

**PROCEDURAL RULES  
OF THE CITY OF GROSSE POINTE PARK  
BOARD OF ETHICS**

**Chapter 1. Policy and Construction.**

**Rule 101. Intent and Jurisdiction.**

The City of Grosse Pointe Park Board of Ethics (the Board) promulgates these rules pursuant to the Ethics Ordinance (Ordinance No. 219) of the City of Grosse Pointe Park (the City) with the intent of realizing the policies and goals set forth in that Ordinance. The Board intends to conduct its business consistent with all applicable federal, state and local laws.

The City's Ethics Ordinance (the Ordinance) does not have jurisdiction over matters that are internal to the City's Police Department or to employees who are members of a union with which the City has contracted.

**Rule 102. Construction.**

These rules are to be construed to achieve the timely, efficient and cost-effective determination of matters brought before the Board.

**Rule 103. Modification of Rules.**

Where appropriate in order to further the intent of the Ordinance and when it is in the interests of equity, the Board reserves the right to modify these rules on a case-by-case basis. Variances from application of these rules shall not be a basis for objecting to the findings of the Board absent clear and convincing evidence that the variation caused a manifest injustice to the aggrieved party.

**Chapter 2. Procedure for Obtaining Findings and Opinions from the Board.**

A. The rules of this chapter apply to

1. Those situations where a city official, employee, consultant to the City, a member of the City Council, or a member of a city commission or board ("the requesting party"), requests an advisory opinion as to whether the requesting party's conduct or anticipated conduct, or the conduct of a city official, employee, consultant, commission, or board or committee under the requesting party's authority, conforms to the Ordinance (an Advisory Opinion). The party whose conduct is sought to be reviewed, if it is someone other than the requesting party, is called the "subject party."
2. Those situations where any person has a complaint against a city official, city employee, or consultant to the City, alleging that the conduct of that official, employee, or consultant is in breach of the Ordinance (a Complaint).
3. Those situations where where, under Section 2-5(a) of the Ordinance, a city official, employee, or consultant (a) allegedly has a conflict of interest in any matter before the city, as defined in the Ordinance, or (b) has disclosed that conflict on the appropriate records of the city but refuses to refrain from discussion, deliberation or voting on that matter allegedly in violation of the Ordinance (an Alleged Conflict of Interest). In that instance, the affected city body may request the Board to render an opinion as to whether the official,

employee, or consultant should refrain from discussion, deliberation, action or voting on the matter because of disqualification due to a conflict of interest in violation of the Ordinance. Hearings relating to questions of an Alleged Conflict of Interest shall be handled on an expedited basis.

- B. As used herein, "city official or employee" means a person elected, appointed or otherwise serving in any capacity with the city in any position established by the City Charter or by city ordinance which involves the exercise of a public power, trust or duty. The term includes all officials and employees of the city, whether or not they receive compensation, including consultants and persons who serve on advisory boards and commissions. The term does not include election inspectors and student representatives appointed to city boards or commissions. "Consultant" means a person who gives professional advice or services regarding matters in the field of his or her special knowledge or training, irrespective of whether that person is paid.

**Rule 201. Requests for Findings and an Opinion from the Board.**

The request for an advisory opinion, a ruling on a Complaint, or a determination of an Alleged Conflict of Interest must be in writing and filed with the City Clerk on a form prescribed by the clerk, who will present it to the Board for consideration. The requesting party may include with the request any information and documents that may assist the Board in responding to the request.

- a. In the case of a complaint against a city official, city employee, or consultant, the person filing the complaint shall be referred to as the "complainant" and the person whose conduct is being called into question shall be referred to as the "respondent."
- b. In cases relating to alleged conflicts of interest, the affected city body, commission, or committee raising the question of a conflict of interest shall be referred to as the "referring body," and the person who is alleged to have a conflict of interest shall be referred to as the "respondent."

**Rule 202. Dismissal.**

- a. The City Clerk may administratively dismiss a request for an advisory opinion or a complaint if the request is incomplete or fails to provide the information required on the forms provided. The Clerk shall (a) notify the petitioner filing such complaint or request for advisory opinion why the complaint or request for advisory opinion is being dismissed, and (b) within 5 business days of dismissal, shall provide a copy of the administratively dismissed complaint to the chairperson of the Board of Ethics.
- b. The Board on its own may administratively dismiss any matter presented to it for reasons such as:
  - (i) One or more requests or complaints regarding the same subject matter are pending, or
  - (ii) The Board previously addressed the same subject matter, or
  - (iii) Failure to prosecute a complaint.

**Rule 203. Additional Information.**

Upon presentation of a request for an opinion from the Board, the Board may, through the assistance of the City Clerk or the City Attorney, ask for additional information from the requesting party before considering the matter.

