ETHICAL PRACTICES BOARD

Annual Report 2011

R. T. Rybak, Mayor
Barbara Johnson, City Council President
Walter G. Bauch, Chair
Susan L. Trammell, Ethics Officer

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Introduction

The Ethical Practices Board ("EPB") was created in 2003 with the passage of the City's Ethics in Government Ethics Code ("Ethics Code"), codified at M.C.O. Ch. 15. Section 15.210 of the Ethics Code establishes the EPB and outlines the powers and duties of the EPB, which include issuing advisory opinions and investigating complaints from City employees and members of the public that the Ethics Code has been violated. The Ethics Code sets forth some specific standards below which no City official or employee should violate and, as importantly, sets forth aspirations for ethical conduct that go above and beyond the minimum requirements of the Ethics Code.

Further, Ethics Code §15.210(f) states:

> The ethical practices board shall prepare and submit an annual report to the mayor and the city council detailing the ethics activities of the board and the city during the prior year. The format of the report must be designed to maximize public and private understanding of the board and city ethics activities. The report may recommend changes to the text or administration of this Code. The city clerk shall take reasonable steps to ensure wide dissemination and availability of the annual report of the ethical practices board and other ethics information reported by the board.

This annual report is respectfully submitted to the Mayor and to the City Council in response to the requirements of the Ethics Code.

Appointment and Membership

The 2011 chair of the EPB was Mr. Walter Bauch. Mr. Bauch was originally appointed to the EPB in August 2010 to complete a term ending January 2, 2012. The Appointing Panel has recommended his reappointment for an additional term to expire January 2, 2015. Mr. Bauch is a partner with the law firm of Collins, Buckley, Sauntry & Haugh, P.L.L.P. in St. Paul. He practices in the areas of family law, probate litigation, real estate, insurance defense and personal injury, business and business litigation, professional responsibility and appellate practice. He is a family law mediator and serves, since 1994, as a Hennepin County Conciliation Court Judge

Ms. Patricia Kovel-Jarboe was first appointed to the EPB in September 2005 and has been reappointed to a term ending January 2, 2012. The Appointing Panel has recommended her reappointment for an additional term to expire January 2, 2015. Ms. Kovel-Jarboe is a former professor at the University of Minnesota and was also an administrator at the University of Minnesota. Ms. Kovel-Jarboe is currently a self-employed consultant on organizational effectiveness.

Mr. David Odenbach was appointed to the EPB in January 2011 for a term ending January 2, 2014. Mr. Odenbach has a masters degree in physical therapy and since 1998 has served patients and their families at Hennepin County Medical Center. In September of 2011, Mr. Odenbach moved out of state leaving a vacancy on the board.

Ethics Code §15.220 provides that the City Attorney shall designate an assistant city attorney as the City's Ethics Officer. Susan Trammell was designated Ethics Officer in February of 2006.

Mission

The Mission of the Board is to promote integrity in City government by providing the services set forth in Ethics Code §15.210(e). These services include providing interpretations of the Ethics Code, responding to allegations of Ethics Code violations, and providing policy advice to the Ethics Officer.

2011 Accomplishments

The primary activities and accomplishments achieved by the Ethical Practices Board and assigned staff in 2011 included:

I. Ethics Education

Requirements of the Ethics Code

The Ethics Code requires attendance at an ethics education seminar within six months of becoming a local official or employee and every four years thereafter for local officials and every three years thereafter for employees. The Ethics Code states the education seminars are to be designed and implemented by the Human Resources Department to educate local officials and employees of their duties and responsibilities under the Ethics Code. Department heads are responsible for ensuring that all of their employees attend the required ethics education seminars.

Historical Perspective and Current Statistics

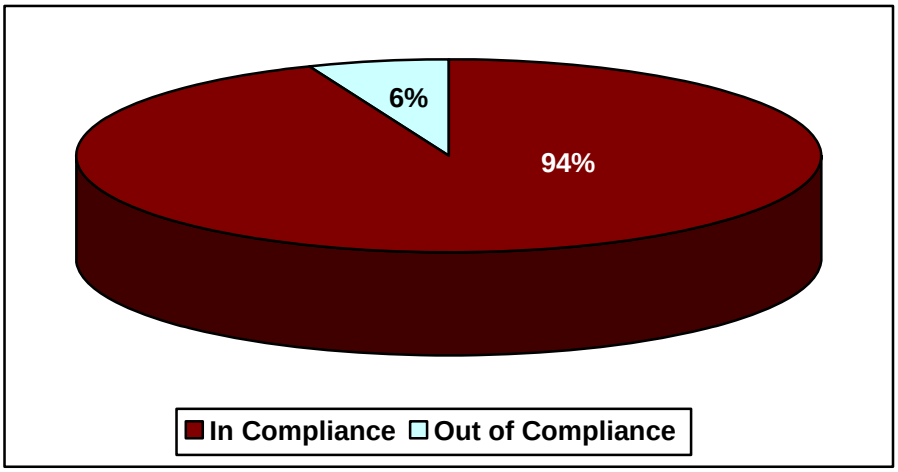
Upon passage of the Ethics Code in March of 2003, a concerted effort was made to provide Ethics Code education to the entire City workforce, the elected officials and the members of the City's boards and commissions. To this end, a videotaped training featuring "Dr. Bill" was produced and the vast majority of covered persons attended ethics education prior to March 31, 2004. The Dr. Bill videotape was replaced with a video featuring Ethics Officer Burt Osborne in 2005. Beginning in October 2006, Ethics Officer Susan Trammell began conducting "in person" ethics education seminars for city employees, elected officials and the members of the City's boards and commissions. In collaboration with the Human Resources Department Training and Development division ("Training and Development"), a city-wide employee Ethics Code refresher class is offered morning and afternoon each month in conjunction with required Respect in the Workplace education. Ethics Code education is also provided at each new employee orientation session. In addition, the Ethics Officer often has provided Ethics Code

education to individual departments or divisions as well as to the individual City boards and commissions.

