

## KANE COUNTY ETHICS ORDINANCE

Established by Ord. #10-206, Amended by Ord. #15-279

### DIVISION 3. ETHICS

#### Section 1: Definitions

For purposes of this division, the following terms shall be given these definitions:

Administrative Action: The execution or rejection of any rule, regulation, legislative rule, standard, fee, rate, contractual agreement, purchasing agreement or other delegated legislative or quasi-legislative action to be taken or withheld by any county officer, employee or appointee.

Appointee or Appointed Official: A person appointed to a position in or with Kane County or with any authority, agency, board or commission with or without the consent of the Kane County Board regardless of whether the position is compensated.

Business or entity: The actual organization or person to which a Kane County contract has been awarded or contract is to be awarded and includes any of the business' principals, family members of the business' principals and any other legal entities in which those principals or family members have a controlling interest or have control over the disbursement of funds of the business.

Campaign For Elective Office: 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: (1) relating to the support or opposition of any executive, legislative, or administrative action, (2) relating to collective bargaining, or (3) that are otherwise in furtherance of the person's official duties.

Candidate: A person who has filed nominating papers or petitions for nomination or election to an elected office, or who has been appointed to fill a vacancy in nomination, and who remains eligible for placement on the ballot at a regular election, as defined in Section 1-3 of the Election Code.

Collective Bargaining: Has the same meaning as that term is defined in Section 3 of the Illinois Public Labor Relations Act.

Compensation: Any money, thing of value, or economic benefit conferred on, or received by, any person in return for services rendered, or to be rendered, by himself or herself or another.

Compensated Time: With respect to any officer, employee or appointee, 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 division, does not include any designated holidays, vacation periods, personal time, compensatory time off or any period when said officer, employee or appointee is on a leave of absence. With respect to officers, employees or appointees whose hours are not fixed, "compensated time" includes any period of time when the officer, employee or appointee is on the premises under the control of the employer and any other time when the officer, employee or appointee is executing his or her official duties, regardless of location.

Compensated Time Off: 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 employment with the County.

Contribution: Has the same meaning as that term is defined in Section 9-1.4 of the Election Code.

County: The County of Kane and, where applicable, any of its elected officers.

Department Head: Shall mean the director or executive director of a Kane County Department.

Economic Opportunity: Any purchase, sale, lease, contract, option or other transaction or arrangement involving property or services wherein a legislator may gain an economic benefit. The term shall not include gifts.

Employee: A person employed by the County of Kane, 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. The term "employment" as used herein shall mean an "employee."

Employer: The County of Kane.

Family Member and Immediate Family Member: Family member shall mean those people related to the individual as father, mother, son, daughter, brother, sister, uncle, aunt, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, and stepsister. Immediate family member shall mean father, mother, son, daughter, brother, sister, and spouse.

Gift: 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.

Honoraria: Payment of money to an officer or Kane County employee for an appearance or speech, excluding any actual and necessary travel expenses incurred to the extent that those expenses are paid by any other person and does not include: (1) cash payments made on behalf of an officer to an organization described under Section 501(c)(3) of the Internal Revenue Code of 1986, (2) an agent's fee or commission, or (3) funds reported under the election code.

Leave Of Absence: Any period during which an employee is on an approved absence from work.

Lobbying: Promoting or opposing in any manner the passage of any legislative matter affecting the interests of any individual, association or corporation as distinct from those of the people.

Lobbyist: Any person who engages in lobbying.

Market Value: The price that a gift would bring for tangible or intangible assets of like type, quality and quantity in the local market at the time of acquisition.

Officer: A person who holds, by election or appointment, a position in Kane County government or a position appointed by the County Board chair regardless of whether the officer is compensated for service in his or her official capacity.

Person or Entity: An individual, proprietorship, partnership, association, trust, estate, business trust, group or corporation, whether or not operated for profit, or a governmental agency, unit or subdivision.

Political Activity: Any activity in support of or in connection with any campaign for elective office or any political organization, but does not include activities: (1) relating to the support or opposition of any executive, legislative, or administrative action, (2) relating to collective bargaining, or (3) that are otherwise in furtherance of the person's official duties.

Political Organization: A party, committee, association, 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, but only with regard to those activities that require filing with the State Board of Elections or a county clerk.

Prohibited Political Activity:

- (1) Preparing for, organizing, or participating in any political meeting, political rally, political demonstration, or other 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 a public opinion poll 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: Any person or entity who:

(1) Is seeking official action: (a) by an officer or (b) by an employee, or by the officer or another employee directing that employee;

(2) Does business or seeks to do business: (a) with the officer or (b) with an employee, or with the officer or another employee directing that employee;

(3) Conducts activities regulated: (a) by the officer or (b) by an employee, or by the officer or another employee directing that employee; or

(4) Has interests that may be substantially affected by the performance or nonperformance of the official duties of the officer or employee.

