

LOUISIANA BOARD OF ETHICS  
MINUTES  
January 20, 2012

The Board of Ethics met on January 20, 2012 at 9:00 a.m. in the LaBelle Room on the 1<sup>st</sup> floor of the LaSalle Building located at 617 North Third Street, Baton Rouge, Louisiana, with Board Members Backhaus, Blewer, Hymel, Ingrassia, Lowrey, Monroe, Schneider, Simoneaux and Stafford present. Absent was Board Member Leggio. Also present were the Ethics Administrator, Kathleen Allen; the Executive Secretary, Deborah Grier; and Counsel Tracy Barker, Aneatra Boykin, Michael Dupree, Brent Durham and Deidra Godfrey.

In its capacity as the Supervisory Committee on Campaign Finance, the Board considered a request in Docket No. 11-1434 for a waiver of the \$500 and \$500 campaign finance late fees assessed against LA Council on Legislative Action, a political committee, whose 90-P and 30-P campaign finance disclosure reports were filed 359 and 119 days late. No action was required on the matter, since the late fees had been paid.

On motion made, seconded and unanimously passed, the Board adopted the following general business agenda items:

Declined to render an advisory opinion in Docket No. 11-1311 regarding whether Nathan Ashby, Town of Blanchard Alderman, may provide compensated services to Bearing Service and Supply, Inc. while it transacts business with the Town, since the request involved past conduct. Board Member Blewer recused herself.

Adopted an advisory opinion in Docket No. 11-1381 concluding that Section 1119B(2)(a)(I) of the Code of Governmental Ethics prohibits Huan Nguyen, the son of Intercultural Charter School

Board member Vong Nguyen, from being employed as a para-professional with the charter school, since Huan Nguyen is not certified to teach.

Adopted an advisory opinion in Docket No. 11-1756 concluding that no violation of the Code of Governmental Ethics is presented by Susan Lindsey accepting employment with the Orleans Parish Prison (OPP) following her retirement as the Regional Administrator of the Division of Probation and Parole, Region 3 with the Department of Corrections, since Ms. Lindsey was the agency head for the Probation and Parole Division of the Department of Corrections for which Section 1121A of the Code of Governmental Ethics would be applicable. Section 1121A provides that no former agency head shall, for a period to two years following the termination of his public service as the head of such agency, assist another person, for compensation, in a transaction, or in an appearance in connection with a transaction involving that agency or render any service on a contractual basis for such agency. Section 1102(16) of the Code of Governmental Ethics defines a person as an individual or legal entity other than a governmental entity or agency thereof. Thus, the Code would not prohibit Ms. Lindsey's employment since the OPP is a governmental entity.

Adopted an advisory opinion in Docket No. 11-1772 concluding that no violation of Section 1121B(1) of the Code of Governmental Ethics is presented by Don Maddox performing contract work for the Caddo Levee District following his retirement from the Department of Transportation and Development (DOTD) since the Levee District is not a "person" for purposes of the Code of Governmental Ethics; however, Section 1121B(1) of the Code of Governmental Ethics prohibits Mr. Maddox, for a period of two years following his retirement from DOTD, from contracting back with the DOTD to perform a service that he performed as an employee. Based on the information provided in the advisory opinion request, Mr. Maddox will not be performing such services "to, for,

or on behalf” of his former agency (the DOTD).

Adopted an advisory opinion in Docket No. 11-1776 concluding that Section 1113A of the Code of Governmental Ethics prohibits Jack’s All Ya’ Need, a company which was purchased by TBEC, LLC which is owned by Cynthia Martin, from transacting business with the Vernon Parish School Board while Mrs. Martin’s husband, Randy Martin, serves on the Vernon Parish School Board.

By a vote of 6 yeas by Board Members Blewer, Ingrassia, Lowrey, Monroe, Simoneaux and Stafford and 3 nays by Board Members Backhaus, Hymel and Schneider, adopted an advisory opinion in Docket No. 11-1781 concluding that no violation of the Code of Governmental Ethics is presented by Jesse Evans Jr., the Director of the New Orleans Employees' Retirement System, accepting a door prize that he received at a Louisiana Trustee Education Council (LATEC) symposium, since, despite the fact that Mr. Evans attended the conference in his capacity as a public employee, the Board considered other factors in reaching its conclusion, specifically, that the prize awarded was a scholarship, and that the winner(s) were selected at random in reaching its conclusion that acceptance of the scholarship would not be a violation of Section 1111A(1) of the Code.

