

ETHICAL PRACTICES BOARD

2015

Annual Report



Betsy Hodges, Mayor ~ Barbara Johnson, City Council President
J.P. Hagerty, Chair ~ Susan L. Trammell, Ethics Officer

TABLE OF CONTENTS

Introduction	3
Appointment and Membership	3
Mission	4
Accomplishments	4
I. Ethics Education	4
II. Ethics Inquiries	8
III. Ethics Complaints and Ethics Report Line	10
IV. Proposed Ordinance Changes	13
2015 Volunteer Hours	13
2016 Ethical Practices Board Work Plan	14

Introduction

The Ethical Practices Board (“EPB”) was created in 2003 with the passage of the City’s Ethics in Government Ethics Code (“Ethics Code”), codified at M.C.O. Ch. 15. Section 15.210 of the Ethics Code establishes the EPB and outlines the powers and duties of the EPB, which include issuing advisory opinions and investigating complaints from City employees and members of the public that the Ethics Code has been violated. The Ethics Code sets forth some specific standards which no City official or employee should violate and, as importantly, sets forth aspirations for ethical conduct that go above and beyond the minimum requirements of the Ethics Code.

Further, Ethics Code §15.210(f) states:

The ethical practices board shall prepare and submit an annual report to the mayor and the city council detailing the ethics activities of the board and the city during the prior year. The format of the report must be designed to maximize public and private understanding of the board and city ethics activities. The report may recommend changes to the text or administration of this Code. The city clerk shall take reasonable steps to ensure wide dissemination and availability of the annual report of the ethical practices board and other ethics information reported by the board.

This annual report is respectfully submitted to the Mayor and to the City Council in response to the requirements of the Ethics Code.

Appointment and Membership

The 2014 chair of the EPB was Mr. Walter Bauch. Mr. Bauch was originally appointed to the EPB in August 2010 and is currently serving a term to expire January 2, 2018. Mr. Bauch is a partner with the law firm of Collins, Buckley, Sauntry & Haugh, PLLP in St. Paul. He practices in the areas of family law, probate litigation, real estate, insurance defense and personal injury, business and business litigation, professional responsibility and appellate practice. He is a family law mediator and serves, since 1994, as a Hennepin County Conciliation Court Referee.

Ms. JP Hagerty was originally appointed to the EPB in January 2012 and is currently serving a term to expire on January 2, 2017. Ms. Hagerty is a resident of the Windom Park neighborhood of northeast Minneapolis. She is completing a Masters in Organizational Leadership at St. Catherine’s University, St. Paul. Ms. Hagerty is a business project manager in Allina Health’s Strategic PMO. Ms. Hagerty is the 2015 chair of the Ethical Practices Board.

Ms. Patricia Kovel-Jarboe was first appointed to the EPB in September 2005 and served through January 2, 2015. Ms. Kovel-Jarboe is a former professor at the University of Minnesota and was also an administrator at the University of Minnesota. The EPB thanks Ms. Kovel-Jarboe for her decade of service to the City and the always thoughtful and insightful wisdom she shared during her years on the EPB.

Ms. Cassandra Ward Brown was appointed to the EPB in January 2015 for a term expiring January 2, 2018. Ms. Ward Brown is the Principal of National Alternative Dispute Resolution, LLC in Minneapolis. She has been a trial attorney since 1995 and is a Rule 114 Qualified Neutral. Her current practice focuses on ADR, including arbitration and mediation, ethics representation and consultation,

and employment-related investigations. Ms. Ward Brown served for six years on the Lawyers Professional Responsibility Board as a member and as a Panel Chair presiding over ethics proceedings. She also served for six years on the Fourth Judicial District Ethics Committee. In August 2015, Ms. Ward Brown resigned from the Board due to her relocation to Atlanta, Georgia.

In November 2015, Ms. Virginia (“Rae”) Bly was appointed to complete the term vacated by Ms. Ward Brown. Ms. Bly is a former attorney for the Minnesota Department of Human Services where she served as the Director of the DHS Compliance Office Management and Policy Division as well as the DHS Ethics Officer. She is certified by the Society of Corporate Compliance and Ethics as a Certified Compliance and Ethics Professional, as well as being a licensed attorney.

Ethics Code §15.220 provides that the City Attorney shall designate an assistant city attorney as the City’s Ethics Officer. Susan Trammell was designated Ethics Officer in February 2006.

