

AD HOC COMMITTEE ON EMPLOYEE AND OFFICIAL CONDUCT & ETHICS
MEETING MINUTES
OCTOBER 15, 2020

The Ad Hoc Committee on Employee and Official Conduct & Ethics of the Broome County Legislature met remotely via Zoom Videoconferencing on Thursday, October 15, 2020.

Members Present: S. Flagg (Chair), C. O'Brien, S. Ryan, K. Myers, Legislature; R. Behnke, County Attorney's Office; T. Behan, Personnel Dept., K. McManus, County Exec's Office

Others Present: D. Reynolds, A. Martin, R. O'Donnell, M. Tanzini, J. Bertoni, Legislature

The remote Ad Hoc Committee on Employee and Official Conduct & Ethics meeting was called to order by the Chair at 4:03 PM. A motion was made by Ms. O'Brien to open the meeting for discussion, seconded by Ms. Ryan.

The Chair stated that the Personnel Officer and County Attorney had provided feedback on the Member Surveys distributed recently.

The Chair's updated presentation reviewing the County's ethics policies is attached herein.

Personnel Officer Tom Behan suggested reviewing and updating the titles and positions currently required to file annual disclosures. He further suggested the Committee look into combining the County's current Code of Conduct and Ethics policies and that the following should be reviewed: conflict of interest issues as it pertains to personal or private gain, outside employment, financial disclosures, nepotism, employee corruption, harassment and discriminatory behavior, gift disclosures, social media policies and employee safety.

The County Attorney stated that the Code of Ethics is currently governed by NYS General Municipal Law §800. He suggested that the Committee review the definition of 'nominal' in the Charter & Code to determine if the definition should include a presumption that an item under \$15 is considered nominal, as it relates to the County's policy on gifts. He also suggested considering whether to add a section in the Charter & Code relating to recusal and abstentions.

The Chair stated that the Committee should consider getting the County's various Ethics, Employee Conduct, Sexual Harassment, Information Technology use, Bullying, Workplace Violence, etc. policies in a single, easily accessible place for employees to be able to review and acknowledge on an annual or bi-annual basis. He further stated that the Committee should review peer County "Duty to Report" and "No Retaliation" policies as it related to employee conduct.

Ms. O'Brien stated that employees could make such a Conduct & Ethics acknowledgment each year when re-enrolling for their benefits package. The Committee discussed incorporating the IT Department into future discussions to see how such action could be facilitated.

The Committee also discussed the employee complaint process. The County Attorney stated that complaints are overseen and managed by a combination of the County Attorney and Personnel offices, but that the Board of Ethics can also review cases directly, if necessary.

The Chair asked the Legislature Clerk staff to research peer County "Duty to Report" and employee conduct acknowledgement policies to determine how these might be incorporated into Broome County's policies and procedures as well.

The Deputy County Executive stated that he would ask NYS to provide insight on how the County can best upgrade its Ethics & Conduct policies and get back to the Committee with his findings.

Committee Members agreed to continue researching and reviewing the policies and procedures to better understand how to proceed as far as Broome County Government is concerned. The Committee will meet again to discuss research/findings.

There being no further business to come before the Ad Hoc Committee at this time, a motion to adjourn was made by Ms. Ryan and seconded by Ms. O'Brien. The meeting adjourned at 4:46 PM.