Adopted an advisory opinion in Docket No. 11-1795 concluding that no violation of the Code of Governmental Ethics is presented by Holly Boffy, a newly elected member of the Board of Elementary and Secondary Education (BESE), continuing to be a paid consultant with the Council of Chief State School Officers (CCSSO) Educator Evaluations Program, since the CCSSO is a national nonprofit membership organization and does not have a relationship with BESE.

Adopted an advisory opinion in Docket No. 11-1852 concluding that no violation of the Code of Governmental Ethics is presented by the Mayor of Tallulah, Tallulah Council members, the

Tallulah Chief of Police, appointed officials and employees of the City of Tallulah from donating funds to their respective agencies as long as said donations of funds are unconditional. The Board also concluded that the Code of Governmental Ethics would not prohibit vendors and contractors of the City of Tallulah from donating funds to the City of Tallulah as long as such donations are unconditional. The Board further concluded that the issue of procedures and who is responsible for paying for any professional advice and services, including tax advice and estate planning, necessary to implement the donations or voluntary relinquishments of compensation is not under the jurisdiction of the Board and that guidance from the Attorney General's office on those matters should be sought.

Adopted an advisory opinion in Docket No. 11-1876 concluding that no violation of the Code of Governmental Ethics is presented by Quadel Consulting Corp submitting a proposal to the Louisiana Housing Authority (LHA) to serve as the Subsidy Administrator for the LHA Project-Based Voucher Program, since the current contracts that Quadel has with the Office of Community Development (OCD) are separate and distinct from the LHA Program and since Quadel did not participate in the drafting of the RFP for this contract nor do they have any current or prior agreements with LHA, Quadel would not have a greater benefit than any other company that submitted a proposal in response to the RFP.

The Board considered the following general business agenda items:

On motion made, seconded and unanimously passed, the Board approved the minutes of the December 15-16, 2011 meetings.

The Board considered a request for an advisory opinion in Docket No. 11-1762 regarding William Owens working for the Mary Rives Gallaspy Trust #2, which has a financial relationship

with Northwestern State University Foundation, while Mr. Owens is employed with Northwestern State University. On motion made, seconded and unanimously passed, the Board deferred the matter to the February meeting and instructed the staff to obtain additional information.

In its capacity as the Supervisory Committee on Campaign Finance Disclosure, the Board considered requests for “good cause” waivers of late fees assessed against the following candidates and political action committees:

The Board unanimously declined to waive the late fees assessed against the following:

Docket No. 11-1497 from the American Sugar Cane League of a \$500 late fee;  
Docket No. 11-1816 from Lennie Graham, Jr. of a \$120 late fee;  
Docket No. 11-1835 from Joel Morgan of a \$60 late fee;  
Docket No. 11-1836 from Clarence Williams of a \$420 late fee;  
Docket No. 11-1838 from LA FAM PAC of a \$2,000 late fee;  
Docket No. 11-1839 from Randall M. “Randy” Deshotel of a \$300 late fee;  
Docket No. 11-1844 from Gerald “Scooter” Hamms of a \$673 late fee;  
Docket No. 11-1845 from John “Sam” Craft of a \$600 late fee; and,  
Docket No. 11-1846 from Heurlin C. Delpit of a \$660 late fee.

In its capacity as the Supervisory Committee on Campaign Finance Disclosure, the Board considered a request in Docket No. 11-1808 for a waiver of the \$480 late fee assessed against Steve Guidry, a candidate for Sheriff of St. John the Baptist Parish in the October 22, 2011 election, whose 10-P campaign finance disclosure report was filed 8 days late. On motion made, seconded and unanimously passed, the Board declined to waive the \$480 late fee but suspended \$380 based on the waiver guidelines and conditioned upon future compliance with the Campaign Finance Disclosure Act.