(5) is registered or required to be registered with the Secretary of State under the Lobbyist Registration Act, except that an entity not otherwise a prohibited source does not become a prohibited source merely because a registered lobbyist is one of its members or serves on its board of directors.

(6) Is an agent of, or an immediate family member who is living with a prohibited source.

Vendor: Any person, entity, corporation or association which has any contract or agreement with the County to provide for compensation, labor, materials, services or professional services.

## Section 2: Prohibited Political Activities

1. 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 Kane County in connection with any prohibited political activity.

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

3. 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.

4. 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.

5. No person either: (a) in a position that is subject to recognized merit principles of public employment or (b) 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.

6. An employee shall not be required to (a) purchase tickets, solicit orders to purchase tickets, sell, distribute or receive payment for political tickets for any political fundraiser or campaign fund for a specific candidate for political office or (b) financially contribute to any political organization, political party, political rally, political fundraiser, political meeting or political event.

7. Political contributions shall not be intentionally solicited or accepted on County property by any employee or candidate for elective office. An inadvertent acceptance of a political contribution shall not be considered a violation of this ordinance if reasonable and timely action is taken to return the contribution to its source.

8. An officer or employee or a candidate for an elected office may not promise anything of value related to County government, including but not limited to positions in County government, promotions, salary increases, other employment benefits, board or commission appointments, favorable treatment in any official or regulatory matter, the awarding of any public contract, or action or inaction on any legislative or regulatory matter, in consideration for a contribution to a political committee, political party, or other entity that has as one of its purposes the financial support of a candidate for elective office.

9. Any employee who is requested or directed by an officer, member, employee, or candidate for elected office to engage in activity prohibited by this section shall report such request or directive to the State's Attorney's Office.

### Section 3: Gift Ban and Honoraria

1. Except as permitted by this ordinance, 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.

2. No officer or employee shall retain any honorarium other than as provided in sub-paragraph 23 of Section 3.1. Any honorarium received shall be surrendered to the County and deposited into the General Revenue Fund.

#### Section 3.1: Exceptions

Section 3 of this ordinance is not applicable to the following:

- (1) Opportunities, benefits, and services 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: (a) contribution that is lawfully made under the Election Code or (b) 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, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, and including the father, mother, grandfather, or grandmother of the individual's spouse and the individual's 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:

(a) 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;

(b) 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

(c) 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 Seventy Five Dollars (\$75.00) per person in value on a single calendar day; provided that the food or refreshments are:

(a) consumed on the premises from which they were purchased or prepared or

(b) catered, defined as food or refreshment that is purchased ready to consume which is 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 an 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) Intragovernmental and intergovernmental gifts. For the purpose of this section, "intragovernmental gift" means any gift given to an officer or employee from another officer or employee, and "intergovernmental 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 One Hundred Dollars (\$100.00).

(13) A commercially reasonable loan evidenced in writing with repayment due by a date certain made in the ordinary course of the lender's business.

- (14) A contribution or other payments made to a legal defense fund established for the benefit of an employee that is otherwise lawfully made
- (15) Pension and other benefits resulting from continued participation in an employee welfare and benefits plan.
- (16) Information materials that are sent to the office of the employee in the form of books, articles, periodicals, other written materials, audiotapes, videotapes, or other forms of communication.
- (17) Awards or prizes that are given to competitors in contests or events open to the public, including random drawings.
- (18) Honorary degrees and associated travel, food, refreshments and entertainment provided in the presentation of degrees and awards.
- (19) Training including food and refreshments furnished to all attendees as an integral part of training provided to an officer or employee if the training is in the interest of Kane County.
- (20) Anything that is paid for by the federal government, the State of Illinois, a unit of local government, or a school district, or secured by the government under a government contract.
- (21) A gift of personal hospitality of an individual other than a regulated lobbyist or agent of a foreign principal, including hospitality extended for a non-business purpose by an individual, not a corporation or organization, at the personal residence of that individual or the individual's family or on property or facilities owned by that individual or the individual's family.
- (22) Free attendance at a widely attended event.
- (23) A plaque, trophy, or other item substantially commemorative in nature and that is extended for presentation.
- (24) Donations of products from an Illinois company that are intended primarily for promotional purposes, such as display or free distribution, and are of minimal value to any individual recipient.
- (25) An item of nominal value such as a greeting card, baseball cap or T-shirt.
- (26) An employee may accept an offer of free attendance at a widely attended convention, conference, symposium, forum, panel, discussion, dinner, viewing, reception or similar event, provided by the sponsor of the event if:
  - (a) the employee participates in the event as a speaker or a panel participant by presenting information related to government, or by performing a ceremonial function appropriate to the employee's official position or employment, or
  - (b) Attendance at the event is appropriate to the performance of official duties or representative function of the employee.

