.

## STATUTORY REFERENCE

The Milwaukee County Ethics Code is Chapter 9 of the Milwaukee County General Ordinances and is based largely on § 19.59, Wis. Stats. The Milwaukee County Lobbying Code is Chapter 14, Milwaukee County General Ordinances. The Board must also operate in compliance with other Wisconsin Statutes, such as Public Records and Open Meetings Laws.

## INTENT

It is the intent of the Milwaukee County Ethics Code that: Government decisions and policy be made in the best interests of the people, the community, and the government; public office not be used for personal gain; and the public have confidence in the integrity of the government.

## HISTORY

The Ethics Board and the Ethics Code it administers were created in February 1975. The Code sets forth standards of ethical conduct for all county employees, including elected and appointed officials and members of boards and commissions. The County Board has amended the Code 26 times since its inception, with the most recent amendment occurring in 2008. In the first quarter of 2013, the Ethics Board adopted revised Rules and Procedures. These revisions more clearly delineate the Ethics Board's responsibilities under the Milwaukee County Ethics Code.

## ORGANIZATION

The Board consists of six members appointed by the County Executive and confirmed by the Milwaukee County Board of Supervisors for staggered six-year terms. As of 2008, new members are nominated by one of the following six outside entities that are longstanding, broad-based Milwaukee County organizations interested in good government and institutional integrity:

- The National Association for the Advancement of Colored People (NAACP);
- The Public Policy Forum;
- The Greater Milwaukee Committee;
- The Milwaukee Bar Association;
- The Inter-Faith Conference of Greater Milwaukee; and
- The League of Women Voters of Greater Milwaukee.

The goal of this process is to ensure that the Board members reflect the racial and ethnic diversity of Milwaukee County, serve the residents of Milwaukee County according to their oaths of office, and act independently from the nomination and appointing authorities. An action by the Ethics Board requires an affirmative vote of four members. While serving on the Board, and for one year prior to his/her appointment, no member can be a county public official or employee, or have been a candidate for public office.

## BOARD RESPONSIBILITIES

The Ethics Board administers the Code of Ethics written for county officials, employees, and members of county boards and commissions and is the primary source of interpretation of the Milwaukee County Ethics Code. The Board has three major responsibilities:

- Directs persons specified, pursuant to the Code, to timely file Statements of Economic Interests.

- Upon request, advises any county official, employee, or those who do business with county employees on the propriety of matters to which they may become a part, pursuant to the Code.
- Accepts investigation requests and verified complaints against county elected or appointed officials, employees, or members of county boards and commissions.

**BOARD OPERATIONS**

During the 12 months covered by this report (calendar year 2013), the Ethics Board met four times, a decrease of 60 percent from 2012. By ordinance, the Ethics Board meets four (4) times per year for the purpose of carrying out the Board’s assigned duties and responsibilities. Each meeting was preceded by public announcements of the time, place, and matters to be discussed. Although requests for confidential written advice and investigations must, as a matter of ordinance, be held in closed session, the Board gives public notice of the time, place, and general subject of its closed sessions in conformance with the State of Wisconsin’s Open Meetings law. Most all other items of the meeting agenda are held in public session. Preliminary conferences, by ordinance, are held in closed session.

**MEETINGS AND ATTENDANCE**

Board member participation rates remain below 100% in part due to work or family conflicts experienced by the Board members. However, in 2013, the Board’s participation rate rose to 92 % from 78% in 2012, likely due to fewer meetings held during 2013. When necessary and possible, Board members are able to participate in the meetings by conference phone. Additional data is below.

**Board member attendance data for 2013**

2011		2012		2013	
<u>MEMBER</u>	<u>MEETINGS ATTENDED OF MEETINGS CALLED</u>	<u>MEMBER</u>	<u>MEETINGS ATTENDED OF MEETINGS CALLED</u>	<u>MEMBER</u>	<u>MEETINGS ATTENDED OF MEETINGS CALLED</u>
Rebecca Blemberg	2 of 5 = 40%	Rebecca Blemberg Resigned	1 of 3 = 33 %	David B. Carr	4 of 4 = 100 %
David B. Carr	5 of 5 = 100 %	David B. Carr	8 of 9 = 89 %	Christian Flores	4 of 4 = 100 %
Paul J. Hinkfuss (Term expired)	1 of 1 = 100 %	Christian Flores	9 of 9 = 100 %	Henry Hamilton III	4 of 4 = 100 %
Christian Flores	3 of 5 = 60 %	Henry Hamilton III	7 of 9 = 78 %	Marcia Drame (nee Facey)	4 of 4 = 100 %
Henry Hamilton III	3 of 5 = 60 %	Marcia Facey	7 of 9 = 78 %	Gary Manning	3 of 4 = 75 %
Marcia Facey (New)	4 of 5 = 80 %	Gary Manning	3 of 4 = 75%	Carol Wichmann	3 of 4 = 75%
Gary Manning	3 of 4 = 75%	Carol Wichmann (New)	4 of 5 = 80%		
<b>Average Attendance</b>	<b>=74%</b>	<b>Average Attendance</b>	<b>= 78%</b>	<b>Average Attendance</b>	<b>=92%</b>