In 2009, the Ethics Code was amended to require refresher ethics education every three years for employees instead of every four years. The ordinance change resulted in the falling out of compliance for a large number of regular employees. Much effort has been spent in the past two years providing ethics education opportunities to employees. Twice in 2011 the Ethics Officer sent emails to department heads reminding them of the ethics education requirement, the responsibility of the department heads for their employees' compliance with the ethics education requirement and availability of the ethics education management reports on HRIS for all City managers and supervisors. The email also contained the names of the department's employees who need ethics education and provided information regarding enrollment via HRIS Learning Management. The surveys conducted after educational sessions attest to the effectiveness of the email communications as forty-nine percent (49%) of the responding employees stated they heard about the training session from their supervisor or manager and forty-four percent (44%) of the comments to the question "How did you hear about the session?" mentioned the email notification. The City Matters newsletter was also used throughout the year to publicize the upcoming training opportunities. As of December 11, 2011, 94% of the City's regular employees and 75% of the City's seasonal and temporary employees had attended the required Ethics Code education. The 2011 compliance percentages are the highest since training since adoption of the Ethics Code in 2003-2004.

A chart depicting the Ethics Code education status of the employees of each department is included at the end of this report.

Regular Employees and Ethics Education as of December 11, 2011



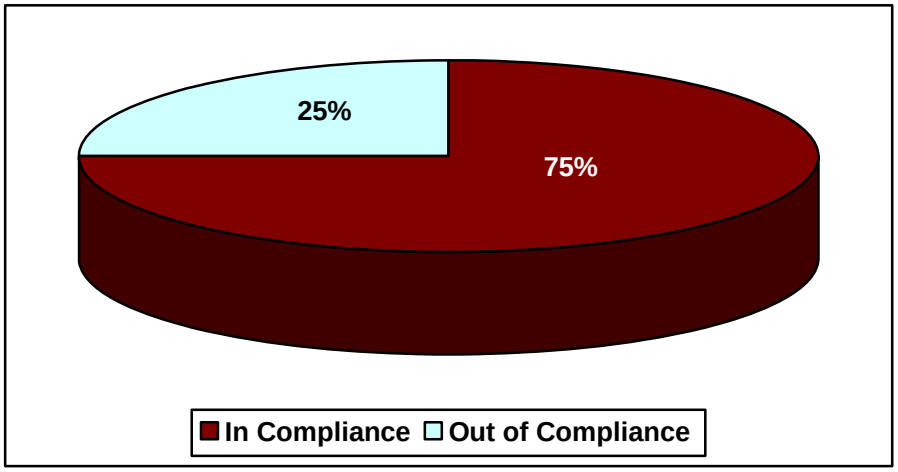
Closing the Ethics Education Gap

Reaching the temporary and seasonal employees (collectively "seasonal") has proven to be difficult. In 2010, the Ethics Officer collaborated with Training and Development to create a Train the Trainer program for both Respect in the Workplace and Ethics Education classes. Training and Development has created a system that will preserve the quality and integrity of the

training currently presented. Maintaining ethics education trainers in departments with large numbers of seasonal employees will allow these seasonal employees to more easily participate in required training without significant additional payroll costs to the departments. Public Works, Minneapolis Police Department, 311/911 and Convention Center all participated in the pilot program and now have in-house trainers who have successfully completed the Train the Trainer program. These trainers have begun to address the training needs of the City's temporary, intermittent and seasonal employees.

With the implementation of the Train the Trainer Program within departments with high numbers of temporary and seasonal employees, we have managed to raise compliance with Ethics Education from slightly more than 16% in 2009 to 46.3% in 2010 for seasonal, temporary, part-time and intermittent employees. In 2012 our intention is to maintain the Train the Trainer program in the four pilot program departments.

Seasonal/Temporary Employees and Ethics Education as of December 11, 2011



Employee Responses to Ethics Education

Slightly less than 37% of the ethics education attendees completed general survey questions about the training received. 83% of the respondents strongly agreed or agreed that they were engaged in the session and 86% of the respondents rated the Ethics Officer as an excellent or very good instructor. The Respondents reported that at the end of the session they understood well or very well:

	Very Well	Well	Total
Who to contact for an Ethics Code Question:	78.0%	15.4%	91.4%
The purpose of the Ethics Code	72.6%	19.6%	92.2%

These responses favorably compare to the responses attendees provided for other City offered trainings.

Attendees are also asked to provide additional comments. Some of the comments offered after joint Ethics and Respect in the Workplace Education sessions are as follows:

> "I thought they were both taught very well. Enjoyed both classes and just the right amount of time."
>
> "Listening to other city employees from other departments brought a different perspective. This made it easier to see the bigger picture."
>
> "The Ethics Training was informative and something I need/use regularly."
>
> [What I liked most about the session was the] "interactive format and time for discussion."

The survey responses and comments affirm the value of "in person" ethics education. The Ethics Officer believes that the ethics education classes help create a connection between employees and the Ethics Officer leading to a willingness on the part of employees to call the Ethics Officer with ethics questions. The Board views this as an affirmative change in the ethical culture of the City.

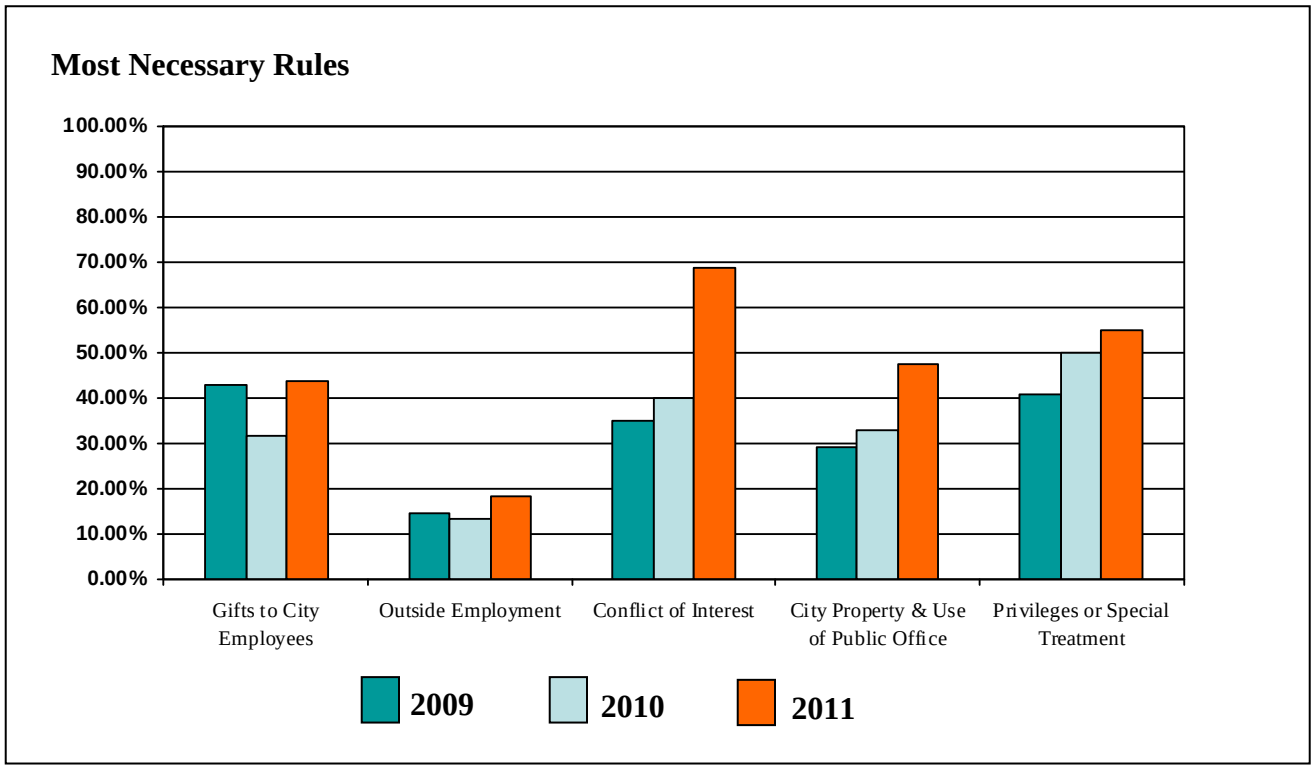
Since 2009, the ethics education surveys have included two new questions. Participants are asked: "Which of the ethics rule(s) [Gifts to city employees, Outside employment, Conflict of interest, City property and use of public office, Privileges or special treatment] do you think are most necessary based upon what you see at work?" and "Which of the ethics rule(s) [Gifts to city employees, Outside employment, Conflict of interest, City property and use of public office, Privileges or special treatment] do you think are most necessary based upon what you see at work?" In all three years, the answers and comments to these two questions show that many employees believe that the outside employment rule is the least necessary rule whereas the remaining rules are more necessary.

