

Kane County Ethics Ordinance Frequently Asked Questions

1. Why does Kane County have an ethics ordinance?

Answer: Kane County is mandated by state law to have an ethics ordinance based upon 5 ILCS 430/70-5.

APPLICATION OF ORDINANCE

2. Who does the ethics ordinance apply to?

Answer: The ordinance states that all “county-wide officers shall be subject to this Ordinance with the exception of the State’s Attorney and the Clerk of the Circuit Court.” Section 7

Based upon Illinois Attorney General Opinion 94-014, portions of the Kane County Ethics Ordinance may not be applicable to elected officials.

The Attorney General’s Opinion determined that the exclusive authority to control the internal operations of the office belongs to the elected officials and to the extent the Ordinance conflicts with the authority related to the internal operations, the Ordinance is not applicable.

The Opinion indicated that this control includes the authority to procure necessary equipment, materials and services to perform the duties of the office. The Opinion concluded that to the extent the Ethics Ordinance purports to prohibit those county officials from employing someone who has contracted with the county within a specified period of time, or prohibits the employment of a relative, may be an invalid intrusion upon the internal control granted to the elected officials.

The gift and political activity provisions of the Ethics Ordinance do not appear to be under the authority of the elected officials as related to internal operations.

Regardless of these stated limitations, all exempted officials have the right to voluntarily decide that their respective staffs will be trained under the Kane County Ethics Ordinance.

BUSINESS RESTRICTIONS

3. Does the ethics ordinance impose any restrictions on county employees after they leave county service?

Answer: The Ordinance does not impose any restrictions on “county employees” after they leave county service. However, the Ordinance does impose a one-year restriction related to service with the county for those determined to be “Officers” under the Ordinance. Section 13.

4. May a public employee or official have an outside business or employment?

Answer: Yes provided that the outside employment does not conflict with the performance of his or her duties. Section 12 of the Ordinance describes a conflict of interest as where official action results in personal advantage or disadvantage to the interested officer or employee. Section 23 (8) gives additional guidance on the question of conflict of interest for Officers.

In addition, if the outside business of the employee or officer does business with Kane County, Section 10 and Section 11 describe the disclosures required.

5. My spouse has his own company. Is he able to do business with the County so that I don't violate the ethics ordinance?

Answer: Yes, but the business may have certain disclosures to make under Section 10. If you are an Officer, you may have a disclosure to make under Section 11. There may also be a conflict of interest that will need to be addressed under Section 12 and, if you are an Officer, under Section 23(8).

POLITICAL RESTRICTIONS

6. Does the ordinance prohibit me from any political activities while I am an employee?

Answer: The ordinance prohibits political activities during any compensated time. Section 2(1)

7. My boss is running for re-election, can my boss *require* that I put a sign in my yard?

Answer: The boss cannot *require* the employee place a sign in the employee's yard as a condition of employment or as part of the employee's duties. Section 2 (3)

8. I want to run for an elected position, does the ordinance require me to quit my job in order to run for office?

Answer: No

9. I am running for a position on the local school board. I decide that I need to raise money for my campaign. While at work, I have a great idea with respect to a fundraiser. Since time is of the essence, I want my campaign chairperson to immediately begin work on the idea. Can I send my campaign chairperson a quick email from my county computer since I don't have a smart phone nor my own computer?

Answer: No. Initially, preparing for a fundraiser in relation to a school board position is a prohibited political activity under the ordinance. The employee's contemplated conduct would violate the ordinance in two ways. First, under the ordinance, no officer or employee shall intentionally perform any "prohibited political activity" during any compensated time, which the contemplated conduct would do. Secondly, no officer or employee shall intentionally use any

property or resources of Kane County in connection with any “prohibited political activity” which the contemplated conduct would do.

GIFTS

10. If a vendor wants to take me out to lunch or dinner to discuss business, am I violating the ethics ordinance?

Answer: It is not a violation of the ordinance for an employee to receive a free lunch or dinner provided that, Section 3.1(8):

1. the cost does not exceed \$75 per person in value on a single day, and
2. the food and refreshment are consumed on the premises from which they were purchased, or
3. the food and refreshments are catered.

