

BALTIMORE CITY BOARD OF ETHICS 2021 ANNUAL REPORT

A NEW DAY FOR ETHICS

100 N. HOLLIDAY ST.
SUITE 635
BALTIMORE, MD 21202
410-396-7986
ETHICS@BALTIMORECITY.GOV



INTRODUCTION 3



ABOUT THE ETHICS LAW 4

ABOUT THE BOARD 6

Meet the Board7
Board Staff7

GUIDANCE & OPINIONS 8

Help Desk9
Formal Matters9
Advisory Opinions10

ACCOUNTABILITY & COMPLIANCE 11

Lobbying12
Gift Solicitation Waivers13
Financial Disclosures14
Complaints and Investigations15

OUTREACH & AWARENESS 21

Ethics Training22
Notice of Ethics Requirements22
New Employee Orientation23
Ethics Board Website23
Social Media24
Contact the Board24





INTRODUCTION

The Baltimore City Board of Ethics ("Board") is pleased to present its annual report for Fiscal Year 2021 ("FY21") to the Mayor and City Council, members of the public, and other interested stakeholders. This is the Board's first annual report since 2014.

FY21 was a time of unprecedented transition and productivity for the Board and its staff. Pursuant to City Council legislation passed in the spring of 2020—Ordinance 20-354, effective October 10, 2020—the City's Inspector General ("IG") became the ex officio Executive Director of the Board and is responsible for designating staff to assist the Board on a day-to-day basis.

New Board staff includes a full-time Director, who serves as the IG's designee, and an Executive Assistant. Members of the Department of Legislative Reference, who previously supported the Board, were helpful during the transition period. We thank them for their cooperation and for transferring institutional memory.

The Board's new Director and Executive Assistant, who began early in FY21, quickly set about revamping the Board's outreach materials, including a new ethics training course and updated website content. They also enhanced many of the Board's core functions, including complaint intake and investigation, requests for guidance, and financial disclosures. This report covers the Board's work on these and other fronts during FY21.

We look forward to continuing to collaborate with City officials, employees, and citizens to make ethics an ever-stronger and more integral component of City government at all levels. Together, we will extend this new day for City ethics.

Baltimore City Board of Ethics

Stephan W. Fogleman, Chair

Donna M. Davis

Melodie Hengerer

Arnold Sampson



ABOUT THE ETHICS LAW

The Baltimore City Public Ethics Law ("Ethics Law") is contained in [Article 8 of the City Code](#) and is intended "to guard against improper influence or even the appearance of improper influence, and to ensure public trust in the government." The Ethics Law is modeled on the Maryland Public Ethics Law, contained in Title 5 of the General Provisions Article of the Maryland Code; the City's law must be similar to the State's, but is permitted to be even stricter to account for local concerns.

CONFLICTS OF INTEREST

The Ethics Law's conflict of interest provisions apply to all City officials and employees, whom the law calls "public servants." A conflict of interest occurs when a public servant's City position could improperly overlap with their non-City interests, or with the interests of their family members or entities with which they or a family member are affiliated. Among other scenarios, the Ethics Law governs conflicts arising out of **financial interests, outside employment, and gifts.**

Depending on the circumstances, the law may require a public servant to recuse themselves from a particular matter if they have a conflict, or it may preclude them from holding the conflicting interest in the first place.

"to guard against improper influence or even the appearance of improper influence, and to ensure public trust in the government."

Ethics Law, § 1-2.

FINANCIAL DISCLOSURES

By requiring many public servants to annually disclose information about their own interests and those of their family members, the Ethics Law's financial disclosure requirements help public servants think through potential conflicts of interest. These disclosure statements are available for public viewing in order to promote transparency and trust in the government.

PRESTIGE OF OFFICE AND CONFIDENTIALITY

The Ethics Law prohibits public servants from using their official positions in certain improper ways. These prohibitions include using the "prestige" of their City position—including City resources—for their own private gain or that of another, and disclosing or using confidential information for their own or another's economic benefit.

