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O R D I N A N C E

OFI-003B-04

Amendment to the DuPage County Ethics Ordinance

WHEREAS, on September 14, 2004, the DuPage County Board enacted and approved the Ethics Ordinance OFI-003-04 and on October 25, 2005 amended the Ethics Ordinance OFI-003A-04; and

WHEREAS, it is essential that DuPage County acts in an impartial and honest fashion in all its public transactions and decisions regulating ethical conduct, political activities and the solicitation and acceptance of gifts by State officials and employees;

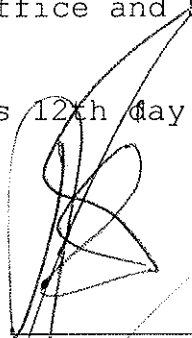
WHEREAS, the DuPage County Ethics Committee has reviewed the Ethics Ordinance OFI-003A-04; and

WHEREAS, the DuPage County Ethics Committee recommends modifications to the DuPage County Ethics Ordinance to clarify the independence of the Commission and to include language in effect for state and local government personnel related to the immunity statutes.

NOW, THEREFORE, BE IT ORDAINED that Ethics Ordinance OFI-003A-04 be amended to enact the attached revisions; and


BE IT FURTHER ORDAINED that the County Clerk publish notice hereof and send copies of the foregoing to: all Elected Officials, all County Department Heads, all County Board Members, all Appointed Officials, the County Board Office and Sterling Codifiers for update of the DuPage County Code.

Enacted and approved this 12th day of January, 2010 at Wheaton, Illinois.



Robert J. Schillerstrom, Chairman
DuPage County Board

ATTEST:



Gary A. King, County Clerk

Ayes: 15
Nays: 2
Absent: 1

1 employee that counts toward any minimum work time requirement imposed as a condition of his
2 or her employment, but for purposes of this Ordinance, does not include any designated
3 holidays, vacation periods, personal time, compensatory time off or any period when the
4 employee is on a leave of absence. With respect to the Chairman, County Board Member,
5 employee, or appointee whose hours are not fixed, “compensated time” includes any period of
6 time when the Chairman, County Board, Member or employee, is executing his or her official
7 duties, regardless of location.

8
9 “Compensatory time off” means authorized time off earned by or awarded to an employee to
10 compensate in whole or in part for time worked in excess of minimum work time required of that
11 employee as a condition of his or her employment.

12
13 “Contribution” has the same meaning as the term is defined in Section 9-1.4 of the Election Code (10
14 ILCS 5/9-1.4).

15
16 “Commission” means Ethics Commission created pursuant to this Ordinance.

17
18 “County Board Member or “Member” means an elected or appointed member of the DuPage County
19 Board.

20
21 “County-wide elected officials” means the following office holders elected at-large in DuPage
22 County: Auditor, County Clerk, Circuit Clerk, Coroner, Regional Superintendent, Sheriff,
23 States Attorney, and Treasurer.

24
25 “Employee” means all full time, part time, temporary, and contractual employees appointed and elected
26 officials of DuPage County but does not include an independent contractor. “Employee”
27 includes current employees and any person who was employed at the time of the conduct which
28 is the subject of the complaint filed with the Ethics Commission in conformance with the
29 provisions of Section 2-410 of this Ordinance.

30
31 “Family Member” means those people related to the individual as father, mother, son, daughter,
32 brother, sister, uncle, aunt, husband, wife, father-in-law, mother-in-law, son-in-law,
33 daughter-in-law, brother-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, and
34 stepsister.

35
36 “Gift” means any gratuity, discount, entertainment, hospitality, loan, forbearance, or other tangible or
37 intangible item having a fair cash market value including but not limited to
38 cash, food, drink and honoraria for speaking engagements related to or attributable to
39 government employment or the official position of the Chairman, County Board Member or
40 employee.

41
42 “Market value” means the price that a gift would bring for tangible or intangible assets of like type,
43 quality and quantity in the local market at the time of acquisition.

44
45 “Political Organization” means a party, committee, association, fund or other organization (whether
46 or not incorporated) that is required to file a statement of organization with

1 the State Board of Elections or a county clerk under Section 9-3 of the Election Code [10 ILCS
2 5/9-3], but only with regard to those activities that require filing with the
3 State Board of Elections or a county clerk.
4

5 “Political” means any activity in support of or in connection with any campaign for elective office or
6 any political organization, but does not include activities (i) relating to the support or
7 opposition of any executive, legislative or administrative action or (ii) relating to collective
8 bargaining, or (iii) that are otherwise in furtherance of the person’s official County duties.
9

10 “Principals” of a business shall mean an officer of a business entity, a majority shareholder of a
11 corporation or the majority equity owner of a business entity.
12

13 “Prohibited political activity” means:

- 14 (i) preparing for, organizing or participating in any political meeting, political rally,
15 political demonstration, or other political event;
- 16 (ii) soliciting contributions, including but not limited to the purchase of, selling,
17 distributing or receiving payment for tickets for any political fundraiser, political meeting, or
18 other political event;
- 19 (iii) Soliciting, planning the solicitation of, or preparing any document or report regarding
20 anything of value intended as a campaign contribution;
- 21 (iv) planning, conducting, or participating in a public opinion poll in connection with a
22 campaign for elective office or on behalf of a political organization for political purposes or
23 for or against any referendum question;
- 24 (v) surveying or gathering information from potential or actual voters in an election to
25 determine probable vote outcome in connection with a campaign for elective office or on
26 behalf of a political organization for political purposes or for or against any referendum
27 question;
- 28 (vi) assisting at the polls on election day on behalf of any political organization or
29 candidate for elective office or for or against any referendum question;
- 30 (vii) soliciting votes on behalf of a candidate for elective office or a political organization or
31 for or against any referendum question or helping in an effort to get voters to the polls;
- 32 (viii) initiating for circulation, preparing, circulating, reviewing, or filing any petition on behalf
33 of a candidate for elective office or for or against any referendum question;
- 34 (ix) making contributions on behalf of any candidate for elective office in that capacity or in
35 connection with a campaign for elective office;
- 36 (x) preparing or reviewing responses to candidate questionnaires;
- 37 (xi) distributing, preparing for distribution, or mailing campaign literature, campaign signs, or
38 other campaign material on behalf of any candidate for elective office or for or against any
39 referendum question;
- 40 (xii) campaigning for any elective office or for or against any referendum question;
- 41 (xiii) managing or working on a campaign for elective office or for or against any referendum
42 question;
- 43 (xiv) serving as a delegate, alternate, or proxy to a political party convention;
- 44 (xv) participating in any recount or challenge to the outcome of any election.

