

Memorandum



CITY OF DALLAS

DATE January 16, 2018

TO Honorable Mayor and Members of the City Council

SUBJECT **ETHICS ADVISORY COMMISSION 2017 ANNUAL REPORT**

In accordance with Dallas City Code Chapter 8, Section 8-1.1, the Ethics Advisory Commission is submitting its Annual Report of the Commission's activities for your review.


John Rogers, Chair
Ethics Advisory Commission

c: T.C. Broadnax, City Manager
Biliera Johnson, Interim City Secretary



CITY OF DALLAS

ETHICS ADVISORY COMMISSION

2017

ANNUAL REPORT

**ETHICS ADVISORY COMMISSION
2017 ANNUAL REPORT**

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TAB 1

COMMISSIONERS

The Ethics Advisory Commission is composed of seven members appointed by the full City Council. At each biennial appointment, the Mayor determines the interview method for all nominees submitted for consideration (i.e., interview by full City Council, a City Council Committee, or Ad-hoc Committee established for this purpose).

Current Members	Position	Member as of	Current Status	Terms Served
John N. Rogers, Chair	4	10/09/15	Reappointed 09/06/17	1
Deborah Watkins, Vice-Chair	1	06/26/15	Reappointed 10/11/17	2
Scott Shirley	2	12/06/17	Appointed 12/06/17	0
Eileen F. Rosenblum	3	04/12/17	Reappointed 10/11/17	0
Royce B. West, II	5	03/30/17	Reappointed 11/01/17	0
B. Celestino Carreon	6	10/06/17	Appointed 09/27/17	0
Pam Gerber	7	11/06/15	Reappointed 09/06/17	1

OTHER COMMISSIONERS SERVING IN 2017

Commissioner	Position	Original Appointment Date	Current Status
Linda R. Camin	3	03/09/10	Resigned 03/16/17
J.D. McLemore	5	02/24/14	Resigned 01/31/17
Brent P. McDougal	6	05/08/12	Resigned 09/30/17
Donna L. Wigley	2	02/21/14	Replaced 12/06/17

**2017
ETHICS ADVISORY COMMISSION
COMMISSIONER ATTENDANCE LOG**

2017 MEETING DATES	PLACE	1/20/2017 REGULAR MEETING	2/17/2017 SPECIAL MEETING	3/17/2017 SPECIAL MEETING	4/21/2017 REGULAR MEETING	5/16/2017 SPECIAL MEETING	6/20/2017 SPECIAL MEETING	10/17/2017 REGULAR MEETING
Deborah Watkins	01	P	CANCELLED	CANCELLED	P	CANCELLED	P	CANCELLED
Donna Wigley (REPLACED 12/06/17)	02	P	CANCELLED	CANCELLED	P	CANCELLED	P	CANCELLED
Linda Camin (RESIGNED 3/16/17)	03	P	CANCELLED	CANCELLED				
Eileen Rosenblum	03				A	CANCELLED	P	CANCELLED
John Rogers	04	P	CANCELLED	CANCELLED	P	CANCELLED	P	CANCELLED
JD McLemore (RESIGNED 1/31/17)	05	P	CANCELLED	CANCELLED				
Royce West, II	05				P	CANCELLED	A	CANCELLED
Brent McDougal (RESIGNED 9/30/17)	06	P	CANCELLED	CANCELLED	P	CANCELLED	P	CANCELLED
B. Celestino Carreon	06							CANCELLED
Pam Gerber	07	A	CANCELLED	CANCELLED	P	CANCELLED	P	CANCELLED

LEGEND: A=ABSENT, P=PRESENT, V=VACANT, T=TERM ENDED, R=REPLACED/RESIGNED

TAB 2

MISSION STATEMENT

The Ethics Advisory Commission is an advisory body having the jurisdiction to review and make findings concerning any alleged violation of Chapter 12A (Code of Ethics) of the Dallas City Code. It can make findings concerning any persons subject to the provisions of the Code, including but not limited to current city officials and employees, former city officials and employees and persons doing business with the city. Complaints must be filed within one year after the date of the alleged violation(s).