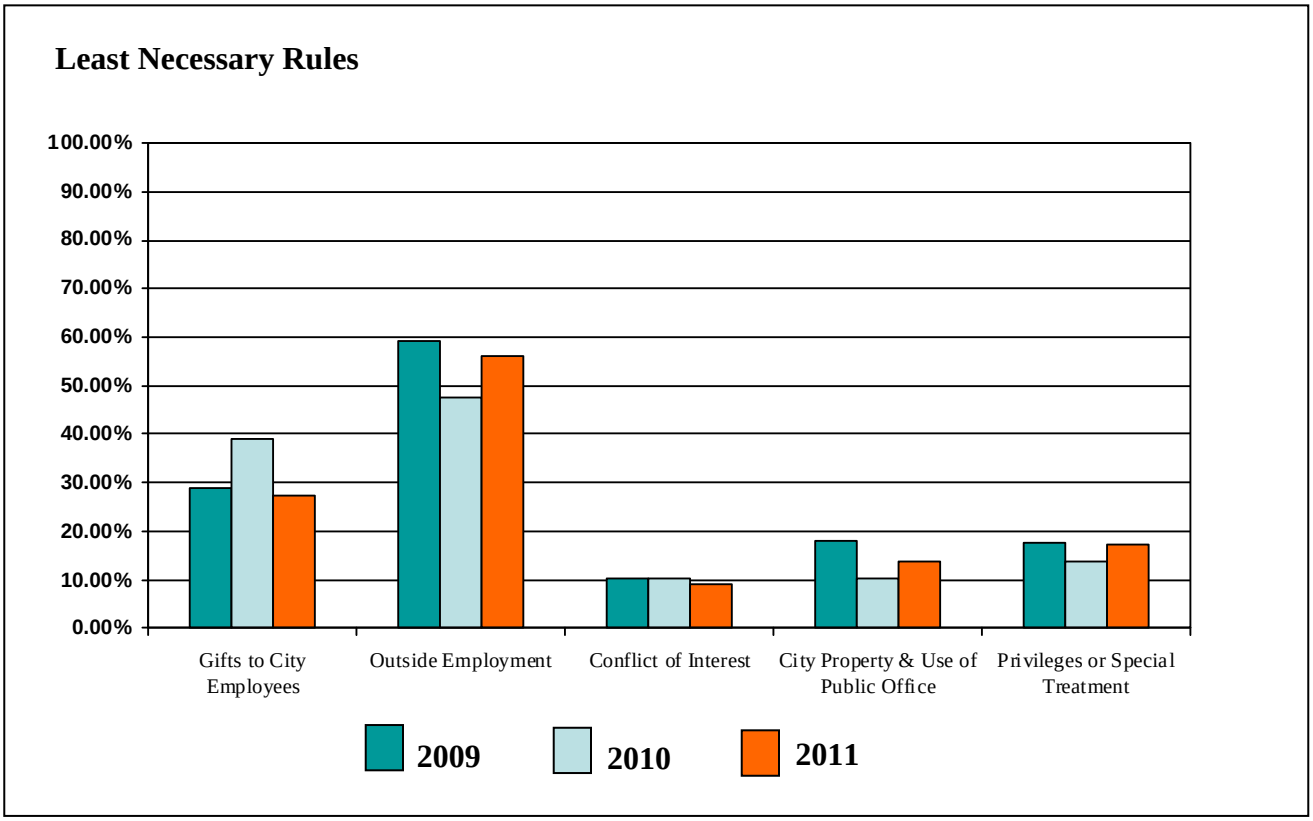
In the follow up "Why?" questions, employees explained:

> "All are unfortunately necessary."
>
> "no one in my division has outside employment."
>
> "They are all necessary but the rules should be enforced consistently."
>
> "In 5 years I have seen no evidence that anything that any employee may have done at any outside job has created any type of problem for the City."
>
> "Most employees [I work with] take pride in their job and main focus is the constituents so less time or little thought of outside employment for financial or personal interests."

The ethics education survey serves as a valuable extension of the Ethics Report Line. The feedback provided by attendees of ethics education provides important information on the relevance and efficacy of in-person ethics education as well as the need for ethics rules in the workplace.

Ethics Rules in the Workplace





Board and Commission Ethics Code Education

The Ethics Code requires the approximately 537 citizen volunteers serving on our more than 50 boards, commissions and advisory committees (collectively "boards") to attend ethics education upon beginning their service and every four years thereafter. When the Ethics Code was adopted nearly all members of the City's boards attended ethics education. Since the beginning of 2004, however, membership on the City's boards has experienced substantial turnover but ethics education was not held when new members began serving their terms. In 2008 the Ethics Officer began presenting ethics education sessions focusing mainly upon conflicts of interest.

