

LAKE COUNTY ETHICS ORDINANCE

WHEREAS, on May 11, 2004, this County Board adopted the Lake County Ethics Ordinance in accordance with the State Officials and Employees Ethics Act (Public Act 93-615, effective November 19, 2003, as amended by Public Act 93-617, effective December 9, 2003), regulating ethical conduct, political activities and the solicitation and acceptance of gifts by State Officials and employees; and

WHEREAS, the Ethics Ordinance requires Lake County elected and appointed officials and employees to comply with regulations contained therein; and

WHEREAS, the Ethics Ordinance imposes penalties for violations of its regulations; and

WHEREAS, the amended Ethics Ordinance provides for the State's Attorney's Office to conduct investigations and prosecute violators in the 19th Judicial Circuit Court; and

WHEREAS, because the Ethics Ordinance provides for the imposition of significant penalties for violations of said local regulations, it is necessary to adopt the required regulations by Ordinance rather than Resolution.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY BOARD OF LAKE COUNTY, ILLINOIS, AS FOLLOWS:

**ETHICS ORDINANCE
FOR THE COUNTY OF LAKE, ILLINOIS**

BE IT ORDAINED by the County Board of the County of Lake, Illinois:

PURPOSE

The Illinois General Assembly has enacted the State Officials and Employees Ethics Act (Public Act 93-615, effective November 19, 2003, as amended by Public Act 93-617, effective December 9, 2003), which is a comprehensive revision of State statutes regulating ethical conduct, political activities and the solicitation and acceptance of gifts by State officials and employees.

The Act requires all units of local government to adopt ordinances or resolutions regulating the political activities of, and the solicitation and acceptance of gifts by, the officers and employees of such units "in a manner no less restrictive" than the provisions of the Act.

The clear intention of the Act requires units of local government to implement regulations that are at least as restrictive as those contained in the Act, and to impose penalties for violations of those regulations that are equivalent to those imposed by the Act, notwithstanding that such penalties may exceed the general authority granted to units of local government to penalize ordinance violations.

The clear intention of the Act provides units of local government with all authority necessary to implement its requirements on the local level regardless of any general limitations on the power to define and punish ordinance violations that might otherwise be applicable.

ARTICLE I
DEFINITIONS

Section 1-1. For purpose of this ordinance, the following terms shall be given these definitions:

“Appointed Official” means a person who is selected by the County Board or County Chairperson to serve on a Committee or other group whose purpose is to provide recommendations, advice and/or guidance to the Lake County Board.

“Campaign for elective office” means any activity in furtherance of an effort to influence the selection, nomination, election or appointment of any individual to any federal, State or local public office or office in a political organization, or the selection, nomination, or election of Presidential or Vice Presidential electors, but does not include activities (i) relating to the support or opposition of any executive, legislative, or administrative action, (ii) relating to collective bargaining, or (iii) that are otherwise in furtherance of the person’s official duties.

“Candidate” means a person who filed nominating papers or petitions for nomination or election to an elected office within Lake County, or who has been appointed to fill a vacancy in nomination in Lake County, and who remains eligible for placement on the ballot at a regular election, as defined in sections 1-3 of the Election Code (10 ILCS 5/1-3) as amended.

“Collective Bargaining” has the same meaning as that term is defined in Section 3 of the Illinois Public Labor Relations Act (5 ILCS 315/3) as amended.

“Compensated time” means, with respect to an employee, any time worked by or credited to the employee that counts toward any minimum work time requirement imposed as a condition of his or her employment, but for purposes of this Ordinance, does not include any designated holidays, vacations periods, personal time, compensatory time off or any period when the employee is on a leave of absence. With respect to officers or employees whose hours are not fixed, “compensated time” includes any period of time when the officer is on premises under the control of the employer and any other time when the officer or employee is executing his or her official duties, regardless of location.