**Rule 204. Summary Decision.**

At any time, the Board may issue Findings and an Opinion based on any of the following reasons:

- a. The Board lacks jurisdiction over the requesting or subject party.
- b. The Board lacks jurisdiction over the subject matter.
- c. The requesting party lacks the legal capacity to request the Board's involvement.
- d. The request for Findings and an Opinion is barred because of release, prior judgment, or other disposition of the matter before the request for the Board's involvement was filed.
- e. The request for the Board's involvement fails to demonstrate any violation of the Ordinance.

**Rule 205. Summary Opinion.**

If no genuine issue as to any material fact exists, the Board may issue an Opinion without a hearing.

**Rule 206. Scheduling.**

If the request for involvement by the Board is not resolved under Rule 204 or 205, the Board may schedule a meeting or hearing in accordance with these Rules.

**Rule 207. Notice of Meeting and Requests to Others to Appear.**

The clerk will send notice of the meeting to the requesting party and, where applicable, to the subject party in the manner prescribed by these Rules. The Board may request other persons to appear at the meeting by directing the clerk to send notice of the meeting and a request to appear, accompanied by a copy of the request for advisory opinion.

- a. In the case of Complaints, at least twenty-eight (28) days before the hearing date, the clerk will send notice of the hearing, accompanied by a copy of the complaint to the respondent in the manner prescribed by the Ordinance.
- b. In the case of an Alleged Conflict of Interest, notice of the hearing may be given to the person whose conduct is in question in any form (1) reasonably calculated to give the date, time, location and subject matter of the hearing, and (2) that contains a record of such communication having been provided.

**Rule 208. Appearance of Parties.**

The requesting party and, where applicable, the subject party, or a representative of either, may appear at the meeting, present information to support or oppose the request, and respond orally to questions presented by the Board.

- a. In the case of Complaints, prior to the hearing date, the respondent may submit a written answer to the complaint by filing that answer with the City Clerk. In the answer, the respondent may respond to the allegations set forth in the complaint and may further provide information, including documents, relevant to the matter. In lieu of a written answer, the respondent may appear at the hearing and respond orally to the allegations in the complaint.
- b. In the case of an Alleged Conflict of Interest, the referring body and the respondent may appear at the hearing, present information on the referred question of disqualification and respond orally to questions presented by the Board. The referring body will designate one of its members or another person to act as its representative for the hearing.

**Rule 209. Meetings, Generally.**

- a. The Board will conduct a meeting on the matter set forth in the request for Board action at the scheduled time. Any person requested to appear at the meeting may be accompanied by an attorney. Failure of a complainant, or his or her representative, to appear at a properly scheduled hearing may be grounds for summary dismissal of the complaint.
- b. Members of the Board are expected to attend all scheduled meetings. To the extent reasonably possible, meetings shall be scheduled at a time whereby all three members of the Board are able to attend.
- c. In the unlikely event a member of the Board is unable to attend and the meeting cannot be rescheduled to a time when all members may be present, the meeting shall take place provided at least two of the three members of the Board are present. If the Chairperson of the Board is unable to attend, the member with the most years remaining in his or her tenure shall assume the role of Chairperson. Where only two members attend a meeting, the finding of the Board must be unanimous for it to have any precedential value.

**Rule 210. Presiding Officer.**

The Chairperson of the Board will act as the presiding officer for the meeting or may assign another member of the Board to be the presiding officer. The presiding officer will officiate over the meeting; moderate the questions and answers between members of the Board, the requesting party, the subject party, and any other witness; and rule on questions of procedure and the admissibility of evidence. Where practical, the presiding officer shall consult with other members of the Board before making any decision.

**Rule 211. Opening Statements.**

The opening statement is each party's way to introduce the matter to the Board, summarize the evidence that will be presented during the hearing, and state the relief requested.

- a. In the case of Complaints, the complainant and the respondent may each give an opening statement. Usually, the complainant will give the first opening statement, but the Board may vary this procedure.
- b. In the case of Alleged Conflicts of Interest, the representative of the referring body and the respondent may each give an opening statement. Usually, the representative of the referring body will give the first opening statement, but the Board may vary this procedure.

**Rule 212. Conduct of Proceedings**

- a. The requesting party will present the request by stating the issue to be resolved and giving any evidence that bears on the matter. The subject party, where applicable, may likewise present any evidence that bears on the matter. The Board may request the testimony of other witnesses and the introduction of exhibits or other evidence relevant to the matter. The requesting party, the subject party, and any member of the Board may question any witness in the manner directed by the presiding officer. All witnesses will give testimony on sworn oath or affirmation.
- b. In the case of Complaints:
  1. The complainant will present evidence to support the complaint. The respondent may then present evidence to support any defense. Witnesses for each party will

also submit to questions from the complainant, the respondent, and the Board. The Board has the discretion to vary this procedure, provided that the parties are treated with equality and that each party has the right to be heard and is given a fair opportunity to present its case.