Providing in person ethics education to these boards proved to be challenging because the boards often meet in the evening and their agendas are tightly packed. In 2009 the Ethics Officer worked with a donor to create an interactive computerized ethics education course for these boards. The City Council accepted this gift by resolution dated June 12, 2009. The computerized training is web-based and permits the board members to participate in the training at their own convenience. The City Clerk's office is automatically notified of the board member's completion of the training when the member reaches the end of the training materials and supplies his/her name and board membership.

In late 2009 an email was sent to city employees who are liaisons to boards announcing the training and reminding employees to have board members take the training. The reminder to liaisons resulted in 12% of those board members requiring ethics education taking the course within the first month of the training's release. In 2010, however, very few board members took the web-based ethics education.

In 2011 the Ethics Officer collaborated with the City Clerk's office to communicate more often with liaisons of boards about the obligations of their board members and to incorporate the required ethics education into the appointment process. This collaboration has resulted in 217 members taking the training. As the City Clerk's office moves forward with plans for both a spring and a fall orientation for new board members, the electronic ethics education will be incorporated into that orientation.

Electronic Ethics Code Education

Since 2010 the Board's work plan has included an objective to implement electronic ethics education training for City employees. The Ethics Code charges the Human Resources Department to "design and implement the ethics education seminars". The Ethics Officer has been collaborating with the Training and Development Division of the Human Resources Department in an attempt to bring electronic ethics education to city employees. The Board would like to see in person training for all new employee orientations but to have an electronic ethics education option fully integrated into the training curriculum by the beginning of 2013.

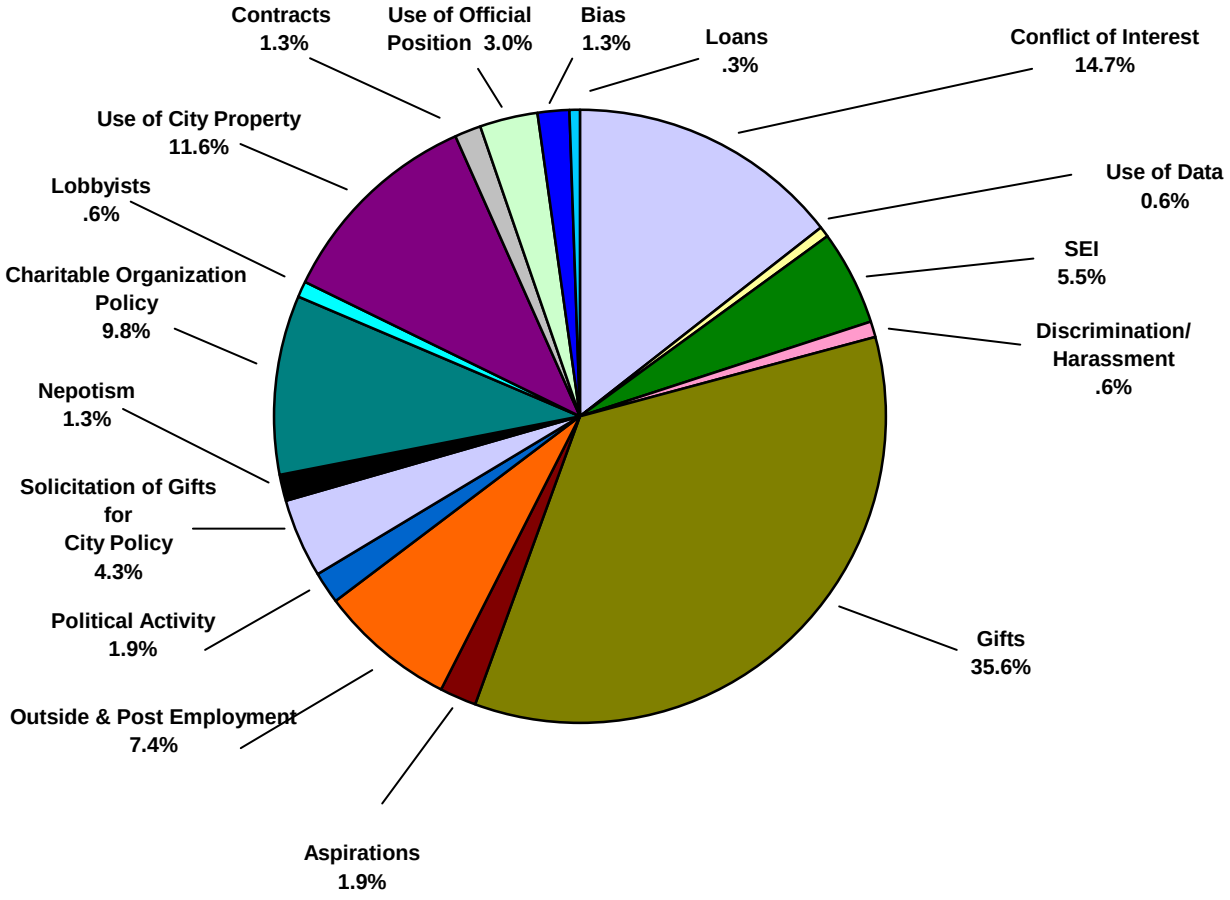
In person training is costly; it involves the commitment of the trainer's time, the creation of time in the schedules of the trainees, and often times the scheduling of trainings to occur either off-site or during second or third shifts. Offering electronic training that an employee can take at a time convenient to the employee and in a place convenient to the employee can produce real savings by allowing for the more efficient and effective use of the city's personnel resources and

by eliminating unnecessary travel by employees who are not located in City Hall or the Public Service Center.

Given the nature of the City's Ethics Code, electronic ethics education will need to be customized. The Training and Development budget has been cut about 50% in 2012 which makes funding this venture quite difficult. The scarcity of resources will certainly impede development timelines as the City works to develop a high caliber effective electronic ethics education component.

Ethics Inquiries

From January 1, 2011 through December 31, 2011, the Ethics Officer answered 181 telephone and email inquiries[1]. The number of inquiries is down from 192 inquiries in 2010. The substantive topics of 2011 inquiries were as follows:



[1] Inquiries raised during education sessions and in-person immediately after ethics education sessions are not included in the numbers.

The top two categories of inquiries did not change from last year: Gifts and Conflict of Interest. The percentage of calls in these areas remained consistent with that of 2009. The calls related to gifts remained the most frequent category of inquiry for the fourth consecutive year. A substantial portion of the employee ethics education sessions are devoted to gifts and it is encouraging that employees will call the Ethics Officer when faced with uncertain situations. Questions related to gifts are highly fact dependent and not easily answered by FAQ or other informational brochures.

