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CONSULTING
GROUP



Ethics Hearing Board

Transition Briefing



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Executive Summary



Overview

The Ethics Hearing Board (EHB) and its staff implement the Ethics Code provisions of the City of Pittsburgh Code of Ordinances to issue advice; publish advisory opinions; review complaints; perform investigations; hold hearings; enforce violations; conduct educational trainings; assist with required disclosures; and maintain campaign finance reports, records and other duties as outlined in the Code. The Executive Manager serves as the Board's appointed Ethics Officer to provide ethics advice, maintains the administrative apparatus of the Board, and conducts those functions explicitly delegated to him/her by the Board in the periods between meetings.

Staff

Ms. Leanne Davis originally held the position of Executive Manager. However, the July 27, 2021 board minutes reflect a unanimous vote to appoint her to serve hereafter as the Board's Executive Director. (The 2022 Pittsburgh Operating Budget and Five-Year Plan included a flow chart with the original title Executive Manager.) According to the department interview conducted, Ms. Davis is currently working part-time in this role.

The Executive Manager serves as the Board's appointed Ethics Officer to provide ethics advice, maintains the administrative apparatus of the Board, and conducts those functions explicitly delegated to him/her by the Board in the periods between meetings.

The Investigator position is currently vacant but planning to be filled by January 2022. Per the Executive Manager, the Investigator is utilized by the EHB as well as the legal department. The duties of the Investigator under the EHB include educating employees as to the services provided and conducting investigations into complaints. Duties of the Investigator under the legal department include investigating cases against the City of Pittsburgh and interviewing witnesses regarding such cases.

A new paid internship position was announced at the August 24, 2021 board meeting to assist with media and communications projects. Per the Executive Manager, this position was covered by \$5K allowed through the 2021 budget. According to the newly amended city



budget, no funds have been allotted for an intern position in 2022. Executive Manager Davis suggested a law clerk's skills would be preferable under the existing \$175K budget. Due to current budget constraints, the Executive Manager has sought legal advice from the Legal Department in the meantime. To our knowledge, no additional funding for interns or law clerks have been requested by the Ethics Board and its staff.

The Ethics Hearing Board

The EHB is comprised of nine members, all required to be residents of the City of Pittsburgh. Appointment of members are provided by City Code:

§ 197.09 - ETHICS HEARING BOARD.

- (a) There is hereby established an Ethics Hearing Board composed of nine (9) members. Pursuant to [Section 214](#) of the Pittsburgh Home Rule Charter, the Mayor shall appoint the members of the Ethics Hearing Board subject to the approval of Council. Each member shall be a resident of the City. All members shall hold a reputation of personal integrity and honesty. It is strongly preferred that the membership reflect the City's diversity in regard to race, color, creed, religion, gender, familial status, sexual orientation, national origin, gender identity, age and disability.
- (b) The members shall be recommended to the Mayor by a Nominating Panel. The Nominating Panel shall be considered an informal advisory board to the Mayor, and shall therefore not be subject to appointment or confirmation by City Council...
- (c) After considering the nominees, the Mayor may either appoint the nominees as members of the Board or reject one (1) or more nominees. If the Mayor rejects a nominee, the member of the Nominating Panel whose nominee was rejected will nominate another individual. Once the Mayor is satisfied with the qualifications of a nominee, the Mayor will appoint the nominee as member of the Ethics Hearing Board, subject to confirmation by Council.

A copy of the full statute can be found at:

http://pittsburgh-pa.elaws.us/code/coor_titleone_artxi_ch197_sec197.09



The City of Pittsburgh Ethics Hearing Board has three main functions:

- Give advice on the application of the ethics provisions in the City's Code of Conduct and Home Rule Charter in accordance with § 197.13 of the Ethics Code.
- Conduct educational programs to promote the ethical conduct of Pittsburgh public officials and employees.
- Receive and resolve complaints of unethical conduct through investigation, hearings and enforcement.

Ethical matters under the authority of the Board include:

- Campaign finance
- Conflict of interest
- Financial disclosures
- Use of authority and property
- Political activity
- Nepotism
- Post-employment restrictions

Cases can be self-initiated by the department, submitted by a complainant or received from a third party. The EHB only handles employee complaints. Referrals are sometimes received from The Commission on Human Relations and The Citizen Police Review Board. Most cases fall under campaign finance matters. According to the EHB website, there were 16 (sixteen) Orders issued in 2019. (Each Order must be individually accessed in which to determine the ethical issue before the Board, as there is no data listing available.

