City and County of Denver

DENVER BOARD OF ETHICS

2021 ANNUAL REPORT

Submitted: February 15, 2022
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Message from the Chair of the Board of Ethics

This past year was as challenging a time for the Board of Ethics as it was for anyone. The year started deep in the throes of the ongoing COVID-19 pandemic, saw temporary reprieve with the advent of vaccines which enabled in-person Board meetings for the first time in over a year, and ended with the shift back to conducting business virtually due to Omicron. As the year unfolded, the Board prioritized both public access and public safety through virtual platforms, as well as adapted to new conditions seemingly every month. While navigating COVID safety precautions, the Board assessed over 60 requests for advisory opinions and complaints, worked with the Clerk & Recorder’s Office on semi-annual gift disclosures, and ensured numerous ethics trainings across City departments.

One of the biggest changes this year was the addition of the anonymous complaints to the Code of Ethics, a change that has long been a Board priority and that allows for citizens and employees to raise ethical concerns without fearing repercussions. With the addition of anonymous complaints to the Board’s repertoire, case numbers rose. In addition to authorizing and adopting procedures for anonymous complaints, the Board received explicit authority to initiate investigations on its own motion. As the Board assessed how best to intake and process anonymous complaints and pursue Board-initiated investigations, the Board had ongoing discussions concerning updates to its rules of procedure—updates that prioritized transparency and expediting the review process. It has been a true team effort, and the Board’s Executive Director’s work here has been invaluable, as has been the advice from the Board’s legal counsel.
This past year also saw two long-term Board members—the Hon. Andrew S. Armatas and Sylvia S. Smith, city representative—rotate off after eight years each of dedicated service. We thank them both for their tireless work. Replacing them on the Board are the Hon. Doris E. Burd and Rory McLuster (the new city representative), both of whom have made immediate contributions as they settled into their new roles.

Board member Jane T. Feldman, in her role on the steering committee for the Council on Governmental Ethics Laws (“COGEL”) worked tirelessly to help organize the annual COGEL conference to convene in Denver, before it, too, was forced to pivot to virtual presentations. Ms. Feldman then helped coordinate and moderate several panel presentations, including an important discussion addressing conduct unbecoming government officials as implicating ethics concerns.

Finally, the Board assessed requests for advisory opinions and waivers on matters concerning outside and subsequent employment, gift disclosures, conflicts of interest, use of confidential records, and use of public office for private gain. A consistent theme concerned requests for additional outside public service, such as running for local government or being involved with other boards and commissions. The Board routinely lauded such efforts towards increased public service, so long as appropriate parameters were in place. The Board urges Denver employees to continue pursuing public service, but also to coordinate with the Board of Ethics to ensure proper guardrails.

Given all these accomplishments, the Board looks forward to 2022 and the challenges and questions it will bring.

Joseph J. Michaels
Mission

To encourage and guide city officers, officials, and employees to adhere to high levels of ethical conduct so that the public will have confidence that persons in positions of public responsibility are acting for the benefit of the public.

Since 2001, over 1000 written opinions have been issued by the Denver Board of Ethics to provide guidance to city officers, officials, and employees as they strive to avoid impropriety and to protect the ethical reputation of the City of Denver. Summaries of these opinions are digested and searchable on the Board’s website at http://www.denvergov.org/ethics.

Denver Board of Ethics

Chair, Joseph G. Michaels
Vice-Chair, Dianne Criswell
Member, Jane T. Feldman
Member, Hon. Doris E. Burd
Member, Rory McLuster

Executive Director

Lori Weiser

Legal Counsel

Jordan Humphreys
Bios for each of the members can be found at http://www.denvergov.org/ethics.

The Board of Ethics extends its thanks to the Hon. Andrew S. Armatas, and to Sylvia S. Smith, who each completed their final terms of service in 2021.

Nominating Committee

Brian Spano
Michelle Stermer
Michael Lopez
2021 Highlights

In April of 2021, through the culmination of hard work by many stakeholders and with the leadership of Councilman Kevin Flynn, City Council passed a bill to amend the Denver Code of Ethics.

The main areas of change:

- Allow the Board of Ethics to consider anonymous complaints.
- Make clear that the Board of Ethics has the authority to initiate an investigation.
- Make references gender neutral.
- Make clear that the Board of Ethics can request that it be informed of any subsequent action by the appointing authority because of the Board’s opinion or recommendations.
- Provide a tolling period if an anonymous complaint is received within forty-five days of a municipal election.

In 2021, the Board saw a 100% increase in the number of formal cases filed as compared to 2020.

Below is a breakdown of the formal cases decided by the Board over the last five years.
<table>
<thead>
<tr>
<th>Year</th>
<th>Total Cases</th>
<th>Advisory Opinions</th>
<th>Complaints</th>
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<tr>
<td>2021</td>
<td>62</td>
<td>18</td>
<td>44</td>
</tr>
<tr>
<td>2020</td>
<td>31</td>
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<td>2017</td>
<td>38</td>
<td>24</td>
<td>14</td>
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</tbody>
</table>

The increase in formal cases is reflected in the number of complaints that were filed in 2021. Of the forty-four complaints, fifteen were filed anonymously.

In addition, the Board’s Executive Director continued to provide quick, informal advice to city personnel and to members of the community. In 2021, there were 261 of these informal contacts.
Breakdown of Cases by Category

The requests for advisory opinion and/or waivers and the complaints received by the Board of Ethics in 2021 raised questions in the following areas (most cases involved more than one subject):

Pursuant to DRMC 2-54(f), the Denver Board of Ethics may grant a waiver if the conduct proposed will violate the Ethics Code, if it can be demonstrated that doing so will serve the best interests of the city. Waivers were granted in three cases in 2021.
Education

Consistent, comprehensive ethics training is critical to the successful implementation of the citywide ethics program. All city employees, officers, and officials should be trained both to recognize ethical issues and to take appropriate steps to avoid unethical conduct.

Online Training: In 2021, 1,261 city personnel completed the online Ethics and Accountability Course, and 268 completed the online Ethics Refresher course.

Personal Training: In partnership with the Mayor’s Office, the Executive Director for the Board of Ethics continued to provide one-on-one ethics training to all mayoral appointees. The Board recommends that City Council consider implementing mandatory ethics training.

Classroom Training: The Board’s Executive Director also provided in-person classroom training, by request, for members of the Department of Public Safety.
Going Forward: Recommendations for Improving the Denver Code of Ethics

The Board of Ethics believes that there are measures that could be taken to strengthen the Denver Code of Ethics. Specifically, the Board recommends:

- Amending DRMC Section 2-52(f) to include any city agency in the term “donor.”
- Adding language to provide the Board of Ethics with enforcement authority.
- Adding a provision to address conduct unbecoming a city officer, official, or employee.
- Ensuring that the 45-day tolling period surrounding an election applies to all complaints and not just anonymous complaints.
- Clarifying DRMC Section 2-61(a)(6) to specify that the work or supervision and management is done for another party in the matter.

The Board of Ethics expresses gratitude to all city officers, elected and appointed officials, employees, and citizens who have approached the Board for advice and guidance in 2021. Going forward, the Board will continue to provide educational opportunities and counsel to others to establish ethics as a core value, to enhance and protect the ethical reputation of the City and County of Denver, and to cultivate the confidence of the public that persons in positions of power are working for the benefit of the City.