Not included as a substantive inquiry category are the miscellaneous inquiries which range from requests for a copy of the Ethics Code or a complaint form to how to file a complaint to information about serving on the Board. The number of miscellaneous inquiries has remained fairly constant since 2007. Changes in inquiry percentages are depicted in the following chart:

Category	**Percent Change from 2010 to 2011**
Use of Property	-2.5%
Political Activity	+0.5%
Outside & Post Employment	+4.8%
Nepotism	-0.5%
Use of Data	+1.2%
Contracts	-0.1%
Use of Position	+3.7%
SEI	+1.2%
Conflict of Interest	-4.9%
Discrimination/Harassment	-0.6%
Charitable Organizations Policy	-0.9%
Aspirations	+0.5%
Gifts	-3.3%
Lobbyists	+0.6%
Solicitation of Gifts for City Policy	-1.3%

Minneapolis is not the only city to track inquiries related to its Ethics Code. The following chart contains information from other cities and the City of Minneapolis:

	Approximate Number Persons Covered	2011 Inquiries	Top Three Substantive Inquiries
Chicago[2]	35,200	5,752	Gifts Lobbying Statements of economic interest
Atlanta	8,075	138	Gratuities/ Gifts Conflict of Interest Use of Public Property
Honolulu[§]	10,000	392	Misuse of city position or resources Conflict of interest Gifts
Minneapolis	3950	181	Gifts Outside employment & post employment Conflict of interest

Ethics Complaints and Ethics Report Line

Ethics Complaints

The Ethics Officer received twenty-six (26) total complaints alleging violations of the Ethic Code during 2011. This is a slight increase from the twenty-four (24) complaints received in 2010. The complaints were reported in the following ways:

Reporting Method	2008	2009	2010	2011
Ethics Officer	9	14	4	3
Ethics Report Line - Internet	6	11	4	7
Ethics Report Line - Telephone	10	13	9	6
Required reporting by department	2	8	6	8
311 – Citizen reporting	1	0	1	2
Totals	**28**	**46**	**24**	**26**

The use of the Ethics Report Line, both internet and phone, as a reporting mechanism has remained fairly constant as a percentage of reports for the last four years:

Year	Ethics Report Line as a Percent of Total Reports
2008	57%
2009	57%
2010	54%
2011	50%

[2] Chicago's reporting year ran from July 1, 2009 – June 20, 2010.
[§] Honolulu's reporting year ran from July 1, 2010 – June 30, 2011.

Ethics Code §15.230(c) requires a supervisor or department head to notify the Ethics Officer of a report of an alleged Ethics Code violation and the subsequent outcome. The Ethics Officer received eight (8) such reports in 2011, though two (2) reported situations actually occurred in 2010. Given the breadth of the Ethics Code and the inclusion of the City's Respect in the Workplace policy in the Ethics Code through §15.150, Discrimination or Harassment, it is fair to say that the complaint statistics reported above do not cover all of the ethics related issues handled by City Departments throughout 2011.[3]

The subject matter of the thirty-two (32) allegations[4] covered the entire Ethics Code as well as other management concerns:

Subject Matter, Ethics Code Section	2008	2009	2010	2011
Fiduciary Duty, 15.30	0	0	6	2
Conflict of Interest, 15.40	0	3	2	1
Gifts, 15.50	2	7	1	0
Outside Employment, 15.60	0	5	0	2
Use of Official Position, 15.70	1	9	2	1
Statements of Economic Interest, 15.80	0	0	0	0
Post-employment, 15.90	0	3	0	0
Use of City property or time, 15.100	7	22	8	7
Political Activity, 15.110	0	1	1	1
Loans, 15.120	0	0	0	0
Required Reporting of Fraud, 15.140	0	0	0	0
Respect in the Workplace Policy, 15.150	2	3	3	2
Nepotism, 15.160	1	0	1	1
Use/Disclosure of Information, 15.170	4	1	0	4
Bias or Favoritism, 15.190	0	4	2	1
Inappropriate Influence, 15.200	1	0	0	2
Employee Relations	8	11	9	3
Other Policy Violations	0	0	0	2
Compliance with other Laws	1	0	0	2
Ethical Aspirations	0	2	1	1
Other	4	4	0	0

Complaints related to the use of city property or time continued to be a substantial portion of total complaints. One interpretation is that employees are less willing to ignore what they believe to be improper use of city time, resources and property, while the employees are doing more work with less resources and are worried about their positions given the budget situation in Minnesota and Minneapolis.

[3] Respect in the Workplace unit reported forty-three (43) allegations in 2011, excluding Ethics Report Line allegations. Twenty-three (23) of the complaints resulted in investigation.
[4] Some complaints contained more than one allegation so these numbers will not equal the number of complaints received.

The outcomes of the 2011 allegations are as follows:[5]

Pending – 5
Discipline imposed – 4
Resignation – 3
Unsubstantiated – 8
Coaching – 5
Remedial training - 2
Department changes made – 2
Allegations withdrawn by complainant – 2
No jurisdiction – 4
Other - 1

The Ethics Officer has taken the opportunity, while assisting departments with the handling of these complaints, to review and suggest changes to the departments' internal policies. Such reviews and revisions of policies assist departments in avoiding appearances of impropriety and promote a healthy ethical culture in the City.

Ethics Report Line

The Ethics Report Line has been operational since June 1, 2008. In the seven remaining months of 2008, the City received sixteen (16) original incident reports of which ten (10) were anonymous reports. In 2009, the City received twenty-four (24) original incident reports of which twenty (20) were anonymous. In 2010, the City received thirteen (13) original incident reports of which ten (10) were anonymous. On average the number of Ethics Report Line complaints has dropped from 2.3 per month to 1.1 per month and the percentage of anonymous calls has increased. The thirteen (13) reports received in 2011 contained seventeen (17) allegations.

When reports are made through the Ethics Report Line the report is forwarded to the City's Ethics Officer, Susan L. Trammell. If the report is a non-Respect in the Workplace report, it is also forwarded to the Internal Auditor, Mr. Magdy Mossaad, as well as the Ethics Officer. If the report is a Respect in the Workplace report, it is also forwarded to the City's Respect in the Workplace Lead Investigator, Mr. Steve Kennedy, as well as the Ethics Officer. This process is to ensure no complaint is overlooked. Once received, the reports are forwarded as required by the Ethics Code to the appropriate official for investigation, usually the Ethics Liaison for the applicable department. The Ethics Officer contacts the departmental liaison periodically to check on status of the report.