## **STATEMENTS OF ECONOMIC INTEREST**

One of the Board's principal duties is to administer the financial disclosure provisions of the Code of Ethics. The Code requires that all candidates for elected County offices, all County employees, and all County elected and appointed officials, including members of boards and commissions, "whose duties and responsibilities include the awarding and execution of contracts for the purchase of supplies, services, materials, and equipment for or on behalf of Milwaukee County, for the construction of public works, or for the sale or leasing of real estate," file a Statement of Economic Interests ("SEI") form and Affidavit with the Office of the Ethics Board.

In 2013, the Board had 294 required SEI filers, a decrease from the 311 filers in 2012.

### **1) EXAMINATION OF STATEMENTS OF ECONOMIC INTERESTS**

The staff previously verified the information on the form for completeness. At the end of 2013, the audit firm of Baker Tilly requested completing the Affiliated Party Transaction worksheet. The SEI is designed to capture three specific areas of concern: 1) Ownership of investments (including real property) that could potentially directly benefit from decisions made by a county official/employee; 2) Involvement or financial interest in for-profit companies where the company could benefit from decisions by a county official/employee; and 3) Involvement or financial interest in non-profit organizations where the non-profit entity could benefit greatly or receive funding from the County. If such a concern is revealed in the SEI, the next question is whether the individual has decision-making authority to directly benefit the organization in which the individual has an interest.

Further enhancements to the SEI process that are needed and should be made in 2014:

- 1) After verifying information from each form for completeness, the list of companies, organizations, and investments should be compared to a vendor list of the county to determine that no additional conflicts potentially remain.
- 2) The completed SEI's should be sent to each manager for their review should they be aware of consideration being given to entering into an arrangement with a firm or organization that could benefit from a decision reached by the county official
- 3) Consideration should be given to revising the form to have the individual provide the name of the brokerage firm or financial advisor that makes investments decisions for the individual
- 4) Although the Ethics Board no longer reviews all of the SEI's, any potential conflicts identified in steps 1-3, should be reviewed by the Ethics Board for final determination.

### **2) SEI AUTOMATION PROJECT**

In October of 2013, the Ethics and Election Accountability Portal (EEAP) was tested with the quarterly filing for the Pension Board members. It was discovered then that the Portal was not "live" due to the site being shared with the Elections Commissions department and their piece of the project was not complete. We are anticipating a live launch in 2014.

## **AUTOMATED LOBBYIST CONTACT REPORTING**

Although the County Clerk maintains an online registration of Lobbyist activity, reporting of contacts made by Lobbyists are not part of an online process. A project is being opened to design an online process for reporting Lobbyist contacts. Triggers would be established to notify the County Clerk when the activity of any lobbyist exceeds the threshold for registration.

## CORPORATE COMPLIANCE & TRAINING

For the past three years, the office of the Ethics Board celebrated Corporate Compliance & Ethics Week. Corporate Compliance & Ethics week is a national week-long event, traditionally held in the first full week of May, which highlights the importance of ethics and compliance in the workplace. We have used the weeks as opportunities to raise awareness about the Milwaukee County Ethics Code by engaging the employees with daily games and training sessions. Some feedback from the training sessions was:

- Great interaction and participation from the group
- It was useful to make people aware of Ethics
- I would have liked more County examples
- I would have like more specific examples
- I found the training to be useful because I learned about possible ethical situations that I may come across at my job that I never thought of

However, though the training was generally about Ethics as a whole, the need to tailor specific training to the Milwaukee County Ordinance Section 9.0 is needed:

- 1) Partner with HR to enhance training of all new hires (not just those required to file SEI's) is established.
- 2) Mandatory Ethics Code Training for managers including covering how to identify which individuals need to complete the SEI Form.