An employee who attends such an event may accept a sponsor's unsolicited offer of free attendance at the event for an accompanying individual. An employee or the spouse or dependent of an employee may accept a sponsor's unsolicited offer of free attendance at a charity event, except that reimbursement for transportation and lodging may not be accepted in connection with the event. For purposes of this section, "free attendance" may include 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. The term does not include entertainment collateral to the event, nor does it include food or refreshments taken other than in a group setting with all or substantially all other attendees, except as authorized hereunder.

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

### Section 3.2: Disposition of Gifts

An officer or employee or an immediate family member living with the officer or employee, does not violate the Gift Ban provisions of 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.

### Section 3.3: Political Contributions

1. Except as otherwise provided in this Ordinance, no officer or candidate for office shall intentionally accept cumulative campaign contributions in any calendar year of more than One Thousand Dollars (\$1,000) from an individual, Two Thousand Dollars (\$2,000) from any contractor, union, or other entity, and Four Thousand Dollars (\$4,000) from any political action committee affiliated with such contractor, union or other entity. This limitation shall apply to all contracts for and vendors for all goods and services including those for professional services as defined where the amount of such contract for goods, services, or professional services as defined in the Kane County Procurement Ordinance exceeds the total sum of Fifteen Thousand Dollars (\$15,000).
2. Except as otherwise provided in this Ordinance, no officer or candidate for office shall intentionally solicit or accept a cumulative campaign contribution in any calendar year in excess of One Thousand Dollars (\$1,000) from any individual appointed or applying for appointment by the Kane County Board Chairman to serve on a board, commission, authority, task force, advisory committee or other governmental entity.



Section 4: Ethics Administration

1. This Ordinance shall be administered by the Kane County Department of Human Resources in conjunction with the State's Attorney's Office and the Ethics Advisor, as hereafter provided.
2. Any records, disclosure statements or other documents (collectively, "Records") filed or required to be filed pursuant to this Ordinance, shall be kept and maintained by the officer, employee, department or office specified in this Ordinance. Copies of all records shall be filed with the Department of Human Resources by the officer, employee, department or office responsible for the original documents.

Section 4.1: Ethics Advisor

1. The Chairman of the County Board, with the advice and consent of the County Board, shall appoint an Ethics Advisor for a term of three (3) years. Applications for the Ethics Advisor appointment may be solicited by way of a request for qualifications. The Human Services Committee shall initially review all timely responses to the request for qualifications and shall forward all written responses of the applicants to the Chairman of the County Board together with the committee's evaluation of each application. The Chairman of the County Board may, in his/her sole discretion, interview potential candidates prior to recommending the appointment of a particular candidate to the full County Board. The Ethics Advisor may be compensated as an independent contractor, as determined by the County Board.
2. Minimum qualifications for the office of Ethics Advisor may include, but shall not be limited to, the following:
  - (a) Has not been convicted of any felony under the laws of the State of Illinois, another state or the United States; and
  - (b) Has a juris doctorate or master's degree in public administration; and
  - (c) Has five (5) or more years of cumulative service (i) with a federal, state or local law enforcement agency, with investigatory experience; (ii) as a federal, state, or local prosecutor or public defender; (iii) as a senior manager, executive, or official of a federal, state or local agency; (iv) as a state or federal judge; (v) as an elected officer of a unit of local government; (vi) as a law professor; (vii) as an ethics professor; (viii) as an attorney in private practice; (ix) as a member of the clergy; or (x) with a combination of any subsection listed in this subparagraph (c); and
  - (d) Has strong oral and written communication skills; and
  - (e) Has the ability to interpret, explain and apply laws and regulations; and
  - (f) Has a high level of integrity and ability to maintain confidentiality.
3. The Ethics Advisor shall perform the following duties pursuant to this Ordinance:
  - (a) Provide guidance to the officers and employees of Kane County concerning the interpretation and compliance with the provisions of this ordinance.
  - (b) Prepare and conduct ethics training in conjunction with the State's Attorney's Office and request the assistance of the Kane County Human Resources Department to keep attendance records of all employees receiving ethics training.

(c) Prepare and disseminate, with the assistance of the Kane County Department of Human Resources, informational and training materials relating to this Ordinance.

(d) Receive all inquiries concerning this Ordinance not otherwise directed to the State's Attorney's Office.

(d) Report apparent violations of this ordinance to the State's Attorney's Office.

(e) Forward any written complaints directly to the State's Attorney's Office for resolution.

(f) Notify the elected official or department head or County Board of the ultimate disposition of any investigations undertaken by the State's Attorney's Office so that appropriate disciplinary action, if appropriate may be taken.

(g) Prepare written opinions on any interpretation of the Ordinance and records of any informal or unwritten opinions in order to maintain consistency of interpretation and promote compliance.

