



Milwaukee County Ethics Board

DATE: February 8, 2017

TO: Chris Abele, County Executive
Theodore Lipscomb, Sr., Chairman, Milwaukee County Board of Supervisors
Willie Johnson, Jr., Chairman, Judiciary, Safety and General Services Committee

CC: Raisa Koltun, Chief of Staff, County Executive
Kelly Bablitch, Chief of Staff, County Board of Supervisors

FROM: Stephanie Hunnicutt, Executive Director

RE: The 2016 Milwaukee County Ethics Board Annual Report

Please find enclosed the Milwaukee County Ethics Board Report for the year 2016. The Ethics Code requires that this report be submitted annually to the County Executive and the County Board of Supervisors.

MILWAUKEE COUNTY ETHICS BOARD

Milwaukee County Courthouse
901 North 9th Street, Room 212-E
Milwaukee, Wisconsin 53233
(414) 278-5332
ethics@milwaukeecountywi.gov

2016 - ANNUAL ACTIVITIES REPORT

ETHICS BOARD MEMBERSHIP

TERM EXPIRATION YEAR

Christian B. Flores, Chair (Nominee of Public Policy Forum)	February 28, 2021
Carol Wichmann, Vice Chair (Nominee of the League of Women Voters)	February 28, 2018
Marcia F. Drame (Nominee of Milwaukee Bar Association)	February 28, 2016
Gary Manning (Inter-Faith Conference of Greater Milwaukee)	February 28, 2017
Howard Schnoll (Nominee of the Greater Milwaukee Committee)	February 28, 2019
Clarence P. Nicholas (Nominee of NAACP)	February 28, 2020
Christopher Meuler (Nominee of the Milwaukee Bar Association)	February 28, 2022

The Ethics Board elected Christian B. Flores as Chair and Carol Wichmann as Vice Chair of the Ethics Board at its February 9, 2016 meeting.

Ms. Drame's term expired February 28, 2016. Mr. Meuler was confirmed as a member of the Ethics Board in December, 2015 with his first meeting with the Ethics Board in May 2016. Ms. Wichmann resigned from the Ethics Board on December 8, 2016.

BACKGROUND

MISSION STATEMENT

To ensure public confidence that the Milwaukee County government acts with the highest integrity and in the public interest.

VISION

Milwaukee County has a model ethical culture based on transparency, disclosure, and institutional integrity.

STATUTORY REFERENCE

The Milwaukee County Ethics Code is Chapter 9 of the Milwaukee County General Ordinances and is based largely on Section 19.59 of the Wisconsin Statutes. 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.

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 28 times since its inception, with two amendments occurring in 2016. 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. New members are nominated by one of the following six outside entities:

- 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, employee, or candidate for public office.

BOARD RESPONSIBILITIES

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

- Directs persons to timely file Statements of Economic Interests as required;
- 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; and
- Accepts investigation requests and verified complaints against county elected or appointed officials, employees, or members of county boards and commissions.

ADMINISTRATION

STAFF

Stephanie Hunnicutt, Executive Director, January 2017 to present

Alisha Terry, Administrative Assistant, June 2015 to present

Rebecca Janz, Executive Director, July 2014 to August 2016

Stephanie Hunnicutt, Paralegal, December 2015 to January 2017

In August 2016, Ms. Rebecca Janz left for a position outside of Milwaukee County. The Ethics Board thanks her for contributing value and professionalism during her tenure as Executive Director and wishes her well in her future endeavors.

2016 BUDGET

The 2016 adopted Ethics Board budget was \$90,971, a decrease of \$2,768 (about 3 percent) from the 2015 budget. Two major components of the budget are support staff and outside counsel representation for the Board. In 2016, balance increased in personnel costs but decreased in operating costs and cross-charges.

BOARD MEETINGS

In 2016, the Ethics Board met five times, a decrease of about 60 percent over 2015. By ordinance, the Ethics Board meets at least four times per year. The Ethics Board schedules additional meetings as necessary to timely respond to requests for advice or to investigate allegations of violations of the Ethics Code.

Although requests for written advice and investigations must be held in closed session pursuant to local ordinance and as permitted by state statutes, 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.

MEETINGS AND ATTENDANCE

The average Board member attendance rate was slightly below 100%; however, the average attendance rate for 2016 was higher than 2015.

