

**CITY OF MADISON ETHICS BOARD**  
**Report and Recommendation to Common Council**  
**Re: Complaint against Shadayra Kilfoy-Flores**  
**Hearing Date: December 17, 2024**

**ETHICS BOARD RECOMMENDATION**

On December 17, 2024, the City of Madison Ethics Board unanimously voted that Shadayra Kilfoy-Flores had violated the City of Madison Ethics Code found in Madison General Ordinance 3.35(5)(a)1 when she attempted to use her office to gain an advantage, privilege or treatment for the private benefit of herself or her immediate family. The Board unanimously voted to recommend a sanction that Kilfoy-Flores not be appointed to a City board, commission or committee for a period of 12 months and that, if she is appointed to a City body in the future, that she undergo training regarding the Ethics Code during the first month of service.

**BACKGROUND**

On July 26, 2024 Emily Samson (Samson) filed a complaint with the City of Madison Ethics Board (Board) alleging that Shadayra Kilfoy-Flores (Kilfoy-Flores) violated the City of Madison Ethics Code, specifically Madison General Ordinance (MGO) 3.35(5)(a)(1) and (3).

On October 1, 2024, the Ethics Board held a jurisdictional hearing per MGO 3.35(12) and the Ethics Board Policy Manual. The Board found that it has jurisdiction to hear this complaint for the following reasons:

- Complainant Samson is a Madison resident;
- Respondent Kilfoy-Flores held a City position as the Chair of the Police Civilian Oversight Board (PCOB) on October 20, 2023, the date of the alleged conduct;
- The City Ethics Code covers the alleged conduct;
- The complaint had been timely filed within 12 months of the alleged conduct.

After finding jurisdiction, the Board scheduled a hearing on the complaint for November 25, 2024. On November 25, 2024, Kilfoy-Flores requested a continuance of the hearing. After hearing from both parties regarding whether to grant the continuance, the Board granted the request and rescheduled the hearing for December 17, 2024.

At the December 17, 2024 hearing, the Board heard presentations from both parties. The Chair of the Ethics Board placed the parties under oath before they gave their testimony. First, the Board heard a statement from Complainant Samson. The Board watched a video clip of a Madison Police Department dash camera and took note of a sworn written statement submitted by Madison Police Officer Ryan Kimberley. Respondent Kilfoy-Flores' attorney cross examined

the complainant. Next, Kilfoy-Flores and her attorney presented her case which included sworn testimony by Kilfoy-Flores. Complainant Samson had the opportunity to cross examine Kilfoy-Flores, but she declined to do so. Board members asked questions of the parties at various times throughout the hearing. Each party gave a final closing argument to sum up their positions on the complaint. After the hearing, the Board entered closed session to discuss and decide the case.

## **DISCUSSION**

### **I. Ethics Code Violation**

During closed session, the Ethics Board first focused on determining whether Kilfoy-Flores had violated the City of Madison Ethics Code, MGO 3.35(5)(a)1 and 3 which read:

1. Use of Office or Position. No incumbent may use or attempt to use her or his position or office to obtain financial gain or anything of value or any advantage, privilege or treatment for the private benefit of herself or himself or her or his immediate family, or for an organization with which she or he is associated. This paragraph does not prohibit an incumbent from using the title or prestige of her or his office to obtain campaign contributions that are permitted and reported as required by Wis. Stat. ch. 11.

3. Limitations on Actions. Except as otherwise provided in paragraph 4, no incumbent may:

a. Take any official action affecting, directly or indirectly, a matter in which she or he, a member of her or his immediate family, or an organization with which she or he is associated has a financial or personal interest;

b. Use her or his office or position in a way that produces or assists in the production of a benefit, direct or indirect, for her or him, a member of her or his immediate family either separately or together, or an organization with which the incumbent or her or his immediate family member is associated.

After discussing the evidence presented at the hearing, the Board unanimously voted that Kilfoy-Flores had violated MGO 3.35(5)(a)1 by attempting to use her office to gain an advantage, privilege or treatment for the private benefit of herself or her immediate family. The Board did not find a violation of MGO 3.35(5)(a)3.

To make this determination, the Board considered the information presented at the hearing by both parties. While the Board heard some information during the hearing that was unrelated to the specific date of the conduct in question, the Board focused its discussion and determination on the evidence surrounding the conduct of October 20, 2023. A key piece of evidence the

Board considered was the video of Kilfoy-Flores' conduct that led to the complaint. The video was captured on a Madison Police Department squad car when officers responded to a disturbance which led to the arrest of Kilfoy-Flores' daughter. Kilfoy-Flores admitted that the voice in the video was her own and that she did say the things heard in the video. While the content of the video was undisputed, Kilfoy-Flores made arguments for how her statements should be interpreted.