45 “Prohibited source” means any person or entity who (i) is seeking official action by the Chairman,
46 County Board Member or in the case of an employee, by the employee or by the Chairman,

1 County Board Member, or another employee directing that employee; (ii) does business or seeks
2 to do business with the Chairman, County Board Member or in the case of an employee, by the
3 employee or by the Chairman, County Board Member, or another employee directing the
4 employee; (iii) conducts activities regulated by the Chairman, County Board Member or in the
5 case of an employee, by the employee or by the Chairman, County Board Member, or another
6 employee directing the employee; (iv) has interests that may be substantially affected by the
7 performance or non-performance of the official duties of the Chairman, County Board Member
8 or employee; (v) is registered or required to be registered with the Secretary of State under the
9 Lobbyist Registration Act or the DuPage County Lobbyist Registration Act, except that an
10 entity not otherwise a prohibited source does not become a prohibited source merely because a
11 registered lobbyist is one of its members or serves on its board of directors; (vi) is a Political
12 Action Committee to which a prohibited source has contributed.

13
14 “Ultimate Jurisdictional Authority” means the Department head of the employee; the parent committee
15 of the Department; the DuPage County Board; the Chairman of the DuPage County Board, or the
16 county-wide elected official who has adopted this Ethics Ordinance, as the case may be
17 depending on the direct reporting authority of the subject individual. With regard to an
18 individual County Board member or the Chairman of the DuPage County Board who is the
19 subject of an Ethics Commission decision, the remaining members of the County Board shall
20 constitute the Ultimate Jurisdictional Authority.

21
22 “USPS” means the United States Postal Service.

23
24 **Section 2-402 Gift Ban and Political Contribution Limit.**

25 1. Except as otherwise provided in this Ordinance, neither the Chairman, County Board
26 Member or employee, his or her spouse nor family member (collectively hereinafter referred to as
27 recipients) shall intentionally solicit or accept any gift from any prohibited source or in violation of any
28 DuPage County ordinance, federal or State statute, rule or regulation. No prohibited source shall
29 intentionally offer or make a gift that violates this Section.

30 2. Except as otherwise provided in this Ordinance, neither the Chairman nor County Board
31 Member shall intentionally solicit or accept cumulative campaign contributions of more than \$1,000 per
32 calendar year from any contractor, union and vendor or their affiliated Political Action Committee who
33 has obtained or is seeking contracts or change orders, or from lobbyists, agents or representatives in
34 which their owners, officers, managers, lobbyists, agents or consultants are members who have obtained
35 or are seeking contracts or change orders with the County. This prohibition applies to contracts for and
36 vendors of all goods and services, including those for professional services as defined in 1-200 and 4-
37 108 and those otherwise exempt from bid under the DuPage County Procurement ordinance.

38 3. Except as otherwise provided in this Ordinance, neither the Chairman nor County Board
39 Member shall intentionally solicit or accept a campaign contribution in excess of \$1000 from any
40 individual appointed or applying for appointment by the DuPage County Board or the County Board
41 Chairman to serve on a board, commission, authority, task force, advisory committee or other
42 governmental entity.

43
44 **Section 2-403 Exceptions.**

45 The restriction in Section 2-402 of this Ordinance, titled Gift Ban, shall not apply to the
46 following:

- 1 1. Opportunities, benefits and services that are available on the same conditions as
2 for the general public.
- 3
- 4 2. Anything for which the recipient pays the fair cash market value.
- 5
- 6 3. Any (i) contribution that is lawfully made under the Election code or under this
7 Ordinance or (ii) activities associated with a fund-raising event in support of a political organization or
8 candidate.
- 9
- 10 4. Educational materials and missions.
- 11
- 12 5. Travel expenses for a meeting to discuss business of DuPage County.
- 13
- 14 6. A gift from a relative, meaning (for the purposes of the gift ban provisions of this
15 Ordinance only) those people related to the individual as father, mother, son, daughter, brother, sister,
16 uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, husband, wife, grandfather,
17 grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law,
18 brother-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half
19 sister, and including the father, mother, grandfather, or grandmother of the individual's spouse and the
20 individual's fiancé or fiancée.
- 21
- 22 7. Anything provided by an individual on the basis of a personal friendship, unless the
23 recipient has reason to believe that, under the circumstances, the gift was provided because of the
24 official position or employment of the recipient and not because of the personal friendship. In
25 determining whether a gift is provided on the basis of a personal friendship, the recipient shall consider
26 the circumstances under which the gift was offered, such as: (i) the history of the relationship between
27 the individual giving the gift and the recipient receiving the gift, including any previous exchange of
28 gifts between those individuals; (ii) whether to the actual knowledge of the recipient, the individual who
29 gave the gift personally paid for the gift or sought a tax deduction or business reimbursement for the
30 gift; and (iii) whether to the actual knowledge of the recipient the individual who gave the gift also at
31 the same time gave the same or similar gifts to other persons included within the term "recipient."
- 32
- 33 8. Food or refreshments not exceeding \$25 per person in value on a single calendar day;
34 provided that the food or refreshments are (i) consumed on the premises from which they were
35 purchased or prepared or (ii) catered. For the purpose of this Section, "catered" means food or
36 refreshments that are purchased ready to consume which are delivered by any means.
- 37
- 38 9. Food, refreshments, lodging, transportation and other benefits resulting from the outside
39 business or employment activities (or outside activities that are not connected to the duties of the
40 recipients) of the recipients if the benefits have not been offered or enhanced because of the official
41 position or employment of the recipient and are customarily provided to others in similar circumstances.
- 42
- 43 10. Intra-governmental and inter-governmental gifts. For the purpose of this Ordinance,
44 "intra-governmental gift" means any gift given to the Chairman, County Board Member or employee
45 from another County Board Member or employee, and "inter-governmental gift" means any gift given
46 to the recipient by an officer or employee of another county, State agency, federal agency or any

1 governmental entity.