Executive Manager Davis, however, did not feel comfortable confirming any other types of complaints, although this is stipulated by the City Code as being under the authority of the EHB. Davis explained that the Code prohibits any discussion of complaints unless a public hearing has been held. There is an outstanding query related to whether the EHB is simply not receiving complaints regarding Conflict of Interest, Use of Authority & Property, Nepotism and Post-Employment Restrictions or if the cases are just not being properly investigated, reviewed and delegated to the Board for a public hearing.



From the nine board members, two panels have been created:

The Probable Cause Panel determines due process (and consists of three members).

The Public Hearing Panel hears matters before the EHB (and consists of six members).

Quorum issues arise when a public hearing is needed, as the three members of the Probable Cause Panel are not allowed to hear the case and/or vote. A quorum for the Ethics Board is based on the number of overall board members and not on the number of members eligible to hear the case. In short, the Quorum is based on the full nine members, not the six eligible to hear the case.

The City of Pittsburgh Ethics Hearing Board meets as needed to issue advisory opinions, employment waivers, enforcement orders, settlements, regulations and proposed legislation. Public meeting times are reserved every few weeks. These times may instead be used for public administrative hearings (similar to trials); committee meetings; training; or for deliberations related to advisory opinions, litigation or the Board's quasi-judicial enforcement actions. The schedule of the EHB meetings is available online and listed as follows:

2021

Date	Comments	Agenda	Meeting Materials
01/14/2021			2021-1-14_MINUTES_OF_THE_ETHICS_HEARING_BOARD.pdf
01/26/2021			2021-1-26_MINUTES_OF_THE_ETHICS_HEARING_BOARD.pdf
02/02/2021			2021-2-2_MINUTES_OF_THE_ETHICS_HEARING_BOARD.pdf
04/06/2021	(Exec. sess. re: § 197.12/litigation)		
05/11/2021	(Exec. sess. re: § 197.12/litigation)		
06/01/2021			Minutes_of_June_1_Ethics_Hearing_Board_Meeting_.pdf
06/22/2021			2021-6-22_Minutes.pdf
07/13/2021	(Executive Session - Personnel Matters; No Public Meeting due to Tech Issue)		



07/27/2021			2021-7-27_EHB_MINUTES.pdf
08/24/2021			2021_0824_EHB_Minutes.pdf
10/19/2021	(Cancelled due to lack of quorum)	2021_1019_Agenda.pdf	
11/02/2021		2021_1102_EHB_Agenda_.pdf	
11/16/2021	(Reserved date)		
12/07/2021	(Next anticipated meeting date)		

The board minutes reflect that there are regular discussions regarding legislative updates, amendments to existing forms and web access, and the discussion and application of current best ethical practices.

Due to COVID-19 restrictions, meetings have been held remotely and live streamed for the public from a YouTube channel.

MINUTES OF THE ETHICS HEARING BOARD

City of Pittsburgh Ethics Hearing Board ("Board")
 Video Meeting via Zoom and Livestreamed on City Channel YouTube
 February 2, 2020

Board Members Present:

Pat Bigley
 Lynn Davenport
 Maryann Herman
 Alex Matthews
 Rhoda Neft
 Jennifer Richnafsky
 Samantha Bushman
 Sean Coleman
 Brazitte Poole

Board Members Absent:

None

Staff, Advisors and Others Present:

Leanne Davis, Executive Manager
 Alexander Fisher
 William Lamar



The minutes of the February 2, 2021, meeting reflect a discussion of addressing regulations permitting public hearings to be conducted in a virtual format:

b. Public Hearing Procedure

- i. Discussion regarding COVID regulations permitting public hearings to be conducted in this virtual format. On the day we have public hearings that people might also be available to call in if there is a settlement. This is Sunshine Act compliant, we just need a majority of a quorum to approve a settlement. Everyone expressed assent to this plan.**

To date, there is no indication of complaints being submitted for board review, public hearings being scheduled or remote accommodations for hearings being further discussed. The next scheduled Ethics Hearing Board meeting is scheduled for December 7, 2021.



Findings



Conflict of Interest

Investigator

There is a 50/50% utilization of one person to investigate cases on behalf of the EHB and the City's Legal Department. Investigations have been conducted by this position, on behalf of each department. The Executive Manager confirmed that some investigations have included the same cases filed by complaint with the EHB and independently under review by the City of Pittsburgh Legal Department.