LOBBYING

The Ethics Law also governs City lobbyists. It requires lobbyists to register with the Ethics Board and report twice per year on their activities. It also restricts certain kinds of lobbying activity.

ABOUT THE BOARD



The Ethics Board, established in Article VII of the City Charter and Article 8 of the City Code, is an independent body that oversees and enforces the requirements of the Ethics Law. Originally created by a 1963 Charter Amendment to enforce new prohibitions on conflicts of interest, the Ethics Board has existed in its current composition since 2010. The Board, with the assistance of its staff, carries out a number of duties, including:

- Investigating ethics complaints and imposing remedies and sanctions;
- Educating City officials, employees, and citizens through trainings and materials;
- Providing City officials and employees with formal and informal guidance;
- Managing the financial disclosure system and process; and
- Overseeing the lobbyist registration and reporting system and process.

MEET THE BOARD

The Ethics Board comprises five members, all of whom are appointed by the Mayor and confirmed by the City Council. Of the five members, one is nominated by the City Council President, one by the Comptroller, and the remaining three are nominated by the Mayor. At least two of the Mayor's nominees must be licensed attorneys. Each member must be “of known personal integrity” and possess “recognized knowledge and interest in government and civics.” No member may be a lobbyist, a government official or employee (other than of a college or university), or a candidate for elected public office. The members serve staggered, five-year terms. The Board’s Chair is elected annually by the Board from among its members.

In FY 2021, the Board was comprised of the following members. You can read their bios [here](#).

- **Stephan W. Fogleman, Esq.**, Chair (term ended Dec. 31, 2020)
- **Donna M. Davis, Vice-Chair** (term ending Dec. 31, 2022)
- **Melodie Hengerer, Esq.** (term ending Dec. 31, 2023)
- **Arnold Sampson** (term ending Dec. 31, 2024)
- Vacant Seat (term ending Dec. 31, 2021)

The Board typically meets once a month to discuss ethics operations and administrative matters, including complaints, guidance, and waiver requests.

BOARD STAFF

Beginning in FY21, the Ethics Board is staffed by employees within the Office of the Inspector General ("OIG"). Although by law the IG is the Board's ex officio Executive Director, the IG has designated a full-time Director to carry out the Board’s day-to-day work, with the help of a dedicated executive assistant.

The current Director is Jeffrey Hochstetler, Esq., who is assisted by Executive Assistant Maura Ford. You can read their bios [here](#). OIG Special Agents are available if needed to assist with ethics investigation.

Recordings of public Board meetings are posted on the Ethics Board's YouTube channel. Watch [here](#).