Board Member Attendance Data 2014 to 2016

2014	
MEMBER	MEETINGS ATTENDED OF MEETINGS CALLED
David B. Carr	1 of 1 = 100%
Christian Flores	5 of 6 = 83.3%
Marcia Drame	4 of 6 = 66.7%
Henry Hamilton III	1 of 2 = 50 %
Gary Manning	2 of 6 = 16.7%
Carol Wichmann	6 of 6 = 100%
Michael Spector	4 of 4 = 100%
Clarence P. Nicholas	2 of 2 = 100%
Average Attendance	= 71%

2015	
MEMBER	MEETINGS ATTENDED OF MEETINGS CALLED
Christian Flores	8 of 8 = 100%
Marcia Drame	6 of 8 = 75%
Gary Manning	8 of 8 = 100%
Carol Wichmann	7 of 8 = 87.5%
Howard Schnoll	5 of 5 = 100%
Clarence P. Nicholas	2 of 8 = 25%
Average Attendance	= 81%

2016	
MEMBER	MEETINGS ATTENDED OF MEETINGS CALLED
Christian Flores	5 of 5 = 100%
Carol Wichmann	4 of 4 = 100%
Marcia Drame	2 of 2 = 100%
Gary Manning	5 of 5 = 100%
Howard Schnoll	5 of 5 = 100 %
Clarence P. Nicholas	2 of 5 = 40%
Christopher Meuler	3 of 3 = 100%
Average Attendance	= 92%

ACTIVITIES RELATED TO THE DUTIES OF THE ETHICS BOARD

STATEMENTS OF ECONOMIC INTEREST

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 2016, 315 people were required to file a Statement of Economic Interest with the Ethics Board, a decrease from 325 people required to file in 2015. In addition to the 315 required filers in 2016, 34 people filed Statements of Economic Interest with the Ethics Board as candidates for the 2016 Spring Election.

The Board received four requests to review Statements of Economic Interest in 2016.

SEI ELECTRONIC FILING PROJECT

The Office is currently working with the Milwaukee County Information Management Services Division to create a new electronic filing system.

HEARING PROCEDURES

In 2015, the Ethics Board held its first hearing under the current Ethics Code ordinance, which was implemented in 2008. The Ethics Board successfully conducted the hearing; however, the process highlighted the need for more detailed procedural rules regarding preliminary conferences and hearings. The Ethics Board is working to revise the procedural rules for clarity purposes.

ETHICS COMPLIANCE & TRAINING

The Office is currently working with Milwaukee County Human Resources and County Executive’s Office to discuss implementing and assigning training for the online introductory ethics training for Milwaukee County officials and employees.

ETHICS BOARD DETERMINATIONS AND ADVISORIES

During 2016, 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 session, and the synopses are written in a manner that protects the integrity of the closed session meetings and the confidentiality of the requesters. These summaries are for informational purposes and should not be relied on as authoritative advice for other factual scenarios.

1. A Milwaukee County employee requested advice as to whether dual employment with the County and an outside agency was a conflict of interest. The Board found that the proposed employment scenario likely violated the Ethics Code. As part of her work for the County, the employee refers clients to certain agencies, one of them being the agency she worked for. The

Board advised that, if she continued to work at the agency while employed in her current position with the County, she would be a public employee directly accepting something of value.

Her employment with the agency could reasonably be expected to influence her official actions and judgment in her County employment because she could reasonably be seen as influencing clients from the County to select the agency. The increased business sent to the agency could then indirectly benefit her by increasing the likelihood that a client from her County role will select the agency and increase its business. Although the employee does not direct the clients on which agency to select, the Ethics Code is concerned with potential conflicts of interest and there is the potential for the employee to use her role with the County to increase business to the agency. It would be reasonable for a member of the public to perceive a conflict between the employee's role with the County and her role with the agency.

2. An employee requested an advisory opinion as to whether local colleges and universities setting up information tables in common areas of the Courthouse would create a conflict of interest. The employee noted that some County employees also work as adjunct professors at certain colleges and universities. The Board did not see a conflict of interest as long as the County employees who are also adjunct professors are not involved in any solicitation for the institutions. The Ethics Code prohibits solicitation if the solicitation could reasonably be viewed as influencing future action or as a reward for past action.
3. A Department wished to hire an employee who, if hired, requested she be able to continue operating her private business. The private business provided services unrelated to the position offered with the County. The Board did not see a conflict of interest between the two positions. The prospective employee does not have any ability to use her County position to give a private advantage to herself or her business and the position cannot be reasonably seen as a reward from the business for any official action by her. The populations she will work with in each role are different; she cannot refer any County clients to the business in her position with the County; and there are no contracts between the County and her business.

The Board noted that, if her position at either station changes so that she is referring clients from the County to the business for services or there is a potential contract between her business and the County, there is a strong likelihood that a conflict could arise. The Board encouraged her to request a new advisory opinion if her duties or roles change at either entity.