Legal Advisor/Law Clerk

The budget does not currently allow for a law clerk or legal advisor. There may be conflict-of-interest issues for the EHB or its staff seeking legal counsel from the City of Pittsburgh Legal Department regarding any matters that may come before the Board and have possible legal implications against the City of Pittsburgh, individually.

It is imperative the office assisting the Ethics Hearing Board is diligent in addressing any possible implications of impropriety.

Hearings

According to meeting records, a determination has not been made by the EHB regarding holding Public Hearings to accommodate current safety restrictions. The issue was first addressed in February. A determination needs to be made as to whether the enforcement duties are being met.

Quorum issues also need to be addressed with possible solutions, such as appointment of an independent hearing officer.



About the Agency



Contact Information

Leanne Davis, Esq.
Executive Director and Board Appointed Ethics Officer
City of Pittsburgh Ethics Hearing Board
City County Building, Room 328
Pittsburgh, PA 15219
leanne.davis@pittsburghpa.gov
412-255-2122

Enabling Legislation

City of Pittsburgh Ethics Code, Chapter 197: Code of Conduct*

City of Pittsburgh Ethics Code, Chapter 198: Campaign Finance Regulations

Pennsylvania State Ethics Act

City of Pittsburgh Home Rule Charter

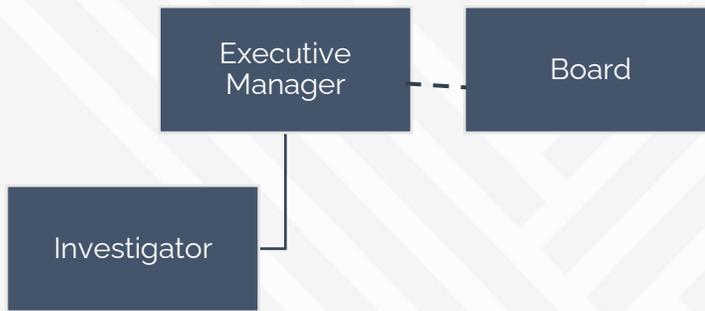
****Whistleblower Protection:*** *The City of Pittsburgh Ethics Code §197.18 prohibits taking or threatening certain actions such as personal attacks, harassment, intimidation or adverse employment actions in retaliation for opposing unethical practices or participating in an Ethics Hearing Board investigation or hearing.*

Mission

The mission of the Ethics Hearing Board is to promote public trust and confidence in public service by fostering integrity and impartiality within City government.



Organizational Chart



Board Members:

Alex Matthews, Chair

Patrick J. Bigley

Samantha Bushman

Orlando G. Portela-Valentin

Maryann Herman

Jennifer P. Richnafsky

Brazitte Poole

Rhoda Neft

Investigator: Position Vacant

Description of Services

The Ethics Hearing Board is comprised of nine members, each having reputations of personal integrity and honesty. The Board's staff includes an Executive Manager, an investigator, a law clerk and interns. The Ethics Board and its staff serve current, former and prospective City employees, public officials, and those seeking or doing business with the City by assisting with ethical questions and working to prevent wrongdoing.

The Ethics Board and its staff implement the Ethics Code provisions of the City of Pittsburgh Code of Ordinances to issue advice; publish advisory opinions; review complaints; perform investigations; hold hearings; enforce violations; conduct educational trainings; assist with required disclosures; and maintain campaign finance reports, records and other duties as



outlined in the Code. The Executive Manager serves as the Board's appointed Ethics Officer to provide ethics advice, maintains the administrative apparatus of the Board and conducts those functions explicitly delegated to him/her by the Board in the periods between meetings.

The City of Pittsburgh Ethics Hearing Board has three main functions:

1. Give advice on the application of the ethics provisions in the City's Code of Conduct and Home Rule Charter in accordance with § 197.13 of the Ethics Code.
2. Conduct educational programs to promote the ethical conduct of Pittsburgh public officials and employees.
3. Receive and resolve complaints of unethical conduct through investigation, hearings and enforcement.

Ethics Matters

Campaign Finance:

Campaign finance is the gateway issue to every other issue you might care about. Ann Ravel, Former Chair, Federal Election Commission Candidates for City-elected office (Mayor, City Council and City Controller) and their committees must file campaign finance reports and comply with contribution limitations.

Conflict of Interest:

All public officials and City employees are prohibited from exerting influence to benefit themselves or their family. City officials, Board and Commission members may not participate in a vote or discussion on issues that present a conflict; instead, they must recuse themselves and disclose the conflict.