2

3 11. Bequests, inheritances and other transfers at death.

4

5 12. Any item or items from any one prohibited source during any calendar year having a
6 cumulative total value of less than \$25.

7

8 13. The recipient does not violate this Section if the recipient promptly takes reasonable
9 action to return the prohibited gift to its source.

10

11 14. The recipient does not violate this Section if the recipient gives the gift or an amount
12 equal to its value to an appropriate charity that is exempt from income taxation under section 501(c)(3)
13 of the Internal Revenue code of 1986 as now or hereafter amended, renumbered or succeeded.

14

15 Each of the exceptions listed in this Section is mutually exclusive and independent of one
16 another.

17

18 **Section 2-404 Adoption by County-wide Elected Officials.**

19 Any county-wide elected official of DuPage County may adopt this Ethics Ordinance or
20 maintain an ethics policy that is more restrictive than those set forth in Section 2-403 and may continue
21 to follow any existing policies, ordinances, rules or regulations that are more restrictive and are in
22 addition to those set forth in this Section.

23

24 **Section 2-405 Prohibited Political Activity.**

25 1. The Chairman, County Board Members or employees shall not intentionally perform any
26 prohibited political activity during any compensated time. Nor shall the Chairman, County Board
27 Members or employees intentionally use any property or resources of DuPage County in connection
28 with any prohibited political activity for the benefit of any campaign for elective office, any political
29 organization or for or against any referendum question.

30

31 2. At no time shall the Chairman, County Board Member or employee intentionally
32 misappropriate the services of any employee by requiring that employee to perform any prohibited
33 political activity (i) as part of that employee’s duties, (ii) as a condition of employment, or (iii) during
34 any time off that is compensated by DuPage County such as vacation, holidays or personal time off.

35

36 3. An employee shall not be required at any time to participate in any prohibited
37 political activity in consideration for that employee being awarded any additional compensation or
38 employee benefit, in the form of salary adjustment, bonus, compensatory time off, continued
39 employment or otherwise awarded any additional compensation or employee benefit in consideration
40 of participating in any prohibited political activity.

41

42 4. An employee shall not be awarded any additional compensation or employee benefit, in
43 the form of salary adjustment, bonus, compensatory time off, continued employment or otherwise
44 awarded any additional compensation or employee benefit in consideration of voluntarily participating
45 in any prohibited political activity.

46

1 5. An employee shall not be denied or deprived of employment by DuPage County or
2 tenure solely because he or she is a member or an officer of a political committee, or a political party, or
3 a political organization, or political club.
4

5 6. An employee shall not be required to (i) purchase tickets, solicit others to purchase
6 tickets, sell, distribute or receive payment for political tickets for any political fundraiser or campaign
7 fund for a specific candidate for political office or (ii) financially contribute to any political
8 organization, political party, political rally, political fundraiser, political meeting or political event.
9

10 7. Political contributions shall not be intentionally solicited or accepted on County property
11 by any employee or candidate for elective office. An inadvertent acceptance of a Political contribution
12 shall not be considered a violation of this Ordinance, if reasonable and timely action is taken to return
13 the contribution to its source.
14

15 8. Nothing in this Section prohibits activities that are otherwise appropriate for an employee
16 to engage in as a part of his or her official employment duties or activities that are undertaken by an
17 employee on a voluntary basis as permitted by law.
18

19 **Section 2-406 Training.**

20 The Chairman, County Board Members and employees must complete, within six months after
21 adoption of this amended Ordinance and at least regularly thereafter, an ethics training program
22 conducted by the DuPage County Department of Human Resources in conjunction with other
23 appropriate officials. A new employee must complete his or her initial ethics training during orientation
24 within the first month of employment. The Chairman and County Board Members shall attend a
25 training program within six months of being elected or appointed (or as soon thereafter as an ethics
26 training is offered) and at least regularly thereafter, an ethic training program coordinated through the
27 Human Resources Department in conjunction with the Ethics Officer. The Ethics Officer shall assist the
28 Human Resources Department in maintaining records indicating each employee’s attendance at such
29 training programs.
30

31 **Section 2-407.1 Ethics Commission of DuPage County.**

32 There is hereby created a commission known as the Ethics Commission of DuPage County. The
33 Commission shall consist of five (5) commissioners. No more than three (3) commissioners shall
34 belong to the same political party at the time of such appointments are made. Party affiliation shall be
35 determined by affidavit of the appointed commissioner.
36

37 1. The Chairman of the DuPage County Board shall appoint five (5) commissioners,
38 with the advice and consent, of the DuPage County Board.
39

40 2. Commissioners shall be from the general public, residents of DuPage County, outside of
41 DuPage County government who have experience holding governmental office or employment. The
42 initial appointment of commissioners shall be made within thirty (30) days following the effective date
43 of this Ordinance and all commissioners shall take an oath to faithfully perform their duties.
44

45 3. The term of each commissioner shall be two years. Initially three (3) of the
46 Commissioners shall be appointed to a two (2) year term and two (2) of the commissioners shall be

1 appointed to a one (1) year term. Thereafter commissioners shall be appointed to a two (2) year term.
2 Commissioners may be reappointed to serve an unlimited number of subsequent terms. Vacancies shall
3 be filled by the Chairman as provided hereinabove in this Section and shall serve for the balance of the
4 term of the commissioner whose office was vacant. The Chairman shall appoint the Chair of the Ethics
5 Commission.