County Code of Ethics Review

Steve Flagg
October 15, 2020

Suggestions

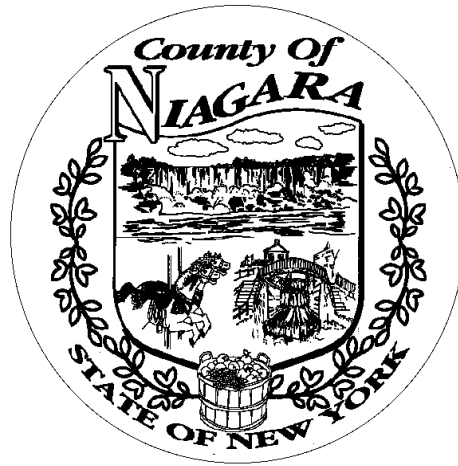
- Professional service agreement section
 - Should we make new suppliers or service providers to the county acknowledge our ethics policy when added to our system? It's a certification that we aren't doing business with unethical entities.
- Article I Section 53-3 (A)(8)
 - Clarify personnel conduct while on county per diem travel? Same office conduct expectations should be adhered to while on travel.
- Article 1 – Section 53-7 Distribution of Code of Ethics
 - Institute an annual Code of Conduct acknowledgement? Can be online.
- Nothing in Code about using Company Assets (phones, computers)?
 - You may not use county assets for any illegal purpose, to support personal business ventures, for political purposes, or for any purpose that could cause harm to the county.
- Tie the sexual harassment policy into the Code of Ethics. Maybe we can create an Article IV that covers the additional policies (IT assets usage policy, travel, etc.) that are linked and referenced here.

Witnessing Ethics Violations

Should there be a duty to report conduct violations if something is overheard or witnessed? **Is there a no retaliation policy?**

Possible scenario questions to consider:

- Have I witnessed conduct from one employee or a group of employees to another employee or group of employees that appears to be unwelcome, is sexual in nature, and appears to occur somewhat frequently?
- Have I witnessed a co-worker sometimes returning from lunch with slurred speech and smelling of alcohol?
- Have I overheard a co-worker make derogatory remarks of a threatening nature about another co-worker?



CODE OF ETHICS FOR THE COUNTY OF NIAGARA

Updated 2019

A CODE OF ETHICS FOR THE COUNTY OF NIAGARA

SECTION 1. Purpose and Scope

This Code of Ethics is enacted pursuant to Article 18 of the General Municipal Law. It is the purpose of this Code to encourage public trust and to establish minimum standards of ethical conduct for County officers, employees, and other appointed officials, to afford them clear guidance, and to ensure that County government is so free from improper influence as to assure public confidence. This Code shall be in addition to all other legal restrictions, standards, and provisions pertaining to the conduct of County officers and employees. Every provision of this Code, except as expressly limited, shall apply to every officer and employee of Niagara County, whether paid or unpaid, including members of any administrative board, commission, or other agency, and every County officer or employee paid from County funds provided, however, that no person shall be deemed to be a County officer or employee solely by reason of being a judge or justice of any court.

This Code of Ethics shall apply to all advisory boards, committees and commissions created by the Niagara County Legislature.

SECTION 2. Disclosure of Interest; Legislative Abstention

1. Disclosure of interests regardless of conflict

The following individuals shall, by May 15th of every year or if newly elected or appointed within thirty (30) days after taking office file a statement with the Board of Ethics:

- A. Every County Legislator or any other elected official to a Niagara County Office;
- B. Members and Officers of the Industrial Development Agency (IDA);
- C. Niagara Community College trustees;
- D. Every County Political Party Chairman;
- E. Candidates for County Elected Offices who file designating petitions for nominations at a primary election shall file such statement within seven (7) days after the last day allowed by law for the filing of designating petitions; and
- F. County Employees who hold policy-making positions as annually determined by the appointing authority and set forth in writing during January 31st of each year:

Such statement shall be adopted by the County and include the following:

- i. The name of any corporation for profit in which they, and/or their spouse, and/or minor children hold collectively 5% or more of the stock;
- ii. Real property situated in Niagara County which they, their spouse, or minor children hold for profit or from which they, their spouse, or minor children receive rents or income, excepting such real property as is maintained for use as their residence or the residence of their spouse or minor children, as the case may be;
- iii. Self-employment or employment by, or membership in or on the board of directors of, any corporation, partnership, association, person, or other entity from which the employee derives gross income in excess of \$500.00 per year.

Any such County officer or employee who does not have any such interests shall so file a statement to that effect. Such statements of disclosure shall be, indexed and maintained on file in an appropriate manner by the Board of Ethics.