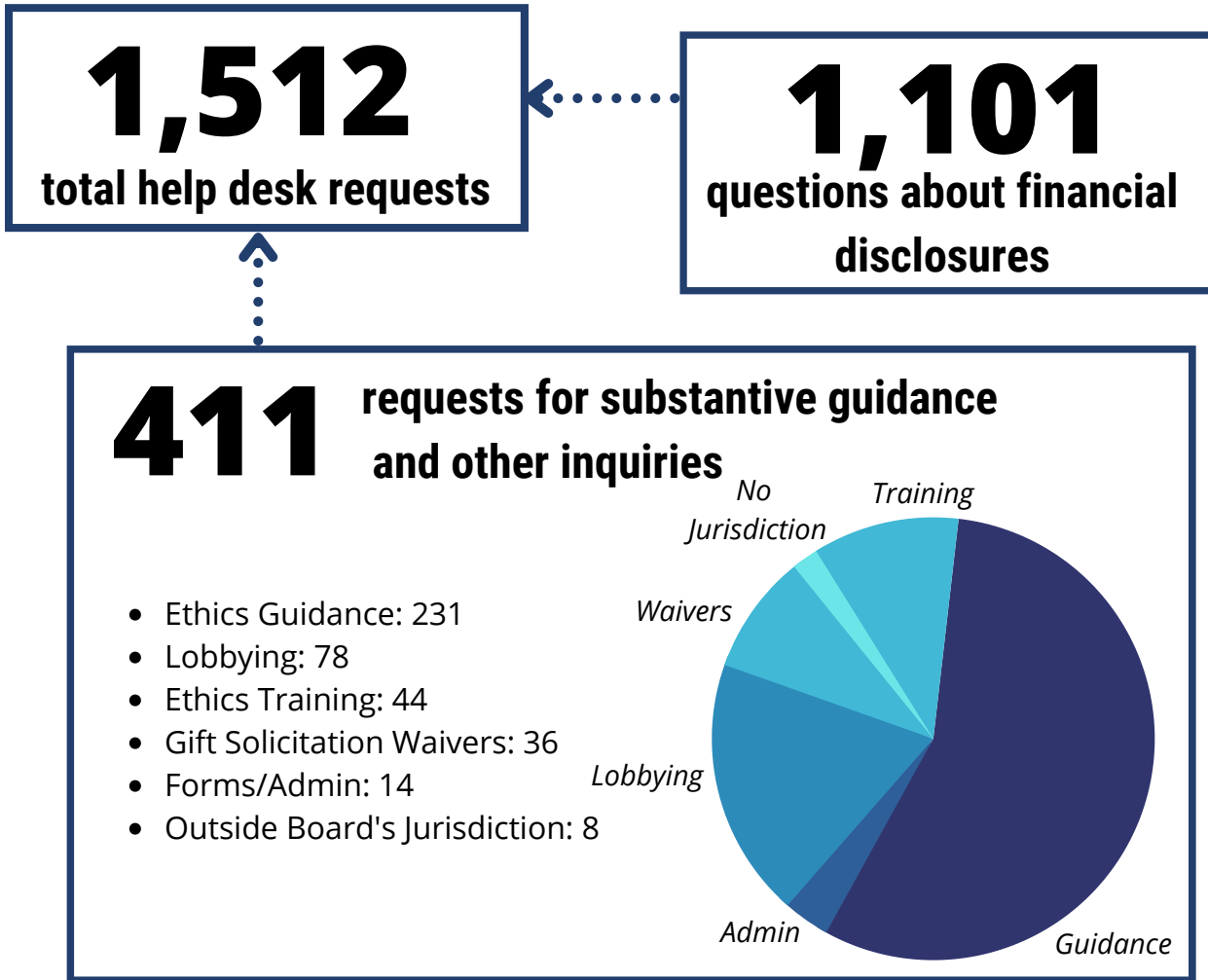
GUIDANCE & OPINIONS



Beginning in FY21, Board staff established a dedicated ethics phone line and email address to better facilitate requests for ethics advice and guidance. Board staff are contacted daily with various questions about the Ethics Law and its administration and application, mostly by City officials and employees. All of these requests are now tracked as "help desk" matters. If the answers are easily ascertainable based on the Ethics Law and the Board's precedent, Board staff will provide written and/or oral guidance without the Board's involvement. Other requests require more formalized guidance approved by the Board.

HELP DESK

In FY21, Board staff received 1,512 help desk requests, all of which were resolved in a timely manner, tracked in a database, and categorized by matter.



FORMAL MATTERS

In addition to the **5** published advisory opinions discussed on the following page and the **11** gift solicitation waivers discussed in the next section, the Ethics Board approved **6** letters of guidance and granted **1** secondary employment waiver.

ADVISORY OPINIONS

Subtitle 4 of the Ethics Law requires the Ethics Board to provide an [advisory opinion](#) upon written request, which is then published after removing all identifying information of the parties. Any person subject to the Ethics Law is entitled to rely on a published advisory opinion, so long as the opinion is reasonably applicable to that person's circumstances and has not been overruled by a later opinion or amendment to the Ethics Law or regulations.

OPINION SUMMARIES

5 advisory opinions

Prior to FY21, the Ethics Board had not published an advisory opinion in more than three years. In FY21, the Board published five advisory opinions.