[5] Some outcomes contained more than one action so these numbers will not equal the number of allegations received.

The Network tracks statistics related to the reports made through its clients' compliance lines:

Original Incident Reports	2008 % City	2009 % City	2009 % The Network Compliance Line	2010 % City	2010 % The Network Compliance Line	2011 % City	2011 % The Network Compliance Line
Anonymous Reports	62.5%	83.3%	48.2%	76.9%	49.7%	61.5%	47.5%
Non-Anonymous Reports	37.5%	16.7%	52.8%	23.1%	50.3%	38.5%	52.5%
Escalated Incident Reports	0%	4.2%	1.5%	0%	1.2%	0.0%	1.2%
Previously Reported to Management	31.3%	29.2%	31.3%	25%	30.5%	38.5%	29.5%
Caller Callbacks	21.9%	4.4%	9.4%	15.2%	9.4%	18.2%	9.3%

For all years of Ethics Report Line operation, the City's anonymous reporting is significantly higher than that of the Network's other clients. Anonymous callers are instructed to re-contact the Network after a designated period of time to answer any questions the assigned investigator may have for the caller. For the last two years more of the City's anonymous callers followed up as instructed as compared to The Network's other clients and quadrupled over the City's call back percentage of 2009. The importance of calling back is stressed when the Ethics Report Line process is discussed during Ethics Education classes. Calling back is essential for the City to properly investigate anonymous complaints.

The Network also tracks the allegations raised in a report made through the Ethics Report Line:

Subject of Original City of Minneapolis Incident Report	2008	2009	2010	2011
Use of Property/Time	23.8%	28.6%	29.4%	35.3%
Nepotism	4.8%	0.0%	5.9%	0.0%
Safety Issues	4.8%	0.0%	0.0%	0.0%
Use/Disclosure of Information	4.8%	0.0%	0.0%	5.9%
Outside Employment	4.8%	7.1%	0.0%	0.0%
Post Employment	0.0%	7.1%	0.0%	0.0%

(continued)

Subject of Original City of Minneapolis Incident Report	2008	2009	2010	2011
Harassment/Discrimination (Respect in the Workplace Policy)	9.5%	7.1%	5.9%	5.9%
Bias/Favoritism	0.0%	9.5%	0.0%	0.0%
Use of Position	0.0%	11.9%	0.0%	5.9%
Employee Relations	23.8%	19%	47.0%	17.6%
Gifts	9.5%	7.1%	5.9%	0.0%
Conflict of Interest	0.0%	2.4%	5.9%	0.0%
Legal Compliance	0.0%	0.0%	0.0%	11.8%
Other	14.3%	0.0%	5.9%	11.8%

Code Interpretation through Policy Development

In 2009 the Ethics Officer collaborated with the City's Human Resources Department to establish protocol to include ethics compliance as an issue in all employee exit interviews. The following ethics question is now included in all on-line and paper versions of the employee exit survey for employees who voluntarily leave the employ of the City:

> **Policy Compliance** - Management adherence to the Ethics in Government Code.
>
> 1 - Very Dissatisfied 2 - Somewhat Dissatisfied 3 - Somewhat Satisfied 4 - Very Satisfied
>
> Check if this is a factor in your departure

During 2011 the City experienced a total of 158 voluntary employee separations: 94 retirements and 64 resignations. Twenty-seven (27) of the employees voluntarily separating from the City participated in the Employee Exit Survey and twenty-five (25) of those participants answered the question related to management adherence to the Ethics in Government Code.

Exiting Employee Perception of Management Adherence to the Ethics Code

	Very Dissatisfied	Somewhat Dissatisfied	Somewhat Satisfied	Very Satisfied	Factor in departure
# of Responses	1	3	10	11	1
%	4.0%	12.0%	40.0%	44.0%	4.0%

Once exit surveys are received, copies are shared with the appropriate Human Resources Generalist. If the identity of the employee is known, the Human Resources Generalist may further investigate the answers of the exit survey. The Ethics Officer has requested that going forward, all exit surveys with negative responses to the Management Adherence to the Ethics Code question also be forwarded to her.

Proposed Ordinance Changes

The Board recommends the following amendments to the Ethics Code:

1. Changes to outside employment reporting requirements of § 15.60(e)(1)

The outside employment section of the Ethics Code requires employees, including those employees who are appointed local officials, to disclose their proposed outside employment to avoid situations where the proposed employment is likely to interfere with the proper discharge of the employee's public duty or create a conflict of interest materially impairing the employee's ability to serve the City. The ordinance, as written, requires notification of an employee's department head prior to accepting outside employment. Questions have arisen regarding to whom a department head should report outside employment. The Board is proposing an amendment that would require a department head to report such activity to the executive committee.

The Board is also proposing exempting employees in two job titles from the reporting requirement. The first job title is election judge. Election judges are considered City employees but are employed for a very limited purpose and a very limited period of time. Minneapolis Election Judges must:

- Be a United States citizen
- Be an eligible voter in the State of Minnesota
- Be able to read, write and speak English
- Not be a candidate at that election
- Not be the spouse, parent, child, stepchild, sibling or stepsibling of any election judge serving in the same precinct or of any candidate at that election
- Not be a challenger
- Disclose their political party preference

For many of the election judges, their service is either pro bono or in addition to their regular employment. Election judge applicants disclose their recent employment/volunteer experiences that relate to interacting with the public or other election judge duties through the hiring process. Requiring the election judges to also disclose their other employment on the Outside Employment form is onerous, does not serve to add any value to the election judge hiring process and does not further the goals of the Outside Employment ordinance.

The second job title proposed to be exempted from the Outside Employment reporting requirement is that of Stagehand/Production Technicians. These are temporary intermittent positions at the Convention Center. The employees in these positions set up and tear down audio/visual and sound components for exhibitions. The employees filling these duties also perform similar duties all across the United States. The average number of hours worked by these employees in 2010 was forty-three (43) hours though some worked as few as four (4) hours in a year. The manner in which the Convention Center fills these positions means that every single one of these employees is likely to have other employment and potentially as many as

three hundred (300) plus other jobs to disclose. Again in this situation, requiring the disclosure of other employment on the Outside Employment form is onerous, does not serve to add any value to the Stagehand/Production Technician hiring process and does not further the goals of the Outside Employment ordinance.