“Compensatory time off” means authorized time off earned by or awarded to an employee to compensate in whole or in part for time worked in excess of the minimum work time required of that employee as a condition of his or her employment.

“Contribution” has the same meaning as that term is defined in section 9-1.4 of the Election code (10 ILCS 5/9-1.4) as amended.

“Employee” means a person employed by Lake County, whether on a full-time or part time basis or pursuant to a contract, whose duties are subject to the direction and control of an employer with regard to the material details of how the work is to be performed, but does not include an independent contractor.

“Employer” means Lake County.

“Gift” means any gratuity, discount, entertainment, hospitality, loan, forbearance, or other tangible or intangible item having monetary value including, but not limited to, cash, food and drink, and honoraria for speaking engagements related to or attributable to government employment or the official position of an officer or employee. “Gift” shall not include anything given or received by a law enforcement officer in the course of an undercover investigation if the officer has no intent to retain such gift personally.

“Immediate Family Member” means spouse, son, daughter, parent in-law or parent.

“Leave of absence” means any period during which an employee does not receive (i) compensation for employment, (ii) service credit towards pension benefits, and (iii) health insurance benefits paid for by the employer.

“Officer” means a person who holds, by election or appointment, an office created by statute or ordinance, regardless of whether the officer is compensated for service in his or her official capacity.

“Political activity” means any activity in support of or in connection with any campaign for elective office or any political organization, but does not include activities (i) relating to the support or opposition of any executive, legislative, or administrative action, (ii) relating to collective bargaining, or (iii) that are otherwise in furtherance of the person’s official duties.

“Political organization” means a party, committee, associate, fund or other organization (whether or not incorporated) that is required to file a statement of organization with the State Board of Elections or a county clerk under Section 9-3 of the Election Code (10 ILCS 5/9-3) as amended, but only with regard to those activities that require filing with the State Board of Elections or a county clerk.

“Prohibited political activity” means:

- (1) Preparing for, organizing, or participating in any political meeting, political rally, political demonstration or political event.
- (2) Soliciting contributions, including but not limited to the purchase of, selling, distributing, or receiving payment for tickets for any political fundraiser, political meeting, or other political event
- (3) Soliciting, planning the solicitation of, or preparing any document or report regarding anything of value intended as a campaign contribution
- (4) Planning, conducting, or participating in public opinion polls in connection with a campaign for elective office or on behalf of a political organization for political purposes or for or against any referendum question
- (5) Surveying or gathering information from potential or actual voters in an election to determine probable vote outcome in connection with a campaign for elective office or on behalf of a political organization for political purposes or for or against any referendum question

- (6) Assisting at the polls on election day on behalf of any political organization or candidate for elective office or for or against any referendum question.
- (7) Soliciting votes on behalf of a candidate for elective office or a political organization or for or against any referendum question or helping in an effort to get voters to the polls.
- (8) Initiating for circulation, preparing, circulating, reviewing or filing any petition on behalf of a candidate for elective office or for or against any referendum question.
- (9) Making contributions on behalf of any candidate for elective office in that capacity or in connection with a campaign for elective office.
- (10) Preparing or reviewing responses to candidate questionnaires
- (11) Distributing, preparing for distribution, or mailing campaign literature, campaign signs, or other campaign material on behalf of any candidate for elective office or for or against any referendum question.
- (12) Campaigning for any elective office or for or against any referendum question
- (13) Managing or working on a campaign for elective office or for or against any referendum question
- (14) Serving as a delegate, alternate, or proxy to a political party convention
- (15) Participating in any recount or challenge to the outcome of any election

“Prohibited source” means any person or entity who:

- (1) is seeking official action (i) by the officer or (ii) by the employee, or by the officer or another employee directing the employee;
- (2) does business or seeks to do business (i) with the officer or (ii) with an employee, or by the officer or another employee directing the employee;
- (3) conducts activities regulated (i) by the officer or (ii) by the employee, or by the officer or another employee directing the employee
- (4) has interests that may be substantially affected by the performance or non performance of the official duties of the officer or employee

ARTICLE 5
PROHIBITED POLITICAL ACTIVITIES

Section 5-1. Prohibited political activities. (a) No officer or employee shall intentionally perform any prohibited political activity during any compensated time, as defined herein. No officer or employee shall intentionally use any property or resources of Lake County in connection with any prohibited political activity.