Mission

The Mission of the Board is to promote integrity in City government by providing the services set forth in Ethics Code §15.210(e). These services include providing interpretations of the Ethics Code, responding to allegations of Ethics Code violations, and providing policy advice to the Ethics Officer.

2015 Accomplishments

The primary activities and accomplishments of the Ethical Practices Board and assigned staff in 2015 included:

I. Ethics Education

Requirements of the Ethics Code

The Ethics Code requires attendance at an ethics education seminar within six months of becoming a local official or employee and every four years thereafter for local officials and every three years thereafter for employees. The Ethics Code states the education seminars are to be designed and implemented by the Human Resources Department to educate local officials and employees about their duties and responsibilities under the Ethics Code. Department heads are responsible for ensuring that all of their employees attend the required ethics education seminars.

Historical Perspective and Current Statistics

Upon passage of the Ethics Code in March of 2003, a concerted effort was made through training videos to provide Ethics Code education to the entire City workforce, the elected officials and the members of the City’s boards and commissions. Subsequent training was provided in person by the ethics officer.

In 2009, the Ethics Code was amended to require refresher ethics education every three years for employees instead of every four years. The ordinance change resulted in a large number of regular employees falling out of compliance. Much effort was invested in 2009-2011 to provide ethics education opportunities to employees and remind department heads of the Ethics Ordinance education requirement and their duty to ensure their employees attend ethics education.

Since 2010 the Board's work plan included an objective to implement electronic ethics education training for City employees. In 2012, the City Council appropriated \$40,000 of 2011 rollover funds for development of electronic-based ethics education refresher training for all city personnel. The Ethics Officer collaborated with staff from the Communications and Information Technology departments to create a new electronic ethics refresher training program which was rolled out to employees in 2013. The thirty-minute electronic training module discusses conflicts of interest, issues related to outside employment, gifts and use of City property. Staff from several departments volunteered to act in the video segments to illustrate ethical issues that employees could face as they perform their duties. The training received a 2014 honorable mention in the National Association of Telecommunications Officers and Advisers' government programming awards.

With the rollout of the electronic training module, employees no longer have to travel to the classroom location and take the refresher training during pre-set times. Approximately 12% of the City's employees took the electronic refresher training module in 2015. This resulted in 82.6% of all employees, regular and seasonal, being in compliance with the required Ethics Code education as of December 31, 2015. The percent compliant is down from 88.5% in 2014.

The Ethics Officer continues to present ethics education at all new employee orientations. This in-person training will continue as it is important for all new employees to have the more intensive training at the beginning of their City employment, as well as an ethics discourse opportunity with the Ethics Officer.

Electronic ethics education remains on the Board's work plan as completion of the political activity refresher segment is in progress. In addition, planning activities have begun to create an electronic ethics game for the upcoming three-year refresher training cycle, 2017-2019.

The following chart depicts the Ethics Code education status of the employees of each department.

**Employee Ethics Education Status By Department
As of December 31, 2015**

Department	Training Received in 2015	HRIS Reported Number of Employees	Employees out of Compliance	Will Change to Out of Compliance in 2016
311	1	32	13	3
911	24	82	10	11
ASSESSOR	11	37	5	7
ATTORNEY	10	118	10	72
INFORMATION TECHNOLOGY	31	28	21	4
CITY CLERK excluding election judges and elected officials	31	71	5	7
CITY COORDINATOR	7	26	7	2
CIVIL RIGHTS	6	31	10	5
COMMUNICATIONS	0	9	4	2
CONVENTION CENTER excluding stage hands	1	263	21	4
CPED	20	236	144	40
EMERGENCY MANAGEMENT	1	7	1	0
FINANCE	29	251	107	56
FIRE DEPARTMENT	32	426	38	264
HEALTH	19	104	23	26
HUMAN RESOURCES	8	54	21	12
INTERGOVERNMENTAL RELATIONS	0	7	6	0
INTERNAL AUDIT	3	5	1	0
MAYOR	1	13	4	4
NEIGHBORHOOD & COMMUNITY ENGAGEMENT	1	17	8	4
POLICE DEPARTMENT	8	1027	116	822
PUBLIC WORKS	206	1048	101	246
REGULATORY SERVICES	55	173	40	15
Totals	505	4119	716	1606