 [CLICK TO READ THE OPINION](#)

OPINION 20-001

A City official was offered a rental space for a governmental office at a below-market price. Accepting the gift would violate the gift restrictions under the Ethics Law.

OPINION 21-001

The Ethics Board clarified the Ethics Law's post-employment provisions, which limit a public servant's employment opportunities after leaving City service.

OPINION 21-002

The Ethics Law does not require members of the Board of Estimates to recuse themselves from matters that involve City governmental units under their control, as long as neither they nor a disqualifying relative have an interest in the matter.

OPINION 21-003

A City Councilmember must refrain from participating in any legislative matters to which their secondary employer is a party.

OPINION 21-004

The Ethics Board clarified the Ethics Law's secondary employment restrictions, which apply to a public servant's volunteer board memberships.



ACCOUNTABILITY & COMPLIANCE

"The Mayor and City Council of Baltimore recognizes that our system of representative government largely depends on the people's trust in their public servants. The citizens of Baltimore City rely on their public servants to preserve their safety, health, and welfare through fair and impartial enforcement of laws, imposition of taxes, and expenditure of public funds. Each citizen of Baltimore City has a right to be assured of the fair, impartial, and independent judgment of all public servants."

ETHICS LAW, § 1-1

LOBBYING

Subtitle 8 of the Ethics Law governs lobbyist registration and activity. Any individual who communicates with a City public servant for the purpose of influencing any legislative, executive, or procurement action—or who solicits others to do so—must register as a lobbyist if they meet certain compensation or expense thresholds. The purpose of registration is to ensure that the public is adequately informed about the individuals and entities seeking to influence City policy, procurement, and legislation.

REGISTRATION

The Ethics Board, with the assistance of the Baltimore City Office of Information and Technology ("BCIT"), maintains the [lobbyist registration portal](#) and the [public list of currently registered lobbyists](#). In calendar year 2020, there were 150 registered lobbyists.

LOBBYING ACTIVITY REPORTS

Registered lobbyists are required to submit a lobbying activity report twice per year that details the scope of their lobbying activity and related compensation and expenses, among other information. These reports are publicly available. In calendar year 2020, all registered lobbyists filed annual activity reports.

ENFORCEMENT

In FY21, for the first time in recent memory, the Board charged fees for late registration and activity reports.



150
registered
lobbyists in 2020

\$15,000
collected in
registration fees

\$2,500
collected in
registration late
fees

\$200
collected in
activity report
late fees

CHARITABLE/GOVERNMENTAL GIFT SOLICITATION WAIVERS

Subtitle 6 of the Ethics Law generally prohibits a public servant from soliciting or accepting gifts from any person or entity considered a “controlled donor,” including lobbyists, someone who does business or wants to do business with the public servant’s agency, or someone who could be materially affected by the public servant’s duties.

WAIVER APPLICATIONS

Among other exceptions to this general prohibition, the Ethics Law permits solicitation if it is for the benefit of an official governmental program or City-endorsed charitable function, so long as it has been approved in advance by the Ethics Board upon written application. The application must certify that:

- the solicitation is for the benefit of a charitable/governmental activity;
- the activity has been endorsed by the Board of Estimates;
- the solicitation does not specifically target controlled donors; and
- donors will not receive preferential treatment in exchange for donations.

11 approved
solicitation
waivers

In FY21, the Ethics Board approved 11 new governmental/charitable gift solicitation waivers. Of these, five had reports due in FY21, all of which were timely filed.

18 previously-approved solicitation waivers terminated in FY21. Final reports were filed for 17 of these. Board staff collected closeout information for the remaining campaign.

[Click here](#) to review the list of active gift solicitation campaigns.



FINANCIAL DISCLOSURES

Subtitle 7 of the Ethics Law requires many public servants to file annual financial disclosure statements that cover the preceding calendar year. The financial disclosure process helps public servants identify potential conflicts of interest and promotes transparency and trust by making this information available to the public.

