

**FEATURES**

## Ethics Management in Cities and Counties

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by Donald Menzel

This article explores ethics management in U.S. local governments of all sizes, with a particular focus on two cities and two counties—Tampa; Chicago; King County, Washington; and Salt Lake County, Utah. Among America's 84,000 local governments, nearly all large cities and counties have ethics management programs. Los Angeles has one of the most comprehensive programs in the country. Other cities, for example, New York, also have ethics codes and agencies to enforce them, although these may be less ambitious than they sound, as the primary emphasis is placed on managing financial conflicts of interest.

A handful of counties—King County (Washington), Miami-Dade (Florida), Anne Arundel (Maryland), and Cook County (Illinois)—have local ethics commissions armed with substantial investigatory powers. Some cities, like St. Petersburg, Florida, do not have a separate ethics commission but do have an ethics investigatory process. Under these circumstances, when a violation is alleged, city councilmembers put on their hats as members of an ethics commission to investigate the allegations and render a ruling.

Smaller local governments are even less likely to devote resources to ethics. And some experts contend that this is a significant deficiency. Mark Davies, executive director of the New York City Conflicts of Interest Board, asserts that, contrary to what people think, “. . . small municipalities are most in need of ethics boards because in small municipalities conflicts of interest are absolutely unavoidable” (*Public Integrity*, Fall 1999, 408).

Not all small communities, however, are without ethics management initiatives. Whiting, Indiana, a community of 5,137 people located 20 minutes from Chicago, is an example. In 2004, the city adopted an ethics ordinance that applies to all city officials, elected and appointed, and to the workforce of 150 employees. The ordinance proudly proclaims that public officials shall conduct the government “with loyalty, integrity, and impartiality.”

To achieve this lofty goal, the ordinance calls for rules dealing with financial disclosure, the acceptance of gifts, electoral activities, and the use of city property. The ordinance also establishes a three-member ethics commission consisting of the mayor, the chair or president of the board or commission of the alleged noncompliant person (or the head of a city department if the complaint is filed against an employee), and the ethics officer. The ethics officer, who is also the city's water superintendent, was appointed by the board of public works and safety and was charged with the responsibility of overseeing investigations into alleged wrongdoing.

Among the more than 19,000 special districts in the United States, few have launched ethics initiatives. The *2003 Ethics Update* released by the Council on Governmental Ethics Laws identifies only one special district that has an ethics management program—the Los Angeles County Metropolitan Transportation Authority. Ethics management by this authority is directed by a chief ethics officer and five colleagues in a separate ethics department. The ethics staff “educates and advises employees, board members, contractors, and the public about ethics rules and maintains the records concerning lobbyist reports and employee statements of economic interest disclosures” (2003 COGEL Ethics Update). The transit authority has issued three ethics codes: an 11-page code for the 13-member board of directors, a six-page code for contractors, and a 10-page code for the authority's 9,000 employees (view them on the Web site at [www.metro.net/about\\_us/ethics/codes.htm](http://www.metro.net/about_us/ethics/codes.htm)).

## Tampa

Ethics reform in Tampa was set in motion in 2001, with a scandal involving a romantic relationship between the city housing chief and a top aide who had moved rapidly through city ranks. The housing chief and his aide built a 4,200-square-foot house for the bargain basement price of \$105,000. Adding more suspicion to the situation, the builder had received more than \$1 million in housing contracts through the city's housing department. Along the way, the city began an investigation of the housing director's handling of his office and, in October 2001, placed him on a 90-day paid administrative leave pending the resolution of criminal charges.

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The following month, the Florida Ethics Commission reported that the housing director had not violated state ethics laws. Later in the same month, however, the commission repudiated this report, saying that the information submitted by the city and the mayor was unreliable. A year later, the housing director and several others were indicted on fraud and corruption charges. The accusations eventually landed the housing director and his now-wife in court, when the builder confessed to bribing the city housing chief. The couple was tried in 2004 and found guilty of more than 25 counts of conspiracy, wire fraud, and accepting bribes and gratuities.

Not surprisingly, in 2003, the city council began to deliberate the wisdom of a city ethics code that would guide the ethical behavior of its 4,800 employees. In the same year, a new mayor was elected who is a strong advocate of ethics and integrity in city governance. The city promulgated its first-ever code of ethics in November 2003, including a prohibition on "fraternization." Specifically, no city employee or officer shall appoint, employ, advance, recommend, or advocate the appointment, employment, or advancement to any position of "any individual with whom they have a close personal relationship" (Sec. 2-548, Division 2. Conflicts of Interest, City of Tampa Ethics Code). Enforcing this prohibition will be another matter, most likely to be resolved at some future date in a court of law.

