

**CITY OF MILWAUKEE
BOARD OF ETHICS RULES AND PROCEDURES**

PREAMBLE

The Board of Ethics of the City of Milwaukee, in order to achieve the order and decorum that will expedite transaction of official business, to maintain free and open discussion, to ensure the honorable and just administration of the City of Milwaukee's Code of Ethics, does hereby submit to be governed by the following rules and procedures:

RULE I. GENERAL GOVERNING RULES

The Ethics Board of the city of Milwaukee, Wisconsin shall be governed by s. 303, Milwaukee Code of Ordinances, and by the rules and procedures hereinafter set forth. Whenever any conflict shall exist between these rules and the laws of the State or ordinances of the City, the Wisconsin Statutes and Milwaukee Code of Ordinances shall prevail.

RULE II. GENERAL BOARD PROCEDURES

ARTICLE I – MEETINGS

- Sec. 1. Regular meetings shall be scheduled by the Board or at the call of the Chair.
- Sec. 2. A meeting shall be scheduled at the written request of any four members.
- Sec. 3. Notice to the Public and Board members shall conform to rules prescribed by law.
- Sec. 4. Four members shall constitute a quorum.

ARTICLE II - OFFICERS

- Sec. 1. The Chair and Vice Chair shall be elected yearly at a regular fall meeting of the Board by a majority vote. Nominees must be current Board members. Officers may be re-elected.
- Sec. 2. The Chair shall be entitled to vote on all matters. All committees and subcommittees shall be created and appointed by the Chair.
- Sec. 3. The Chair shall have the responsibility, whenever an inquiry is made, to confer with a representative of the City Attorney's Office for advice to ensure compliance with the public records law.

ARTICLE III - PROCEDURES

- Sec. 1. Any member who does not answer roll call shall be recorded as absent, unless excused by the Chair. No alternate or proxy votes shall be allowed.

Sec. 2. After three consecutive unexcused absences, the Chairman shall notify the Mayor and the nominating body.

Sec. 3. Proceedings of all committees and all Board meetings shall be recorded except for closed sessions dealing with confidential matters. The Ethics Board shall preserve and secure all original recordings in accordance with the established records retention schedule. Recordings of open meetings shall be available for replaying in accordance with the Open Records law. Complaints, advisory opinions, and all files relating to complaints are confidential and may only be released by the Chair after conferring with legal counsel. All nonpublic agencies and individuals shall be charged fees established by the City Clerk for listening to and copying tapes of Board meetings.

Sec. 4. A roll call shall be ordered on any questions at the request of any member. No discussion may take place during a roll call and all members shall vote on every matter put to vote unless excused by the Chair.

ARTICLE IV - BOARD BUSINESS

Sec. 1. The agenda shall be in writing and available to the Board in advance of each meeting.

Sec. 2. All minutes, findings and rulings of the Board shall be prepared in written form and filed with the Ethics Board. Records shall be available for review only as provided under Art. III, Sec. 3. above and may be published in other forms as determined by the Board.

Sec. 3. Any member may file a minority report dissenting in whole or part from a Board report, which shall become part of the file.

Sec. 4. No Board rules shall be rescinded or amended without the concurrence of four members.

Sec. 5. The current edition of Robert's Rules of Order shall govern the proceedings of this Board in all cases to which they are applicable and in which they are not inconsistent with these Rules, City Code, Charter or Laws of the State of Wisconsin.

ARTICLE V – CONFIDENTIAL ADVISORY OPINIONS

Sec. 1. The Board shall accept requests for advisory opinions as provided in Section 303-7-2, Milwaukee Code.

[Section 303-7-2, Milwaukee Code, provides as follows: “2. ADVISORY OPINIONS. a. Any individual, including former officials and other city employes, either personally or on behalf of an organization or governmental body, may make a written request of the board for an advisory opinion relating to the propriety of any matter or matters to which the person, organization or governmental body is or may become a party.]

b. Any appointing officer, with the consent of a prospective appointee, may make a written request of the Board for an advisory opinion regarding the propriety of any matter to which the prospective appointee is or may become a party.

Sec. 2. A request for an advisory opinion must be received by the Ethics Board staff no later than five business days in advance of the next scheduled Ethics Board meeting in order to be heard.

Sec. 3. The requestor shall be guided by the opinion rendered.

Sec. 4. The request shall be in writing and state specifically the facts at issue. The requestor may supplement the facts at the meeting. No hypothetical questions will be considered by the Board.

