City and County of Denver

DENVER BOARD OF ETHICS

2022 ANNUAL REPORT

Submitted: February 15, 2023
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Message from the Chair of the Board of Ethics

Denver’s Board of Ethics is an independent, all-volunteer Board whose members are appointed either by the Mayor or by City Council (or, for the Board’s city representative, by both). The Board’s responsibilities start with issuing advisory opinions to officers, officials, and employees of the city who seek guidance in their ethical responsibilities. Additionally, the Board screens inquiries, holds monthly public meetings, and investigates and resolves complaints that allege ethics violations by city personnel.

Over the past year, the Board regularly met in person for purposes of holding executive session, while conducting the public parts of its meetings virtually. This hybrid practice arose from pandemic procedures and has been particularly beneficial for parties appearing before the Board, be it city personnel requesting guidance under the Denver Code of Ethics, checking-in with the Office of the Clerk and Recorder, taking action on executive session matters, or assessing ongoing issues of importance.

In 2022, the Board saw a significant uptick in business in both requests for advisory opinions or waivers and in assessing complaints. The Board received a combined total of 85 cases in 2022 (advisory opinions, waivers, and complaints), representing a 37% increase from 2021 and an impressive 274% increase from 2020. The Board issued 26 advisory opinions/waivers, a 44% increase from 2021, and it resolved 59 complaints—a 34% increase from 2021 and a 536% increase from 2020.

The complexity of many cases was significant, with issues ranging from parties wanting to run for public office or expand their public service, to inquiries about outside or subsequent employment, to questions about avoiding conflicts of interests or use of confidential information. The Board commends the efforts of those proactively approaching the Board for guidance to ensure they do not run afoul of the Ethics Code provisions, and it urges continued attentiveness to the responsibilities that come with public service.
Additionally, this year the Board welcomed its new city representative, Everett B. Martinez, and bid farewell to his predecessor, Rory McCluster, whose service was invaluable on several matters. In December, Board member Jane T. Feldman traveled to Montreal, Canada, along with the Board’s Executive Director, to attend the annual government ethics conference put on by the National Council on Government Ethics Law to further buttress the Board’s work. Finally, throughout the year, the Board continued working with the Office of the Clerk and Recorder to update the gift and city item disclosure forms and to improve that submission process.

In 2023, the Board looks forward to continuing to provide guidance on ethics matters and to act as a resource for city personnel.

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 https://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, Everett B. Martinez

Bios for each of the members can be found at https://denvergov.org/ethics.

Executive Director

Lori Weiser

Legal Counsel

Jordan Humphreys

The Board of Ethics extends its thanks to Rory McLuster, who served as the employee representative to the Board until August 15, 2022.

Nominating Committee

Brian Spano

Vacant

Michael Lopez
Swearing in of Newest Board Member, Everett B. Martinez.
In 2022, the Board saw a 37% increase in the number of formal cases filed as compared to 2021 and a 274% increase 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>2022</td>
<td>85</td>
<td>26</td>
<td>59</td>
</tr>
<tr>
<td>2021</td>
<td>62</td>
<td>18</td>
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</tr>
<tr>
<td>2020</td>
<td>31</td>
<td>20</td>
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<td>2019</td>
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<td>19</td>
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</tr>
<tr>
<td>2018</td>
<td>30</td>
<td>22</td>
<td>8</td>
</tr>
</tbody>
</table>

In April of 2021, the Denver Code of Ethics was amended to allow for anonymous complaints. Of the fifty-nine complaints, fourteen were filed anonymously. This is one less anonymous complaint than was filed in 2021.

In addition, the Board’s Executive Director continued to provide quick, informal advice to city personnel and to members of the community. In 2022, there were 249 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 2022 raised questions in the following areas (most cases involved more than one subject):

- **Legislative Intent, DRMC Sec. 2-51**: 16 cases
- **Conflict of Interest While Employed, DRMC Sec. 2-61**: 5 cases
- **Aiding Others to Violate the Denver Code of Ethics, DRMC Sec. 2-69**: 3 cases
- **Outside Employment or Business Activity, DRMC Sec. 2-63**: 4 cases
- **Subsequent Employment, DRMC Sec. 2-64**: 1 case
- **Hiring and Supervision of Immediate Family, DRMC Sec. 2-59**: 5 cases
- **Gifts, DRMC Sec. 2-60**: 5 cases
- **Use of Public Office for Private Gain, DRMC Sec. 2-67**: 48 cases

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 seven cases in 2022.
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 2022, 1,920 city personnel completed the online Ethics and Accountability Course, and 430 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, department leadership teams, and to Boards and Commissions.
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 a provision that includes a tolling period for any inquiry or compliant filed within 45 days of a municipal election concerning an elected officer.
- Adding language to provide the Board of Ethics with enforcement authority.
- Defining “the best interests of the city,” as found in DRMC Section 2-54(f).
- Clarifying DRMC Section 2-64(a) to specify that the six-month “cooling off period” begins at separation from the city.
- Clarifying the definition of “direct official action,” as found in DRMC Section 2-52(b).
- 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, officials, employees, and citizens who have approached the Board for advice and guidance in 2022. 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.