The Board members noted that among other comments, Kilfoy-Flores could be heard in the video saying: "No, no, no, you are NOT taking her" when officers began to place her daughter under arrest. The audio is clear that Kilfoy-Flores claimed to the officer that she would "call Chief Barnes right now and explain to him how this was handled". The Board also heard Kilfoy-Flores declare in the video: "Officer Kimberley, do you know who I am? I'm the Chair of Madison's Police Civilian Oversight Board. You'll be thoroughly investigated to make sure that any, any, of your arrests having to do with young Black women...you'll be thoroughly investigated". At some point in the video, Kilfoy-Flores also stated she would call "JP" which is a known nickname for Assistant Police Chief John Patterson.

During their discussion, the Board acknowledged that Kilfoy-Flores' conduct did not seem to be a pre-meditated attempt to gain influence and Board members believed her testimony that she acted in the heat of the moment when she was involved in a difficult situation regarding her daughter's arrest. However, even though this conduct was likely a spontaneous mistake, it was still a violation of the ethics code. No appointed members of City boards, commissions, and committees (BCCs) may attempt to use their positions to gain any advantage, privilege, or treatment for the private benefit of themselves or their immediate family. This provision of the ethics code applies regardless of the circumstances or intent of the conduct.

While some arguments during the hearing focused on whether Kilfoy-Flores actually obtained any financial gain or anything of value from her conduct, the Board specifically notes that is not an element required to find a violation of MGO 3.35(5)(a)1. The ordinance includes the word "attempt"; therefore, if an incumbent attempted to do so, they need not actually obtain a benefit to run afoul of the ethics code. Additionally, the Board based its decision on the part of the ordinance that comes after "financial gain or anything of value". The ordinance prohibits attempting to use one's position to obtain "any advantage, privilege or treatment". The Board determined that Kilfoy-Flores' conduct on October 20, 2023, was an attempt to obtain an advantage, privilege or treatment which would not have been available to the general public by using her position as Chair of the PCOB.

## II. Sanctions

Once the Board found a violation of MGO 3.35(5)(a)<sup>1</sup>, it turned to the discussion of whether sanctions were appropriate in this case, and if so, what type of sanctions it would recommend to Common Council. The potential sanctions of MGO 3.35(13) applicable to this complaint are as follows:

Sanctions. Violation of any provisions of this code should raise conscientious questions for the incumbent concerned as to whether voluntary resignation or other action is indicated to promote the best interests of the City of Madison. If the Ethics Board determines that any person or entity has violated any provision of this code, the Board may, as part of its report to the Common Council, make any of the following recommendations:

...

(b) In the case of a member of a board, committee or commission, that the Mayor or other appointing authority consider removing the member from the board, committee or commission, or otherwise sanctioning, censuring or reprimanding the member;

...

(e) As an alternative or an addition to the sanctions imposed herein, that any person violating the provisions of this section shall be subject to a nonreimbursable forfeiture of not more than two thousand five hundred dollars (\$2,500) per violation in an action brought by the City in Municipal Court. Each day of a violation may be considered a separate offense.

First, the Board does not recommend that an action be brought in Municipal Court to impose a forfeiture under MGO 3.35(13)(e). Second, since Kilfoy-Flores' term had ended before the complaint hearing, she could not voluntarily resign, nor could the Board recommend that the Mayor consider removing Kilfoy-Flores from her position.<sup>1</sup> However, the code contemplates "otherwise sanctioning, censuring or reprimanding the member". MGO 3.35(13)(b). While it was mentioned during the hearing, the Board did not find it appropriate to recommend a permanent ban on Kilfoy-Flores serving on BCCs in the future. Instead, considering the circumstances of this complaint, the Board recommends a 12-month period where Kilfoy-Flores not be appointed to a BCC. If Kilfoy-Flores is appointed to a BCC after that 12-month period, the Board recommends that she receive training on the Ethics Code within the first month of appointment.

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<sup>1</sup> Kilfoy-Flores' term on the PCOB was set to expire on September 30, 2024 but was extended per MGO 33.01(6)(d) for 90 days or until a successor was appointed and confirmed. A successor was confirmed by Common Council on November 26, 2024, thus ending Kilfoy-Flores' extended term.

## CONCLUSION

The City of Madison Ethics Board found that Shadayra Kilfoy-Flores violated the City of Madison Ethics Code MGO 3.35(5)(a)1 on October 20, 2023, when she attempted to use her position on a City board, commission or committee to gain an advantage, privilege or treatment for the private benefit of herself or her immediate family. The Board unanimously recommends that Kilfoy-Flores not be appointed to a City board, commission or committee for a period of 12 months and that, if she is appointed to a City body in the future, that she undergo training regarding the Ethics Code during the first month of service. The Ethics Board respectfully submits this report and recommendation to the Common Council.

January 9, 2025

FOR THE ETHICS BOARD:



Amber R. McReynolds. Assistant City Attorney  
Counsel to City of Madison Ethics Board