The Ethics Advisory Commission has the power to:

- 1) Establish, amend, and rescind rules and procedures governing its own internal organization and operations in a manner and form consistent with the Code of Ethics.
- 2) Meet as often as necessary to fulfill its responsibilities.
- 3) Request from the city manager through the City Council the appointment of such staff as is necessary to carry out the duties of the commission.
- 4) Review, index, maintain on file, and dispose of sworn complaints.
- 5) Make findings of fact as necessary for the disposition of a complaint.
- 6) Make notifications, extend deadlines, and conduct investigations.
- 7) Advise and make recommendations to the City Council concerning the city's ethics code and ethics policies.
- 8) Make determinations that complaints are frivolous, make findings of facts, and sanction persons who file frivolous complaints.
- 9) Such other powers as are specifically granted in the Code of Ethics or by City Council.

[Dallas City Code, Chapter 12A, Section 25(c)]

TAB 3

ACCOMPLISHMENTS

The Dallas City Council was briefed on the proposed amendments on January 4, 2017 and March 1, 2017. On March 22, 2017, City Council adopted the amendments to the Dallas City Code presented by the Ethics Advisory Commission. The ordinance became effective July 1, 2017.

Adopted Amendment to Dallas City Code

- **Chapter 2 (Administration)**
 - **Chapter 12A (Code of Ethics)**
 - **Chapter 15A (Elections)**
1. adding city officials and former city officials to purchase by certain persons prohibited;
 2. providing that city officials have a fiduciary duty to the city;
 3. adding standards of behavior and civility of city officials;
 4. clarifying and adding definitions;
 5. expanding the definition of official or city official to include the chief financial officer, department directors' supervisors, and citizen volunteers on committees or task forces formed by boards and commissions;
 6. providing for disclosure of conflicts on zoning applications;
 7. changing provisions that are outdated;
 8. adding additional reporting provisions related to gifts received by city officials or employees;
 9. providing rules regarding donations;
 10. clarifying provisions relating to the representation of private interests of a city official or employee before the city;
 11. regulating the use of public property and resources for campaign expenditures;
 12. prohibiting city officials and city employees from receiving tax credits or grants unless the incentive is available to the general public;
 13. adding a duty to report a violation of Chapter 12A;
 14. providing for restrictions on lobbying before city council, any city department, board or commission;
 15. providing that no former city official or city employee shall knowingly disclose to a member of the public any discussion that was lawfully closed to the public;
 16. adding persons who are required to register as lobbyists;
 17. providing that any protest given to or received from bidders on pending contracts will be shared with city councilmembers;
 18. providing restrictions on ex parte communications;
 19. requiring the Chief Financial Officer and executive general managers to complete a financial disclosure report;
 20. broadening the jurisdiction of the ethics advisory commission;
 21. providing the ethics advisory commission the power to issue subpoenas for an evidentiary hearing;
 22. providing for a provision regarding complaints received by the City Auditor's Office;
 23. providing factors to take into consideration in determining sanctions;
 24. imposing additional types of sanctions;
 25. creating a violation if any person interferes with an investigation of an alleged violation;
 26. providing for an ethics pledge that all city officials shall sign and file with the city secretary;

27. creating a City Ethics Officer to promote culture of ethics within the city;
28. requiring all new city officials and new city employees to receive ethics training within 30 days after being appointed to office or hired by the city;
29. requiring all current city officials and current city employees to receive training at least once every two years; and
30. adding a new article regarding the permissible and impermissible expenses of city-funded officeholder accounts

Adopted Resolution

- **City Employee Gift Policy (New)**

The Ethics Advisory Commission also revised their Rules of Procedure to reflect the recent changes to the Dallas City Code of Ethics adopted by the City Council.

Complaint Activity:

The Ethics Advisory Commission met as a body three times (see Tab 1). The City Secretary's Office received twelve ethics complaints for the year. A Preliminary Panel of the Ethics Advisory Commission met to hear complaints seven times (see Tab 4).

Future Goals:

The Ethics Advisory Commission will continue to view education and training as integral parts to an effective government ethics program as a means of achieving an ethical climate. The Ethics Advisory Commission will also continue to identify and explore avenues for the promotion of a healthy ethical culture throughout city government.