In its capacity as the Supervisory Committee on Campaign Finance Disclosure, the Board considered a request in Docket No. 11-1810 for a waiver of the \$540 late fee assessed against Marques Johnson, a candidate for City Court Marshal for the City of Oakdale in the October 22,

2011 election, whose 30-P campaign finance disclosure report was filed 9 days late. On motion made, seconded and unanimously passed, the Board declined to waive the \$540 late fee but suspended \$340 based on the waiver guidelines and conditioned upon future compliance with the Campaign Finance Disclosure Act.

In its capacity as the Supervisory Committee on Campaign Finance Disclosure, the Board considered a request in Docket No. 11-1815 for a waiver of the \$540 late fee assessed against Gene Molinary, a candidate for Assessor for St. Bernard Parish in the October 22, 2011 election, whose 10-P campaign finance disclosure report was filed 9 days late. On motion made, seconded and unanimously passed, the Board declined to waive the \$540 late fee but suspended \$440 based on the waiver guidelines and conditioned upon future compliance with the Campaign Finance Disclosure Act.

In its capacity as the Supervisory Committee on Campaign Finance Disclosure, the Board considered a request in Docket No. 11-1841 for a waiver of the \$420 campaign finance late fee assessed against Timothy A. Tobin, Jr., a candidate for St. Bernard Parish President, in the October 22, 2011 election, whose 30-P campaign finance disclosure report was filed 7 days late. On motion made, seconded and unanimously passed, the Board declined to waive the \$420 late fee but suspended \$220 based on the waiver guidelines and conditioned upon future compliance with the Campaign Finance Disclosure Act.

In its capacity as the Supervisory Committee on Campaign Finance Disclosure, the Board considered a request in Docket No. 11-1813 for a waiver of the \$420 late fee assessed against Joe Panichella, a candidate for Sheriff of Avoyelles Parish in the October 22, 2011 election, whose Special campaign finance disclosure report was filed 7 days late. On motion made, seconded and

unanimously passed, the Board reduced the \$420 late fee to \$240, since the Special campaign finance disclosure report disclosed \$1,000 in activity and late fees for Special reports do not accrue after the date of the election; therefore, Mr. Panichella's report was only 4 days late.

In its capacity as the Supervisory Committee on Campaign Finance Disclosure, the Board considered a request in Docket No. 11-1814 for a waiver of the \$1,200 late fee assessed against Russell Armstrong, a candidate for BESE, District 8 in the October 22, 2011 election, whose 10-P campaign finance disclosure report was filed 12 days late. On motion made, seconded and unanimously passed, the Board reduced the \$1,200 late fee to \$100, since it was Mr. Armstrong's first time to electronically file.

In its capacity as the Supervisory Committee on Campaign Finance Disclosure, the Board considered a request in Docket No. 11-1834 for a waiver of the \$480 late fee assessed against Walter A. Bennetti, a candidate for Jefferson Parish Council in the October 22, 2011 election, whose 30-P campaign finance disclosure report was filed 8 days late. On motion made, seconded and unanimously passed, the Board reduced the \$480 late fee to \$100, since it was Mr. Bennetti's first time to electronically file.

In its capacity as the Supervisory Committee on Campaign Finance Disclosure, the Board considered a request in Docket No. 11-1842 for a waiver of the \$480 late fee assessed against Ernest Baylor, Jr., a candidate for State Representative, 3rd District, in the October 22, 2011 election, whose 10-P campaign finance disclosure report was filed 8 days late. On motion made, seconded and unanimously passed, the Board reduced the \$480 late fee to \$100, since it was Mr. Baylor's first time to electronically file.

In its capacity as the Supervisory Committee on Campaign Finance Disclosure, the Board

considered a request in Docket No. 11-1843 for a waiver of the \$720 campaign finance late fee assessed against Ferrante "Coach" Dominique, a candidate for Clerk of Court for Iberville Parish, in the October 22, 2011 election, whose 30-P campaign finance disclosure report was filed 12 days late. On motion made, seconded and unanimously passed, the Board waived \$620 of the \$720 late fee, since it was Mr. Dominique's first election and he withdrew as a candidate 3 days after he qualified.

