



**City of Detroit Board of Ethics
2018 Annual Report**

City of Detroit Board of Ethics

Atty. Kristin Lusn
Chairperson

Freda G. Sampson
Vice Chairperson

Rev. Dr. Charles C. Adams
Atty. David W. Jones
Robert Watt, EA

The integrity of city government and public trust and confidence in elective officer and employees require that public servants be independent, impartial and responsible to the people; that government decisions and policy be made within the proper channels of the governmental system; and that public servants be prohibited from participating in matters that affect their personal or financial interests.

The purpose of this article is to establish guidelines for ethical standards of conduct for all city government officials and employees by defining those acts or actions that are incompatible with the best interests of the city and by mandating disclosure by public servants of private financial or other interests in matters affecting the city.

---taken from the of The Detroit City Charter, Part II, Chapter 2, Article 6, Division 1, section 2-6-1 Statement of Purpose Commentary.

Article II. Section 2-106.9

The Board of Ethics shall:

1. Issue advisory opinions regarding the meaning and application of provisions of the Charter, city ordinances or other laws or regulations establishing standards of conduct for Public Servants. Advisory opinions shall be rendered upon written request by a Public Servant regarding his or her own actions. The advisory opinions shall not disclose the identity of the Public Servant concerned.
2. Receive and resolve complaints arising under the Ethics Ordinance. The Board of Ethics shall be authorized by ordinance to conduct investigations on its own initiative, subpoena witnesses, administer oaths, take testimony, require the production of evidence relevant to a matter under investigation, appoint independent counsel when necessary, and to perform other functions essential to ensure the integrity of City government.
3. Prepare an annual report for submission to the Mayor and City Council. Consistent with state law, the Board of Ethics may recommend improvements in the standards of conduct to ensure the ethical behavior of City elective officers, appointees and employees, or in the organization and procedures related to the administration and enforcement of those standards.
4. Provide mandatory training for the Mayor, City Council, Clerk, appointive officers and appointees and employees who exercise significant authority in the execution of his or her official duties.
5. Provide training for all other appointees and employees including those subject to Article 6, Chapter 4 of this Charter.
6. Issue penalties for violations of this section of the Charter, as consistent with state law.

TO: Hon. Michael E. Duggan, Mayor
Hon. Brenda Jones, City Council President
Hon. Mary Sheffield, City Council President Pro Tempore
Hon. Janeé L. Ayers, City Council Member
Hon. James Tate, City Council Member
Hon. Roy McCalister, City Council Member
Hon. Scott Benson, City Council Member
Hon. Andre L. Spivey, City Council Member
Hon. Raquel Castañeda-Lopez, City Council Member
Hon. Gabe Leland, City Council Member

FROM: Atty. Kristin A. Lusn, Chairperson

SUBJECT: Annual Report of the Board of Ethics

DATE: April 1, 2019

The Board of Ethics Annual Report includes Board activities beginning January 1, 2018 to December 31, 2018. In accordance with Section 2-6-97 of the Ethics Ordinance (the first “Ordinance”), this Report contains:

1. An analysis of Board activities, including the number of Advisory Opinions requested and issued; Complaints filed and their disposition; and Investigations opened and their disposition;
2. A compilation of Advisory Opinions issued;
3. Recommendations for improvement of the Disclosure Requirements, Standards of Conduct, and the administration and enforcement of the Ordinance.

This Report also includes updates on meetings and training activities.

Board Activities

A. Meetings

During the year of this Report, the Board met frequently; there were ten (10) general meetings, two (2) hearings, and one training session for the Board Members and staff.

B. Filings, Inquiries and Trainings

During this year, the Board received nineteen (19) Requests for Advisory Opinion and twenty-three (23) Complaints.

Advisory Opinions

An Advisory Opinions can only be filed by a public servant who is inquiring about their own conduct.

Advisory Opinion #2018-01. Filed: January 9, 2018. The Public Servant requested guidance on whether to accept a gift card to a spa from a City Contractor. The Board concluded that acceptance of the gift is a violation of Sec. 2-106.4. Gifts and Gratuities prohibition. It is a violation of the Gifts and Gratuities prohibition to accept a gift from a City contractor or vendor unless it falls within the exceptions.