A potential amendment is:

15.60. Outside employment.

*** * ***

(e) An appointed local official, as defined in section 15.280(m)(2) of this ordinance, or an employee shall:

(1) Notify his or her department head before accepting outside employment or entering into a contract for services. A department head must notify the executive committee before accepting outside employment or entering into a contract for services. Notification shall be in writing on the form prescribed by the city clerk. Employees in the job titles of stagehand/production technician temporary/intermittent and election judge are exempt from this notification requirement.

2. Annual Statement of Economic Interest Filings, § 15.80

Each year the City Clerk's office sends out reminders to the local officials regarding the filing of supplemental statements of economic interest and then tracks the filings which are due on April 15th. Each year there are late filings and staff expends a great deal of effort to contact the late filers to ensure one hundred percent compliance. Because the current Ethics Code provision only requires a supplemental filing when information has changed, a late or non filer may actually be a local official without any changed economic circumstances. Staff has no way of knowing this unless the local official files indicating no economic changes. The Board believes a better solution is to require all local officials to file a supplemental statement of economic interest yearly. If no information has changed, then the form may so indicate.

A potential amendment is:

15.80. Statements of economic interest.

*** * ***

(b) Each individual who is required to file a statement of economic interest shall file a supplementary statement on April 15 of each year that he or she remains a local official ~~if information on the most recently filed statement has changed~~. A local official shall file a supplementary statement within ten (10) days after becoming aware of an inaccuracy in any previously filed statement.

(c) Within thirty (30) days after leaving office, a local official shall file a statement of economic interest covering the period from the end date of the most recent statement through the last day of service as a local official ~~if information on the most recently filed statement has changed~~.

3. Changes to the Use of Property Prohibition, § 15.100

The prohibition against the unauthorized use of destruction of city property has not been altered since the Ethics Code was adopted in 2003. Various issues have arisen over the years regarding the scope of the section. The board believes that the use of the word "property" is too narrow and the use of the word "resources" more accurately describes the activities that should be covered by the section. In addition, the Ethics Officer and the Board have received many questions related to misuse of employee time and supervisors requiring employees to perform tasks unrelated to the employees' official duties. As all of these activities fall within the realm of ethics, the Board proposes adding clarifying language to the section.

A potential amendment is:

> **15.100. City ~~property~~ resources.** (a) A local official or employee shall not engage in or permit the unauthorized use ~~or destruction~~ of city property, funds, or resources. Destruction is a use of city property or resources.
>
> (b) Employees must use official time to perform official duties only. A local official or employee shall not direct or request subordinates to use official time to perform any activities other than official activities.

4. Changes to the Political Activity Prohibitions, § 15.110

The current political activity Ethics Code section has not been altered since the Ethics Code was adopted in 2003. The current ordinance only speaks to use of "official authority or influence to compel any person to apply for membership in or become a member of any political organization, to pay or promise to pay a political contribution, or to take part in political activity." The current ordinance does not cover other impermissible uses of city resources for political activity. During past election seasons, the Communications Department has published "Election Do's and Don't's for Employees" in City Matters. The proposed amendment encompasses the "do nots" previously communicated to employees.

A potential amendment is:

> **15.110. Political activity.**
>
> *** * ***
>
> (c) A local official or employee shall not use city facilities, property, funds, personnel, the city logo or the city seal or other city resources to engage in political activity.

5. Qualifications to serve on the Ethical Practices Board, §15.210

Ethics Code §15.210 sets forth the process for appointing members to the Board. During the last appointment process a question arose regarding whether an applicant would be excluded from

applying for the Board due to City employment as an election judge. This question plus the need to extend the application period an additional two months for qualified applicants leads the Board to believe that some modifications should be made to the ordinance. The Board proposes excluding election judge service as a disqualifier and limiting the City restrictions to current employees and local officials as well as placing a five year limitation for former employees and local officials.

A potential amendment is:

15.210. Ethical practices board.

* * *

(c) No member of the ethical practices board may be a current local official or current city employee; the related person of a current local official or current city employee; a candidate for elected public office; a former elected local official or former city employee during the five (5) period after leaving the city office or employment; a person who, for compensation, represents the private interests of others before the city council or mayor; or a paid campaign worker or political consultant of a current local official. For purposes of this section, employee does not include a person who serves for compensation or pro bono as an election judge.

6. Ethical Practices Board Reporting of Complaint Findings, § 15.240(b)

In the handling of ethic complaints, the Board has become aware of potential conflicts with the Minnesota Government Data Practices Act and the Open Meeting Law regarding the Board's reporting of its findings. In particular, the current Sanctions ordinance section requires the Board to report findings regarding an elected official to the Mayor, Ways and Means/Budget Committee and the City Council regardless of whether the Board has made a factual finding sustaining those allegations. The Board is recommending adding language to the ordinance to clarify that any such reporting should be consistent with Open Meeting Law and to only report on sustained allegations involving elected officials.

A potential amendment is:

15.240. Sanctions.

* * *

(b) The ethical practices board shall review allegations of violations of this Code of ethics by an elected official, a department head, or an appointed local official who is a member of a city agency, authority or instrumentality listed in section 15.280(m)(3) of this Code. ~~Once the review is complete the~~ The ethical practices board shall report ~~its~~ sustained findings and any recommendations for discipline regarding an elected official to the mayor~~, the ways and means/budget committee~~ and the city council consistent with open meeting law. The ethical practices board shall report findings and any recommendations for discipline regarding a department head to the appropriate appointing authority consistent with open meeting law. The ethical practices board shall report sustained findings and any

recommendations for discipline regarding an appointed local official ~~who is a member of a city agency, authority or instrumentality listed in~~ as defined in section 15.280(m)(3) or (4) of this Code to the appropriate appointing authority consistent with open meeting law.

7. Ethics Education Changes and Exemptions, § 15.260

The Board is recommending two changes to the Ethics Education ordinance. The first change is to substitute the phrase "participate in" for the word "attend". This change better reflects the potential offerings of ethics education in both an in-person classroom setting and in an interactive electronic education option. The Board is further recommending the exemption of Election Judges and Stagehands/Production Technicians from the training requirement. The rationale for this exemption is explained above in the discussion about exempting employees in these job titles from the outside employment reporting requirement.