Financial disclosure statements require a public servant to disclose information about:

- interests in real property and business entities;
- other sources of income for self and family members;
- board memberships;
- positions with entities that do business with the City;
- debts to persons or entities that do business with the City;
- gifts from persons or entities that do business with the City; and
- family members employed by the City.

In FY21, Board staff identified several additional City units and **more than 800 additional positions** with a financial disclosure filing requirement under the Ethics Law. Board staff also worked with BCIT to launch a new [online filing and viewing site](#), including new [written instructions](#) and [video tutorials](#). The results are telling:



99%

compliance in 2021 filing season

2,800+

filers in 2021 filing season

11%

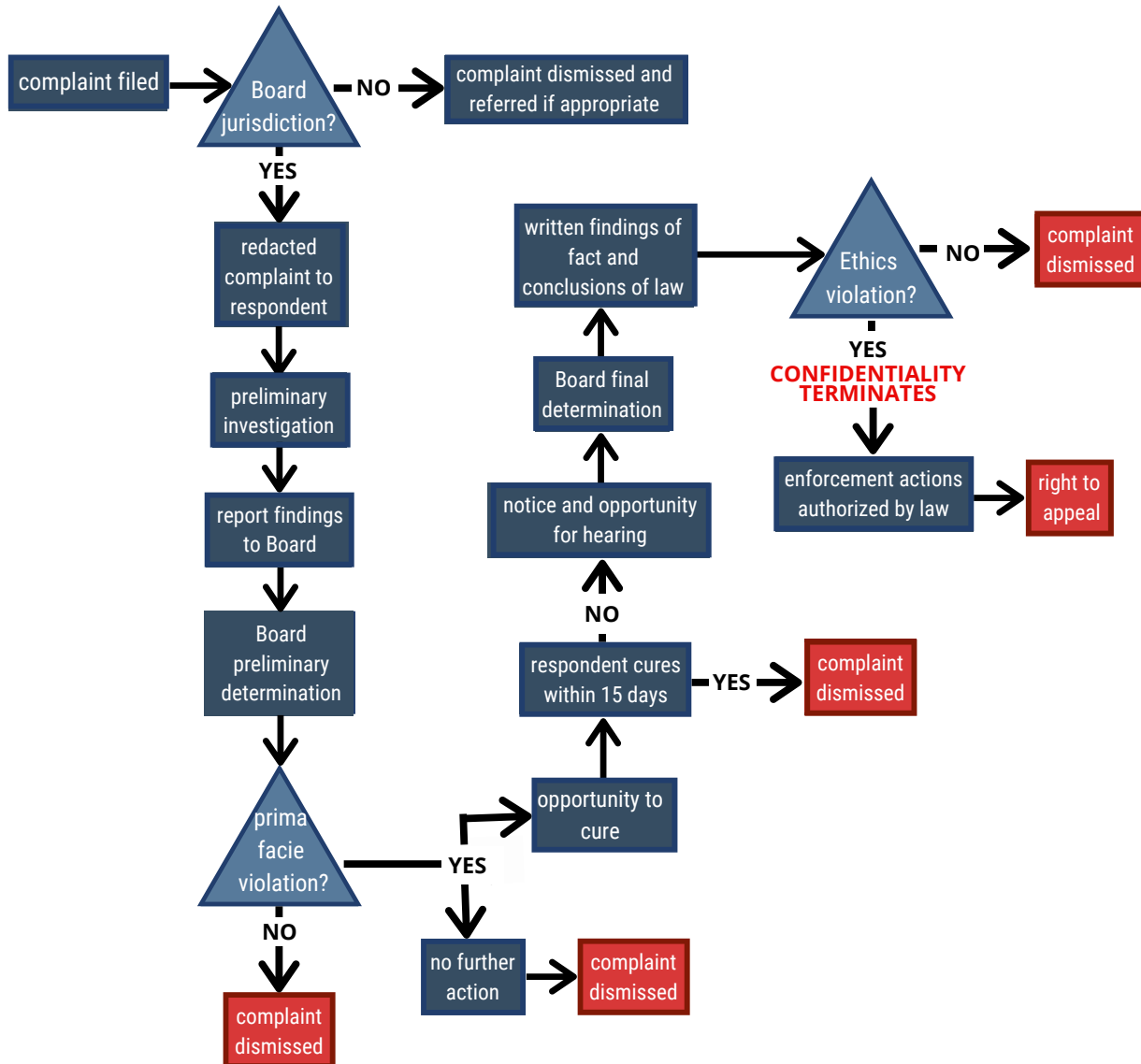
increase in number of filers
between 2020 and 2021