Sec. 5. The Board shall consider the request at a regular, or special, closed meeting pursuant to statute and within 45 days of receipt of the request. It may confer with legal counsel with respect to any question.

Sec. 6. The Board shall render its confidential advisory opinion as soon after the meeting as practicable and shall submit the opinion in writing to the requestor.

Sec. 7. Requests for advisory opinions, records obtained or filed in connection with requests for advisory opinions and advisory opinions rendered shall be closed in whole to public inspection pursuant to the Open Records law. This shall not be interpreted to preclude the Board from compiling or publishing summaries of opinions rendered under Art. V, Sec. 6, if no identification of the requestor or any organization identified in the opinion is made. No member of the Board may make public the identity of the individual requesting an advisory opinion or of individuals or organizations mentioned in the opinion.

ARTICLE VI – FINANCIAL DISCLOSURE

Sec. 1. The Board shall develop the Statement of Economic Interests form as authorized by s. 303-13, Milwaukee Code of Ordinances.

Sec. 2. The Board shall provide the Statement of Economic Interests form to all City Officials in early January. In the case of a newly employed, appointed or nominated person, the Board shall provide the Statement of Economic Interests form upon notification from the City Clerk's office, Department Head or Appointing Authority.

Sec. 3. A statement of economic interests shall be filed with the Board as required by Section 303-11-1, Milwaukee Code.

[Section 303-11-1, Milwaukee Code, provides as follows: 1. REQUIRED. A statement of economic interests shall be filed with the board as follows:

a. Any individual who in January of any year is an official and is required to file as so designated by the city positions ordinance shall file with the Board no later than February 28 of

that year a statement of economic interests. The information on the statement shall be current as of December 31 of the preceding year.

b. Any newly appointed or employed individual required to file as so designated by the city positions ordinance shall file a statement of economic interests within 21 days following the date he or she assumes office if the individual has not previously filed a statement of economic interests with the Board during that year. The information on the statement shall be current as per the date he or she assumes office.

c-1. Any nominee to a city board, commission or committee who is required to file as so designated by the city positions ordinance shall file a statement of economic interests within 21 days of being nominated unless the nominee has previously filed a statement with the Board for that year. The information on the statement shall be current as of the date he or she is nominated.

c-2. Any nominee to a city board, commission, or committee not requiring common council confirmation but who is required to file as so designated by the city positions ordinance shall file a statement of economic interests within 21 days of being nominated unless the nominee has previously filed a statement with the Board for that year. The information on the statement shall be current as of the date he or she is nominated.]

Sec. 4. If an official or employee fails to file a required report within the time required, the Ethics Board shall following the procedure prescribed in Section 303-11-2-b to d, Milwaukee Code.

[Section 303-11-2-b to d, Milwaukee Code, provides as follows:

2.b. Notice to Appointing Authority. The ethics board shall notify any appropriate appointing authority of the failure of an official or employee to file a required report within 15 days of the date on which the report was required to be filed.

c. The Board shall cause a letter to be mailed first class, postage prepaid and addressed to the last known address of any individual who has not filed the required report within 30 days of the date on which the report was to be filed notifying the individual of the filing requirements, the assessment of late filing fees as provided in par. a, and that the matter of the delinquent filing may be referred to the city attorney for prosecution as provided in par d.

d. If after 45 days from the date required for filing of the statement of economic interests, a public official or employee subject to filing requirements under this section has failed to file a complete statement, the chair of the ethics board or designated staff member may cause an affidavit to be prepared and delivered to the city attorney stating upon knowledge and belief that an individual is in violation of the reporting requirement of this section, identifying the individual by name and position, declaring that the notice to be provided the individual in accord with par. c was sent, and identifying the date the notice was sent and the address to which it was mailed. (further text excluded)]

Sec. 5. The designated staff shall compile data relative to late filing fees in accordance with s. 303-11-2a and forward this data, including name and last known address of the late-filer to the City Clerk's Office for invoicing the late fees.

Sec. 6. The Ethics Board may extend the time for filing or waive any filing requirement as provided in section 303-11-3, Milwaukee Code.