(h) Maintain records of all written or verbal guidance on interpretation and application of this Ordinance (redacted so as to preserve the privacy of the persons making the inquiry) and make such records available to officers, employees and the general public in order to maintain consistency of interpretation and promote compliance.

(i) Perform such other duties as may be assigned by the County Board.

4. The following activities are prohibited by the Ethics Advisor during his/her term of office:

(a) May not become a candidate for any elective office.

(b) May not hold any other elected or appointed public office, except for appointments on governmental advisory boards or study commissions.

(c) May not be an elected or appointed officer or committeeman of any political party or political organization.

(d) May not otherwise currently be employed by Kane County or any of its employing units.

5. The Kane County Board Chairman may remove the Ethics Advisor, with or without cause, by notice to the Ethics Advisor, by USPS certified mail, return receipt requested, and shall immediately notify the County Board of such action. The County Board may overrule the removal of the Ethics Advisor at its next regularly scheduled meeting by a majority vote of the members then holding office.

#### Section 4.2: State's Attorney's

1. All complaints of any alleged violation of this Ordinance shall be investigated and prosecuted by the Kane County State's Attorney's Office. The State's Attorney shall act as the compliance officer or may designate an attorney from the State's Attorney's Office as the Compliance Officer.

2. The State's Attorney's Office shall perform the following duties with regard to this ordinance:

(a) Receive all complaints concerning this Ordinance.

(b) Conduct investigations concerning alleged violations of this Ordinance.

(c) File a legal complaint in the Circuit Court of the Sixteenth Judicial Circuit alleging a violation of this Ordinance as warranted by the facts or exercise such discretion to resolve complaints without resorting to the filing of a legal complaint. All legal complaints filed in Circuit Court by the State's Attorney's Office shall be prosecuted as a quasi-criminal ordinance violation. The prosecution shall be under and conform to the rules of civil procedure. The standard of proof for establishing a violation shall be proof by a preponderance of the evidence.

(d) The State's Attorney's Office shall perform such other duties as may be delegated by the County Board or as deemed appropriate by the State's Attorney's Office in the exercise of professional judgment.

3. The State's Attorney's Office shall annually review any D-2, Statement of Economic Interest or other filing by any officer with any federal, state, or local agency in connection with this Ordinance for compliance purpose.

#### Section 4.3: Inquiries

All inquiries concerning interpretation of this Ordinance shall be in writing and submitted to the Ethics Advisor and all responses shall be in writing. The Ethics Advisor may issue informal oral opinions and guidance provided that a record of the inquiry and the response is kept and maintained as provided in Section 4.1 hereof.

#### Section 4.4: Complaints of Wrongdoing

1. Complaints concerning violations of this Ordinance shall be signed, notarized, and submitted in writing to the Kane County State's Attorney. Complaints shall describe in detail the act or acts complained of and provide a list of witnesses to the act or acts. The Complaint shall contain the home address and personal telephone number of the individual submitting an allegation.

2. The Complaint must be filed within thirty (30) days following knowledge of the alleged violation, but in no event, more than one (1) year after the actions giving rise to the alleged violation.

3. 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.

#### Section 4.5: Investigations

1. Upon receipt of a written Complaint, the State's Attorney's Office shall conduct a preliminary investigation concerning the Complaint, and within thirty (30) days after the Complaint was filed, unless good cause exists to extend the time period, shall determine whether sufficient evidence exists to support the allegation.

2. The State's Attorney's Office shall have the discretion to determine the appropriate means of investigation as permitted by law and to receive and investigate alleged violations of this Ordinance as follows:

(a) Request information relating to an investigation from any person when deemed necessary to conduct an investigation.

(b) Issue subpoenas for the appearance of witnesses and for the production of evidence per State law.

3. An investigation may not be initiated more than one (1) year after the most recent act of alleged violation or a series of alleged violations except where there is reasonable cause to believe that fraudulent concealment has occurred. To constitute fraudulent concealment there must be an affirmative act or representation calculated to prevent discovery of the fact that a violation has occurred.

4. Upon investigation by the State's Attorney's Office that there is reason to believe that a violation of this Ordinance has occurred, the State's Attorney's Office shall:

(a) Notify the person who violated this Ordinance and demand corrective action.

(b) Recommend disciplinary action.

(c) Prosecute the violation in accordance with this Ordinance or the laws of the State of Illinois.

5. Upon investigation by the State's Attorney's Office that there is not sufficient evidence to believe that a violation of this Ordinance has occurred, the State's Attorney's Office shall close the investigation. At the request of the subject of the investigation, the State's Attorney's Office shall provide a written statement to the subject of the investigation of the decision to close the investigation. Closure by the State's Attorney's Office does not bar the State's Attorney's Office from resuming the investigation if circumstances warrant.

