

BOARD OF ETHICAL CONDUCT

I. PROCEDURES AND ORGANIZATIONAL RULES (AMENDED November 9, 2020)

The Board was established pursuant to Metropolitan Code Section 2.222.040 with the functions to receive and consider complaints that allege a violation of the standards of conduct by a Metropolitan Government elected official or member of a Metropolitan board or commission. Pursuant to its authority under Section 2.222.040, the Board has authority to make various recommendations in response to a complaint, and also has authority to render advisory opinions at the request of persons under its jurisdiction at any time.

The Board's authority was expanded pursuant to Second Substitute Council Ordinance BL2020-147, as amended by Ordinance BL2020-402, effective January 1, 2021. This new authority relates to the Metro Code regarding Lobbyist Registration and Disclosure, Chapter 2.196 ("this Chapter"). Pursuant to its authority under Chapter 2.196, the Board is charged with developing formal written policies and procedures setting forth prescribed forms and procedures to assist persons required to file statements required by this Chapter; to issue advisory opinions relating to the requirements of Chapter 2.196 pursuant to the procedures set forth by Section 2.222.040; to develop rules and regulations as may be appropriate for the administration of this Chapter; and to conduct investigations, hold hearings and make recommendations regarding alleged violations of the lobbyist code.

1. Purpose

To establish a written policy governing the internal organization of the Council Board of Ethical Conduct ("Board"), and formal procedures for the conducting of affairs entrusted to the Board as prescribed by Metropolitan Code of Laws § 2.222.040 and Metropolitan Code of Laws Chapter 2.196.

2. Organizational Rules

A. **Annual election of officers.** The Board shall meet at least annually, including on the first Monday in March, effective on the date of adoption of this AMENDED policy. The council member pro tempore is eligible to serve as an officer.

B. **Procedure upon existence of a vacancy.** If the Metropolitan Clerk becomes aware of a vacancy on the Board, the Clerk shall notify the appointing organization. The appointing organization shall file with the Metropolitan Clerk evidence of its selection of the member to fill the vacancy.

3. Procedures pursuant to Metropolitan Code of Laws § 2.222.040

A. **Filing of complaints.** Complaints must be filed with the Metropolitan Clerk ("Clerk"). The office of the Clerk is located at 1 Public Square, Suite 205, Nashville, TN 37201 and its regular business hours are 8:00 a.m. to 4:30 p.m. Monday through Friday, excluding observed holidays. The complaint filed with the Clerk must be signed by the complainant and notarized, and must contain the following: (1) Complainant's legal name, current mailing address, and a valid telephone number and/or email address; (2) Name of the person or persons who committed the alleged violation(s); (3) Summary of the facts giving rise to the complaint; and (4) Explanation of why those facts constitute a

violation of the Standards of Conduct pursuant to Metropolitan Code of Laws § 2.222.020.

The Clerk will notify the complainant of this policy.

B. Department of Law's report and process for meeting to evaluate the report. The Department of Law shall provide its report regarding the complaint to the Chair of the Board and shall file the report with the Clerk. The Clerk will provide a copy of the Department of Law's report via email and U.S. mail to each Board member as soon as practicable. Upon receipt of the Department of Law's report, the Chair of the Board will call a meeting of the Board to evaluate the complaint. The Clerk will coordinate with Board members to secure a date and time for the meeting to evaluate the Department of Law's report. The Clerk shall provide notice of the meeting to the public, Director of Law, the complainant, and persons named in the complaint. Notice of the meeting shall be provided to the complainant via email if available and U.S. mail.

C. Procedures at meeting to evaluate Department of Law's report. At the meeting called by the Chair, the Board shall consider the averments contained within the complaint and the report submitted by the Department of Law. Upon conclusion, the Board shall make a determination of whether to set a hearing on the complaint or whether to dismiss the complaint, in whole or in part. No testimony will be taken at the meeting to evaluate the Department of Law's report. No written materials other than the complaint and the Department of Law's report will be considered at the meeting. The Clerk shall record the actions taken by the Board.

4. Procedures pursuant to Metropolitan Code of Laws § 2.196.110.

A. Filing of complaints. Complaints must be filed with the Metropolitan Clerk ("Clerk") using the prescribed form (Complaint Form- Lobbying: 2020-01LC). Such form is available [here](#), or can be obtained from the office of the Clerk, located at 1 Public Square, Suite 205, Nashville, TN 37201 during its regular business hours of 8:00 a.m. to 4:30 p.m. Monday through Friday, excluding observed holidays. The complaint form must be filed electronically with the Clerk and signed by the complainant and notarized, and must contain the following: (1) Complainant's legal name, current mailing address, home address, and a valid telephone number and email address; (2) Names and contact information of the individuals who committed the alleged violation, if possible; (3) Summary of the facts giving rise to the complaint; and (4) Explanation of why those facts constitute a violation of Chapter 2.196, and any supporting documentation of the violation.