COMPLAINTS AND INVESTIGATIONS

Subtitle 5 of the Ethics Law governs ethics complaints. Anyone may file a complaint with the Ethics Board alleging a violation of the Ethics Law. Prior to FY21, the Board did not have a clear mechanism or process for intaking and investigating ethics complaints. In FY21, Board staff established a dedicated ethics email address and telephone number for the first time, and created an online and downloadable [complaint form](#).

By law, the identity of a complainant is confidential. Complaint proceedings are also confidential unless and until the Board makes a final finding of violation after notice and opportunity for a hearing.

COMPLAINT PROCESS



COMPLAINT SUMMARIES

17
complaints

In FY21, the Board received 17 signed complaints, of which seven were outside of the Board's jurisdiction. The remaining ten are summarized below, with identifying information removed; two of these ten were pending at the end of FY21.

COMPLAINT 1 - EMPLOYMENT AFTER LEAVING CITY SERVICE

The complaint alleged that a former public servant violated the Ethics Law's restriction on employment after leaving City service by contracting with their former agency. The investigation revealed that the public servant, through a private consulting business, entered into an agreement with their former agency to undertake the same work for which they had been responsible as a City employee.



The Ethics Board made a preliminary determination that this scenario constituted a prima facie violation of the Ethics Law's restriction on employment after City service, which prohibits a former public servant from assisting a party, other than the City, in any City-related matter in which they had significantly participated while a public servant. Here, although the former public servant may have been able to assist the City directly on such matters, e.g., through a personal services contract or the like, they were not permitted to do so through a private consulting business or any other third party.

Because the former public servant had already completed all of the work required under the contract, the Ethics Board dismissed the complaint but required any renewal of the contract or similar future work for the City to be undertaken by the former public servant in their personal capacity and not through a third party.



COMPLAINT 2 - GIFTS

The complaint alleged that two public servants violated the Ethics Law's gift provisions when one of the public servants accepted a piece of electronic equipment that the other public servant had obtained for free from a vendor. The investigation revealed that the vendor's agreement with the City did not include this particular piece of equipment.

The Ethics Board made a preliminary determination that this scenario constituted a prima facie violation of the Ethics Law's gift provisions because the vendor did business with both public servants' agencies and the particular equipment model was not included in the City's agreement with the vendor. The fact that the equipment would be used for official City business was immaterial; under the Ethics Law, the intended purpose of a gift does not matter.

The Ethics Board provided the public servants with an opportunity to cure the violation by returning the equipment to the vendor. The public servants complied and the Ethics Board dismissed the complaint without further proceedings.

COMPLAINT 3 - GIFTS AND PRESTIGE OF OFFICE

The complaint alleged that a public servant improperly solicited a private gift on behalf of a colleague from an individual who does business with the City. Ordinarily, a public servant may not solicit or accept a gift from a "controlled donor," i.e., a person or entity who does business with or is regulated by the public servant's agency, or who otherwise could be materially affected by the public servant's duties.

The investigation revealed that the solicited individual likely did not count as a "controlled donor" relative to the public servant. However, the public servant did use their City email address and title in furtherance of the solicitation. The Board made a preliminary determination that this improper use of official position and resources constituted a prima facie prestige of office violation. Because the public servant had already separated from City service, there was no further action to take and the Board dismissed the complaint after informing the public servant of its preliminary findings.

