

ETHICS BOARD COMMENTS ON PROPOSED CHANGES TO CHAPTERS 303
AND 305, March 2004

The Board of Ethics reviewed the proposed changes in File # 031025 (pertaining to gifts), File # 031043 (pertaining to whistle blowers), File #031044 (pertaining to ethics training), and the proposed new subchapter 3 of Chapter 305 (pertaining to lobbying) at our March 10, 2004 meeting. As we reviewed these proposals that emerged from the Code of Conduct Task Force, we had the valuable guidance of Jim Owczarski of the Legislative Reference Bureau.

We were pleased to see these proposals furthering the recommendations of the Code of Conduct Task Force on which our former chair, Pamela Schmidt, served. We have overall concerns about funding, staffing and supporting the increased responsibilities for the Board of Ethics. Although two of the proposals provide for the major administrative function to rest with another city entity, they also involve increased activities from the volunteer Board of Ethics and our part-time research assistant. The other two proposals are addressed completely to the ethics board and staff.

File #031043 re: Whistle-blowers

Adoption of this file would add to the Standards of Conduct section within the Code of Ethics to be enforced by the Board. There is no way to anticipate the number of complaints that might be made under this new standard, nor the extent of the investigative and hearing process the complaints would entail. We have no way to measure how many, if any, people within city government may have been deterred from filing complaints by the absence of this standard of conduct. Only the future will tell.

File #031025 re: Gifts

1. Adoption of this file would help by eliminating any question regarding tickets, discounts, etc. at the Bradley Center, Miller Park, or any venue owned by the Wisconsin Center District. It does not clarify any questions about the propriety of accepting tickets, parking, etc. from World Festivals, Inc. We do understand the value of having our ethics code mirror the state's code and appreciate the clear prohibition in the proposed standard in 303-5-4.

This file also clarifies that all gifts must be reported once per quarter. This would be a quarterly disclosure required of all officials that file the Statement of Economic Interest whether or not they have received a gift.

This proposal does close some loop-holes regarding gifts and the Board is therefore supportive. It will be important to get a clear understanding out to officials regarding gift acceptance – there are forbidden gifts and reportable gifts. The tickets, discounts, etc. mentioned in # 1 above are prohibited. In addition, officials are not allowed to take any gifts that could influence decisions or have the appearance of influencing decisions. Any other gifts that they do accept must be reported quarterly.

The Ethics Board maintains the database which is currently updated only once annually in order to send out the Statements of Economic Interest. The list varies constantly with changes in employment and appointments. Currently it includes about 450 to 500 people; approximately 300 city employees and 150-170 members of Boards and Commissions. Quarterly updating the list and administering the gift reporting forms and reports would be difficult because of current staff and funding of the Board. Our research assistant recently estimated that she spends approximately 150 hours administering the annual Statement of Economic Interest reports. When we attempt to give you a fiscal note for this proposal, we would have to include printing and mailing costs. There could obviously be some efficiencies in administering a quarterly gift report but those efficiencies are finite.

We understand that the city clerk's office would support efforts to coordinate electronic and database development to simplify this process. Electronic reporting would help with city employees and be less effective with the boards and commission members.

File #031044 re: Ethics Training

Adoption of this file would provide a mechanism for regular ethics training that would be conducted by the Department of Employee Relations and provides for the maintenance of an ethical conduct handbook for city officials in the City Clerk's office

The Board commends the Task Force on this effort. In the past,

the Ethics Board has held informal discussions and trainings for department heads, elected officials and their staffs, meeting with limited success. Requiring all city officials who file the Statement of Economic Interest to attend or view an educational program on ethics should be much more productive.

In an effort to reach beyond that audience, the Board has distributed a payroll stuffer outlining the responsibility of all city employees to adhere to the Code of Ethics. (This year that stuffer was also sent to the heads of Boards and Commissions for distribution to their members.) An ethical conduct handbook readily available to all would expand and strengthen the resources.

This proposal calls for the Ethics Board to be consulted in the preparation of the educational program and presumably the handbook. The proposal language, “upon attending or viewing that year’s educational program,” seems to insure that the program will be updated so that it will not be stale or boring. We look forward to our consultative role. Given our limited resources, we are gratified that both the preparation and administration of the proposed materials and monitoring are housed elsewhere. We would work out a routine of sharing the SEI list with DER.

File creating Subchapter 3 of Chapter 305 and changing Section 303-19-1 of Chapter 303 re: Lobbying

Adoption of this file creates a program of registration of any person acting as a lobbyist or principal hiring a lobbyist and reporting of lobbying activities attempting to influence legislative or administrative action of the city. This program would be administered by the City Clerk’s office.

However, the proposed 305-51-6 directs the city clerk to refer any information that may indicate a violation of this section to the Board of Ethics for investigation pursuant to s. 303-19-1 which requires the Board to treat all complaints as if they were complaints alleging violations of the Ethics Code. We are aware that by creating a whole new sea of information to be studied, this constitutes a significant change in the scope of the Board. There is, of course, no way to know how many persons will file verified complaints regarding Lobbying. Nor can we determine how many complaints would require the full investigative and hearing process as

outlined in ss. 303-21 through 303-31. The Ethics Board would have to return to the Common Council for additional funds and staff.

Thank you for the opportunity to comment. Again we are encouraged by the direction of the proposals. We do have concerns about funding, staffing and support. And as a seven member volunteer citizen board, we have additional concerns about the workload associated with some of the proposed changes.

The Board of Ethics