4. A citizen requested an opinion about whether he could continue his current employment with a business that receives referrals from County agencies if he were to run and were elected to the office of Milwaukee County Supervisor. The Board advises that he could continue his employment if elected, so long as he recused himself from any matter that could reasonably be seen as a conflict of interest or giving him or his agency a private benefit. The Board also advised that, if elected, he should discuss his situation and the County Board's rules of procedure for recusals and abstentions with the Chair of the County Board.

A County official cannot use his position for private gain or accept anything of value, including employment, if it could reasonably be seen to influence or reward his official activities. The Board saw the potential for conflicts were he to serve as a County Supervisor; but those conflicts would need to be addressed on a case-by-case basis. However, the Board did not believe the

potential conflicts would be so broad as to preclude him from running and serving as a County Supervisor while continuing his outside employment.

5. An elected official requested an advisory opinion as to whether he could continue to serve on various boards of directors for outside entities while serving as an elected County official. After reviewing the facts provided to the Board, the Board advised that he should not continue to serve on these various boards because there is too strong a potential for a conflict of interest between his duties in his role as County official and as a director on the boards of these particular entities.

The question presented in this instance is whether his position will produce or assist in the production of a substantial benefit, directly or indirectly, for any of these entities. In his role as a County official, his areas of oversight pose a strong potential that he could use, or appear to use, his office to directly or indirectly produce or assist in the production of a substantial benefit to these entities because of his ability to affect the determination of whether to act in ways that are favorable to these entities. The Ethics Board advised that, to remove any potential conflict, he should step down from serving on the boards of these entities.

The Board recognized that his service with these entities is for public service, but his duty of loyalty to Milwaukee County takes precedence. The Board noted that the main problem in these scenarios was that he was "associated" with these organizations as a director. He potentially could continue to volunteer or do other work with these entities, so long as it does not rise to the level of an officer or director position and does not violate other sections of the Ethics Code.

6. A County Department had a contract with a vendor that sponsors a conference every year that provides training and information. The vendor invited two staff members from the Department to attend its conference out-of-state. The vendor would pay for flight, hotel, and meals. Neither staff member who was invited had decision-making power over the contract with the vendor. The Department manager asked whether it would be a violation of the Code if the vendor paid for the employees' expenses to attend the conference.

The Board found that payment of the employees' expenses related to the conference would not be a conflict of interest. Neither employee had decision-making authority for the contract and the information provided at the conference would benefit Milwaukee County by allowing the County to better use the resources for which it has contracted. The Board advised that, if either employee is required to file a Statement of Economic Interest, he or she should report the value or estimated value of these expenses as Honoraria, Fees, and Expenses.

7. A County employee requested an advisory opinion regarding an invoice her department received from a vendor for food and services provided at a department luncheon. Her department hosted an employee appreciation luncheon for employees. Certain Department managers planned to fund a luncheon out of their own pocket. However, unbeknownst to the Department managers, a supervisor in the Department contacted a current vendor and asked the vendor to provide food and services for the luncheon. The vendor hosted a much more expensive luncheon than originally planned. The employee later received the invoice from the vendor in an amount that vastly exceeded the amount that the Department managers planned to pay. The vendor told the employee that the County does not need to pay the invoice.

The Board found that, pursuant to the Ethics Code, the invoice does need to be paid. The Ethics Code prohibits a county public official or employee from soliciting or accepting anything of value if it could reasonably be expected to influence the public official's or employee's vote, official actions or judgment, or could be reasonably considered as a reward. It would be improper for the County to receive a luncheon from a vendor as it may appear to be a reward or influence those in the Department with contract authority.

However, the Board also found that, as the employee and the Department managers were not contacted and were not able to provide input as to the food and services to be provided, this was a contract dispute and the Department was allowed to negotiate what they believe to be a reasonable price without violating the Ethics Code. Under these circumstances, it would not be a violation of the Ethics Code to dispute what is reasonably seen as an overbill.