(b) At no time shall any officer or employee intentionally require any other officer or employee to perform any prohibited political activity (i) as part of that officer or employee's duties, (ii) as a condition of employment, or (iii) during any compensated time off (such as holidays, vacation or personal time off).

(c) No officer or employee shall be required at any time to participate in any prohibited political activity in consideration for that officer or employee being awarded additional compensation or any benefit, whether in the form of a salary adjustment, bonus, compensatory time off, continued employment or otherwise, nor shall any officer or employee be awarded additional compensation or any benefit in consideration for his or her participation in any prohibited political activity.

(d) Nothing in this Section prohibits activities that are permissible for an officer or employee to engage in as part of his or her official duties, or activities that are undertaken by an officer or employee on a voluntary basis which are not prohibited by this Ordinance.

(e) No person either (i) in a position that is subject to recognized merit principles of public employment or (ii) in a position the salary for which is paid in whole or in part by federal funds and that is subject to the Federal Standards for a Merit System of Personnel Administration applicable to grant-in-aid programs, shall be denied or deprived of employment or tenure solely because he or she is a member or an officer of a political committee, of a political party, or of a political organization or club.

Section 5-2. Influencing hiring decisions and vendor selection. No County Board member or appointed official shall use his or her position to influence or attempt to influence, in any way, hiring officials to employ particular candidates who have applied for position vacancies or to create employment opportunities specifically for a particular individual. No County Board member or appointed official shall use his or her position to influence or attempt to influence, in any way, purchasing officials to select a particular vendor to perform contracted service for the County or to create opportunities to benefit a specific vendor. County Board members or appointed officials shall not initiate contact with departments regarding matters related to hiring and purchasing selections. County Board members or appointed officials may provide a verbal reference if contacted and requested by a staff member responsible for making the hiring or purchasing selection.

a) County Board members or appointed officials shall not be eligible to participate on a committee or panel charged with making purchasing recommendations/decisions if the member or official, or his or her spouse or immediate family member, has a financial interest in the purchasing decision.

b) County Board members or appointed officials shall not be eligible to participate on a committee or panel charged with making hiring recommendations/decisions if the member or official is the spouse or immediate family member of the candidate, has a personal relationship with the candidate or may have a financial interest in the employment decision.

**ARTICLE 10
GIFT BAN**

Section 10-1. Gift Ban. Except as permitted by this Article, no officer or employee, and no spouse of or immediate family member living with any officer or employee (collectively referred to herein as "recipients"), shall intentionally solicit or accept any gift from any prohibited source, as defined herein, or which is otherwise prohibited by law or ordinance. No prohibited source shall intentionally offer or make a gift that violates this Section.

Section 10-2. Exceptions. Section 10-1 is not applicable to the following:

- (1) Opportunities, benefits, and services that are available on the same conditions as for the general public.
- (2) Anything for which the officer or employee, or his or her spouse or immediate family member, pays the fair market value.
- (3) Any (i) contribution that is lawfully made under the Election Code or (ii) activities associated with a fundraising event in support of a political organization or candidate.
- (4) Educational materials and missions.
- (5) Travel expenses for a meeting to discuss business.
- (6) A gift from a relative, meaning those people related to the individual as father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, half sister, and including the father, mother, grandfather, or grandmother of the individual's spouse and the individual's fiancé' or fiancée'.
- (7) Anything provided by an individual on the basis of a personal friendship unless the recipient has reason to believe that, under the circumstances, the gift was provided because of the official position or employment of the recipient or his or her spouse or immediate family member and not because of the personal friendship.