6. The State's Attorney's Office shall notify the Ethics Advisor about the ultimate disposition of the investigation:

(a) If a Complaint has been filed with the Sixteenth Judicial Circuit,

(b) No action to prosecute was taken,

(c) The respondent was counseled, or

(d) Other action was taken.

7. It is the obligation of all officers and employees to cooperate with the State's Attorney's Office during the investigation. Failure or refusal to cooperate may constitute grounds for discipline or discharge of an employee. Any party may represent himself or herself or be represented by legal counsel of his or her own choice and own expense, unless otherwise required by applicable law or ordinance.

#### Section 4.6: Reports

At least twice per fiscal year, the Ethics Advisor with the assistance of the Kane County Department of Human Resources and the State's Attorney's Office shall compile and deliver to the Chairman of the County Board and to the Kane County Human Services Committee a report consisting of:

1. The number of inquiries received concerning interpretation of this Ordinance and the State ethics laws.
2. The number of filed Complaints.
3. The number of Complaints deemed to sufficiently allege a violation of this Ordinance.
4. The number of Complaints deemed to be insufficient.
5. The number of Complaints found to be supported by substantial evidence.
6. The number of Complaints found not to be supported by substantial evidence.
7. The number of Complaints filed in Circuit Court.
8. The number of Complaints settled prior to Court ruling.
9. The disposition of each Complaint.
10. The status of pending Complaints.
11. The number of officers and employees receiving ethics training.

#### Section 4.7: Penalties

Any employee, officer or agent of the County who intentionally violates any provision of this Ordinance shall be subject to disciplinary actions, as well as such fines and penalties as are prescribed in the Kane County Code or other applicable laws. Any employee, officer or agent of the County who willfully and intentionally files a Complaint for the purpose of influencing the State's Attorney's Office to initiate an investigation and without regard for the truth of the matters set forth in the Complaint, shall be subject to discipline, up to and including termination.

#### Section 5: Employee Cooperation

1. All employees shall conduct themselves in a way that complies with the Kane County Personnel Policy Handbook as adopted and amended from time to time as if it were reproduced in this Ordinance in its entirety.
2. Each employee shall be obligated to cooperate during the course of an investigation and to comply with requests for information from the State's Attorney's Office. Failure or refusal to comply with said requests for information shall constitute a violation of this division and may be considered grounds for discipline or discharge.

#### Section 6: Collective Bargaining Agreements

Any investigation and any recommendation for discipline of an employee pursuant to this division are subject to the provisions of any collective bargaining agreement that may apply to the employee.

#### Section 7: County-wide Elected Officers

All county-wide elected officers of Kane County shall be subject to this Ordinance with the exception of the State's Attorney and the Clerk of the Circuit Court to the fullest extent not otherwise prohibited by law. Any such officer may adopt or maintain an ethics policy that is more restrictive than that set forth in this Ordinance and may continue to follow any existing policies, ordinances, rules or regulations that are more restrictive and are in addition to those set forth in this Ordinance.

#### Section 8: Training

Officers and employees must complete, within six (6) months after adoption of this Ordinance and at least annually thereafter, an ethics training program conducted by the Kane County Department of Human Resources, the Ethics Advisor, and, as appropriate, the State's Attorney's Office. A new employee must complete his/her initial ethics training during orientation within the first month of employment. Officers shall attend a training program within six (6) months of being elected or appointed (or as soon thereafter as an ethics training program is offered) and at least annually thereafter. The Department of Human Resources shall maintain records evidencing each employee's and officer's attendance at such training programs.

#### Section 9: Whistleblower Protection

1. An officer, employee or agency shall not take any retaliatory action against an employee or independent contractor because the employee or independent contractor does any one of the following:

- a. Discloses or threatens to disclose to a supervisor or to a public body an activity, policy, or practice of any officer, member, county agency, or other county employee that the County employee or independent contractor reasonably believes is in violation of a law, rule, or regulation.
- b. Provides information to or testifies before any public body conducting an investigation, hearing, or inquiry into any violation of a law, rule, or regulation by any officer, member, County agency, or other County employee.
- c. Assists or participates in a proceeding to enforce the provisions of this Ordinance.

2. A violation of this section may be established only upon a finding that the (a) County employee or independent contractor engaged in conduct described in Section 9.1 above and (b) that conduct was a contributing factor in the retaliatory action alleged by the County employee or independent contractor. It is not a violation, however, if it is demonstrated by clear and convincing evidence that the officer, employee or agency would have taken the same unfavorable personnel action in the absence of that conduct.