6
7 4. The Ethics Commission shall have jurisdiction over the Chairman, County Board
8 Members and employees of DuPage County under each Ultimate Jurisdictional Authority of DuPage
9 County.

10
11 5. The Commission shall hold an organizational meeting within thirty (30) days of their
12 appointment and thereafter as often as necessary to perform its duties and shall meet at least annually on
13 the anniversary of its first meeting. Meetings shall be held at the call of the Chair or any two (2)
14 commissioners. Action by the Commission shall require the affirmative vote of four (4) commissioners.
15 Commissioners may be reimbursed for reasonable expenses actually incurred in the performance of
16 their duties.

17
18 6. No commissioner may during his or her term of office: (i) become a candidate for any
19 elective public office; or (ii) hold any other elected or appointed public office except for appointment to
20 a governmental advisory board or study commission; provided, however, a commissioner may resign to
21 become a candidate for elective office or to accept an appointment to a public office.

22
23 7. The Chairman may remove a commissioner, with or without cause upon a written notice
24 to remove presented to the County Board, with a copy sent to the Commissioner by USPS certified
25 mail, return receipt requested. The County Board may overrule the removal of the commissioner at
26 within sixty (60) days of the notice at a regularly scheduled meeting by a majority vote of the County
27 Board Members elected.

28
29 **Section 2-407.2 Powers and Duties.**

30 The Ethics Commission shall have the following powers and duties:

31
32 1. To promulgate procedures and rules in addition to those contained in this Ordinance
33 governing the performance of its duties and the exercise of its powers and those of the Investigator
34 General.

35
36 2. To receive ethics complaints and refer them to an Investigator General for inquiry.

37
38 3. To act only upon the receipt of a report or petition from the Investigator General and not
39 on its own prerogative. To consider an Investigator General's petition to proceed to a hearing on a
40 formal Complaint and to consider any written argument of the Respondent which is filed within thirty
41 (30) days of Respondent's receipt of the petition of the Investigator General.

42
43 4. The Commission shall receive, review and rule on the record of the Investigator General
44 and Respondent's submission. The Ethics Commission shall either concur in the Investigator General's
45 recommendation to issue a formal Complaint or reject the recommendation of the Investigator General
46 and dispose of the original complaint.

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5. To refer to an Investigator General for investigation any allegations of violations of this ordinance of DuPage County received by the Commission.

6. To the extent authorized by this Ordinance and in accordance with law to deliberate, issue recommendations for disciplinary actions, impose fines and/or penalties, if appropriate, and refer to the appropriate authority violations of law outside the purview of this Ordinance.

7. To conduct a fair administrative hearing, receive evidence, under oath, in support of the Complaint and from the subject of the Complaint in defense of the allegations in the Complaint. The Commission may compel attendance of witnesses and the production of documents relevant to matters to be heard and, if necessary, petition the DuPage County Circuit Court for an order that a party comply with the Commission’s requests. The Commission shall employ a court reporter, the reasonable cost shall be paid by DuPage County after submission and approval of an invoice.

8. To prepare, file and serve a written report to include findings of fact and a decision regarding the Complaint, assessment of fines, penalties and recommendation for disposition by the Ultimate Jurisdictional Authority.

9. To exercise its powers and duties strictly limited to matters clearly within the purview of this Ordinance.

10. To seek and receive legal advice from the DuPage County State’s Attorney who shall provide legal advice without charge to the Commission

11. To employ necessary staff persons and contract for services that cannot be satisfactorily performed by the County employees; provided, however, that the costs thereof shall be paid by DuPage County pursuant to approved budget, or if there is no budget, to a maximum of \$5,000 without specific authorization of the Ultimate Jurisdictional Authority.

Section 2-408.1 Ethics Officer.

The Chairman, with the advice and consent of the DuPage County Board, shall appoint an Ethics Officer for DuPage County. If the Ethics Officer is not a County employee, he or she shall be compensated at a reasonable hourly rate determined by the Chairman prior to the appointment. The Ethics Officer shall be appointed for a term of two (2) years. The Chairman may remove the Ethics Officer, with or without cause, by notice to the Ethics Officer, by USPS certified mail, return receipt requested. The County Board may overrule the removal of the Ethics Officer at its next regularly scheduled meeting by a majority vote of the members elected. The Ethics Officer shall not (i) become a candidate for any elective office; or (ii) hold any other elected or appointed public office except for appointment to a governmental advisory board or study commission; provided, however, an Ethics Officer may resign to become a candidate for elective office or to accept an appointment to a public office.

Section 2-408.2 Duties of Ethics Officer.

The Ethics Officer shall:

- 1. provide guidance to the Chairman, any County Board Member or employee in the

1 interpretation and implementation of this Ordinance, upon a written inquiry, with a written response;

2
3 2. review statements of economic interest and disclosure forms of the Chairman, County
4 Board Members or employees filed with the DuPage County Clerk upon request of the Chairman,
5 County Board Member, employee or upon receipt of a written request from a member of the public at
6 large;

7
8 3. assist the Human Resources Department in preparing and publishing manuals and
9 guides explaining the duties of individuals covered by this Ordinance;

10
11 4. assist the Human Resources Department in preparing public information materials to
12 facilitate compliance, implementation, and enforcement of this Ordinance; and

13
14 5. assist the Human Resources Department in keeping accurate records of attendance of
15 individuals at Training Seminars and appropriate distribution of compliance materials.