COMPLAINT 4 - PRESTIGE OF OFFICE

The complaint alleged that a public servant improperly used their City position to assist a relative in obtaining a benefit to which they were not entitled. The investigation disclosed that the public servant had indeed used their position to obtain the benefit both for themselves and their family member.



The Ethics Board made a preliminary determination that the public servant's actions constituted a prima facie violation of the Ethics Law's prestige of office provision, which prohibits a public servant from using their position for their own private gain or that of another. However, because the public servant had already separated from City service, the Board determined there was no further action it could take and dismissed the complaint after informing the public servant of its preliminary findings.

COMPLAINT 5 - CONFLICT OF INTEREST

The complaint alleged that a public servant had a conflict of interest related to their support for a City matter that benefitted a private entity because the public servant was on that entity's governing board. The investigation revealed that the public servant was not in fact a member of the relevant entity's governing board, but was on the board of a separate entity that shared some of the same organizational details and officers.

The Ethics Board made a preliminary determination that there were insufficient grounds to find a prima facie violation of the Ethics Law's relevant conflict of interest provision, which prohibits a public servant from participating in a City matter if they sit on the governing board of an entity that is a party to the matter.

However, given the circumstances, the Ethics Board cautioned the public servant about the potential for an appearance of a conflict of interest. Accordingly, the Ethics Board encouraged the public servant to either refrain from participating in any matters involving the entity while sitting on the related entity's governing board, or to resign from the related entity's governing board. The public servant took the advice of the Ethics Board and resigned from the related entity's governing board. The Ethics Board subsequently dismissed the complaint.



COMPLAINT 6 - CONFLICT OF INTEREST

The complaint alleged a conflict of interest between a public servant's City job and their membership on the board of an outside entity. The investigation revealed that the entity had an agreement with the public servant's agency, though the public servant's City duties did not have anything to do with that agreement.

The Ethics Board made a preliminary determination that the public servant's membership on the entity's board was a prima facie violation of the Ethics Law's relevant conflict of interest provision, which prohibits a public servant from being employed by—including serving on the board of—an entity that has a contract with their agency. The Board determined that, under the circumstances, the agreement between the entity and the public servant's agency counted as a contract.

Because the public servant was no longer on the entity's board at the time of the Ethics Board's decision, the Board determined there was no further action to take and dismissed the complaint after providing the public servant with guidance.

COMPLAINT 7 - CONFLICT OF INTEREST

The complaint alleged an improper conflict of interest between a public servant's City job and their membership on the board of an outside entity. This matter was pending at the end of FY21.

"even uncompensated service on an entity's board of directors can be considered 'employment' under the Ethics Law's secondary employment restrictions."

Ethics Opinion 21-004 (June 28, 2021)

COMPLAINT 8 - LOBBYING

The complaint alleged that a lobbyist who was required to register with the Ethics Board had not timely registered after engaging in legislative lobbying activity. Among other criteria, an individual must register as a legislative lobbyist if they communicate with a public servant for the purpose of influencing any legislative action and earn at least \$2,500 in compensation related to that communication.



The Board made a preliminary determination that the lobbyist had failed to register after being required to do so, thus constituting a prima facie violation of the Ethics Law's lobbying registration requirements. The Board explained that it takes the timely registration of lobbyists seriously because only through timely registration is the public adequately informed of lobbying activity in the City.

The Board provided the lobbyist with the opportunity to resolve the violation by paying a late fee of \$50 per day. The lobbyist paid the late fee and the Board dismissed the complaint without further proceedings.

COMPLAINT 9 - LOBBYING

The complaint alleged that an individual was involved in improper lobbying activity. Upon review, the complaint did not raise any new issues beyond those that the Board had already addressed in a previous matter. Namely, the Board had previously charged the individual a \$50 per day late fee for failure to timely register as a lobbyist. Because the complaint was moot, there was no further action to take and the Board dismissed the complaint.

COMPLAINT 10 - LOBBYING

The complaint alleged that an individual was involved in lobbying activity that required registration with the Ethics Board, but failed to register. This matter was pending at the end of FY21.