The Board considered requests for "good cause" waivers of late fees assessed against the following lobbyists:

The Board unanimously declined to waive the \$50 late fee in Docket No. 11-1917 assessed against Dr. Chuck Brown for failure to timely file his October 2011 Legislative and Executive lobbying expenditure report.

The Board unanimously waived the \$50 late fee in Docket No. 11-1918 assessed against Frederic Washington for failure to timely file his September 2011 Legislative and Local lobbying expenditure report, since Mr. Washington filed his Legislative and Local ER-09/11 reports at 11:50 p.m. on the due date.

The Board unanimously agreed to consider the following supplemental agenda items:

The Board considered a request for an advisory opinion in Docket No. 11-1632 regarding whether Mr. Steven R. Thomas is required to pay the utilities at the 11<sup>th</sup> & 42<sup>nd</sup> Judicial District Indigent Defender's Office from his personal salary as Chief Defender or whether payment can be made from the 11<sup>th</sup> & 42<sup>nd</sup> Judicial District Indigent Defender Fund. On motion made, seconded and unanimously passed, the Board concluded that no violation of the Code of Ethics would appear to be presented if the payment of the utilities were paid from the 11<sup>th</sup> & 42<sup>nd</sup> Judicial District Indigent



Defender Fund, since Mr. Thomas, by paying the utilities from the fund would not be entering into a contract, subcontract, or transaction under the supervision or jurisdiction of his agency (the 11<sup>th</sup> & 42<sup>nd</sup> Judicial District Indigent Defender's Office). Mr. Thomas will not be negotiating a separate contract with the Louisiana Public Defender Board or the 11<sup>th</sup> & 42<sup>nd</sup> Judicial District Indigent Defender Office but will rather simply be paying directly from the fund established by La. R.S. 15:168. The utilities to be paid from this fund are similar to other payments that are made from the fund (e.g. supplies, attorney's salaries, and expert witness fees, etc.). The Board further concluded, based upon to statements made by Mr. Thomas and General Counsel for the Louisiana Public Defender Board, that Mr. Thomas administers his own district public defender fund, and determines how the money in the fund is spent. Therefore, the Code of Governmental Ethics would not prohibit the 11<sup>th</sup> & 42<sup>nd</sup> Judicial District Indigent Defender Fund from paying the named utilities.

The Board considered a request for an advisory opinion in Docket No. 11-1854 regarding whether George Brent Nobles and his company may provide engineering services for renovations projects within the Bogalusa City School System. On motion made, seconded and unanimously passed, the Board (1) with respect to whether Mr. Nobles may submit a proposal for professional services to the Bogalusa City School System in light of his service on the volunteer community advisory panel, the Board declined to render an advisory opinion on this issue, since Mr. Nobles had resigned from the panel; (2) with respect to whether Mr. Nobles may submit the proposal for professional engineering services upon his resignation from the panel, the Board concluded that the termination of Mr. Nobles' service on the panel triggers the post-employment restrictions in the Code of Governmental Ethics. These restrictions, however, will not prohibit Mr. Nobles or his company from serving as the engineer of record should his proposal be accepted, since Mr. Nobles

will not be assisting another person in a transaction in which he participated. Also, the services he provided as a member of the panel (the identification of renovation needs) are different than those he would provide should he and his firm be selected by the school system to provide architectural and engineering design. Further, Mr. Nobles will not be contracting to render any service he previously rendered to the advisory panel; (3) with respect to whether the fact that Mr. Nobles' wife is a principal of one of the schools in the Bogalusa City School System creates a conflict of interest, the Board concluded that the fact that Mr. Nobles' wife is a principal at one of the schools in the school system does not prohibit Mr Nobles from submitting the proposal to the school system or ultimately serving as the engineer of record, since Mr. Nobles' wife's agency is limited to the school where she serves as principal. The proposal is not under the supervision of the any one school, rather it is under the supervision and jurisdiction of the school system; and, (4) with respect to whether Mr. Nobles' submission of the RFQ would be in violation of the conflicts of interest provisions found in Title 46 of the Louisiana Administrative Code, the Board declined to render an opinion as to the applicability of these provisions, since the Board does not have jurisdiction over those matters.