16
17 **Section 2-409.1 Investigator General.**

18 The Chairman, with the advice and consent of the County Board, shall appoint one or more
19 Investigators General with the first appointed Investigator General acting as the principal one and
20 others acting in the event that a conflict exists to preclude the principal Investigator General from
21 carrying out his/her duties. An Investigator General shall not be an employee of DuPage County or
22 any other unit of government. An Investigator General shall be appointed within 30 days of the
23 adoption of this Ordinance for an initial term ending February 1, 2007. Following terms shall be for a
24 period of four (4) years. The Chairman may remove an Investigator General with or without cause, by
25 notice to the Chair of the Ethics Commission and the Investigator General, by USPS certified mail,
26 return receipt requested. The County Board may overrule the removal of the Investigator General at its
27 next regularly scheduled meeting by a majority vote of the members elected. An Investigator General
28 shall not (i) become a candidate for any elective office, or (ii) hold any other elected or appointed
29 public office except for appointment to an uncompensated advisory board or study commission;
30 provided, however, an Investigator General may resign to become a candidate for elective office or to
31 accept an appointment to a public office.

32
33 **Section 2-409.2 Powers and Duties.**

34 An Investigator General shall:

35 1. provide guidance to the Ethics Commission and assist the Commission in the discharge
36 of its duties, including the presentation of evidence of alleged violations to the Commission;

37
38 2. provide fair notice to each person alleged to have violated this Ordinance in accordance
39 with the procedures set forth in this Ordinance;

40
41 3. receive complaints, conduct a preliminary investigation, and provide a status report to the
42 Ethics Commission within thirty (30) days after the complaint was filed unless extended for good cause
43 by the Chair of the Ethics Commission;

44
45 4. if the Investigator General finds that there is a reasonable cause to believe that the
46 Respondent has violated one or more of the provisions of this Ordinance, then the Investigator General

1 shall follow the procedures set forth in this Ordinance;

2

3 5. subject to the provisions of this Ordinance and in the discretion of the Commission
4 compel the attendance of witnesses for the purpose of testimony and the production of documents and
5 other items for inspection and copying and, if necessary, petition the Circuit Court of DuPage County
6 for an order compelling compliance; and

7

8 6. compile and refer to the Chairman an annual statistical report for each year consisting of
9 (i) the number of complaints filed, (ii) the number of complaints deemed to sufficiently allege a
10 violation of this Ordinance, (iii) the number of complaints resolved, (iv) the decision issued for each
11 complaint and (v) the status of pending complaints.

12

13 **Section 2-410 Complaint Filing Procedure and Whistleblower Protection.**

14 1. Complaints alleging a violation of this Ordinance shall be in writing, signed by the
15 Complainant and filed with the Ethics Commission. If the complaint is filed other than with the Ethics
16 Commission the complaint shall be transmitted by the receiving County Department or employee to the
17 Ethics Commission within seventy-two (72) hours of receipt of the complaint.

18 (a) The complaint shall describe in detail the act or acts complained of and provide a
19 list of witnesses to the act or acts.

20 (b) The complaint shall contain the Complainant’s home address, business telephone
21 number and personal telephone number.

22 2. The Ethics Commission shall forward all complaints it receives to the Investigator
23 General who shall conduct a confidential investigation of the complaint to determine the facts regarding
24 the allegations in the complaint.

25 3. Any employee making a good faith effort report under this section or cooperating under
26 Section 2-413 of this Article shall have all protections afforded to a whistleblower under the personnel
27 ordinance and state statute.

28

29 **Section 2-411 Complaint Review Procedure.**

30 1. The Investigator General shall notify the Respondent (subject of the complaint) of the
31 fact and nature of the complaint filed, within five (5) business days of receipt of a complaint, by USPS
32 certified mail, return receipt requested, unless in his or her discretion such notice would interfere with a
33 potential or ongoing investigation being conducted by a law enforcement agency. At all times the
34 Investigator General shall comply with the Confidentiality clause of this Ordinance, Section 2-422.
35 However, the Investigator General is authorized to provide information to any law enforcement agency
36 with jurisdiction to investigate any matter that has come to his or her attention. The notice may request
37 a written response or other information from the Respondent and shall indicate the date that the
38 Investigator General desires to receive testimony and other evidence concerning the complaint. Any
39 party may represent himself or herself or be represented by legal counsel of their own choice and at their
40 own expense.

41

42 2. The Investigator General may inquire and take testimony under oath from witnesses or
43 may require production of any records from any source within DuPage County relevant or material to
44 the investigation. The rules of evidence applicable to civil and/or criminal trials shall not strictly apply
45 to the Investigator General’s inquiry, but all extended testimony shall be tape recorded and given under
46 oath.

1
2 3. If the Investigator General, upon conclusion of an investigation, determines that
3 reasonable cause exists to believe that a violation has occurred, then the Investigator General
4 shall issue a summary report of the investigation within fourteen (14) days of the conclusion of the
5 informal investigation. The report shall be delivered to the Respondent, the appropriate Ultimate
6 Jurisdictional Authority and the Ethics Commission Chair. The report shall include the following:
7

- 8 a. A description of any allegations or other information received by the Investigator General
9 pertinent to the investigation.
- 10 b. A description of any alleged misconduct discovered during the course of the
11 investigation.
- 12 c. Recommendations for any corrective or disciplinary action to be taken in response to any
13 alleged misconduct described in the report, including but not limited to termination.
- 14 d. Other information that the Investigator General deems relevant to the investigation and
15 resulting recommendations.
16

17 4. Not less than 30 days after delivery of the report, if the Inspector General desires to file a
18 petition for leave to file a formal Complaint (“Complaint”), the Inspector General shall notify the
19 Commission. The petition shall set forth the alleged violation and the grounds that exist to support a
20 Complaint. A copy of the petition shall be served by USPS certified mail, return receipt requested on all
21 respondents named in the Complaint and on each respondent’s Ultimate Jurisdictional Authority.
22

23 5. A respondent may file objections to the petition for leave to file a formal Complaint
24 within 30 days after the service date of notice of the petition.
25