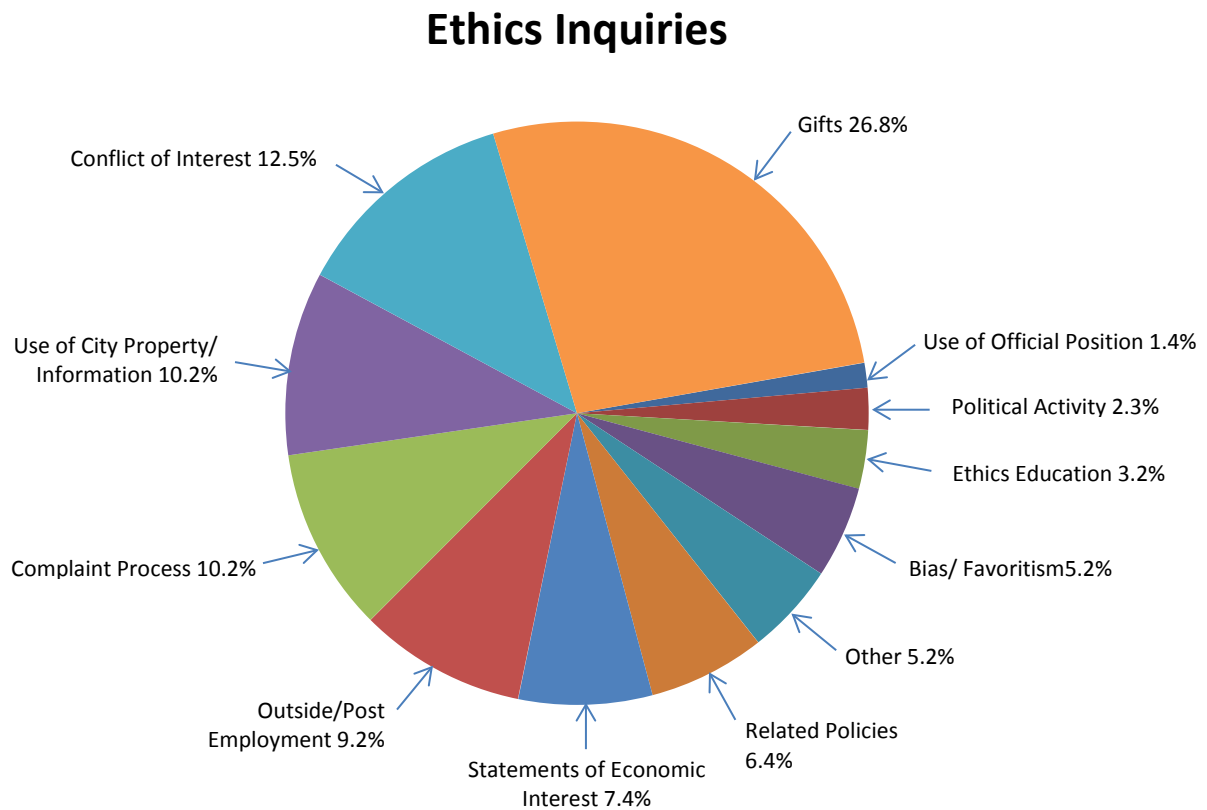
Board and Commission Ethics Code Education

The Ethics Code requires the approximately 350 citizen volunteers serving on our boards, commissions and advisory committees (collectively “boards”) to attend ethics education upon beginning their service and every four years thereafter. A 2009 gift of web-based computerized training permits the board members to participate in the training at their own convenience. The City Clerk’s office is automatically notified of the board member’s completion of the training when the member reaches the end of the training materials and supplies his/her name and board membership.

The City Clerk’s office has moved forward both a spring and a fall orientation for new board members through which it communicates the electronic ethics education requirement to newly appointed members upon appointment. The City Clerk’s office also regularly communicates with board liaisons to remind the appointed members when the refresher training is due. At the time this report was created, only 300 of the approximately 335 appointments were filled. In 2015, 52 members, 17% of the filled memberships, took the electronic ethics education while 168 of the members were out of compliance. Overall, appointed board and commission membership training compliance is at 44%.