March 22, 2017

WHEREAS, the City Council believes that employment with the city should not be used for personal gain and that city employees should conduct themselves and operate with integrity in a manner that merits the trust and support of the public; and

WHEREAS, the City Council has adopted a Code of Ethics, Chapter 12A, Dallas City Code, as amended, that provides general rules for the solicitation and acceptance of gifts by city officials and employees; and

WHEREAS, pursuant to state law, public servants may solicit and accept certain benefits, such as gifts, tickets, meals, travel, entertainment and honoraria, under limited circumstances and conditions; provided the benefit is not being offered, solicited, or accepted as consideration for the public servant's decision, opinion, recommendation, vote, or other exercise of discretion as a public servant; and

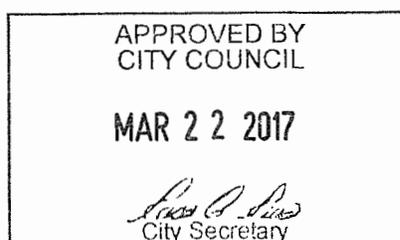
WHEREAS, pursuant to Resolution Nos. 08-1723 and 08-2506, the City Council has adopted policy guidelines regarding the solicitation and receipt of gifts, tickets, travel, lodging, entertainment and honoraria by City Councilmembers and members of boards and commissions to provide practical guidance clarifying the circumstances under which the acceptance of certain benefits by city officials is permissible in the performance of their city duties; and

WHEREAS, it is necessary to provide practical guidance clarifying the circumstances under which the acceptance of certain benefits by city employees is permissible in the performance of their city duties; **Now, Therefore,**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

Section 1. That the attached policy guidelines regarding the solicitation and receipt of gifts, tickets, travel, entertainment and honoraria by city employees is hereby adopted.

Section 2. That this resolution shall take effect immediately from and after its passage in accordance with the Charter of the City of Dallas, and it is accordingly so resolved.



GIFT POLICY FOR CITY EMPLOYEES

This is the policy governing the acceptance of gifts given to city employees, including gifts of tickets, meals, travel, lodging, entertainment, and honoraria. It is the policy of the City of Dallas to provide and promote a professional and ethical environment for its employees. This policy applies to all City of Dallas employees. Failure to comply with this policy may result in disciplinary action, in accordance with the Personnel Rules, up to and including termination of employment with the City of Dallas.

GENERAL GUIDELINES

1. See Dallas City Code Section 12A-2(6) for the definition of “benefit.” See Dallas City Code Section 12A-2(21) for the definition of “gift.” In this policy, the term “gift” includes “benefits.” “Honoraria” are payments or in-kind gifts made for a service, such as making a speech.

a. Gifts should be distinguished from donations. Gifts are given to individual employees and used by that employee. Donations are given to the city and used by the city. This policy does not apply to donations. See Dallas City Code Chapter 12A for rules for donations.

2. The following items are not considered gifts, and are not subject to reporting requirements:

a. A loan from a lending institution if it is made in the regular course of business and on the same terms generally available to the public.

b. A scholarship or fellowship based on the same criteria and awarded on the same terms applied to other applicants.

c. Gifts from a family member or a person with whom the employee has a personal, professional, or business relationship that is completely independent of the employee’s status with the city. The gift can be accepted only if the gift would have been given even if the city employee did not work for the city.

3. Whenever possible, gifts should be approved in advance by the employee’s supervisor. Also, if an employee has questions about whether a gift may be accepted, the employee should discuss it with their supervisor. If the supervisor is uncertain about a gift, the supervisor should contact the City Attorney’s Office. An employee who disclosed all relevant facts, and who reasonably and in good faith relied on the supervisor’s good faith determination, will not be found to have violated this policy.

4. Ceremonial and protocol gifts received by a city employee on behalf of the city must be delivered to the city manager within 30 days after receipt and inventoried as city property in accordance with Section 12A-22 of the Dallas City Code.