26 6. The Commission shall meet, either in person or by telephone, in a closed session as
27 allowed by law to review the sufficiency of the complaint which is the subject of the petition. If the
28 Commission finds that the Complaint is sufficient, the Commission shall grant the petition for leave to
29 file a formal complaint. The Commission shall issue notice to the Inspector General and all respondents
30 of the Commission’s ruling and shall include a hearing date scheduled within six (6) weeks after the
31 date of the notice, unless all of the parties consent to a later date. If the Complaint is deemed not to
32 sufficiently allege a violation, then the Commission shall send by USPS certified mail, return receipt
33 requested, a notice to the parties of the decision to deny the petition and dismiss the original complaint.
34

35 7. If the Investigator General, upon conclusion of an investigation, determines that no
36 reasonable cause exists to believe that a violation has occurred, then the Investigator General shall close
37 the investigation within fourteen (14) days of the conclusion of the informal investigation and notify the
38 Complainant, the Respondent, the appropriate Ultimate Jurisdictional Authority and the Ethics
39 Commission Chair in writing. At the request of the Respondent, the Inspector General shall provide a
40 written statement to the respondent and to the Chair of the Inspector General’s decision to close the
41 investigation. Closure of an investigation does not bar the Inspector General from resuming the
42 investigation if the circumstances warrant. Closure of an investigation by the Investigator General is not
43 subject to review by any court or administrative tribunal absent fraud on the part of the Investigator
44 General.
45

46 **Section 2-412 Hearing Procedure by Ethics Commission.**

1 1. The proceedings on any Complaint authorized to be filed with the Commission shall be
2 conducted fairly pursuant to rules promulgated by the Commission.

3
4 2 The rules of evidence applicable to civil and/or criminal trials shall not strictly apply to
5 the proceedings, but irrelevant, immaterial, incompetent or unduly repetitious material may be excluded
6 by ruling of the Chair.

7
8 3. On the hearing date(s) as scheduled by the Commission, the Commission shall conduct a
9 closed meeting to the extent permitted by law either in person or, if the parties consent, by telephone, to
10 allow all parties the opportunity to present testimony and evidence pertaining to the complaint. All such
11 proceedings shall be recorded by a tape recording device, and at the sole discretion of the Commission
12 may be transcribed by a court reporter.

13
14 4. Within the appropriate time proscribed by rules of the Commission, but not later than 45
15 days from the close of the hearing, the Commission shall (i) dismiss the Complaint or (ii) issue findings
16 and a recommendation of discipline to the Respondent and the Respondent's Ultimate Jurisdictional
17 Authority or impose a penalty upon the respondent, or both.

18
19 5. A copy of the Commission's decision, including findings of fact if there is a
20 recommendation for discipline by the Ethics Commission, excluding a copy of the evidence received,
21 shall be sent to the Complainant, the Respondent, the Ultimate Jurisdictional Authority and the Inspector
22 General by USPS certified mail, return receipt requested.

23
24 6. The notice to the Respondent shall inform the Respondent of the right to petition the
25 Ethics Commission for reconsideration. The petition for reconsideration shall be in writing and filed
26 with the Ethics Commission within ten (10) days of mailing the Report to the Respondent. The Ethics
27 Commission shall decide the petition for reconsideration only on the formal record. The decision of the
28 Ethics Commission becomes final upon the expiration of ten (10) days of the date of its recommendation
29 or ten (10) days following the decision on a petition for reconsideration of the Ethics Commission.

30
31 7. A decision by the Ethics Commission to impose a penalty is subject to judicial review
32 under the Administrative Review Act. All other decisions by the Ethics Commission are final and not
33 subject to review administratively or judicially.

34
35 **Section 2-413 Employee Cooperation.**

36 Each employee shall be obligated to cooperate during the course of an investigation and to
37 comply with requests for information from the Investigator General and Ethics Commission. Failure or
38 refusal to comply with reasonable requests for information shall constitute a violation of this Ordinance
39 and may be considered by the Ultimate Jurisdictional Authority as grounds for discipline consistent with
40 the enforcement provisions of this Ordinance.

41
42 **Whistleblower Protection.** Whenever any DuPage County employee reasonably believes evidence
43 exists that another employee has perpetrated gross mismanagement, gross misuse or waste of public
44 resources or funds; abuse of authority in connection with the administration of a public program or
45 execution of a public contract; a violation of a federal, state, or local law, rule or regulation which is not
46 merely of a technical or minimal nature; or a substantial and specific danger to the public health and

1 safety exists, the employee shall bring this evidence to the immediate attention of the County Board
2 Chairman, the County Board, the State’s Attorney’s Office, the County Auditor, Chief of Staff or
3 Human Resources Department.

4
5 A supervisor, elected official or other County employee shall not threaten to take or take any retaliation
6 against an employee because of the employee’s disclosure of any alleged prohibited activity or because
7 of an employee’s refusal to comply with an illegal order. Any supervisor or other county employee who
8 retaliates against someone who has reported a violation in good faith is subject to but not limited to; a
9 demotion, denial of promotion or merit increase, reassignment of responsibilities or disciplinary action
10 not to exclude termination of employment.

11
12 An employee who reports a violation or concern, in good faith, will not be subjected to retaliation,
13 harassment, abuse, threats, and discrimination or any adverse employment consequences as a result of
14 coming forward.

15
16 An employee who reports a violation or concern in good faith, on behalf of another employee, shall be
17 not be subjected to retaliation, harassment, abuse, threats, and discrimination or any adverse
18 employment consequences as a result of coming forward.

19
20 This Section shall not apply to a complainant, or employee acting on behalf of a complainant, who
21 knowingly makes a false report.

22
23 The Human Resources Department is authorized to develop formal procedures and forms for reporting
24 complaints of improper or unethical behavior and will make this information available on the county’s
25 intranet.

26
27 **Section 2-414 Enforcement.**

28 1. The Commission may recommend to a person’s Ultimate Jurisdictional Authority
29 disciplinary action against the person it determines to be in violation of this Ordinance. The
30 recommendation may prescribe one or more of the following courses of action:

- 31 (a) A reprimand.
- 32 (b) To cease and desist the offensive action.
- 33 (c) A return or refund of money or other items, or an amount of restitution for services,
34 received in violation of this Ordinance.
- 35 (d) Suspension or termination of an employee.
- 36 (e) Donation to a charity of an amount equal to a gift.