### Code implementation

The city's new code and its implementation, however, involve many other matters. The department of human resources is designated as the ethics office, and the HR director as the city officer. The ethics office is charged with overseeing the code's implementation, with the ethics officer assigned the task of developing education and training programs for city officers and employees. The officer also is expected to "serve as the liaison between the ethics commission and the officers and employees of the city" (Sec. 2-621, Division 2. Conflicts of Interest, City of Tampa Ethics Code).

Each city department has an ethics liaison person who assists the ethics officer in the formulation of ethics awareness training sessions, conferences, and seminars. Ethics education and training are required of every elected official, who must attend an "Ethics in Government" program within 90 days of taking office. Newly appointed employees must participate in an ethics training program within six months of their employment. The code also mandates that current employees be trained as soon as practicable.

There is no requirement that elected officers or employees attend an Ethics in Government program on a continuing basis. Nor are there whistle-blowing provisions in the code to protect city employees. This measure was omitted because it was seen as unnecessary, as city employees are protected by Florida's whistle-blower law.

### Ethics commission

The code of ethics also created the City of Tampa Ethics Commission, a five-member body with two members appointed by local universities, two appointed by the chief judge of the 13th Judicial Circuit, and one member (who has held elective office at the local level) appointed by the mayor. One university appointee must be a faculty member who is knowledgeable in legal ethics, while the other is a faculty member with expertise in ethics more broadly defined. Ethics commissioners serve staggered four-year terms and are precluded from partisan political activity or employment by the city. They serve without compensation but are reimbursed for expenses incurred while conducting commission business.

The ethics commission is empowered to “review, interpret, render advisory opinions and letters of instruction, and enforce” the code. Advisory opinions must be requested in writing, with the facts either real or hypothetical. If an advisory opinion is rendered, it is binding on the conduct of the person who sought the opinion. A written, sworn complaint by a citizen submitted to the ethics officer initiates the enforcement process. The complaint is then delivered to the commission for a preliminary investigation. If the commission finds “probable cause” that the code has been violated, it must notify the complainant and the alleged violator in writing.

A public hearing may or may not be called depending on the circumstances. If the commission finds that a violation has occurred, it then recommends to the appropriate party—agency head, council, mayor, chief of staff—that “appropriate action for correction or rectification of that conduct” be taken. The commission has no enforcement power, that is, it cannot impose a disciplinary action on a code violator. Disciplinary measures can range from a verbal admonishment to censure, suspension, or removal from office.

In general the ethics management approach taken in Tampa parallels that found in many other cities: “Know what the city defines as acceptable behavior to stay out of trouble,” and, if you land in trouble, here’s what can happen to you. . . .

These provisions and others suggest that Tampa is moving forward on its intention “to elevate the level of ethics in local government, to provide honest and responsible service to the citizens of Tampa, and to maintain the confidence and trust of the public that this government serves” (Sec. 2-501, Purpose and Legislative Intent, Division 1. Generally, City of Tampa Ethics Code).

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## Chicago

Historically, ethics and Chicago have not been known to go together. Norms in the “city of big shoulders,” with its industrial, blue-collar past and its hard-nosed machine politics, have often meant that votes and more were up for sale. Happily, this reputation has receded in recent years, thanks in part to the creation of the city’s board of ethics in 1987. The seven-member board, whose members are appointed by the mayor and confirmed by the city council, is supported by a nine-member professional staff and is “responsible for helping to ensure public confidence in Chicago government” (Annual Report 2003–2004). The board’s activities include education and training, advice and guidance, and regulation and disclosure.

### Advice

The board’s advice and guidance program consists of two categories of assistance: inquiries and cases. An inquiry is a request for information or professional advice in which the inquiring person does not ask for a written response. In 2003–2004, more than 1,900 inquiries were acted on. A case is a written complaint or a request for an opinion. Fifty-two cases were acted on in 2003–2004,

with 140 reports being issued as a result of the investigations. Financial-interest disclosure, gifts, and lobbying were the subjects most often addressed by inquiries and complaints in 2004.

### **Investigation and enforcement**

Regulation and enforcement activities encompass campaign financing, financial disclosure, and registration of lobbyists, as well as investigations, complaints, and preliminary inquiries. The city's campaign financing ordinance limits the amount of money—especially in contributions from lobbyists—that can be given to an individual seeking elected city office.

The 12,000 city employees and officials are required to file statements of financial interest with the board each spring. Failure to file a financial disclosure can result in a fine levied by the board. Lobbyists are required to register with the board, revealing who their clients are and listing all of their lobbying-related compensation and expenditures. Nearly 400 lobbyists were registered in 2004, representing more than 1,000 clients. The board maintains a list of registered lobbyists and their clients on its Web site at [www.cityofchicago.org/Ethics](http://www.cityofchicago.org/Ethics).