## ETHICS BOARD DETERMINATIONS

During 2013, the Ethics Board considered the following requests for advisory opinions, investigation requests or other matters. Pursuant to rules established by County Ordinance and Statutes, these actions were discussed in closed sessions, and the synopses are written in a manner that protects the integrity of the closed session meetings and the confidentiality of the requesters.

1. A local sports team reached out the County to ask if the County would be interested in discounted tickets for County employees to attend its games. An employee inquired whether the provision of tickets to local sporting events at reduced price for County employees would violate the Ethics Code.

The Board responded that provided the discount is offered to all County employees and that all employees know that the offer is available, there would not be a violation of the Ethics Code. Furthermore, if the sports team wanted to offer tiered discounts, then the tiers need to be available to any employee who wants to choose a certain tier; they cannot offer better discounts to certain classes of employees. Lastly, as long as there is no reasonable expectation that these gifts will influence action or inaction by a county employee or public official on a matter, then there is no violation of the Ethics Code.

2. The Board received a verified complaint against three County employees/officials alleging bias in decision-making. After reviewing the Complaint, neither the DA nor the Ethics Board took action on the matter.

3. The Board received three emails from the same individual asking whether various actions by public officials and outside organizations were violations of the Ethics Code. The Board responded that the requester had failed to follow the proper procedure for the Board to review these questions and that the Board can only initiate substantive review of a question when the proper procedures are followed.
4. An official requested an advisory opinion whether elected officials could participate in raffles. The official recently entered a raffle by placing the official's business card in a bowl that was filled with other business cards. The raffle was done by randomly selecting a card from the bowl. The official won a prize and wanted to know if the official could keep it or needed to return it.

The Board found that the Ethics Code does not include any general prohibition against an elected official entering a raffle, but the Board also cautioned that violations could arise depending on the facts of the situation. In the specific situation presented, the Board determined that the items won qualified as "anything of value" as defined by the Ethics Code, but the received items were not obtained through the use of the official's position or given with the intent to reward or influence an official act. The Board noted the official's position was likely why the official was invited to the event, but the Board did not find any evidence the official's entry into the raffle was in any way linked to the official's position, and the raffle was random and open to all attendees of the event.

The Board cautioned, however, that in some situations entering a raffle could violate the Ethics Code. Acceptance of items won in a raffle could be an ethical violation where the items are "anything of value" and obtained through the use of one's public position or intended to reward or influence an official act. Some examples could include, but would not be limited to, a raffle not open to the general public or only open to elected officials.

5. The Board received a request for an advisory opinion whether sending a letter to County employees requesting donations for an online auction for a charity would violate the Ethics Code.

The Board determined that the scenario presented did not violate the Ethics Code so long as all donations from County employees were kept anonymous and Milwaukee County had approved the benefitting organization as a charity, if the County had such a requirement. The Board determined that if that the identity of donors were public, a potential violation of the code could arise because County employees could reasonably be expected to feel pressured or influenced to participate. The Board also noted that the charity must be approved by the County if the County has such a requirement. The Board cautioned that although the Board found no Ethics Code violation in the specific scenario presented, if any public official or employee organizing a campaign was associated with the charity, then a violation could occur.

6. The Board received a request for an advisory opinion as to whether a public official would violate the Ethics Code by accepting pro bono legal services from a law firm where the law firm never charged any fees up front; the firm would be recompensed if successful; the fee agreement was typical of similar cases brought by any individual; and the official did not stand to receive any personal gain from the lawsuit.

The Board determined the specific scenario presented did not violate the Ethics Code. Legal services, in most cases, fall under the Code's definition of "anything of value;" however, the provision of such services could only become an ethical violation if the received value is for private benefit or is to reward or influence an official act. Because in this scenario the official did not stand to gain anything personally from the lawsuit and there was no evidence the law firm

was treating the official differently from any other client it would take, the Board did not find any violation of the Ethics Code.

7. A Verified Complaint was levied against a County official. The then-appointed Executive Director deemed the complaint did not allege potential misconduct under the Ethics Code.
8. An Investigation Request was sent to the Ethics Board alleging discriminatory practices in a county department. After reviewing the information, including the fact it was filed anonymously and did not provide a specific incident, no further action was taken.
9. Various other requests were made for advisory opinions from the Board; however, as the requesters did not respond to the Board's follow up questions, the Board did not have sufficient information to issue an opinion.

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