37
38 2. The Ultimate Jurisdictional Authority of a person who violates any provision of this
39 Ordinance may take disciplinary action against the person, as recommended by the Ethics Commission
40 or as it deems appropriate, to the extent it is constitutionally permissible for the Ultimate Jurisdictional
41 Authority to take that action. The Ultimate Jurisdictional Authority shall make its action, or
42 determination to take no action available to the public.

43
44 3. In addition, the Commission may impose a penalty per violation and/or fine as provided
45 in this Ordinance to be deposited into the DuPage County General Revenue Fund. Such fines shall not
46 be waived or reduced by any Ultimate Jurisdictional Authority.

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4. The Ethics Commissioners, Ethics Officer and Investigator General shall be entitled to all immunities and defenses available to employees and officers of a local public entity, including those immunities and defenses granted by the “Local Governmental and Governmental Employees Tort Immunity Act, 745 ILCS 1011-101”, for any claims, lawsuits or actions brought against them for injuries arising out of the performance of their duties under this Ordinance or state law. Additionally, the Ethics Commissioners, Ethics Officer and Investigator General shall be entitled to the indemnification provided pursuant to the provisions of the “Ordinance to Indemnify County Officers and Employees,” OFI-008A-99, enacted on September 14, 1999.

Section 2-415 Collective Bargaining Restriction.

Any recommendation for discipline or any action taken against any employee pursuant to this Ordinance by the Ethics Commission is subject to the provisions of any collective bargaining agreement or merit commission action that apply to the employee on the effective date of this Ordinance. Collective bargaining agreements that are executed after the effective date of this Ordinance shall include a provision which incorporates the substantive terms of this Ordinance as part of such agreement.

Section 2-416 Employee Ethics.

All employees shall conduct themselves in a way that complies with the DuPage County Personnel Policy as adopted and amended from time to time as if it were reproduced in this Ordinance in its entirety.

Section 2-417 Contractor Disclosure.

Prior to award, every contractor or vendor who is seeking or who has obtained contracts or change orders to contracts or two or more individual contracts with the county resulting in an amount greater than the Board level approval amount shall disclose to the DuPage County Purchasing Department, in writing, all cumulative campaign contributions, (which includes multiple candidates) made within the previous 12 months of awarding of the contract made by that contractor, union or vendor to any current County Board Member, Chairman of the County Board, or Countywide Elected Official 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, lobbyists, agents, consultants, bond counsel and underwriters counsel, subcontractors and corporate entities under the control of the contracting person, and Political Action Committees to which the contracting person has made contributions.

All Contractors and Vendors who have obtained or are seeking contracts with DuPage County must disclose the 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 should occur. Penalties for knowingly violating disclosure requirements will potentially result in immediate cancellation of the contract, and possible disbarment from future county contracts.

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Section 2-418 County Board Disclosure.

The Chairman and County Board Members shall disclose their financial interests and holdings in any business seeking a relationship with DuPage County where the Chairman or County Board Member has an ownership interest of 7 ½% or greater. These disclosures shall be in compliance with the Public Officer Prohibited Activities Act, 50 ILCS 105/.01 et seq. and shall include (i) publicly disclosing the nature and extent of interest prior to or during deliberations concerning the proposed award of the contract and (ii) withdrawing from discussion and shall not vote on the award of the contract.

Section 2-419 Conflict of Interest.

1. Neither the Chairman, County Board Member, county-wide elected official who adopts this Ordinance, nor any of their employees, while representing DuPage County or employed by DuPage 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 employee, Member of the County Board, or Chairman, or county-wide elected official, as the case may be, 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 Chairman, County Board Member, employee, or county-wide elected official 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 Activates 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, his or her Ultimate Jurisdictional Authority or the Ethics Officer of such conflict. The disposition of the potential conflict shall be stated in writing and maintained by the Ethics Officer. A County Board Member, Chairman of the County Board or county-wide elected official 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 February 1, 2004, a person, his or her family members living with that person is ineligible to serve on a board, commission, authority,

1 or task force authorized or created by the DuPage County Board (i) if that person is entitled to receive
2 more than 7 ½% of the total distributable income under a DuPage County contract other than an
3 employment contract or (ii) that person together with his or her family member living with that person
4 are entitled to receive more than 15% in the aggregate of the total distributable income under a DuPage
5 County contract other than an employment contract; except this provision does not apply to any of the
6 following:

- 7
- 8 (a) a person, his or her family member living with that person, who is serving in an elective
9 public office, whether elected or appointed to fill a vacancy; and
 - 10 (b) a person, his or her family member living with that person, who is serving on a DuPage
11 advisory body that makes non-binding recommendations to an agency of DuPage County
12 but does not make binding recommendations or determinations or take any other
13 substantive action.
- 14

15 **Section 2-420 Future Employment.**

16 Neither the Chairman, County Board Member, county-wide elected official who adopts this
17 ordinance, nor any of their respective employees may accept or discuss an offer of future employment
18 with any person or entity doing or seeking to do business with the County if either:

19

20 1. The Chairman, County Board Member, county-wide elected official or employee knows
21 or has reason to believe that the offer of employment was intended as compensation or reward or to
22 influence County action pertaining to the business;

23

24 2. The employee has decision making responsibility for a matter and that person or entity is
25 offering employment to the decision maker; the exception will be if the employee has disclosed in
26 writing to his or her Ultimate Jurisdictional Authority that the employee intends to discuss future
27 employment with this person or business. In this case, the employee shall be removed from any
28 decision-making relative to this person or business. A decision maker shall have approval authority, or
29 input on approval or selection, and shall not include those employees who fill a review or compliance
30 function in the approval/selection process.