In determining whether a gift is provided on the basis of personal friendship, the recipient shall consider the circumstances under which the gift was offered, such as: (i) the history of the relationship between the individual giving the gift and the recipient of the gift, including any previous exchange of gifts between those individuals; (ii) whether to the actual knowledge of the recipient the individual who gave the gift personally paid for the gift or sought a tax deduction or business reimbursement for the gift; and (iii) whether to the actual knowledge of the recipient the individual who gave the gift also at the same time gave the same or similar gifts to other officers or employees, or their spouses or immediate family members.

- (8) Food or refreshments not exceeding \$75 per person in value on a single calendar day, provided that the food or refreshments are (i) consumed on the premises from which they were purchased or prepared or (ii) catered. For the purposes of the Section, "catered" means food or refreshments that are purchased ready to consume which are delivered by any means.
- (9) Food, refreshments, lodging, transportation, and other benefits resulting from outside business or employment activities (or outside activities that are not connected to the official duties of the officer or employee), if the benefits have not been offered or enhanced because of the official position or employment of the officer or employee, and are customarily provided to others in similar circumstances.
- (10) Intra-governmental and inter-governmental gifts. For the purpose of this Act, "intra-governmental gift" means any gift given to an officer or employee from another officer or employee, and "inter-governmental gift" means any gift given to an officer or employee by an officer or employee of another governmental entity.
- (11) Bequests, inheritances, and other transfers at death.
- (12) Any item or items from any one prohibited source during any calendar year having a cumulative total value of less than \$100.

Each of the exceptions listed in this Section is mutually exclusive and independent of every other.

Section 10-3. Disposition of gifts. An officer or employee, his or her spouse or an immediate family member living with the officer or employee, does not violate this Ordinance if the recipient promptly takes reasonable action to return a gift from a prohibited source to its source or gives the gift or an amount equal to its value to an appropriate charity that is exempt from income taxation under Section 501 (c)(3) of the Internal Revenue Code of 1986, as now or hereafter amended, renumbered, or succeeded.

ARTICLE 15
ETHICS ADVISOR

Section 15-1- The Lake County Director of Human Resources, or his/her designee, shall be the Ethics Advisor for Lake County

Section 15-2- The Ethics Advisor shall have the following duties:

- (1) To provide guidance to the officers and employees of Lake County concerning the interpretation of and compliance with the provisions of this Ordinance and State ethics laws.
- (2) To conduct research in the field of governmental ethics and to assist with the development of educational programs as deemed necessary to affect the intent of this Ordinance.
- (3) To develop and provide training on this Ordinance for officers and employees.
- (4) To perform such other duties as may be delegated by the County Board as deemed necessary to affect the intent of this Ordinance.

ARTICLE 16
ETHICS INVESTIGATOR

Section 16-1- The Lake County State's Attorney ("SAO"), or his/her designee, shall be the Ethics Investigator for Lake County

Section 16-2- The Ethics Investigator shall have the following duties:

- (1) To provide legal guidance to the Ethics Advisor concerning the interpretation of and compliance with the provision of this Ordinance and State ethics laws.
- (2) To conduct an investigation of complaints and render findings that may lead to judicial adjudication.
- (3) As warranted by the facts, to file a legal complaint in the Circuit Court of the Nineteenth Judicial Circuit alleging a violation of this Ordinance or exercise such discretion to resolve complaints without resorting to the filing of a legal complaint.
- (4) To perform such other duties as may be delegated by the County Board or as deemed appropriate by the SAO in the exercise of its professional judgment in the enforcement of this Ordinance.

Article 17
INQUIRY AND COMPLAINT PROCEDURES

Section 17-1. Employees and officers may request an official interpretation/clarification from the Ethics Advisor regarding permissible and prohibited activities of this Ordinance. All requests for interpretation/clarification must be in writing.