5. Employees must also comply with departmental rules regarding gifts, if any. If there is a conflict between this gift policy and a departmental rule, this gift policy controls.
6. Any gift that could be perceived by the public as an attempt to influence or reward the employee in the performance of their duties should be politely declined. When in doubt, it is better to politely decline a gift.
7. An employee who does not wish to accept a gift in order to avoid the appearance of impropriety can return the gift to the giver; donate the gift to the city; donate the gift to another governmental entity with authority to accept the gift; or donate the gift to a recognized tax-exempt charitable organization. A description of the gift, the estimated value, and the disposition of the gift must be documented and retained by the department.
8. Employees should never solicit gifts for themselves or for the employee's parent, child, spouse, domestic partner, or family member of the first degree of consanguinity or affinity.
9. Gifts, including tickets, meals, travel, lodging, and entertainment, that cannot be accepted by an employee cannot be given to another person, including family members, as a means to circumvent this gift policy.
10. The following gifts, including tickets, meals, travel, lodging, or entertainment, shall not be accepted:
 - a. Any gift that reasonably tends to influence or reward official action, or that the employee knows is intended to influence or reward the discharge of official duties.
 - b. Any gift that the employee knows is given in exchange for taking official action, refraining from taking official action, or exercising official discretion.
 - c. Any gift from a person that the employee knows is interested in a matter that is currently pending with the employee's department.
 - d. Any gift from a person that the employee knows is currently subject to enforcement proceedings, inspections, or investigations by the employee's department.
 - e. An employee who conducts inspections, investigations, provides advice, or renders decisions in quasi-judicial hearings shall not accept any gift from a person that the employee knows is an interested party, an agent of an interested party, or a representative of an interested party in that quasi-judicial hearing.

- f. An employee who makes recommendations on, grants, or denies applications shall not accept any gift from a person that the employee knows is an applicant, agent of that applicant, or representative of that applicant.
- g. Any cash, check, gift card, negotiable instrument, or security.
- h. Honoraria given in consideration for services the employee was required to provide as a part of the employee's job duties.

GIFTS

11. If gifts with monetary value are given to employees because of their employment with the city, the gifts may be accepted by employees under the following conditions, unless prohibited under Section 6 or Section 10:

- a. Individual employees may accept gifts with a nominal estimated value. Gifts have a nominal estimated value if they have an estimated value of less than \$25 or a cumulative estimated value of less than \$50 from a single source in a calendar year. Examples include items such as plaques, caps, key rings, mugs, tee shirts, flowers, and small amounts of food, if these gifts are given infrequently.
- b. A public award for meritorious service or professional achievement if the award is reasonable in light of the occasion.

TICKETS

12. If tickets with monetary value are given to employees because of their employment with the city, the tickets may be accepted by employees under the following conditions, unless prohibited under Section 6 or Section 10:

- a. Tickets to events where the employee is performing ceremonial duties or attending as an official representative of the city.
- b. Tickets to fundraiser and charity events that benefit city facilities and programs under the jurisdiction of the employee's department.
- c. Tickets to events at city-owned facilities for which the employee has oversight responsibilities.
- d. No more than two tickets per event may be accepted. One of the tickets must be used by the employee.
 - i. This rule does not apply if an entire city department or all employees are given tickets to an event, such as discount tickets for all employees to State Fair.

- ii. This rule does not apply if a category or section of employees are given tickets to an event, such as tickets given to all department directors or tickets given to all employees with a department section.
- iii. This rule does not apply to blocks of complimentary tickets given to a department director for distribution to the general public in accordance with any requirements of the event sponsor, if the department director does not give employees and their family members priority access to the tickets.
- e. Tickets shall not be transferred or sold, except that tickets may be transferred to another employee from the same department who can also represent the city, if the transfer is approved in writing by the employee's supervisor.
- f. Complimentary annual memberships and season tickets shall not be accepted.
- g. If the employee knows that the tickets are offered to the employee at a reduced price or under different conditions from tickets purchased by members of the public because of the employee's employment with the city, employees shall not purchase those tickets as a means to circumvent this gift policy. This provision does not prohibit the city from making discount tickets available to employees.

MEALS, TRAVEL, LODGING, OR ENTERTAINMENT

13. Meals, travel, lodging, and entertainment may be accepted, unless prohibited under Section 10, in connection with a conference, seminar, trade show, or event that is related to the employee's job duties; where the employee is a speaker or presenter; or for training or education that is also being given to other groups who are not employees. Attendance must be approved in accordance with the City's Administrative Directive on travel. Costs must be reasonable and comparable to the costs incurred by other persons attending who are not employees.

REPORTING REQUIREMENTS

14. These reporting requirements are in addition to any reporting requirements for city employees set out in the Dallas City Code or state law.

15. Employees must file an annual gift disclosure statement with the City Manager or his designee itemizing each ticket, meal, travel, lodging, or entertainment accepted with an estimated value of \$50 or more, or cumulative tickets, meals, travel, lodging, or

entertainment from a single source in a calendar year with an estimated value of \$100 or more. Nominal value gifts described in Section 11 do not need to be reported.