3. The County employee or independent contractor may be awarded all remedies necessary to make the County employee or independent contractor whole and to prevent future violations of this section. The Circuit Court shall have jurisdiction to hear cases brought under this section. Remedies imposed by the court may include, but are not limited to, all of the following:

- (a) Reinstatement of the employee to either the same position held before the retaliatory action or to an equivalent position;
- (b) Twice the amount of back pay;
- (c) Interest on the back pay;

- (d) Reinstatement of full fringe benefits and seniority rights; and
- (e) Payment of reasonable costs and attorney's fees.

4. Nothing in this section shall be deemed to diminish the rights, privileges, or remedies of a County employee or independent contractor under any other federal, state or county law, rule or regulation or under any collective bargaining agreement or employment contract.
5. All offices, agencies and departments shall conspicuously display notices of employee protection under this section.
6. An employee or independent contractor who reports a violation or concern in good faith on behalf of another employee shall not be subjected to retaliation, harassment, abuse, threats, and discrimination or any adverse employment consequences as a result of coming forward.
7. This Section shall not apply to a complainant or employee or independent contractor acting on behalf of a complainant who knowingly makes a false report.

#### Section 10: Contractor Disclosure

1. Prior to award, every contractor or vendor who is seeking or who has obtained contracts or change orders to contracts or two (2) or more individual contracts with Kane County resulting in an amount greater than Fifteen Thousand Dollars (\$15,000) shall disclose to the Kane County Purchasing Department, in writing all cumulative campaign contributions, (which includes multiple candidates) made within the previous twelve (12) months of awarding of the contract made by that contractor, union, or vendor to any current officer or countywide elected officer whose office the contract to be awarded will benefit. Disclosure shall be updated annually during the term of a multi-year contract and prior to any change order or renewal requiring Board level approval. For purposes of this disclosure requirement, "contractor or vendor" shall include owners, officers, managers, insurance brokers, lobbyists, agents, consultants, bond counsel and underwriters counsel, subcontractors corporations, partnerships, associations, business trusts, estates, trustees, and/or beneficiaries under the control of the contracting person, and political action committees to which the contracting person has made contributions.
2. All contractors and vendors who have obtained or are seeking contracts with Kane County must disclose the following information which shall be certified and attached to the application or document. Penalties for knowingly violating disclosure requirements will potentially result in immediate cancellation of the contract, and possible disbarment from future County contracts:
  - (a) Name, address and percentage of ownership interest of each individual or entity having a legal or a beneficial interest of more than five percent (5%) in the applicant. Any entity required by law to file a statement providing substantially the information required by this paragraph with any other government agency may file a duplicate of such statement;
  - (b) Names and contact information of their lobbyists, agents and representatives and all individuals who are or will be having contact with County employees or officials in relation to the contract or bid. This information disclosure must be updated when any changes to the information occurs.
  - (c) Whenever any interest required to be disclosed in paragraph (a) above is held by an agent or agents, or a nominee or nominees, the principals for whom such agents or nominees hold such interest shall also be disclosed. The application of a spouse or any

other party, if constructively controlled by another person, or legal entity as set forth above, shall state the name and address and percentage of beneficial interest of such person or entity possessing such constructive control and the relationship under which such control is being or may be exercised. Whenever a stock or beneficial interest is held by a corporation or other legal entity, such shareholder or beneficiary shall also make disclosure as required by paragraph (a) above.

(d) A statement under oath that the applicant has withheld no disclosures as to economic interests in the undertaking nor reserved any information, data or plan as to the intended use or purpose for which it seeks County Board or other county agency action.

3. All disclosures and information shall be current as of the date upon which the application is presented and shall be maintained current until such time as Kane County shall take action on the application. Furthermore, this information shall be maintained in a database by the Purchasing Department, and made available for public viewing.

4. Notwithstanding any of the above provisions, the County Purchasing Department with respect to contracts awarded may require any such additional information from any applicant which is reasonably intended to achieve full disclosure relevant to the application for action by the County Board or any other County agency.

5. Any failure to comply with the provisions of this section shall render any ordinance, ordinance amendment, County Board approval or other County action in behalf of the applicant failing to comply voidable at the option of the County Board or other County agency involved upon the recommendation of the County Board Chairman or the majority of the County Board.

6. The Purchasing Department is authorized to prepare forms to effectuate the purpose of this section and shall insure that all disclosure requirements of this Ordinance are set out in any notice to bidders in a request for qualification or proposal.

#### Section 11: Officer Disclosure

All officers shall disclose their financial interests and holdings in any business seeking a relationship with Kane County where the officer has an ownership interest of seven and one-half percent (7-1/2%) or greater. These disclosures shall be in compliance with the Public Officer Prohibited Activities Act, 50 ILCS 105/01 et seq. and shall include (1) publicly disclosing the nature and extent of interest prior to or during deliberations concerning the proposed award of the contract and (2) withdrawing from discussion and not voting on the award of the contract.