A potential amendment is:

> **15.260. Ethics education.** ~~Each local official or employee shall attend an ethics education seminar within twelve (12) months of the effective date of this ordinance.~~ New employees and local officials shall ~~attend~~ participate in an ethics education seminar within six (6) months of becoming a local official or employee. Employees shall ~~attend~~ participate in an ethics education seminars every three (3) years thereafter. Non-employee local officials and elected local officials shall ~~attend~~ participate in an ethics education seminar every four (4) years thereafter. Employees in the job titles of stagehand/production technician temporary intermittent and election judge are exempt from this education requirement but shall be provided a copy of this code upon hire. The seminar shall educate persons as to their duties and responsibilities under this Code. The human resources department shall design and implement the ethics education seminars. Department heads are responsible for ensuring that all of their employees attend this training.

8. Clarifying and Supplementing Definitions, § 15.280

Due to changes in the City's organization and due to the other proposed changes to the Ethics Code, the Board recommends the following potential amendments to definitions and new definitions:

(e) Department head means~~:~~ a person having ultimate responsibility and authority for a department and the performance of its specific functions.

> ~~Assistant city coordinator, chief information officer~~
> ~~Assistant city coordinator, city finance officer~~
> ~~Assistant city coordinator, communications~~
> ~~Assistant city coordinator, director, intergovernmental relations~~
> ~~Assistant city coordinator, director of human resources~~
> ~~Assistant city coordinator, emergency communications director~~
> ~~Assistant city coordinator, Minneapolis Convention Center~~

~~Assistant city coordinator, regulatory services and emergency preparedness~~
~~City assessor~~
~~City attorney~~
~~City coordinator~~
~~Commissioner of health~~
~~Chief of fire~~
~~Chief of police~~
~~City clerk~~
~~Director of the department of civil rights~~
~~Director of the department of community planning and economic development director of public works.~~

(g) Employee means a person who holds a ~~civil service~~ classified or unclassified title or position in the city The term "employee" shall not include a local official as defined by 15.280(m)(3) and (4), anyone in the hire of the park and recreation board ~~or library board~~, or any independent contractor. The term “employee” shall include an elected local official as defined by 15.280(m)(1) and (2) unless specifically excluded.

New definitions:

Department means a branch of city service, having one person with ultimate responsibility and authority for it, charged with carrying out specific function(s) related to the conduct of city business. The word department does not necessarily need to be included in the title of the unit.

Compensation means payments received in excess of $50 in any month from an associated business, payments for services as an independent contractor, payment for other self-employment activity and income from rental property.

Outside Employment means but is not limited to becoming an employee of an entity, forming a corporation, partnership or sole proprietorship, or entering in a contract, written or verbal to provide goods or services in exchange for compensation.

2011 Expenses

Council on Governmental Ethics Laws membership	$445.00
Society of Corporate Compliance and Ethics Membership	$295.00
Ethics Report Line	$4,250.00
Attorney III at 23% time ($154,383 FTE per year)	$35,508.00
	$40,498.00

The Ethics Officer's time is trending downward from a high of 48% in 2008. The quantity of training provided in 2008, 2009, and 2010 accounted for the increased time in those years. If electronic ethics education is not implemented for 2012, the Ethics Officer's time will again trend upward as large numbers of employees begin a new ethics education compliance cycle. The reported 2011 expenses do not take into account the incidental expenses such as an office, computer, telephone, office supplies, copying, postage, parking, mileage for training and other expenses covered by the Office of the Minneapolis City Attorney.

Year	2006	2007	2008	2009	2010	2011
% Ethics Officer Time	25%	37%	48%	47%	33%	23%

2011 Revenue

During 2011 the Ethical Practices Board did not receive any income from grants, awards or donations.

2011 Volunteer Hours

The three members of the Board collectively spent approximately 59 hours on work related to the Board during the 2011 calendar year. This year's business before the board only necessitated the Board holding bi-monthly meetings. On average, each member spent four plus hours per meeting on Board related activities which is consistent with prior years.

2012 Ethical Practices Board Work Plan

The 2012 work plan is predicated on the availability of city staff to complete the tasks requiring staff involvement.

Ethics Education

- Conduct ethics education refresher seminars for city employees.
- Conduct new employee ethics education seminars.
- Collaborate with the City's Human Resources Training and Development Division to implement electronic ethics education training for City employees.
- Work with Departments to determine ethic education needs of contractors.
- Conduct ethics education seminars for departments as requested.
- Continue collaboration with the City Clerk's office to incorporate the required ethics education into the appointment process.
- Continue collaboration with the City's Communication Department to create a communication strategy to promote awareness of both Ethics and the Ethics Report Line

Ethics Code Review

- Participate in CityEthics.org's Model Ethics Code Project
- Review City's Ethics Code and propose amendments to improve effectiveness of the Code.

Code Interpretation through Policy Recommendations

- Collaborate with the City Coordinator and Communications to present a proposed Endorsements and Advertising Policy for City Council consideration.
- Evaluate the Solicitation and Acceptance of Gifts on Behalf of the City Policy for potential revisions.
- Assist Departments with policy drafting upon request.

Ethics Inquiries

- Answer ethics Code inquiries from employees, local officials and the public.
- Collaborate with the City's Communication Department to create a question and answer brochure for frequently asked questions.

Ethics Complaints and the Ethics Report Line

- Manage complaints received directly and from the ethics report line.

Promote an Ethical Culture in the City of Minneapolis

- Collaborate with the City's Human Resources Department to establish ethics as a topic of annual performance reviews.
- Follow up on issues raised by the Citywide Employee Survey conducted in November of 2011.

Employee Ethics Education Status By Department

As of December 11, 2011

Department	Attended Training in 2011	HRIS Reported Number of Employees	Out of Compliance 2011	Will Change to Out of Compliance in 2012
311	10	21	1	9
ASSESSOR	17	34	1	13
ATTORNEY	9	100	1	1
BUSINESS INFORMATION SERVICES	21	49	1	17
CITY CLERK excluding election judges	23	56	4	1
CITY COORDINATOR	3	10	1	2
CIVIL RIGHTS	7	17	0	5
COMMUNICATIONS	3	11	0	1
CONVENTION CENTER excluding stage hands	117	128	4	1
CPED	34	106	9	44
FINANCE	84	144	26	16
FIRE DEPARTMENT	46	381	3	170
HEALTH AND FAMILY SUPPORT	21	51	3	7
HUMAN RESOURCES	29	46	2	8
INTERGOVERNMENTAL RELATIONS	0	7	1	5
INTERNAL AUDIT	4	5	0	0
MAYOR	3	11	2	4
NEIGHBORHOOD & COMMUNITY ENGAGEMENT	5	12	1	2
POLICE DEPARTMENT	74	903	30	29
PUBLIC WORKS	191	974	162	138
REGULATORY SERVICES	124	348	10	146
Totals	**825**	**3414**	**262**	**619**