- a. The annual gift disclosure statement must be on a form provided by the City Manager and filed with the City Manager or his designee by no later than 5:00 p.m. on April 30. If April 30 is a Saturday, Sunday, city holiday, or furlough day, the deadline is extended to 5:00 p.m. of the next business day.
- b. The annual gift disclosure statement must include to whom the gift was given, the date the gift was given, the person or entity giving the gift, a description of the gift, and the estimated value of the gift.
- c. An annual gift disclosure statement is not required if the city employee did not receive any reportable gifts.

TAB 4

COMPLAINTS PROCESSED

DATE FILED	COMPLAINANT	RESPONDENT	DATE HEARD	STATUS/OUTCOME
1/26/17	Christopher Heath	Valencia Johnson Code Compliance Officer	2/21/17	Dismissed by Preliminary Panel. Based upon the evidence submitted, the complaint failed to state a claim and was not supported by just cause under Chapter 12A Dallas City Code (Code of Ethics)
3/15/17	Christopher Heath	Lonnie Jackson Code Compliance Officer	4/11/17	Dismissed by Preliminary Panel. Based upon the evidence submitted, the complaint failed to state a claim under Chapter 12A Dallas City Code (Code of Ethics)
3/15/17	Christopher Heath	Valencia Johnson Code Compliance Officer	4/11/17	Dismissed by Preliminary Panel. Based upon the evidence submitted, the complaint failed to state a claim under Chapter 12A Dallas City Code (Code of Ethics)
4/07/17	Christopher Heath	Machina Golden Code Compliance Officer	5/11/17	Dismissed by Preliminary Panel. Based upon the evidence submitted, the complaint failed to state a claim and was not supported by just cause under Chapter 12A Dallas City Code (Code of Ethics)
4/10/17	Sandra Crenshaw	Casey Thomas Councilmember	N/A	Rejected - Chapter 12A-25(a) [JURISDICTION] states, in part, "... The city secretary shall not accept or process any complaint that is filed more than one year after the date of the violation alleged in the complaint."
4/10/17	Sandra Crenshaw	Casey Thomas Councilmember, Matt Houston City Planning Commissioner	N/A	Rejected - Chapter 12A-25(a) [JURISDICTION] states, in part, "... The city secretary shall not accept or process any complaint that is filed more than one year after the date of the violation alleged in the complaint."
4/10/17	Sandra Crenshaw	Kirsten Tillman Library Employee	N/A	Rejected - Chapter 12A-25(a) [JURISDICTION] states, in part, "... The city secretary shall not accept or process any complaint that is filed more than one year after the date of the violation alleged in the complaint."
4/11/17	Sandra Crenshaw	Carolyn Arnold Councilmember	5/11/17	Dismissed by Preliminary Panel. Based upon the evidence submitted, the complaint failed to state a claim and was not supported by just cause under Chapter 12A Dallas City Code (Code of Ethics)

COMPLAINTS PROCESSED (cont.)

DATE FILED	COMPLAINANT	RESPONDENT	DATE HEARD	STATUS/OUTCOME
4/11/17	Sandra Crenshaw	Carolyn Arnold Councilmember	N/A	Rejected - Chapter 12A-25(a) [JURISDICTION] states, in part, "... The city secretary shall not accept or process any complaint that is filed more than one year after the date of the violation alleged in the complaint."
8/30/17	Barry Jacobs	Philip Kingston Councilmember	9/15/17 9/29/17 10/13/17	<p>Preliminary Panel found that based upon the evidence submitted, the complaint was supported by just cause, and recommended that it be referred to the Ethics Advisory Commission for hearing and review.</p> <p>Ethics Advisory Commission met on 9/29/17 and accepted the request of a continuance by Councilmember Kingston. The Evidentiary Hearing continued 10/13/17. In a four to one decision, the Commission recommended that a reprimand be issued to Councilmember Kingston.</p> <p>10/25/17 The City Council accepted EAC written decision that Councilmember Kingston's sanction be that of a reprimand.</p>
11/02/17	Shalondria Jackson Galimore	Kevin Felder Councilmember	11/17/17	Dismissed by Preliminary Panel. Based upon the evidence submitted, the complaint failed to state a claim and was not supported by just cause under Chapter 12A Dallas City Code (Code of Ethics)
11/15/17	City Auditor's Office, Fraud, Waste and Abuse Services	Philip Kingston Councilmember	N/A	Complaint withdrawn by complainant on 11/30/17.