11. A vendor offers two free tickets to a ball game. Can they be accepted?

Answer: You cannot accept any item of value from the vendor that exceeds the cumulative value of \$100 during any calendar year. Section 3.1(12). Assuming that you have not received anything of value from the vendor other than the tickets during the calendar year, the tickets can be accepted if the value of the tickets does not exceed \$100. In the event that the value of the tickets exceeds \$100, the ordinance provides that the tickets can either be returned or that you may give an amount of equal value to an appropriate charity.

12. Can I give/accept holiday gifts to/from an employee without violating the ethics ordinance?

Answer: The gift ban does not apply to gifts between employees and Officers of Kane County. Section 3.1(10)

13. I am a county employee who deals with residents every day. One of my regular customers brings me a gift card for excellent service. Can I accept the gift card?

Answer: The gift card can be accepted if the gift card is of nominal value, such as the value of a baseball cap or t-shirt. If the card is not of nominal value, the annual \$100 cumulative gift limit will apply. Section 3.1(25)

14. I am planning to make a presentation at a conference sponsored by a county vendor, in exchange, the vendor has offered to pay for my travel and hotel costs, can I accept?

Answer: Since the presentation relates to a county vendor, this answer presumes the presentation is in relation to the employee’s work at Kane County.

An employee may accept an offer of free attendance at a widely attended convention, conference, or similar event if, (Section 3.1 (26) :

1. the employee participates in the event as a speaker or panel participant, or
2. attendance is appropriate to the performance and function of employment

However, according to the Ordinance, “free attendance” is limited to a waiver of all or part of a conference or other fee, the provision of transportation, or the provision of food, refreshments, entertainment and instructional materials furnished to all attendees as an integral part of the event. Section 3.1(26). As a result, it would appear that only travel costs could be covered and that would be only if travel costs were allowed all attendees as an integral part of the event.

If the presentation was a result of the employee’s employment or business outside of the Kane County employment, food, refreshments, lodging, transportation, and other benefits could be covered if the benefits were not being offered because of the presenter’s relationship with Kane County and are customarily provided to others in similar circumstances. Section 9. As a result, under these circumstances, travel and hotel costs could be covered by the vendor if they were not offered because of the presenter’s employment with Kane County and are customarily offered to others in similar circumstances.

15. A county vendor has offered discounted supplies and products to all their customers, not just county employees, can I accept the discount?

Answer: There would be no violation in accepting the discounts if the discounts were being offered to the general public. The ordinance does not state that “general public” also includes a limited group represented by a particular customer list. Therefore, the discount is not being offered to the “general public” and it would be a violation of the Ordinance if you accept the discount. Section 3.1(1)

PROCEDURE

16. If I have a question with respect to understanding the ethics ordinance, who do I contact?

Answer: Inquiries concerning interpretation of the ethics ordinance shall be in writing and submitted to the Ethics Advisor through the contact information provided in these materials. Section 4.3

17. How do I report an incident that may have violated the ethics ordinance?

Answer: Complaints concerning violations of the ethics ordinance should be filed with the Kane County State’s Attorney, in written form, as provided by the Kane County State’s Attorney. The complaint should be filed within 30 days from the date in which the complainant became aware of the alleged violation. Section 4.4

18. Can I report something anonymously?

Answer: No but the ordinance does provide as follows, Section 4.4:

The State's Attorney's Office shall endeavor to keep the identity of an individual (the "complainant") submitting a Complaint confidential unless:

- (a) Public legal proceedings have been initiated regarding the Complaint, or
- (b) The complainant consents to disclosure, or
- (c) The interests of fairness or due process require disclosure, or
- (d) Disclosure is otherwise required by law or court order.

19. If I report a possible ethical violation, can I lose my job?

Answer: No, an employee who reports a violation of the ethics ordinance in good faith shall not be subjected to retaliation, harassment, abuse, threats, discrimination or adverse employment consequences. Section 9

Interim Ethics Advisor:
Judge Grant S. Wegner (Retired)

- Email: wegnergrant@co.kane.il.us
- gwegner@msclawfirm.com
- Cell phone 331 223-3862