#### Section 12: Conflict of Interest

1. An officer or any of their employees while representing Kane County or employed by Kane County shall disclose any act that may be in conflict with the performance of his or her official duties. No officer nor any of their employees while representing Kane County or employed by Kane County shall engage in any act that is in conflict with the performance of his or her official duties. A conflict of interest exists whenever official action could result in a personal advantage or disadvantage to the interested officer or employee, including, but not limited to the following:

(a) Receives or has any financial interests in any purchase, sale or lease to or by the County where that purchase, sale or lease was obtained with prior knowledge that the County intended to take such action.



(b) Represents, or whose firm represents, any person who would receive direct financial benefit as a result of the official action under consideration.

(c) Accepts or seeks any employment, travel, compensation or gift from any person doing business or seeking to do business with the County for which the employee has responsibility.

(d) Receives or accepts a gift, compensation, or travel that was given for the purpose of obtaining special consideration or to influence County action where a reasonable and prudent person would believe that the purpose was to obtain special consideration or to influence County action.

(e) Violates any provision of the Public Officer Prohibited Activities Act (50 ILCS 105/0.1, et seq.)

2. The officer who has a conflict situation should abstain from discussion and shall not vote on any contract with the person or business involved in the conflict. If the conflict situation is an action that is prohibited by the Public Officer Prohibited Activities Act, a member cannot avoid the conflict by abstaining from discussion or vote on the contract.

3. Any employee who becomes aware that he or she may have a conflict of interest that arises in the course of his or her official duties shall notify, in writing, the Department of Human Resources of such conflict. The disposition of the potential conflict shall be stated in writing and maintained by the Department of Human Resources. An officer shall not participate in deliberations where they have a conflict of interest as defined under this ordinance and must not participate in the decision making in any manner.

4. Notwithstanding any other law or ordinance, on and after the effective date of this Ordinance, a person and his or her immediate family members are ineligible to serve on a board, commission, authority, or task force authorized or created by the Kane County Board (i) if that person is entitled to receive more than seven and one-half percent (7-1/2%) of the total distributable income under a Kane County contract other than an employment contract or (ii) that person together with an immediate family member are entitled to receive more than fifteen percent (15%) in the aggregate of the total distributable income under a Kane County contract other than an employment contract; except this provision does not apply to any of the following:

(a) A person and his or her family member living with that person, who is serving in an elective public office, whether elected or appointed to fill a vacancy; and

(b) A person and his or her family member living with that person, who is serving on a Kane County advisory body that makes non-binding recommendations to an agency of Kane County but does not make binding recommendations or determinations or take any other substantive action.

### Section 13: Future and Former Employment

1. No officer shall solicit or accept employment with the County within one (1) year of such officer's resignation or termination of an elected term (whichever shall first occur). The County Board by a two-thirds (2/3) vote of all of the members then holding office may waive the prohibition in this paragraph.

2. Any vendor who employs or retains as a consultant, lobbyist, attorney or other independent contractor a former County officer within one (1) year of such officer's resignation or termination of an elected term (whichever shall first occur) shall disclose to the Kane County Purchasing Department, in accordance with but in addition to the requirements of Section 10 of this Ordinance, the name, title, and job description or the nature of the contracted services of the former officer and shall disclose the amount of compensation paid or to be paid to such officer for such employment or services.

#### Section 14: Use of Proprietary or Confidential Information.

No employee, officer, or the Ethics Advisor may intentionally disclose or use for his or her personal benefit or for the benefit of his or her family members any information acquired in the course of official duties, which is not available as a matter of public knowledge or public record, or which is exempt from disclosure under the Freedom of Information Act or this Ordinance. Violations of this section shall constitute grounds for disciplinary action consistent with the enforcement provisions of this ordinance.

#### Section 15: Freedom of Information and Open Meetings Act.

1. Documents generated by the Ethics Advisor under this ordinance are exempt as allowed by law from the provisions of the Freedom of Information Act.
2. Meetings held by the Ethics Advisor under this ordinance are exempt as allowed by law from disclosure pursuant to the provisions of the Open Meetings Act.

#### Section 16: Lobbying.

1. No officer or employee may engage in lobbying as that term is defined if he/she accepts compensation specifically attributable to such lobbying other than that provided by law. Nothing in this section prohibits an officer or employee from lobbying without compensation.
2. No officer or employee may accept compensation, other than that provided by law, for performance of his/her official duties. No person, other than County officials or employees performing their duties in making payments to any officer or employee as provided by law, may pay or offer to pay any elected official any compensation for performance of his or her official duties.

#### Section 17: Disclosure

Officers and those persons appointed to a board, commission, authority, or task force authorized or created by Kane County, must file with the County Clerk a disclosure of all contracts the person or his or her spouse or immediate family members living with the person have with the County and all contracts between the County and any entity in which the person or his or her spouse or immediate family members living with the person have a majority financial interest. Rules for the implementation and administration of this section must be adopted. Disclosures filed under this section are public records.