8. A County employee requested an advisory opinion regarding a gift offer from a vendor. The Board found that the receipt of the gift, which was of considerable value, would be a violation of the Code. The County currently does business with the vendor, along with other vendors, depending on the outcome of the bidding process. The Ethics Code prohibits a county public official or employee from soliciting or accepting anything of value if it could reasonably be expected to influence the public official's or employee's vote, official actions or judgment, or could be reasonably considered as a reward. Given the fact that the vendor competes for contracts with the County, it could give the appearance of impropriety if the vendor gave the County a considerable gift and was then awarded the next contract with the County after competing with other potential vendors. While it would be a great benefit to the County to receive the gift, it would be a violation of the Ethics Code to receive it.
9. An employee requested an advisory opinion regarding her employment with the County and her volunteer work for a project in another County Department. The Board did not see a conflict of interest between these two positions. The employee is not in a supervisory role in either position, nor is she soliciting funds for the project. Rather, she is working to educate and inform the community about the project. County officials and employees are not prohibited from engaging in political activity during their free time. However, the Board noted that officials and employees shall not engage in political activity while at work or while engaging in their official duties.
10. Milwaukee County Corporation Counsel requested (on behalf of the Pension Board) that the County Board of Supervisors amend the County ordinance requiring that Pension Board members and officers file a quarterly Statement of Economic Interests and instead file an annual Statement as most other departments are currently doing. Corporation Counsel, on behalf of the County Board of Supervisors and Pension Board, requested the Ethics Board's advice regarding the proposed ordinance change.

The Ethics Board provided an advisory opinion relaying its reservations concerning the large amount of money the Pension Board controls and the fiduciary duties that coincide with that responsibility. The Ethics Board does not agree that Pension Board members are like other employees, officers and officials as the large amount of money they have access to and control is much more than most other county employees and officials. The Ethics Board suggested that, for the sake of transparency, the proposed ordinance change provide that Pension Board

members and officers should only be required to file a quarterly statement if there are any substantive change(s) to their annual filing.

Pursuant to the request of the County Board of Supervisors, the Ethics Board issued a subsequent opinion defining the term "substantive change". In defining the term, the Ethics Board pointed to the requirements as set forth in the Ethics Code which define a significant fiduciary relationship.

This matter was brought before the Ethics Board in open session and the advisory opinions were shared in public forum at the meetings of the Committee on Judiciary, Safety, and General Services and the Board of Supervisors with the permission of the Ethics Board Chair.

11. A County committee collects school supplies to donate to a local non-profit organization and distribute to children in need. The committee was looking to collect monetary donations as well. A committee member asked the Ethics Board whether it would be a violation of the Ethics Code if committee members collected monetary donations from employees in their respective departments. Most of the committee members are not supervisors.

The Board found that face-to-face collection of monetary donations could create the appearance of impropriety. However, the Board determined that a locked box for anonymous monetary donations would not violate the Ethics Code. The Ethics Code prohibits a county employee from offering, giving, soliciting, or accepting anything of value if it could reasonably be expected to influence the public official's or employee's vote, official actions, or judgment. The Ethics Code also prohibits a county public official from using her position to obtain financial gain or anything of substantial value for the private benefit of himself/herself . . . or for an organization which he/she is associated. The Board's determination was contingent on keeping donations from county employees anonymous. If those who donate funds are known to those employees in charge of the campaign, posted, or made public in anyway, a potential violation of the Ethics Code could arise.

12. An employee requested an advisory opinion as to whether it is ethical for a vending machine company to give a percentage of its vending machine sales revenue directly to a department located in close proximity to the vending machine. Additionally, the employee inquired whether it is ethical for the department in close proximity to the machine to contribute the revenue to its department "sunshine fund" and whether the machine's availability to the public affect the Board's determination.

The Board found that the payment of revenue described violates the Ethics Code. It is not ethical for the vending machine company to give revenue to the department. The department receiving this monthly revenue is receiving a private benefit from the company, due to the department's public role, when this revenue should procedurally be going to the County Treasury. For the reasons stated above, the department should not be using money owed to the County Treasury for its own private fund. Whether the machine is available to the public does not affect the Board's determination in this case. The Ethics Code violation is exacerbated by the fact that the public is likely contributing to the machine revenue.

13. The Board received an investigation request alleging that a public official used the official's public position to influence or gain an unlawful advantage for himself/herself or others. After reviewing the request, the Board determined that the request did not produce facts sufficient to merit a conclusion that a violation of the Code had occurred. The Board dismissed the request.
14. The Board received an investigation request alleging that a public employee was responsible for a contractor of the County performing work outside the scope of the contract in violation of the Code. The District Attorney's Office took no action on the request. At the time of this writing, the matter is still pending before the Board.

PUBLIC RECORDS REQUESTS

The Ethics Board received four requests for records pursuant to Wisconsin Public Records laws. The Office provided copies of Statements of Economic Interests in response to two requests; Statements of Economic Interests and a violation determination by the Board, including the Complaint, Findings and Order in response to the third request; and was unable to provide any records in response to the fourth.

- END -