Advisory Opinion #2018-02. Filed: January 25, 2018. The Public Servant requested advice on whether to disclose a real estate investment where one of the partners has previously had business/deliberation before City Council. The Board concluded that the public servant had no requirement to file a disclosure regarding this investment because when the Board heard this matter, the public servant had requested and received a refund on the investment. The Board strongly encouraged the Requestor to impart care when investing in the City of Detroit.

Advisory Opinion #2018-03. Filed: February 20, 2018. The Public Servant requested advice on whether he and his department could travel out of state for training using funds provided by an agency that provides services to the City. The agency receives no remuneration from the City but has a Memorandum of Understanding with the City. After its investigation, the Board concluded that the Requestor would be in violation of the gift and gratuity prohibition because an entity doing business with the City funds the training and it did not fall within an exception.

Advisory Opinion #2018-04. Filed: May 10, 2018. The Public Servant requested advice on whether to accept a mini grant from a non-profit organization for travel expenses to perform work similar to his City job. His would perform these activities on his own time and not for city tasks. The Board investigation revealed no violation of incompatible employment, rendering of services, or gifts or gratuities prohibitions. The public servant was strongly encouraged to exercise caution and shrewd judgment to ensure that the non-profit activities and the City

activities remain separate and no research activities with the non-profit be performed during City business hours or utilizing City resources.

Advisory Opinion #2018-05. Filed: May 17, 2018. The Public Servant requested advice on whether she may maintain her volunteer services and businesses and accept a position offered to her by the City. After investigating her activities with each entity, the Board concluded that if she accepted City employment, volunteer participation and paid extracurricular activities could continue because no violated could occur from sheer participation. Requestor was encouraged to exercise caution and not perform outside activities during City business hours or utilize City resources.

Advisory Opinion #2018-06. Filed: June 21, 2018. The Public Servant requested advice on whether he could accept a position with an organization who is a City sub-recipient of federal funding. After its investigating, the Board concluded the public servant could accept the position because he had no participation in the award or management of the entity. The public servant was reminded to share no confidential information about the City of Detroit with the new employer.

Advisory Opinion #2018-07. Filed: July 25, 2018. The Public Servant requested advice on whether he would be in violation of the gifts and gratuities prohibition if he and other employees accepted logo-enhanced items (pens, t-shirts, flash drives) from a marketing and advertising professional. The Board concluded the items could be accepted because the professional contact does not do business with the City, is not seeking business from the City, and is not seeking official action from the City.

Advisory Opinion #2018-08. Filed: July 26, 2018. The Public Servant requested advice on whether he could direct staff to assist a Community Advisory Council and be in compliance with the CAC creating ordinance. The Board concluded that the Ethics Ordinance does not permit the Requestor to direct staff to assist a Community Advisory Council, however, staff may volunteer during their personal time to assist a Community Advisory Council so long as they adhere to the exceptions contained in Sec. 2-6-66 of the Ethics Ordinance. Extreme caution should be used to avoid the perception that "volunteer" activities are sanctioned by or authorized by the City or its staff.

Advisory Opinion #2018-09. Filed: August 16, 2019. The Public Servant requested advice on whether a conflict of interest exists between his personal land holding and his City duties and how to properly disclose private property ownership. The Requestor also requested assistance with addressing this matter in their department and future recusals. The Board of Ethics determined the Requestor's involvement and partial ownership in the properties constitutes a conflict under the 2012 Detroit City Charter and corresponding provisions of the 1984 Detroit City Code. Requestor's actions to exclude himself from the operation of the LLC were

appropriate. The department must create a procedure that removes Requestor from decision making regarding property held by their LLC. For the other properties, Requestor must file a notarized disclosure under Section 2-6-31 as they have a direct or indirect financial interest (or interest in real or personal property) in a contract or matter pending before Council or other agency or department of the City.