Financial Disclosures:

Elected and appointed public officials, many City employees and contractors hired by the City must file financial disclosures. Gifts: Public officials and City employees must report to the Board all gifts valued over \$100, except for gifts received from family members. There are several restrictions on gifts in our Code of Conduct. Please contact us for advice.

Use of Authority & Property

Public officials and City employees cannot receive any benefit from those having dealings with the City. They may not use their position, title, City facilities, property, information or staff for personal use.

Political Activity:

There are restrictions on holding elected office as a City employee and a leave of absence may be required. Employees may not engage in any political activity during working hours, may not be compelled to contribute to a political campaign and may not give more than \$100/\$200 to their employer over a four-year term.

Nepotism:

Advancing, hiring, supervising or appointing relatives is prohibited unless the Ethics Board issues a waiver based on job qualifications and the public interest.

Post-Employment Restrictions:

The Ethics Code outlines specific restrictions that pertain to public officials and employees for 12 months after they leave their position with the City.



Agency Goals



Enhance Public Outreach

Strategies to Achieve Goal

- Create or improve informative materials such as pamphlets and fact sheets to be made available to City employees and the public.
- Update the Ethics Hearing Board website.
- Create outreach and engagement opportunities.

Create a Master List of Public Employees/Public Officials

Strategies to Achieve Goal

- Research past Pennsylvania court cases as well as State Ethics Commission findings.
- Perform legal analysis utilizing the objective test standard to compare each position's authorized duties found in the job description or enabling legislation against established ethics laws, regulations and court precedent.
- Identify needs and communicate same to necessary internal departments.
- Inform those serving in affected positions of the recommendation and methods to receive further review.

Increase Electronic or Paperless Filing Options

Strategies to Achieve Goal

- Coordinate with related ethics and campaign finance agencies for potential use or technology sharing of their web-filing platforms.
- Identify needs and communicate same to necessary internal departments.
- Coordinate with the State Ethics Commission for potential use or technology sharing of their web filing platform.
- Identify needs and communicate same to necessary internal departments.



Improve Investigation, Prosecution and Enforcement

Strategies to Achieve Goal

- Continued efforts to address incoming complaints.

Revise City Code

Strategies to Achieve Goal

- Identify provisions that are difficult to understand or apply, and propose revisions to the Code for review and input by the Law Department.
- Study comparable ethics laws and cases nationwide.
- Network with similar ethics agencies to determine potential issues, best practices, and opportunities for increased efficiency and cost-savings.

Provide Ethics Educational Opportunities

Strategies to Achieve Goal

- Establish ethics trainings for City employees and public officials.
- Continue efforts to develop training materials and offer training classes.
- Ensure staff's knowledge is up to date and comprehensive by attending seminars; conferring with other ethics organizations; and by studying comparable ethics laws, materials and cases throughout the nation.
- Establish an online ethics training for city employees and public officials.
- Host an event or table to distribute information and celebrate "Honesty Day."
- Continue efforts to develop training materials and offer training classes.
- Ensure staff's knowledge is up to date and comprehensive by attending seminars; conferring with other ethics organizations; and by studying comparable ethics laws, materials and cases throughout the nation.

****Goals listed are for 2021, as listed in the 2020 City of Pittsburgh Annual Report.***



Performance Metrics



Enhance Public Outreach

How Success Will Be Measured

- Materials will be made available online, in the Ethics Office and distributed as appropriate.
- Staff will record the source of information for each inquiry, complaint, requests for valuable gift review, waivers and/or advisory opinions.

Create a Master List of Public Employees/Public Officials

How Success Will Be Measured

- The availability of a master list of all public employees and public officials.

Increase Electronic or Paperless Filing Options

How Success Will Be Measured

- The availability and/or implementation of a paperless filing option.

Improve Investigation, Prosecution and Enforcement

How Success Will Be Measured

- Documented steps taken in response to inquiries received.

Revise City Code

How Success Will Be Measured

- Passage of Code revisions by City Council.

Provide Ethics Educational Opportunities

How Success Will Be Measured

- Development and implementation of the training.
- The number of individuals who participate in the training. Optimally, this data could be tracked through an internal file management database.
- Attendance at the annual conference for the Council on Governmental Ethics Laws and other professional development opportunities.