[Section 303-11-3, Milwaukee Code, provides as follows:

3. EXTENSION OF DEADLINE. On its own motion or at the request of any individual who is required to file a statement of economic interests, the board may extend the time for filing or waive any filing requirement if the board determines that the literal application of the filing requirements of this section would work an unreasonable hardship on that individual or that the extension of the time for filing or waiver is in the public interest. The board shall set forth in writing as a matter of public record the reason for the extension or waiver. Extensions or waivers shall not be granted to candidates for public office.]

ARTICLE VII – ANNUAL REPORT

Sec. 1. The Board shall prepare an Annual Report and deliver it to the Mayor and the Common Council.

Sec. 2. The report shall contain summaries of the preceding year's determinations and opinions.

RULE III COMPLAINT PROCEDURES

ARTICLE I - COMPLAINTS

Sec. 1. A verified complaint may be submitted to the Board by any person. The Board may also issue a complaint on its own motion or amend any complaint before it on its own motion.

Sec. 2. The verified complaint shall be in writing and on the standard form prescribed by the Board and shall bear a notarized signature.

Sec. 3. The verified complaint shall be denominated as an Ethics Board complaint and shall be filed with the Ethics Board, Room 205, City Hall. The complaint shall be in a sealed envelope, addressed to the Ethics Board c/o Clerk of Ethics Board, Room 205-City Hall, marked "Complaint."

Sec. 4. The complainant may attach any supporting documentation to the complaint.

Sec. 5. Prior to acceptance of a complaint, the staff, under the direction of the Board, shall determine whether or not the complaint is in proper form and bears a notarized signature. If the

complaint is not notarized or is not in proper form, it shall be returned to the complainant for further action. If it is in proper form, the complaint shall be referred to the Board for initial action at a closed meeting.

Sec. 6. Within ten days of receiving a complaint, the Ethics Board shall notify the complainant that the complaint will be presented to the Board at a closed meeting of the Board. The Ethics Board shall also send a copy of the complaint and any other supporting documents to the accused, together with notice of the meeting. The Ethics Board shall also notify the accused that objections to the sufficiency of the complaint must be filed in writing five days prior to the closed meeting. All documents, letters, pleadings and other materials submitted to the Board by either the complainant or the accused shall be concurrently provided to the opposing party or legal counsel for the opposing party, and an affidavit of service shall be provided to the Board.

Sec. 7. At the initial closed meeting to consider the complaint, the Board shall determine whether or not it has jurisdiction to hear the complaint and whether or not the complaint sets forth a prima facie case.

Sec. 8. If the Board determines it does not have jurisdiction, the complaint shall be dismissed and notice of dismissal, stating reasons for dismissal, shall be sent to complainant. If the Board determines that the complaint is insufficient on its face that a violation of the City's Code of Ethics has been committed, the Board shall dismiss with leave to re-file.

Sec. 9. If the board determines that it has jurisdiction and that the complaint meets the sufficiency test for a violation of the City's Code of Ethics, it shall accept the complaint for investigation and/or hearing in accordance with these Rules and Procedures and **chapter 303, Milwaukee Code**.

Sec. 10. At the closed meeting to consider the validity of the complaint, the Board may confer with a representative of the City Attorney's Office or other legal counsel of the Board's own choosing from a list provided by the City Attorney's office.

Sec. 11. Upon proper notice, the Board shall reconvene in open -session and announce its findings and take action on said complaint, if appropriate.

Sec. 12. If the Board determines that the Board does not have jurisdiction, the complaint is insufficient, or a violation has not occurred, the complaint shall be dismissed and notice of dismissal with reason for same, sent to complainant and accused. If the Board determines that a complaint was brought for harassment purposes, the Board shall so state **as provided for in section 303-19-1, Milwaukee Code**.

Sec. 13. If the Board determines, with the concurrence of four members, that the complaint on its face states facts from which the Board finds probable cause to believe that a violation has occurred, the complaint may be referred by the Chair to a sub-committee of the Board for investigation.

ARTICLE II - INVESTIGATIONS

Sec. 1. The committee investigating the complaint shall meet in closed session to consider all circumstances of alleged violation and to exercise any investigatory powers conferred by ordinance. If advisable, the Board may retain an investigator to assist the committee from a list provided by the City Attorney's office.

Sec. 2. Before the investigation is initiated, written notice shall be given to accused and complainant. It shall include notice and purpose of investigation, acts to be investigated, and applicable Board rules.

Sec. 3. The accused may request that the investigation be open to the public by filing a request with the Ethics Board prior to convening of the closed session.