Advisory Opinion #2018-10. Filed: August 17, 2018. The Public Servant requested advice on whether she could volunteer with an outside agency that may have a conflict with her current duties with the City. After its investigation, the Board concluded the Requestor can volunteer with the outside agency that sought her participation on its grants committee, so long as the outside agency 1) is doing no business with the city 2) seeks to do no business 3) seeking no official action 4) has no interests that could be substantially affected by the performance of Requestor's duties or 5) is not registered as a lobbyist. Requestor should also exercise caution that her judgment and actions on behalf of the City remain independent, that she refrain from sharing any confidential information with the outside agency, and that her outside activities are not performed during City business hours or utilizing City resources.

Advisory Opinion #2018-11. Filed: August 29, 2018. The Public Servant requested advice on whether he could accept an offer to teach a security certification course and receive payment. The Ethics Ordinance does not bar the Requestor from teaching the course but should exercise caution and refrain from sharing any confidential information and that performance of these activities should be outside of City business hours and without utilizing City resources.

Advisory Opinion #2018-12. Filed: August 30, 2018. The Public Servant requested advice on whether she could accept a meal from an entity offering insurance to employees. The entity has offered meals to those employees who consider acquiring the insurance. The Board concluded the meals could be accepted from the third party entity because it is doing business with the individual employees and not the City. The Public Servant may accept the meal so long as the entity: 1) is doing no business with the city 2) seeks to do no business 3) seeking no official action 4) has no interests that could be substantially affected by the performance of Requestor's duties or 5) is not registered as a lobbyist.

Advisory Opinion #2018-13. Filed: September 5, 2018. The Public Servant requested advice on whether he could receive an honorarium from a nonprofit for whom he provides services. He provides work that is unlike his City duties. The Board concluded that the Ethics Ordinance does not prohibit the Requestor from receiving a stipend for his volunteer work with a local nonprofit agency because the outside agency 1) is doing no business with the city; 2) seeks to do no business; 3) seeks no official action from the City; 4) has no interests that could be substantially affected by the performance of Requestor's duties; or 5) is not registered as a lobbyist. Requestor should exercise caution that his judgment and actions on behalf of the City remain independent,

that he refrain from sharing any confidential information with the outside agency, and that his outside activities are not performed during City business hours or utilizing City resources.

Advisory Opinion #2018-14. Filed: August 17, 2018. The Public Servant requested advice on whether she could accept a fee waiver to a conference and acquire a compliance letter from the Board of Ethics, where the conference convener is a City Contractor. After its investigation, the Board concluded the Requestor may accept the fee waiver for the conference and receive the compliance letter even though the conference convener is a City contractor because it meets the exception contained in Section 2-6-71 (b)(4).

Advisory Opinion #2018-15. Filed: October 12, 2018. The Public Servant requested advice on whether a conflict exists if the department co-host a national organization's conference where department employees would be allowed to attend for free. Requestor states that public servants would but not engage in any activities related to the payments, contracts, vendor solicitation, selection, or distribution of any of the components of the conference. After its investigation, the Board concluded the Requestor would not be in violation of the 2012 Detroit City Charter or the Requestor/department elect to participate in the facilitation and co-hosting of a national conference. Requestor should exercise caution that judgment and actions on behalf of the City remain independent. Further, the Requestor, as a public servant and the public servants in that department, may accept the waiver of conference fees without violation of the gifts and gratuities provisions under Sec. 2-6-71 of the Ethics Ordinance as the exception contained in Section 2-6-71(b)(4) is met and the conference convener is doing no business and seeking no contracts with the City.

Advisory Opinion #2018-16. Filed: November 21, 2018. The Public Servant requested advice on whether she can accept a stipend for work done for a special event although he completed the work during normal working hours and at his regular work location. The Board of Ethics concluded that the Requestor would be in violation should she accept the stipend. Additionally, the Board of Ethics recommends the City develop consistent parameters around Election Day opportunities for employees.

Advisory Opinion #2018-17. Filed: November 26, 2018. The Public Servant requested advice on whether they can serve as a board member/officer for a local non-profit organization. After its investigation, the Board concluded that the Requestor would not be in violation by participating on the board of the local nonprofit so long as the Requestor recused themselves from any City of Detroit activities and share no confidential information. Requestor should exercise caution that judgment and actions on behalf of the City remain independent.