****Goals listed are for 2021, as listed in the 2020 City of Pittsburgh Annual Report.***



Budget



Staffing and Salaries

City of Pittsburgh Operating Budget
Fiscal Year 2022

Ethics Hearing Board
108100

Position Summary

Title	2021 FTE	Rate/ Grade	Hours/ Months	2021 Budget	2022 FTE	Rate/ Grade	Hours/ Months	2022 Budget
Legal Investigator*	0.5	17D	12	\$ 23,488	0.5	17D	12	\$ 24,193
Total Full-Time Permanent Positions	0.5			\$ 23,488	0.5			\$ 24,193

Temporary, Part-Time, and Seasonal Allowances

Executive Manager, Part-Time	—	\$ 45.99	1,500	\$ 68,993	—	\$ 47.37	1,500	\$ 71,063
Interns	—	9.00-15.00	—	5,625	—	9.00-15.00	—	5,625
	—			\$ 74,618	—			\$ 76,688

Total Full-Time Permanent Positions	0.5			\$ 23,488	0.5			\$ 24,193
Temporary, Part-Time, and Seasonal Allowances	—			74,618	—			76,688
Total Full-Time Positions and Net Salaries	0.5			\$ 98,106	0.5			\$ 100,881

2022 Allocations	Department of Law	Ethics Hearing Board
Legal Investigator	50%	50%



Other Operating Funds

City of Pittsburgh Operating Budget
Fiscal Year 2022

Ethics Hearing Board
108100

Subclass Detail

	2020 Actual	2021 Budget	2022 Budget	Increase/ (Decrease)	% Change
Expenditures					
51 - PERSONNEL-SALARIES & WAGES	\$ 79,371	\$ 96,097	\$ 100,880	4,783	5.0%
51101 - Regular	78,555	96,097	100,880	4,783	
51207 - Leave Buyback	816	—	—	—	
52 - PERSONNEL-EMPLOYEE BENEFITS	6,867	12,394	12,847	453	3.7%
52101 - Health Insurance	—	4,007	4,103	96	
52111 - Other Insurance/Benefits	367	451	488	36	
52201 - Social Security	6,061	7,536	7,756	220	
52601 - Personal Leave Buyback	439	400	500	100	
53 - PROFESSIONAL & TECHNICAL SERVICES	14,413	56,835	56,835	—	—%
53101 - Administrative Fees	595	880	880	—	
53105 - Recording/Filing Fees	1,083	3,525	3,525	—	
53301 - Workforce Training	670	4,330	4,330	—	
53513 - Court Related Fees	—	3,100	3,100	—	
53517 - Legal Fees	12,065	45,000	45,000	—	
55 - OTHER SERVICES	16	2,194	2,194	—	—%
55309 - Regulatory	16	250	250	—	
55701 - Transportation	—	1,944	1,944	—	
56 - SUPPLIES	2,154	2,600	2,600	—	—%
56101 - Office Supplies	216	775	775	—	
56151 - Operational Supplies	1,938	1,825	1,825	—	
Expenditures Total	\$ 102,821	\$ 170,120	\$ 175,356	\$ 5,236	3.1%