Section 17-2. Employees, officers and the public may file a complaint alleging violation of this Ordinance with the Ethics Advisor. All complaints must be submitted in writing by using the Ethics Complaint/Inquiry Form (see attached).

Section 17-3. Employees may also use an anonymous reporting system to submit a complaint alleging violation of this Ordinance. This reporting system allows employees to report complaints through a third party who will document and submit the complaint to the Ethics Advisor anonymously. Employees will be provided with updates regarding the investigation and ultimate resolution of the complaint through a website maintained by the third party. Updates may also be provided through the website on an anonymous basis by providing the complaining employee with a personal identification code. Information regarding this system will be provided by the County through regular employee communication web sites, bulletin boards, emails and memorandums, as deemed appropriate.

Section 17-4. Within three (3) business days of receiving the complaint or inquiry the complainant will be provided with a notification that a complaint has been received. In addition, the respondent shall be notified that a complaint has been filed against him or her and provided a copy of the complaint. Upon receipt of the complaint, the Ethics Advisor may;

- conduct a preliminary investigation into the circumstances as described by the complainant.
- respond to matters related to policy interpretation and /or clarification.
- refer the complaint to the Ethics Investigator if the complaint cannot be resolved or addressed through policy interpretation by the Ethics Advisor.

Section 17-5. If the complaint is referred to the Ethics Investigator, the Investigator will conduct an investigation into whether the Ordinance was violated. If the Ethics Investigator determines that the complaint is not well-founded or that no violation of the Ordinance has occurred, the matter will be referred back to the Ethics Advisor. The Ethics Advisor will promptly notify the complainant and the subject of the complaint of the Investigator's determination. If the Investigator determines that the complaint is well-founded and that a violation of the Ordinance has likely occurred the Investigator shall notify the Ethics Advisor of this determination and may initiate a court proceeding in the Circuit Court of the Nineteenth Judicial Circuit and pursue the remedies, penalties and fines set forth in Section 25 for violation of this Ordinance.

Article 20 WHISTLEBLOWER PROTECTION

Section 17-1. It shall be a violation of this Ordinance for an officer or employee to take any retaliatory action against an employee that does any of the following:

- a. Discloses or reports pursuant to this Ordinance an activity, policy, or practice of any officer or employee that the disclosing or reporting employee reasonably believes is in violation of this Ordinance.
- b. Provides information to the Ethics Officer or Ethics Investigator conducting an investigation initiated under this Ordinance.
- c. Assists, participates or testifies in a proceeding to enforce the provisions of this Ordinance.

ARTICLE 25
PENALTIES

Section 25-1. Penalties. (a) A person who intentionally violates any provision of Article 5 (excluding Article 5, Section 5-2) of this Ordinance may be punished by a term of incarceration in a penal institution other than a penitentiary for a period of not more than a penitentiary for a period of not more than 364 days, and/or may be fined in an amount not to exceed \$2,500.

(b) A person who intentionally violates any provision of Article 10 or Article 5, Section 2 of this Ordinance is subject to a fine in the amount of not less than \$1,001 and not more than \$5,000

(c) A person who intentionally makes a false report alleging a violation of any provision of this Ordinance may be punished by a term of incarceration in a penal institution other than a penitentiary for a period of not more than 364 days, and/or may be fined in an amount not to exceed \$2,500

(d) In addition to any other penalty that may be applicable, whether criminal or civil, an appointed officer or employee who intentionally violates any provision of Article 5 or Article 10 of this Ordinance, may be subject to discipline or discharge by the County.

(e) A violation of Article 5 Section 5-2 shall also be submitted to the County Board who may censure the violator.

Article 26
PERIODIC REVIEW

Section 26 -1-Training. All employees and elected officials subject to this Ordinance shall participate in such training as the Ethics Officer may require regarding this Ordinance at such times and intervals as the Ethics Officer may establish.

Section 26-2-Review. The County should review the provisions of this Ordinance no less frequently than every five (5) years to determine if the provisions contained herein should be updated.