2. The Board, exercising its discretion, will conduct the proceedings with a view to expediting the resolution of the matter and may direct the order of proof, bifurcate proceedings and direct the parties to focus their presentations on issues the decision of which could dispose of all or part of the matter.
  3. When the parties have finished presenting their evidence, each may make a closing statement summarizing the evidence, stating the relief requested, and arguing in favor of that relief. Usually, the respondent will give the first closing statement, to be followed by the complainant, but the Board may vary this procedure.
  4. The Board may request the parties to submit post-hearing briefs if warranted.
  5. The parties may agree to waive oral hearings in any case.
- c. In the case of Alleged Conflicts of Interest:
1. The referring body will present evidence on the question of disqualification. The respondent may then present evidence to support his or her position on the question. Witnesses for each party will also submit to questions from the referring body and the respondent. The Board has the discretion to vary this procedure, provided that the parties are treated with equality and that each party has the right to be heard and is given a fair opportunity to present its case.
  2. The Board, exercising its discretion, will conduct the proceedings with a view to expediting the resolution of the matter and may direct the order of proof, bifurcate proceedings and direct the parties to focus their presentations on issues the decision of which could dispose of all or part of the matter.
  3. When the parties have finished presenting their evidence, each may make a closing statement, summarizing the evidence, stating the position it takes on the question, and arguing in favor of that position. Usually, the respondent will give the first closing statement, to be followed by the referring body, but the Board may vary this procedure.
  4. The Board may request the parties to submit post-hearing briefs if warranted.
  5. The parties may agree to waive oral hearings in any matter.

**Rule 213. Evidence at Hearings**

- a. The parties may offer such evidence as is relevant and material to the matter and will produce such evidence as the Board may deem necessary to an understanding and determination of the matter. Conformity to legal rules of evidence will not be necessary. All evidence will be taken in the presence of the Board and all of the parties, except where any of the parties is absent, in default or has waived the right to be present.
- b. The Board will determine the admissibility, relevance, and materiality of the evidence offered and may exclude evidence deemed by the Board to be cumulative or irrelevant.
- c. The Board will take into account applicable principles of legal privilege, such as those involving the confidentiality of communications between a lawyer and client.

**Rule 214. Post-Meeting Evidence.**

The Board may request the requesting party, the subject party where applicable, or any other person to submit post-meeting evidence if warranted. If post-meeting evidence is requested and

received by the Board, copies of such evidence shall be shared with all other parties participating in the proceeding. Any party that did not submit post-meeting evidence may request the opportunity to submit evidence in response to the post-meeting evidence submitted, and if granted permission to do so, such party shall share its responsive evidence with all other parties participating in the proceeding.

**Rule 215. Closure of the Record.**

The record is closed at the conclusion of the meeting or, if the Board requests any person to submit post-meeting evidence, at the earlier of the submission of the evidence or the deadline for submitting it. The Board, in its discretion, may re-open the record and take additional evidence before rendering its decision.

**Rule 216. Decision.**

- a. In the case of requests for advisory opinions, the Board will determine whether the conduct or anticipated conduct of the requesting party or the subject party, as the case may be, conforms to the Ordinance.
- b. In the case of Complaints, the Board will determine whether the respondent's conduct as alleged in the complaint occurred and whether such conduct is in breach of the Ordinance.
- c. In the case of Alleged Conflicts of Interest, the Board will determine whether the referring body established that the respondent had a conflict of interest for which he or she should be disqualified from participating with respect to the subject matter of the petition, or whether the respondent, although disclosing the conflict of interest, must refrain from participating with respect to the subject matter of the petition.
- d. The Board will make its decision upon a vote of a majority of the Board based upon the evidence in the record and controlling law.
- e. The Board will issue its decision in the form of a written opinion and shall be published. Dissenting or concurring opinions shall also be stated in writing and shall be published.
- f. Once they are issued, the opinions are final.

**Rule 217. Transmittal of the Advisory Opinion or Order.**

The Board will send its opinion or order to the City Clerk, who will publish, distribute and keep it in the manner prescribed in the ordinance and in conformity with applicable law. The clerk will mail the requesting party, the subject party, the affected department, and other persons as the Board directs, a copy of the opinion or order.

**Rule 218. Conflict of Interest of Members of the Board.**

No member of the Board may participate in the consideration of a matter brought before the Board if

- a. Participating in consideration of the matter would itself amount to a Conflict of Interest for the member (as that term is used in Ordinance 219 of the City of Grosse Pointe Park).
- b. The member is related by blood or marriage to the principal participants in the matter under consideration.
- c. Participation by the member would clearly and reasonably be viewed as improper by the public at large due to a personal interest by the member.