II. Ethics Inquiries

From January 1, 2015 through December 31, 2015, the Ethics Officer answered 214 telephone and email inquiries regarding ethics.¹ The number of inquiries decreased slightly from 234 inquiries in 2014. The substantive topics of 2015 inquiries were as follows:



The top two categories of inquiries did not change from last year: Gifts and Conflict of Interest. The calls related to gifts remained the most frequent category of inquiry for the sixth consecutive year. A substantial portion of the employee ethics education sessions are devoted to gifts and it is encouraging that employees will call the Ethics Officer when faced with uncertain situations. Questions related to gifts are highly fact dependent and not easily answered by FAQ or other informational brochures.

The inquiry category "Other" contains miscellaneous inquiries which range from requests for a copy of the Ethics Code to how to file a complaint to information about serving on the Board to ethics education requirements. Changes over the years in inquiry percentages are depicted in the following chart:

¹ Inquiries presented during education sessions and in person immediately after ethics education sessions are not included in the numbers.

Category, Ethics Code Section	Percentage Inquiries 2012	Percentage Inquiries 2013	Percentage Inquiries 2014	Percentage Inquiries 2015
Aspirations, 15.10,15.20,15.130 & 15.180	0.0%	0.5%	0.0%	0.5%
Fiduciary Duty, 15.30	0.0%	0.0%	0.4%	0.5%
Conflict of Interest, 15.40	15.5%	16.2%	20.6%	12.1%
Lobbyists, 15.40(b)(4)	0.0%	1.0%	0.0%	0.0
Gifts, 15.50	30.2%	22.8%	24.9%	27.0%
Outside & Post Employment, 15.60 & 15.90	9.8%	3.6%	7.5%	9.3%
Use of Official Position, 15.70	1.8%	2.5%	4.3%	1.4%
Statements of Economic Interest, 15.80	2.0%	8.6%	4.3%	7.0%
Use of Property, 15.100	4.1%	5.1%	9.9%	8.8%
Political Activity, 15.110	6.5%	6.6%	3.6%	2.3%
Loans, 15.120	0.0%	0.0%	0.0%	0.5%
Required Reporting, 15.140	0.8%	0.0%	0.4%	0.0%
Discrimination / Harassment, 15.150	1.4%	0.0%	0.2%	0.0%
Nepotism, 15.160	3.6%	2.0%	0.4%	0.5%
Use/disclosure of Information, 15.170	0.5%	0.5%	1.2%	1.4%
Bias/Favoritism, 15.190	0.9%	0.0%	2.4%	5.1%
Inappropriate influence, 15.200	0.0%	0.0%	0.0%	0.0%
Ethical Practices Board, 15.210	0.5%	2.0%	0.8%	0.9%
Complaint Process, 15.230	3.2%	6.6%	4.0%	10.2%
Contracts, 15.250	1.2%	0.0%	0.8%	0.5%
Ethics Education, 15.260	3.2%	8.6%	5.1%	3.2%
Related Policies	17.6%	8.1%	7.1%	6.5%
Miscellaneous	4.1%	4.1%	2.0%	2.3%

III. Ethics Complaints and Ethics Report Line

Ethics Complaints

In 2015, the Ethics Officer received 47 total complaints alleging 76 violations directly and through the Ethics Report Line. Ethics Code §15.230(c) requires a supervisor or department head to notify the Ethics Officer of a report of an alleged Ethics Code violation and the subsequent outcome; this required reporting resulted in an additional 78 reports of Ethics Code violations. In addition, the HR Investigative Unit reported 34 complaints.² The Ethics Officer has been working with Departments regarding the required notifications. More departments are complying with the reporting requirement, and both the number of complaints and the increase in required reporting by department numbers reflect this compliance effort. Most notably, the police department and public works, two of the City’s largest departments, made significant efforts to notify the Ethics Officer – and, when appropriate, the Internal Auditor – of ethics situations in 2015.

The complaints were reported in the following methods:

Reporting Method ³	2010	2011	2012	2013	2014	2015
Ethics Officer	4	3	5	9	8	24
Ethics Report Line - Internet	4	7	5	13	18	10
Ethics Report Line - Telephone	9	6	7	15	17	19
Ethics Report Line - Email	0	0	0	0	10	0
Required Reporting by Department	6	8	7	4	32	74
311 – Citizen Reporting	1	2	0	2	0	1
Employee Self Reporting	0	0	0	0	1	0
Totals	24	26	24	43	86	128

² The Human Resources Investigative unit reported 34 complaints in 2015, including the complaints received via Ethics Report Line. Fourteen of the complaints resulted in Anti-Discrimination, Harassment & Retaliation (“ADH&R”) investigations and twenty of the complaints were returned to the applicable departments as non-ADH&R complaints. Nine of the complaints required counseling but not investigation. The HR Investigative Unit numbers are not included on the chart above.

