



## Board of Ethics

To the Honorable,  
Mayor of Milwaukee and the members of the Common Council

### **The City of Milwaukee Board of Ethics 2021 Annual Report**

The City of Milwaukee Board of Ethics administers the Code of Ethics, Chapter 303, which promotes the essential element of public trust. The Board works to implement the Code by issuing confidential advisory opinions, investigating sworn complaints, requiring and reviewing the Statement of Economic Interests (SEI) forms of City Employee/Officials and board members.

The Ethics Board met ten times during 2021 for its regular meetings.

In 2021, the Board responded to one complaint and five requests for confidential opinions. A summary of the opinion requests are included in this report. The summary should not be viewed as definitive advice, but rather as a guide to the type of situations addressed by the Board.

The seven citizen members of the Board for 2021 were:

Patricia Hintz – Chair  
Bradley Kalscheur – Vice-Chair  
Kathleen Johnson  
Michael Kruse  
Whitney Maus  
Clarence Nicholas  
Emily Mueller



## **Summary of Opinions Issued In 2021**

### **Potential Conflicts of Interest**

#### **21-1**

A city official or employee requested an advisory opinion as to whether a potential conflict of interest would exist that would preclude the individual from working for a department or governmental body while an immediate family member serves on the Board of Directors of an entity that is currently involved in litigation that impacts the department or governmental body. The requester indicated that his or her family member would recuse himself or herself from any matter involving the department or governmental body, as well as any matters involving other departments or governmental bodies that the department or governmental body at issue oversees or interacts with, while the requester is employed by the department of governmental body. The Ethics Board advised the requester not to use or attempt to use his or her official position to (1) obtain financial gain or anything for substantial value for the organization his or her immediate family member is associated with, (2) intentionally disclose information to the organization his or her immediate family member is associated with, if that information has not been communicated to the public or is not public information; (3) influence or gain unlawful benefits, advantages or privileges for the organization his or her immediate family member is associated with, or (4) produce or assist in the production of a substantial benefit, either directly or indirectly, for the organization his or her immediate family member is associated with. It was also advised that the official or employee must notify the Ethics Board, and any affected departments, if the organization his or her immediate family member is associated with enters into a contract or lease involving a payment of more than \$3,000 within a 12-month period, which are derived in whole or in part from City funds. Per s. 305-6, Milwaukee Code of Ordinances (MCO) the notice must be in writing and must indicate the nature and extent of the relationship or interest. Additionally, the official or employee must list all gifts, items or payments having an aggregate value of more than \$50 within the taxable year the annual statement of economic interests, as set forth in s. 303-13-7, MCO. Provided the family member recuse themselves as detailed and the other advice is complied with, the Ethics Board determined that there would not be a conflict.

#### **21-2**

A city official or employee requested an advisory opinion on whether the actions of one or more alderpersons in relation to a development deal violated the ethics provisions of Wis. Stat. Sec. 19.59(1)(b) and s. 303-5-3, Milwaukee Code of Ordinances (MCO). It was also suggested that there may also have been violations of another section of the Code of Ethics, s. 303-5-5, MCO. The Ethics Board opined that it does not have jurisdiction over this request, as an advisory opinion may only be requested by a person or a governmental body concerned about whether that person or that body (or a member thereof) has violated a provision of the Ethics Code. Requests cannot be made to the Ethics Board regarding whether a third party has violated the Ethics Code. The only exception to this rule is when an agent or attorney is asking on behalf of their principal or client.

### **21-3**

A city official or employee requested an advisory opinion as to a potential conflict of interest if the official or employee sits on the board of an organization that is a wholly owned instrumentality of a parent organization, and the parent organization has a pending funding request before the official or employee. After a careful consideration of the relevant provisions of the Ethics Code, it is the opinion of the Ethics Board that a conflict of interest exists that would prevent the official or employee from taking any actions on matters in which the organization has a substantial financial interest. However, so long as the official or employee recuses himself or herself from taking any actions on matters in which the organization has a financial interest, the Ethics Board sees nothing in the Ethics Code that would preclude the official or employee from voting as a board member of the organization in question in matters that the official or employee recused himself or herself from in their role as an official or employee of the city. The Ethics Board is not opining, and cannot opine, on whether the city official or employee taking an action on a matter where the organization has a substantial financial interest would constitute a violation of any other state or federal law or regulation.

### **21-4**

A city official or employee requested an advisory opinion on whether it would be a conflict of interest for an organization owned and operated by a member of a city Board to submit a proposal in response to a request for proposals (“RFP”) issued by the department that houses the Board that involves the expenditure of grant funding. In this instance, the Ethics Board was particularly concerned with a comment made by the official or employee in closed session that seemed to imply that the intent of the grant funding being issued to the City was to specifically steer work to the official or employee’s organization. With that being said, nothing that the Board was shown indicates that the official or employee improperly used their position as a Board member in relation to the awarding of the grant, the department’s application for the Grant, or the RFP process. Consequently, provided that the official or employee has complied, and continues to comply, with the standards of conduct and conflict of interest provisions in the s. 303-5, Milwaukee Code of Ordinances (MCO), and has not used their position as a Board member to have the department in question steer work to their organization, the Board does not see any specific provision of the Ethics Code that would precludes the organization from contracting with the department just because the owner of the organization sits on a Board that is housed within the department.

The opinion also states that the Ethics Board only has jurisdiction over matters involving the City of Milwaukee’s Ethics Code. The Board has no jurisdiction to opine on if the official’s or employee’s organization entering into a contract with the department would constitute a violation of some other state or federal law or regulation. The Ethics Board advised to encourage the official or employee to consult with their own legal counsel to ensure compliance with all other relevant laws, such Wis. Stat. §§ 19.59 and 946.13. It was also recommended to the official or employee to discuss these same questions with the City Attorney’s Office.

### **21-5**

A city official or employee requested an advisory opinion on whether a conflict of interest exists that would preclude the official or employee from taking any official action relating to matters involving real estate, if one of their immediate family members is a real estate agent. After careful consideration of the relevant provisions of the Ethics Code, it is the opinion of the Ethics Board that no conflict of interest exists that would prevent the official or employee from taking official action on real estate matters where neither the immediate family member nor the company that the immediate family member is employed by are involved. There may exist a conflict were the official or employee to take official action on a real estate matter where either the official's or employee's immediate family member, or the organization that employs the immediate family member, is involved, but those determinations would be highly factually specific, and not currently before the Board. The Board recommended that the requester review the standards of conduct set forth in s. 303-5, Milwaukee Code of Ordinances (MCO), to make sure that any official action the official or employee takes regarding matters involving real estate is compliance with the City's Ethics Code.