The board has considerable authority to investigate wrongdoing. Unlike most boards, it can initiate an investigation on its own, though this authority is limited in the case of a complaint against an alderman. A complaint of an alleged violation of the governmental ethics ordinance by an alderman must be signed and sworn. The board also has subpoena power. All investigations are treated as confidential, and results are only made public when the final report of a violation is issued.

For the most recent reporting year, 2003–2004, the board received 15 complaints; three of these claimed violations involving the unauthorized use of city property, and one each made an allegation of post-employment misconduct, conflict of interest, violation of fiduciary duty, and employment of relatives. The board also conducted 107 investigations of city employees who failed to file statements of financial interests within the time prescribed by law. Thirty-five investigations into claims of campaign violations that had been filed in the previous year were closed.

### **Ethics training**

The Governmental Ethics Ordinance (Chapter 2-156, Municipal Code of Chicago) sets forth an ambitious educational requirement that all 50 aldermen, aldermanic staff members, and employees in the senior executive service attend ethics training every four years. The ordinance also requires that all new employees who are subject to mandatory training attend an ethics training program within 120 days of entering city service and again every four years afterward.

Those who fail to attend ethics training are subject to a \$500 fine. About 3,800 employees, or approximately 10 percent of the city workforce, are covered by the ordinance. Although the vast majority of the workforce is not subject to mandatory ethics training, a good number of departments routinely provide ethics training for their employees, with the cooperation and support of the board of ethics staff.

### **King County, Washington**

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Among America's 3,034 counties that have policies and procedures for dealing with unethical conduct, King County may have the oldest system of this kind.

#### **Ethics code and board**

King County (Seattle) enacted a code of ethics in 1972, in response to local government corruption. The code focused on conflicts of interest, placed restrictions on business transactions between former commission members and sitting commissioners, and required financial-disclosure statements by commissioners and senior county managers.

A three-member, appointed ethics board was set up to enforce the code. In its first 17 years of existence, "the board held only one major public hearing [and] very few county employees knew of the code's existence" (J. Patrick Dobel, *The Realpolitik of Ethics Codes: An Implementation Approach to Public Ethics in Ethics and Public Administration*, edited by H. George Frederickson, 1993, Armonk, New York: M.E. Sharpe, Inc., p.164). After a series of scandals erupted in 1986 through 1987, the code and its enforcement were strengthened. A new ethics code went into effect in 1990 that, unlike its predecessor, presented "a positive vision of public service" and emphasized its role in building legitimacy and respect for government, as well as its support for independent judgment and public trust (Dobel 1993,171).

The revised code was accompanied by the establishment of an independent ombudsman's office and a full-time ethics administrator who reports directly to the King County Board of Commissioners. In 1994, the board began an intensive education and training program to familiarize county employees with the code and to "provide them with the decision-making skills necessary to resolve routine ethics issues within the workplace" ([www.metrokc.gov/ethics/history.htm](http://www.metrokc.gov/ethics/history.htm)).

### **Effectiveness**

How effective has the King County ethics program been over the past decade? A true measure of effectiveness is difficult to construct. Some output data, however, are available and were reported in the 2003 annual report:

- Nearly 1,800 employees received ethics training in 2003, half of whom were new employees. New employees are required to sign a statement that they have received a copy of the summary of the ethics code. Ethics training is mandatory for supervisors every 18 months.
- Post-employment provisions were added that ban a former employee for one year from being a contractor or subcontractor on any county action over which he/she had responsibility as a county employee.
- From 1991 through 1999, the board issued 148 advisory opinions; in contrast, none were issued in 2003.
- Statements of financial disclosure were filed by 1,969 elected officials and employees and by 343 contractors and vendors.

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The ethics board has never conducted an ethics audit or an organizational survey to measure the ethical climate of county agencies. The board did initiate an ethical awareness campaign in 2003 that included, among other things, developing a voluntary survey quiz in 2004. The quiz, which went out by e-mail and hard copy to the county's 13,802 employees, was completed by two of every 10 employees. The confidential survey tested employees' knowledge of the county's ethics code.

### **Ombudsman**

Ethics complaints and other complaints about the administrative conduct of King County executive-branch agencies are handled by the office of the ombudsman. Alleged violations of the county's

whistle-blowing ordinance also fall under the authority of the ombudsman to investigate. The office is staffed by four professionally trained ombudsmen and a support staff of five.