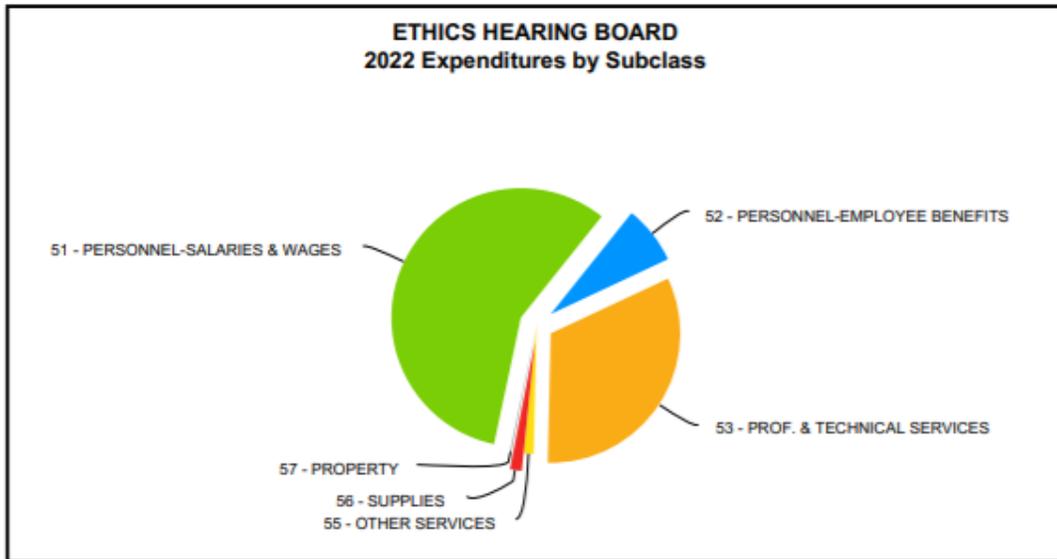
5-Year Forecast

City of Pittsburgh Operating Budget
Fiscal Year 2022

Ethics Hearing Board
108100

Five Year Forecast

	2022	2023	2024	2025	2026
Expenditures					
51 - PERSONNEL-SALARIES & WAGES	\$ 100,880	\$ 103,496	\$ 106,186	\$ 108,950	\$ 111,793
52 - PERSONNEL-EMPLOYEE BENEFITS	12,847	13,301	13,776	14,273	14,793
53 - PROF. & TECHNICAL SERVICES	56,835	56,835	56,835	56,835	56,835
55 - OTHER SERVICES	2,194	2,194	2,194	2,194	2,194
56 - SUPPLIES	2,600	2,600	2,600	2,600	2,600
Total \$	175,356	178,427	181,591	184,852	188,215
% Change from Prior Year	3.1%	1.8%	1.8%	1.8%	1.8%





Programs & Projects



2020 Accomplishments

- Created online inquiry and complaint forms that parse out the specific, approximately 45 distinct substantive restrictions under the Board's jurisdiction.
- Increased compliance related to the Statement of Financial Interests disclosure required of public employees and public officials of the City of Pittsburgh.
- Provided analyses and education as to which City positions are considered public employees or public officials. These positions have increased personal responsibilities under the City and State ethics laws. A full analysis or audit of each City position has not yet been completed and is being prioritized.
- Implemented procedures increasing ease of use in electronically completing the annual Disclosure of Interests and the Statement of Financial Interests forms by individuals required to file.
- Created an online gift disclosure form, and accompanying educational and procedural guidance.
- Reviewed complaints for probable cause of potential ethics violations, conducted investigations, held hearings, and issued orders and reports with the Board's findings.
- Issued advice and advisory opinions that provide guidance as to whether prospective conduct might violate the City's ethics laws and how best to achieve compliance.
- Updated and implemented ethics training, disclosures and related materials.
- Created an introductory brochure to increase outreach and awareness of the Ethics Hearing Board.



Opportunities & Risks



Significant Milestones Between 11/3/21 and 4/30/22

Advisory Opinions

No Advisory Opinions have been issued since 2019.

Ethics Hearing Board Orders (Issued After Holding a Public Hearing)

No EHB Orders have been issued since 2019.

Important Decisions Between 1/6/21 and 12/31/22

Advisory Opinions

No Advisory Opinions have been issued since 2019.

Ethics Hearing Board Orders (Issued After Holding a Public Hearing)

No EHB Orders have been issued since 2019.

Risks Ahead

Conflict of Interests

Investigator

The position of Investigator is vacant and currently being filled. The Investigator is utilized by the EHB as well as the Legal Department. The duties of the Investigator under EHB include educating employees about services provided and conducting investigations into complaints. Duties for the EHB Investigator, under the Legal Department, include investigating city cases and interviewing witnesses regarding those cases. There is a 50/50% utilization of one person to investigate cases on behalf of the EHB and the City's Legal Department. Investigation of the same cases, on behalf of each department, has occurred.

Quorum Issues Impact Efficiency

Of the nine board members, two panels have been created:

The Probable Cause Panel determines due process (and consists of three members).



The Public Hearing Panel hears matters before the EHB (and consists of six members).

Quorum issues arise when a public hearing is needed, as the three members of the Probable Cause Panel are not allowed to hear the case. A Quorum for public hearings is based on the number of overall board members and *not* on the number of members eligible to hear the case. In short, the Quorum is based on the full nine members, not the six eligible to hear the case.

Advisory Opinions & Orders

Undoubtedly impacted by the COVID-19 Pandemic and Quorum issues, the failure to issue Advisory Opinions or Orders is problematic. No data was provided or publicly available to confirm the Ethics Hearing Board conducted any public hearings since 2019. Lack of data regarding the efficiency of the office and participation of the board puts into question the status and efficiency of resolving complaints of unethical conduct through investigation, hearings and enforcement.



Reports



Not applicable.