OUTREACH & AWARENESS

"The Ethics Board must publish and make publicly available information that explains the provisions of this article, the duties imposed by it, and the means for enforcing it."

ETHICS LAW, § 3-19

ETHICS TRAINING

The Ethics Law requires the Board to provide City officials with an ethics training course. The Board recommends that all City employees take the [ethics training](#).

356

attendees

*including all newly
elected officials*

In FY21, Board staff revamped the ethics training, which now includes a visual presentation and interactive quizzes, and implemented an online registration form. In collaboration with the Department of Human Resources, Board staff created an automated, online training course on the City's virtual learning platform, which it made available early in FY22.

In FY21, Board staff provided ten live virtual trainings to 356 attendees, including all newly elected officials.

NOTICE OF ETHICS REQUIREMENTS

The Ethics Law was amended in 2019 to require new City officials and employees to be given written notice of the requirements of the Ethics Law.

In FY21, Board staff created, and the Ethics Board approved, an electronic pamphlet containing basic information about the requirements of the Ethics Law. This [Ethics Notice](#) contains links to relevant additional forms, including the conflict of interest affidavit form and the financial disclosure form.

Board staff distributed this notice to Baltimore City boards, commissions, and agencies to be incorporated into the onboarding process for new employees. The notice is also provided in the City's New Employee Orientation, along with a new video introduction to the Ethics Law.




NEW EMPLOYEE ORIENTATION



In FY21, Board staff created ethics content for the City's New Employee Orientation. The content includes a [video introduction to the Ethics Law](#), the downloadable [Notice of Ethics Requirements](#), and a downloadable [summary of the Ethics Law](#), which employees may use as a guide for understanding the law.

ETHICS BOARD WEBSITE

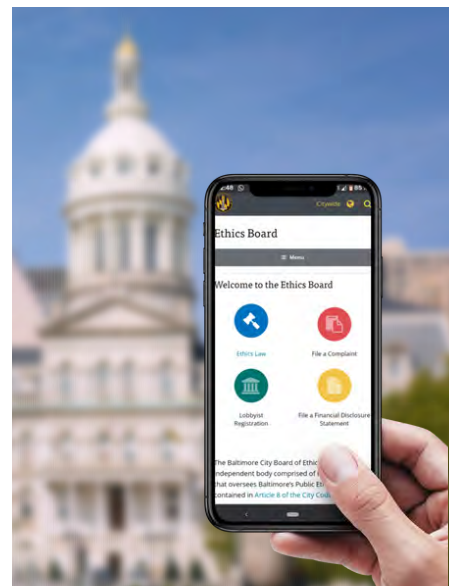
In FY21, Board staff overhauled the Ethics Board's website, which now includes:

- Summaries of the Ethics Law and ethics requirements;
- Online complaint form and overview of complaint process;
- Public complaint summaries;
- Updated forms and training registration;
- Financial disclosure instructions and tutorial videos;
- Board member and staff bios;
- Lists of entities doing business with the City; and 
- A gift acceptance quiz.

In FY21, the Ethics Board's website received over **35,000** unique pageviews, compared to fewer than 11,000 in FY20—an increase of **more than 30%**.

35,000+
unique pageviews in
FY21

[HTTPS://ETHICS.BALTIMORECITY.GOV/](https://ethics.baltimorecity.gov/) 



SOCIAL MEDIA

In FY21, Board staff created social media accounts, including a [Twitter account](#) and a [YouTube channel](#), to share information about the Ethics Board and Ethics Law. On the Board's YouTube channel, you can watch:

- recordings of public meetings;
- financial disclosure tutorial videos; and
- Ethics Law educational videos.

5,171 YouTube views
in FY21

CONTACT THE BOARD

100 N. Holliday Street, Suite 635
Baltimore, MD 21202
410-396-7986
ethics@baltimorecity.gov



Jeffrey Hochstetler, **Director**
Maura Ford, **Executive Assistant**