The Board considered a request for an advisory opinion in Docket No. 12-011 regarding whether Paul Distefano, a member of the Iberville Parish School Board, may apply for a teaching/coaching position within the Iberville Parish School System. After hearing from Brandy Blanchard, Iberville Parish School System Personnel Director, an on motion made, seconded and passed by a vote of 7 yeas by Board Members Backhaus, Blewer, Lowrey, Monroe, Schneider, Simoneaux and Stafford and 2 nays by Board Members Hymel and Ingrassia, the Board concluded that no violation of the Code of Governmental Ethics is presented by the employment of Paul Distefano for a teaching position within the Iberville Parish School System while he serves as a

member of the Iberville Parish School Board, since Mr. Distefano is a certified classroom teacher. The Board further concluded that additional coaching duties could be assigned to Mr. Distefano.

The Board considered a request for an advisory opinion in Docket No. 12-012 regarding whether Patrick Morrow may be appointed to serve on the St. Landry Parish Hospital Service District No. 2 while he and his law firm, Morrow, Morrow, Ryan and Basset, represent the hospital in a class action lawsuit. On motion made, seconded and unanimously passed, the Board deferred the matter to the February meeting and instructed the staff to obtain additional information.

The Board considered the proposed rules in connection with fee waiver/appeal requests. Following discussion of the proposed rules, on motion made, seconded and unanimously passed, the Board instructed the staff to proceed with promulgation of the rules.

Ms. Allen provided an overview of the 2012 proposed legislative suggestions. Ms. Allen advised the Board that the proposed legislative suggestions contained in Nos. 1-10 in the Code of Governmental Ethics section were suggestions made prior to the 2011 Legislative Session. Following discussion, on motion made, seconded and unanimously passed, the Board instructed the staff to remove the proposed suggestion in No. 5 which required all financial information submitted to the Louisiana Board of Ethics be electronically filed. All other proposed suggestions in the Code of Governmental Ethics section would remain. With respect to the proposed legislative suggestions in the Campaign Finance section, the Board instructed the staff to draft a memo for the Board's consideration at the February meeting regarding No. 1 which suggests a definition for the terms "personal use," "related to a political campaign," and the "holding of public office." R.S. 1505.2I provides that "contributions. . .may be expended for any lawful purpose, but such funds shall not be used, loaned, or pledged by any person for any personal use unrelated to a

political campaign, the holding of a public office.” Ms. Allen advised the Board that No. 7 was added to the proposed suggestions to remove reference to the Supervisory Committee on Campaign Finance Disclosure in the Campaign Finance Disclosure Act; and, to request clarification throughout the statute as to the role of the Board of Ethics and the adjudicatory functions of the Ethics Adjudicatory Board. With respect to the proposed legislative suggestions in the Mandatory Training section, Ms. Allen advised the Board that issues have been raised as to the definition of “public servant” in Section 1170 and who is required to receive the mandatory annual training on the Code of Governmental Ethics. On motion made, seconded and unanimously passed, the Board approved the drafted legislative suggestions as amended.

The Board considered the proposed training rules. Following discussion of the proposed rules, on motion made, seconded and unanimously passed, the Board instructed the staff to remove the portion in Section 2405A(2) which makes reference to the application including a one hour video of the applicant delivering a Code of Governmental Ethics presentation that is representative of the style and substance of the applicant’s work product. The Board unanimously approved the remaining proposed training rules.

The Board unanimously deferred to the February meeting, a request in Docket No. 11-1499 for a waiver of the \$1,400 late fee assessed against NOBLE PAC, a political committee whose 90-P campaign finance disclosure report was filed 7 days late.

The Board recessed at 12:11 p.m. and resumed 12:22 p.m. with Board Member Lowrey absent from the room.

On motion made, seconded and unanimously passed, the Board resolved into executive session.

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**EXECUTIVE SESSION**

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The Board unanimously resolved into general session and adjourned at 1:34 p.m.

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Secretary

APPROVED:

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Chairman