The office of the ombudsman can begin investigations on its own volition. Subpoena power to compel sworn testimony from any person and to retrieve records or material relevant to an investigation is also available to the ombudsman's office. If the ombudsman finds reasonable cause for a violation of the code of ethics, the respondent may appeal the ruling to the board of ethics.

The civil penalty for a violation by one of King County's more than 13,000 officers or employees can range from a slap on the wrist, like suspension without pay for one month, to termination of employment. The criminal penalty is a fine not to exceed \$1,000 or imprisonment in the county jail not to exceed 90 days, or both. The ombudsman can recommend disciplinary action but cannot compel an agency to take such measures. The board of ethics is equally lacking in enforcement authority. "The employee's management makes the ultimate determination as to whether disciplinary action will be implemented," says Matthew Conquergood, assistant to the Ombudsman, King County Office of Citizen Complaints–Ombudsman.

The 2004 Triannual Reports of the Ombudsman show that the ombudsman's office received 1,385 inquiries for information, 311 requests for assistance, and 128 complaints. There were nine complaints alleging violations of the ethics code and 12 complaints of retaliation for reporting improper governmental action, as protected under the whistle-blowing code. Four of the nine cases alleging violations of the ethics code were resolved by the ombudsman, and five were found to be unsupported.

## **Salt Lake County, Utah**

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Reform measures to foster ethical governance in Salt Lake County were launched in 2004, when the county mayor was forced from office, accused of felony misuse of public funds. It was alleged in court documents that she had misused health department funds to hire bookkeepers at a boys' and girls' club where her daughter was the chief financial officer. The scandal set in motion a call for ethics reform.

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### **Ethics proposals**

The deputy mayor, standing in for the mayor, put together a set of proposals for consideration by the county commission. The opposing mayoral candidate (now mayor) offered a similar list of proposals, with some additions. Combined, these measures urge that King County:

- Audit all departments under the county mayor's jurisdiction, to prevent abuse and mismanagement. Salt Lake County is a mayor-council form of government with a nine-member council, three of whose members are elected at large. All elections are partisan. There is one elected constitutional officer, a district attorney, and seven independently elected statutory officers: assessor, auditor, clerk, recorder, sheriff, surveyor, and treasurer.
- Establish a bipartisan ethics panel to review ethics policies and complaints, as well as to assess redistricting proposals.
- Ban all gifts accepted by elected officials and employees unless the donated items are reasonably necessary to perform their duties.

- Prohibit any high-level county employee from accepting employment as an officer or director of a major county vendor or contractor for at least a year after leaving county employment.
- Prohibit county employees from using county facilities or equipment for any personal business or outside employment.
- Require written disclosures of conflicts of interest.
- Publish a list of all county contractors on a citizen-accessible Web site.
- Prohibit cars and car allowances as benefits of employment, and restrict the use of county vehicles to county-business purposes only.
- Require lobbyists to file registration forms and declare their clients.
- Open cabinet meetings of the executive branch to the public.
- Limit campaign-financing contributions from any one donor to \$5,000 for countywide races and \$2,000 for council-district races.
- Formalize ethics training requirements, and make training a prerequisite to employment. This requirement specifies that all county elected officials, appointed officers, and employees will attend one hour of training every two years "regarding their ethical duties." Employees are awarded four hours' additional vacation during the year when the training is received.
- Require all county employees to subscribe to the following ethics statement: Employees of Salt Lake County "support, obey, and defend the Constitution of the United States, the Constitution of the state of Utah, the laws of the state of Utah, and the ordinances of Salt Lake County, to the best of my ability and that I will strive always to meet the highest ethical standards implicit in my employment and in furtherance of the best public interest."

### **State of reform**

While not all of these reform measures have been put into place, it is clear that Salt Lake County is on a sound ethics-management path. The reform initiatives 1) acknowledge that ethics and integrity in county governance are important, and 2) require the commitment of county resources to building a strong ethical climate. They do, however, take a legalistic approach to ethical management, while recognizing that this approach is not sufficient as evidenced by the training requirement.

These reforms cover many but not all county officials, inasmuch as the emphasis is placed on employees of the county executive. It is difficult to say with certainty whether county leaders have learned from ethical failure, but the signs are promising, given the strong endorsement of these measures by the newly elected mayor.

Will ethics reform be enough to transform the culture of Salt Lake County's governance? Perhaps, but it will take some time, maybe as much as a decade before a firm conclusion can be drawn. As we have tried to show, ethics management is alive and well in America's cities and counties. Is more activity needed? Most assuredly, but the effort to instill ethics and integrity in city and county governments is an exciting journey that holds great promise for strengthening public confidence and trust in local governance.

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