31 3. In the situation where the Chairman, County Board Member, county-wide elected
32 official, or employee, is offered future employment by a person doing business with DuPage County, the
33 Chairman, Countywide Elected Official or County Board Member or employee must disclose to the
34 Ethics Officer, in writing, the intention of discussing future employment. The Chairman, County Board
35 Member, county-wide official or employee shall withdraw from discussion and shall not vote on any
36 contract with this business or person.

37

38 **Section 2-421 Former Employment Relationships.**

39 No employee, within one year of entering county employment, may participate in the decision
40 making or awarding of a contract to a business or a person by whom they were formerly employed
41 unless the employee, in writing, has disclosed the prior employment relationship to his or her superior
42 before participating in any decision making regarding the former employer.

43

44 Prohibited Employment. No Officer or Employee of the County shall be employed in any other
45 business, position or occupation (including self-employment) or have an ownership interest in any
46 company that interferes with his/her position at the County or the full and proper performance of his/her

1 duties, including, but not limited to:
2

- 3 (a) Employment with any vendor, individual or entity that transacts any business with
4 the County.
- 5 (b) Any employment that interferes with or compromises the employee(s) position with
6 the County to further their own personal interests.
- 7 (c) Any employment that may be interpreted by the public to be in conflict with the
8 employee's position with the County.
- 9 (d) Any employment that conflicts with the County's purpose, duties and interests.
- 10 (e) Any ownership interest in any company or entity which transacts or engages in any
11 business with the County.

12
13 **Section 2-422 Use of Proprietary or Confidential Information.**

14 1. No employee, Ethics Officer, Investigator General, Ethics Commissioner, County Board
15 Member, Chairman or Ultimate Jurisdictional Authority may intentionally disclose or use for his or her
16 personal benefit or for the benefit of his or her family members any information acquired in the course
17 of official duties, which is not available as a matter of public knowledge or public record. Violations of
18 this Section shall constitute grounds for disciplinary action consistent with the enforcement provisions
19 of this Ordinance.

20
21 2. The identity of any individual providing information or reporting any possible or alleged
22 misconduct to the Ethics Commission or Investigator General shall be kept confidential and may not be
23 disclosed without the consent of that individual, unless the individual consents to disclosure of his or her
24 name or disclosure of the individual's identity is otherwise required by law. The confidentiality granted
25 by this section does not preclude the disclosure of the identity of a person in any capacity other than as
26 the source of an allegation. Ethics Commissioners, Inspectors General, persons appearing before the
27 Commission and their representatives shall not disclose information exempted from disclosure under the
28 Freedom of Information Act or this Ordinance.

29
30 3. No employee, County Board Member, Chairman, or Ultimate Jurisdictional Authority
31 may intentionally disclose any information discussed during executive session of the County Board, any
32 of its Committees, or other Ultimate Jurisdictional Authority.

33
34 **Section 2-423 Severability.**

35 1. It is hereby declared to be the intention of the County Board that the several provisions of
36 this Ordinance are separable.

37
38 2. If any court of competent jurisdiction shall adjudge any provision, or part thereof, of this
39 Ordinance to be invalid, such judgment shall not affect any other provision, or part thereof, of this
40 Ordinance which are not declared to be invalid in said judgment.

41
42 3. If any court of competent jurisdiction shall adjudge invalid the application of any
43 provision, or part thereof, of this Ordinance to a particular person, such judgment shall not affect the
44 application of said provision, or part thereof, to any other person not specifically included in said
45 judgment.

46

1 **Section 2-424 Penalties and Fines.**

2 1. Any individual who knowingly violates Section 2-402 of this Ordinance may be subject
3 to a fine of up to \$5,000.

4
5 2. After reference to the DuPage County States Attorney for prosecution, any individual
6 who is found to have knowingly violated Section 2-402 of this Ordinance shall be subject to criminal
7 penalties and fines.

8
9 3. Any person who intentionally makes a false report alleging a violation of any provision
10 of this Ordinance to the Ethics Commission, an Inspector General, a State’s Attorney, the Attorney
11 General, or Ultimate Jurisdictional Authority shall be subject to criminal penalties and fines upon
12 prosecution by the States Attorney.

13
14 4. The Ethics Commission may levy an administrative fine of up to \$5,000 against any
15 person who violates this Ordinance, who intentionally obstructs or interferes with an investigation
16 conducted under this Ordinance, or who intentionally makes a false, frivolous, or bad faith allegation.

17
18 **Section 2-425 Exemptions.**

19 1. Documents generated by the Investigator General under this Ordinance are exempt as
20 allowed by law from the provisions of the Freedom of Information Act.

21
22 (a) Any allegations and related pleadings submitted to the Ethics Commission are exempt
23 from the Freedom of Information Act so long as the Ethics Commission does not make a
24 finding of a violation of this Ordinance.

25 (b) If the Ethics Commission finds that a violation has occurred, the entire record of
26 proceedings before the Commission, the decision and recommendations and the
27 mandatory report are not exempt from the provisions of the Freedom of Information Act
28 but information contained therein that is otherwise exempt from the Freedom of
29 Information Act must be redacted before disclosure as provided in Section 8 of the
30 Freedom of Information Act.

31
32 2. Meetings of the Ethics Commission under this Ordinance are exempt from disclosure
33 pursuant to the provisions of the Open Meetings Act.

34
35 **Section 2-426 Review.**

36 The decision of the Ethics Commission to dismiss a complaint is not subject to Administrative
37 Review under the Illinois Code of Civil Procedure. The imposition by the Ethics Commission of any
38 penalty, fine or sanction is a final decision and subject to Administrative Review pursuant to the Illinois
39 Code of Civil Procedure.

40
41 **Section 2-427 Effective Date.**

42 Ordinance OFI-003-04 shall take effect September 14, 2004.

43 Ordinance OFI-003A-04 amended October 25, 2005

44 Ordinance OFI-003B-04 amended January 12, 2010

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