Advisory Opinion #2018-18. Filed: November 26, 2018. The Public Servant requested advice on whether they can serve as a board member for a local non-profit organization. After its investigation, the Board concluded the Requestor would not be in violation by participating on the board of the local nonprofit so long as the Requestor request themselves from any City of Detroit activities and share no confidential information. Requestor should exercise caution that judgment and actions on behalf of the City remain independent.

Advisory Opinion #2018-19. Filed: December 6, 2018. The Public Servant requested advice on whether she can stop employees with knowledge of development from purchasing and/or selling property. The Board of Ethics declined to issue an advisory opinion where the Board determines that the request concerns past or current conduct, which is more appropriately addressed by the filing of a complaint or by the contracting of an investigation.

C. Board Composition.

From January 2018 to September 2018, the members of the Board of Ethics included:

Ponce De Leon Clay, Chairperson
Atty. Kristin A. Lusn, Vice Chairperson
Rev. Charles C. Adams
Atty. Beth Greenberg Morrow
Freda G. Sampson
Hon. Alma G. Stallworth
Robert Watt

During this year, the Board accepted the resignation of Ponce De Leon Clay (September 2018).

As of December 2018, the current members are as follows:

Atty. Kristin A. Lusn, Chairperson
Freda G. Sampson, Vice Chairperson
Rev. Dr. Charles C. Adams
Hon. Alma G. Stallworth
Robert Watt, EA
two vacancies

D. Other Activities.

The Board of Ethics staff increased by two FTEs, who serve as the Ethics Coordinator and Ethics Investigator with a start date of July 2, 2018. Board of Ethics staff total is three.

The Board of Ethics staff provided ethics training during all New Employee Orientations and to the following departments:

Board of Tax Review	BSEED	Board of Zoning Appeals
City Planning Commission	DoIT	Dept. of Appeals & Hearings
DWSD Board & Executive Staff	Office of Contracts & Procurement	Homeland Security & Emergency Management
DDoT Executive Staff	Office of the City Clerk – City Council	Human Resources

Public ethics presentations provided by the Board included Hood Research, Detroit, MI, and to the Mongolia Delegation through Global Ties Detroit sponsored by the United States Department of State.

Board staff attend the 40th Annual Council on Government Ethics Laws (COGEL), an organization created by an ad hoc group of executives after the Watergate scandal.

E. Recommendations for Improvements of the Board of Ethics and Ethics Ordinance

1. Sec. 2-106.5. - One Year Post-Employment Prohibition.

The status of the one-year post-employment prohibition exist without any time limitation. As such, a public servant, especially one who has served for several years, may have been “in any way involved” with the award or management of countless contracts during their tenure with the City. This prohibition could be quite onerous for a public servant with long-term service who must look for outside employment.

2. Charter Revision Commission.

The citizens of Detroit voted on a City of Detroit Charter Revision Commission and it is an opportunity to improve the 2012 Charter and the Ethics Ordinance. The Board of Ethics will seek an opportunity to bring testimony to the Charter Revision Commission for an improved Charter and Ethics Ordinance.

F. Investment In Ethics

The Ethics Ordinance addresses funding and staffing for the Board of Ethics as follows:

Sec. 2-6-95. - Funding and staff.*

(a) In accordance with Sections 2-106.13 and 8-214 of the 2012 Detroit City Charter, the city shall **annually appropriate funds sufficient to enable the board of ethics to perform its duties** as set forth in the 2012 Detroit City Charter and this article, including hiring **adequate staff**.

(Ord. No. 22-00, § 1, 8-2-00; Ord. No. 43-06, § 1, 11-17-06; Ord. No. 18-12, § 1, 7-31-12)

***Commentary** - Section 8-214 of the 2012 Detroit City Charter requires that the City of Detroit establish, through enactment of an ordinance, a proportional funding method for certain oversight agencies, including the board of ethics. This requirement ensures that, because of its importance to the efficient and ethical operation of city government, the function provided by the board of ethics, as an oversight agency, is not hampered in its ability to properly function.

The Board of Ethics is inadequately staffed and underfunded. When compared to other municipalities, staffing should double. It would allow staff to meet, more effectively and efficiently, the mandates required by the Charter and Ethics Ordinance.

cc: Hon. Janice Winfrey, City Clerk
All Department Directors
All Agency Heads