#### Section 18: Prohibition on Serving on Boards and Commissions

No officer shall be appointed to serve on a board or commission which is a compensated position for which appointment is made by the Kane County Board Chairman without the advice and consent of the Kane County Board unless otherwise authorized by State law.

#### Section 19: Employment of Family Members

1. This section shall not apply to any family members employed on the date of passage of this Ordinance.
2. No officer may approve, recommend or otherwise take action with regard to the appointment, reappointment, hiring, promotion, salary or supervision of a family member.
3. Officers and employees shall fully disclose the existence of any relationship to a family member who is an officer or employee of the County at the time of election or employment or that develops at any time during the course of their term of office or employment.

#### Section 20: Representation of Third Parties

1. No officer or employee may represent or act on behalf of any person or entity other than the County in a formal or informal proceeding, application or transaction before any County office or agency.
2. No officer or employee may represent any person or entity in any judicial or quasi-judicial proceeding before any administrative agency or court in which the County is a party and that person's interest is directly adverse to that of the County.
3. No officer or employee shall have an economic interest in the representation by others of any person or entity in the circumstances set forth in paragraphs 1 and 2 of this section.
4. No appointed official may represent any person in the circumstances described in this section unless the matter is wholly unrelated to the appointed official's County duties and responsibilities.
5. For purposes of this section, "economic interest" shall not include the interest of the spouse of an officer, appointed official, or employee which interest is related to the independent occupation, profession or employment of the spouse.
6. Nothing in this section shall preclude any officer or employee from being an applicant or party to any proceeding or transaction before any County office, agency, or judicial or quasi-judicial entity to the extent not otherwise prohibited by law.
7. Representation shall not include inquiries for information or other services rendered in a legislative capacity on behalf of a constituent or other member of the public.

#### Section 21: Dual Pension.

Within not more than three (3) months after taking office and annually, but not later than May 1 of each succeeding year, any officer subject to this Ordinance shall disclose on a form provided by the Department of Human Resources the identity of any unit of state or local government from which any pension or retirement package is currently received or vested. To the extent not prohibited by other law or regulation, such disclosure shall include the nature of the pension benefit as well as any other benefits received including but not limited to health care.

#### Section 22: Severability and Declaration of Unconstitutionality

The sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional, invalid or unenforceable by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality, invalidity or unenforceability shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code.

Section 23: Code of Conduct and Ethical Principles for Officers

1. No officer may accept any economic opportunity, under circumstances where he knows or should know that there is a substantial possibility that the opportunity is being afforded him with intent to influence his conduct in the performance of his/her official duties.
2. No officer may charge to or accept from a person known to have an interest in the County a price, fee, compensation or other consideration for the sale or lease of any property or the furnishing of services which is substantially in excess of that which the officer would charge in the ordinary course of business.
3. No officer in order to further his/her own economic interests, or those of any other person, may disclose or use confidential information acquired in the course of his/her official duties.
4. No officer may accept a representation case where there is substantial reason for him/her to believe that it is being offered with intent to obtain improper influence over a Kane County agency.
5. No officer may use or attempt to use improper means to influence a Kane County agency in any representation case in which the officer or any person with whom he/she maintains a close economic association is participating.
6. No officer may engage in other conduct which is unbecoming to an officer or which constitutes a breach of public trust.
7. Where feasible, and taking into account the fact that officers may serve part-time, officers should avoid accepting or retaining an economic opportunity which presents a substantial threat to his/her independence of judgment.
8. When an officer must take official action on a matter as to which he/she has a conflict situation created by a personal, family, or client interest, he/she should consider the possibility of eliminating the interest creating the conflict situation. If that is not feasible, he/she should consider the possibility of abstaining from such official action. In making his/her decision as to abstention, the following factors should be considered:
  - (a) Whether a substantial threat to his/her independence of judgment has been created by the conflict situation
  - (b) The effect of his/her participation on public confidence in the integrity of the County.
  - (c) Whether his/her participation is likely to have any significant effect on the disposition of the matter.
  - (d) The need for his/her particular contribution, such as special knowledge of the subject matter, to the effective functioning of his/her office or the County.
  - (e) He/she need not abstain if he/she decides to participate in a manner contrary to the economic interest which creates the conflict situation.
  - (f) If he/she does abstain, he/she should disclose that fact to his/her respective agency or body.

9. When, despite the existence of a conflict situation, an officer chooses to take official action on a matter, he/she should serve the public interest and not the interest of any person.
10. An officer participating in a representation case shall disclose, wherever feasible, their participation in a representation case.
11. Employees or officers shall not intentionally disclose any information discussed during executive session of the County Board or any of its Committees.
12. This section is intended only as a guide for officer conduct and not as rules meant to be enforced by disciplinary action.