B. Processing of Complaint. Upon receipt, the Clerk will provide an electronic copy of the complaint to the Director of Law, and Board members, and provide the complainant and the named persons with a copy of the complaint hearing procedures, Board Actions, Penalties and Sanctions, Enforcement Procedures and Appeal Rights, and this Code electronically and by U.S. Postal Service by certified mail.

C. Department of Law's report and process for meeting to evaluate the report. The Department of Law shall provide its report regarding the complaint to the Chair of the Board and shall file the report with the Clerk within fourteen (14) business days from its receipt of the complaint. Within three (3) business days of receiving the Department of Law's report, the Chair of the Board will set a meeting of the Board. The Clerk shall provide notice of the meeting to the public, Director of Law, the complainant, and persons named in the complaint. Notice of the meeting shall be provided to the complainant via email if available and U.S. mail by certified mail.

D. Procedures at meeting to evaluate Department of Law's report. At the meeting called by the Chair, the Board shall evaluate the Department of Law's report, and may accept or reject its recommendation. At this meeting, the Board may decide either to dismiss the complaint, in whole or in

part, or to call for a hearing on the complaint and set a date, and such decision shall require the affirmative vote of at least four members.

E. Board Decision. The Board shall issue its decision in writing, either following the meeting in which it voted to dismiss the complaint or if a hearing is scheduled, after the hearing is held. The written decision of the Board is to be filed with the Clerk, who shall provide a copy to all parties.

II. HEARING PROCEDURES

Metropolitan Code of Laws § 2.222.040 and § 2.196.110.

1. Purpose.

A. To establish written procedures outlining the method and mode of proof and argument for hearings under Metropolitan Code of Laws § 2.222.040(C)(2) (standards of conduct) and Metropolitan Code of Laws § 2.196.120 (lobbying code). Pre-hearing procedures are contained in the Metropolitan Code of Laws §§ 2.222.040(C) and 2.196.110.

B. The Board encourages, where appropriate, the parties to voluntarily discuss with each other the concerns raised in the complaint in order to avail themselves of any opportunity for informal resolution of the matter. Efforts at resolution, while encouraged, are not required.

C. Hearing procedures set forth herein are intended to supplement procedures contained in the Metropolitan Code of Laws § 2.222.040(C) and Metropolitan Code of Laws § 2.196.120. If there is any conflict between these procedures and those Code sections, the procedures set forth in the ordinance shall control.

2. Procedures.

A. Professionalism. Hearings shall be conducted in a professional manner.

B. Order of Proceedings. Both parties have the right to testify, produce and examine witnesses, cross-examine adverse witnesses, and introduce such other evidence that is relevant and material to the issues determined by the Board. The order of the proceedings shall be as follows:

i. Hearing is called to order.

ii. Any preliminary motions, stipulations, or agreed orders are entertained.

iii. **Opening Statements.** Both parties may, but are not required to, present opening statements to the Board. If the parties so elect, the complainant shall present his or her opening statement, followed by the respondent.

iv. **Presentation of Evidence.**

a. **Complainant's Case in Chief.** The complainant shall present evidence supporting his or her case against the Respondent. For each witness called, the complainant questions, the respondent cross-examines, the complainant redirects, and the respondent re-crosses.

b. **Respondent's Case in Chief.** The respondent may present evidence

supporting his or her case. For each witness called, the respondent questions, the complainant cross-examines, the respondent redirects, and the complainant re-crosses.

c. **Rebuttal.** After the respondent rests, the complainant may present rebuttal evidence in the mode set forth in section iv.a.

v. **Closing Arguments.** After the close of evidence, the parties may present closing arguments. If the parties so elect, the complainant shall present his or her closing argument, followed by the respondent, followed by a rebuttal by the complainant.

C. Burden of Proof. The complainant shall have the burden of proving the alleged violation by a preponderance of the evidence.

D. Board Discretion. The Board has discretion to limit the number of witnesses and time permitted for each party to present evidence and argument.

E. Legal Counsel. The Board may call on its legal counsel for input at any stage of the proceedings. The Board may enter into Executive Session to hear and consider advice from the Board's attorney.

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