³ Two complaints were reported utilizing multiple reporting mechanisms so the reporting method numbers will not equal the number of complaints received.

The use of the Ethics Report Line, both internet and phone, as a reporting mechanism has remained fairly constant as a percentage of reports in recent years. The decline in the 2015 percentage is due almost entirely to a combination of the multiple complaint filings and the increased department reporting. If the numbers are adjusted for those factors, the percentage of Ethics Report Line reports rises to 62%, a percentage more in line with historical statistics.

The historical usage of the Ethics Report Line is as follows:

Year	Ethics Report Line as a Percent of Total Reports
2009	57%
2010	54%
2011	50%
2012	50%
2013	65%
2014	51%
2015	23%

The subject matter of the 148 allegations⁴ covered the entire Ethics Code as well as other management concerns:

Subject Matter, Ethics Code Section	2010	2011	2012	2013	2014	2015
Fiduciary Duty, 15.30	6	2	3	0	2	5
Conflict of Interest, 15.40	2	1	5	1	1	2
Gifts, 15.50	1	0	0	1	0	1
Outside Employment, 15.60	0	2	3	2	1	4
Use of Official Position, 15.70	2	1	7	0	4	2
Statements of Economic Interest, 15.80	0	0	0	0	0	0
Post-employment, 15.90	0	0	0	0	0	0
Use of City Property or Time, 15.100	8	7	18	17	10	23
Political Activity, 15.110	1	1	0	1	0	0
Required Reporting of Fraud, 15.140	0	0	0	2	1	0
Discrimination/Harassment, 15.150 ⁵	3	2	2	27	14	12
Nepotism, 15.160	1	1	0	3	4	2
Use/Disclosure of Information, 15.170	0	4	4	3	3	71
Bias or Favoritism, 15.190	2	1	4	11	15	9
Inappropriate Influence, 15.200	0	2	3	0	2	2
Contract Compliance, 15.250	0	0	0	0	1	0
Employee Relations	9	3	3	4	1	5
Other Policy Violations	0	2	3	0	2	3
Compliance with other Laws	0	2	0	2	3	1
Ethical Aspirations	1	1	4	1	6	0
Other	0	0	2	1	4	6

Complaints related to the use of city property or time have historically been a substantial portion of total complaints and that trend continued in 2015. Departments reported a vast majority of the use of information allegations; the large number is suspected to be a one-time occurrence as departments

⁴ Some complaints contained more than one allegation so these numbers will not equal the number of complaints received.

⁵ Does not include the complaints received by HR's ADHR Policy investigators. See footnote 3, *supra*.

implement new data use requirements. Discrimination and harassment allegations involving protected classes are investigated by the Human Resources Lead Investigator for violations of the Anti-Discrimination, Harassment, and Retaliation Policy (“ADHR Policy”).⁶ Discrimination and harassment complaints containing non-protected class allegations are forwarded to the appropriate department for investigation. Taking into account the ADHR Policy complaints, Discrimination and Harassment allegations, consisting of both protected class and non-protected class allegations, were also some of the more frequent allegations in 2015.

The end-of-the-year status of the 2014 carryover complaints and 2015 complaints are as follows:⁷

Pending – 8	Discipline imposed – 7
Unsubstantiated, no action taken – 93	Coaching – 13
Department action taken – 6	No jurisdiction – 4
Complainant failed to cooperate – 1	Closed, no investigation (Rule 7.6) – 1
Administrative Closure – 3	

The Ethics Officer has taken the opportunity, while assisting departments with the handling of these complaints, to review and suggest changes to the departments’ internal policies. Such reviews and revisions of policies assist departments in avoiding appearances of impropriety and promote a healthy ethical culture in the City.