Sec. 4. During all stages of investigation, the accused shall be entitled to be represented by counsel and/or a representative of his/her own choosing.

Sec. 5. Pursuant to any investigation conducted, the Board or committee may avail itself of any of the powers or procedures enumerated in section 303-21, Milwaukee Code.

[Section 303-21, Milwaukee Code, provides as follows:]

303-21. Investigations. Pursuant to any investigation or hearing conducted under this chapter, the board has the power:

1. To require any person to submit in writing such reports and answers to questions relevant to the proceedings conducted under this chapter as the board may prescribe, such submission to be made within such period and under oath or otherwise as the board may determine.

2. To administer oaths and to require by subpoena issued by it the attendance and testimony of witnesses and the production of any documentary evidence relating to the investigation or hearing being conducted. Issuance of a subpoena requires action by the board in accordance with s. 303-15-4.

3. To order testimony to be taken by deposition before any individual who is designated by the board and has the power to administer oaths, and, in such instances, to compel testimony and the production of evidence in the same manner as authorized by sub. 2.

4. To pay witnesses the same fees and mileage as are paid in like circumstances by the courts of this state.

5. To request and obtain from the department of revenue copies of state income tax returns and access to other appropriate information under s. 71.78(4), Wis. Stats., regarding all persons who are the subject of such investigation.

6. To retain outside counsel and other experts as needed after solicitation of recommendations from the city attorney and upon such contract for services approved for form and content by the city attorney.]

Sec. 6. When the investigation is completed, the committee's report shall be submitted to the Chair for presentation to the Board with recommendations for action.

Sec. 7. (a) At the conclusion of each investigation, the Board shall, in closed session, receive a report from the investigating committee and consider appropriate action. The Board shall, in closed session, make a determination of whether or not probable cause exists to believe that a violation of the Code of Ethics has occurred and such determination shall include written findings of fact and conclusions based thereon. If the Board determines that no violation of chapter 303, Milwaukee Code, has occurred, it shall immediately send written notice of such determination to the accused and to the party who made the complaint. If the Board determines that a violation of chapter 303, Milwaukee Code, has occurred, its findings of fact and conclusions may contain an order setting a date for a hearing to determine whether a violation of the Code of Ethics has occurred. The Board shall serve the order upon the accused. A hearing ordered under this section shall be commenced within 30 days after the date it is ordered unless the accused petitions for and the Board consents to a later date. Prior to any hearing ordered under this section, the accused is entitled to reasonable discovery rights, including adverse examination of witnesses who will testify at the hearing.

(b) The Board shall disclose to the accused or his or her counsel the existence of exculpatory evidence in the Board's possession.

ARTICLE III - HEARINGS

Sec. 1. Any hearing and any investigation conducted by the Board shall be conducted so as to comply with s. 303-25, Milwaukee Code. The Board may also retain outside counsel and other experts as provided in section 303-25-2, Milwaukee Code.

[Section 303-25-2, Milwaukee Code, provides in part as follows:

2...The board may also retain outside counsel and other experts as needed with respect to hearings in accordance with its policies. The selection of a hearing examiner and outside counsel or other experts and any contract for such persons shall be made after solicitation of recommendations from the city attorney and the contract shall be approved for form and content by the city attorney...]

Sec. 2. The hearing examiner shall assist the Board by making evidentiary determinations and providing advice relating to the conduct of the hearing and the Board's deliberations upon the conclusion of the hearing.

Sec. 4. If the complaint is being prosecuted upon the Board's own motion, without a third party complainant, the Board shall retain the services of a special prosecutor, independent of the hearing examiner, to prosecute the complaint, in accordance with s. 303-25.2, Milwaukee Code.

In order to minimize any appearance of a conflict of interest, neither the Board nor the hearing examiner shall consult with the special prosecutor during the period of the hearing except on notice to and with participation by the accused and his/her representative. Rulings by the hearing examiner and findings by the Board shall be based solely upon evidence received on the record at the hearing in accordance with s. 303-25.4 and s. 303-27, Milwaukee Code.

Sec. 5. Where appropriate, the Board shall refer matters to the City Service Commission, City Attorney or to the Common Council in compliance with s. 303-27 and s. 303-29, Milwaukee Code.

Revised March 24, 2010

[Notations of changes from 2005 Rules to 2010 Rules respectfully submitted by Dwight H. Ellis, Chair, Board of Ethics of City of Milwaukee, this 6th day of April, 2010.]