Ethics Report Line

The Ethics Report Line has been operational since June 1, 2008. All reports made through the Ethics Report Line are forwarded to the City’s Ethics Officer, Susan Trammell. If the report is an ADHR Policy report, it is also forwarded to the City’s Human Resources Lead Investigator, Steve Kennedy. If the report is a non-ADHR Policy allegation, it is also forwarded to Internal Auditor Will Tetsell. This process is to ensure no complaint is overlooked. Once received, the reports are forwarded as required by the Ethics Code to the appropriate official for investigation, usually the Department Head and Human Resources Generalist for the applicable department. The Ethics Officer contacts the department periodically to check on the status of the investigation until the complaint is closed.

The Network tracks statistics related to the reports made through its clients’ compliance lines:

Original Incident Reports	2013 % City	2013 % The Network	2014 % City	2014 % The Network	2015 % City	2015 % The Network
Anonymous Reports	65.6%	44.4%	70.2%	39.9%	78.4%	37.5%
Non-Anonymous Reports	34.4%	55.6%	29.8%	60.1%	21.6%	62.5%
Escalated Incident Reports	0.0%	0.9%	0.0%	0.8%	0.0%	0.7%
Previously Reported to Management	31.3%	25.4%	23.4%	22.3%	21.6%	21.2%
Caller Callbacks	7.1%	10.4%	22.1%	6.8%	5.6%	8.1%

⁶ See footnote 3, *supra*.

⁷ Some complaints contained more than one outcome so these numbers will not equal the number of complaints received.

For all years of Ethics Report Line operation, the City's anonymous reporting is significantly higher than that of The Network's other clients. Anonymous callers are instructed to re-contact the Network after a designated period of time to answer any questions the assigned investigator may have for the caller. The importance of calling back is stressed when the Ethics Report Line process is discussed during Ethics Education classes. Calling back is essential for the City to properly investigate anonymous complaints.

IV. Proposed Ordinance Amendments

The Board recommends the following amendment to the Ethics Code:

1. Changes to the Ethics Officer Provision, § 15.2200

The Board recommends amendment to the ethics officer section of the Ethics Code. The current ethics officer has taken on a new role and job title within the Office of the City Attorney. The proposed changes update the ordinance to reflect the current situation.

A potential amendment is:

15.220. - Ethics officer.

The city attorney shall designate an ~~assistant city attorney~~ from the Office of the City Attorney as the city's ethics officer. The ethics officer shall respond to local official and employee questions about this Code, give opinions on interpretation of this Code, and serve as the staff to the ethical practices board. The ethics officer shall work with the human resources department to design the ethics education seminars required by this Code. The ethics officer shall also work to promote the city's ethics program and high ethical standards in city government. The ethics officer may delegate duties to other attorneys in the Office of the City Attorney.

2014 Volunteer Hours

The three members of the Board collectively spent approximately 54 hours on work related to the Board during the 2015 calendar year. This year's business before the Board only necessitated the Board holding bi-monthly meetings and two special meetings. On average, each member spent approximately 3 hours per meeting on Board-related activities which is consistent with prior years.

2016 Work Plan

As Approved by the Ethical Practices Board

The 2016 work plan is predicated on the availability of City staff to complete the tasks requiring staff involvement.

Ethics Education

- Conduct new employee ethics education seminars.
- Fully implement political activity electronic ethics education training for City employees, appointed officials and elected officials.
- Consult with departments to determine the ethics education needs of contractors.
- Conduct ethics education seminars for departments as requested.
- Continue collaboration with the City Clerk's office to incorporate the required ethics education into the appointment process.
- Continue collaboration with the City's Communication Department to create a communication strategy to promote awareness of both ethics and the Ethics Report Line.
- Continue collaboration with Information Technology to produce an electronic ethics education game for the next three-year cycle of ethics education

Ethics Code Review

- Review City's Ethics Code and propose amendments to improve effectiveness of the Code.

Board Structure

- Research Best Practices relating to scope of board authority.

Statements of Economic Interest

- Collaborate with City Clerk and Intergovernmental Relations to pursue statutory amendments to the filing of the Statements of Economic Interest requirements.

Code Interpretation through Policy Recommendations

- Assist departments with policy drafting upon request.

Ethics Inquiries

- Answer Ethics Code inquiries from employees, local officials and the public.

Ethics Complaints and the Ethics Report Line

- Manage complaints received directly as well as from the Ethics Report Line.
- Collaborate with the City's Complaint Protocol Project

Promote an Ethical Culture in the City of Minneapolis

- Reach out to departments to engage them in discussions about their ethical cultures and ways to improve the culture.