It shall be the responsibility of the Director of Human Resources, prior to January 31 of each year, to review the list of those persons who, in the Director's judgment, are "policy making employees" and to forward any recommendations for additions and/or deletions to such list to the Chairman of the Niagara County Legislature who, subject to Legislative approval, may review and modify said list as deemed appropriate

2. Disclosure of interest in County business

To the extent that he or she knows thereof, a member of the Legislature and any public officer or employee of the County of Niagara who participates in the discussion or gives official opinion to the Legislature, or any other officer or employee, on any matter before the Legislature, shall disclose the nature and extent of any direct or indirect financial or other private interest he or she has in such matter in a concise written statement to the Chairman of the Legislature, who shall direct such statement to be printed in the official record of the proceedings of the Legislature.

3. Disclosure and abstention in proceedings of County Legislature

When a member of the Niagara County Legislature must take official action on a manner in which he or she has a personal or economic interest distinct from that of the general community, their constituents, or a substantial class of the general community or their constituents, the Legislator should consider divesting that interest, if it can be feasibly done without undue hardship. The Legislator's decision in that regard shall be conclusive. If the Legislator does not divest that interest, considering both the seriousness of any appearance of impropriety and the seriousness of the public's need for participation in the action under consideration, the Legislator must abstain from participation in such action.

4. Maintenance of disclosure statements

Transactional disclosure statements filed pursuant to this Code of Ethics and annual statements shall be sealed, indexed and maintained on file for five (5) years, in an appropriate manner, by the Board of Ethics.

Such Disclosure Statements shall be destroyed upon the expiration of this five (5) year period. Such Disclosure Statements filed in 2019, and all subsequent years, by those individual listed in section 2 above, shall be made available to the public upon proper written request pursuant to the disclosure requirements of the New York State Freedom of Information Law (FOIL).

5. Failure to file disclosure statements

In addition to the filing requirements set forth in Section 2, subdivision 1 herein, each person who is subject to the filing requirements of this Code of Ethics shall file his or her Disclosure Statement on or before May 15th of each year.

Upon failure to file a Disclosure Statement, the Board shall notify the reporting person in writing, state the failure to file, and provide the person with a fifteen (15) day period to cure the deficiency. If the person fails to make such filing or fails to cure the deficiency within the specified time period, the Board shall send a notice of delinquency to: (a) the reporting person; (b) the Chairman of the Legislature. The Chairman of the Legislature shall cause the list of those persons who have failed to

file reporting statements to be published in the Minutes of the Niagara County Legislature. Any person who fails to file shall be subject to the appropriate sanctions as set forth in Section 14 of this Code of Ethics.

A person who is subject to the filing requirements of this Code of Ethics, who enters into his or her official duties after May 15th of any year, shall have thirty (30) days within which to file his or her transactional disclosure statement.

SECTION 3. Gifts

No County officer or employee shall, directly or indirectly, solicit any gift or accept or receive any gift, whether in the form of money, service, loan, travel, entertainment, hospitality, thing, or promise, or in any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence that officer or employee, or could reasonably be expected to influence them, in the performance of their official duties or was intended as a reward for any official action. In the absence of clear and convincing evidence to the contrary, it shall be presumed that any gift of less than \$75.00 in value is not violative of this section.

SECTION 4. Outside Employment

No County officer or employee shall engage in any outside employment which, under State Law, would be in conflict with or incompatible with his or her official duties with the County.

SECTION 5. Reimbursement for travel expenses

A County officer or employee may accept reimbursement for travel expenses from the federal government, the State of New York, other municipal government entities, nongovernmental agencies, or individuals for travel related to the officer or employee's official County duties under the following conditions:

1. The officer or employee files a written request with the appropriate department head within a reasonable period of time in advance of the event or activity for approval to receive travel reimbursement in accordance with these rules;
2. The appearance, presence, or participation of the officer or employee is for a County agency purpose and would benefit the County agency involved; or the appearance, presence, or participation of the officer or employee is at a meeting, seminar, or conference of a not-for-profit professional organization and will result in increased knowledge in the officer or employee's subject matter area which would benefit the agency involved;
3. The department head approves such travel reimbursement pursuant to these rules or, if the person travelling is a department head, then such travel shall be approved by the Chairman of the appropriate Legislative committee;
4. The travel expenses, if not reimbursed, could be paid by the County agency according to its travel reimbursement procedure;
5. The expenses reimbursed on behalf of the officer or employee would be at a rate not materially greater than the County agency would reimburse the officer or employee under its travel rules or regulations;
6. The reimbursed expenses for food and lodging at the site to which the travel occurs is provided for no longer than the officer or employee is reasonably required to be present at such event and is only for

such officer or employee;

7. The reimbursed expenses are not received from or on behalf of an individual who, or on behalf of an organization, or any of its officers or members of the board of directors, other than any governmental entity, which:

a. Is regulated by, regularly negotiates with, appears before on other than a ministerial matter, does business with, or has contacts with either the County agency employing the officer or employee or the officer or employee in his or her official capacity on behalf of the County agency; or

b. Attempts to lobby or to influence action or positions on Legislation before either the County agency employing the officer or employee or the officer or employee in his or her official capacity on behalf of the County agency; or

c. Is involved in litigation, adverse to the County, with the County agency with which the officer or employee is employed or affiliated, or the officer or employee in his or her official capacity, and no final order has been issued; or

d. Has received or applied for funds from the County agency employing the officer or employee at any time during the previous calendar year, up to and including the date of the proposed travel.

8. Any reimbursement for travel expenses for each trip which totals in excess of \$1,000 received by an officer or employee required to file a financial disclosure statement pursuant to this Code of Ethics must be reported in that disclosure statement, regardless of whether approval for such receipt is required under these rules.

9. Nothing herein shall preclude the use of either County vehicles (or other transportation) or personnel where such have been specifically assigned for use to any officer or employee and such use is authorized or provided to such official, officer, or employee as part of his or her employment or for his or her security.

10. Under no circumstances shall an officer or employee submit for or receive reimbursement for the same travel expenses from more than one agency, organization, or governmental entity.

SECTION 6. Representation before County agencies and courts

1. One's own agency. No officer or employee shall, at any time, represent any private interest before one's own agency or department.

2. Before other agencies or departments for a fee. No officer or employee shall receive or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any County agency or department, except as otherwise permitted by law.

3. Courts. No officer or employee shall represent private interests in any action or proceeding against the interest of the County in any litigation to which the County is a party. If said officer or employee is an attorney, such attorney should not engage in activities before courts, County agencies, or departments in which the attorney's personal or professional interests are, or foreseeably may be, in conflict with their official duties.

SECTION 7. Future Employment

After the termination of service or employment with the County or its agencies, no County officer or employee shall appear or practice before any board or agency of the County of Niagara, except on his or her own behalf, for a period of one (1) year after the termination of his or her service or employment.

In relation to any case, proceeding, or application in which that person personally participated during the period of service or employment, or which was under the person's active consideration, the prohibition against any such appearance or practice shall be permanent.

SECTION 8. Use of position

1. Any person whose position is subject to appointment by the Legislature and/or Chairman be prohibited from holding an executive office in any political party organization nor shall an executive officer of any political party contract with the County to provide services or products. An executive office is defined as Chairman, Vice-Chairman, Treasurer, and Secretary.

2. No County officer or employee shall accept any employment or acquire any investment under circumstances in which an impression may reasonably be created that that person will thereby be influenced in the conduct of their office, but nothing contained herein shall prohibit any officer or employee from holding any position of employment with any other governmental body or authority not otherwise incompatible with State Law. No County officer or employee shall use or attempt to use their official position (i) to secure unwarranted benefits, privileges or exemptions for themselves or others and/or (ii) to coerce or induce another person to provide any benefit, financial or otherwise, to him/herself or to friends, relatives, or persons with whom the employee is affiliated in a governmental or nongovernmental capacity.

3. No County officer or employee shall take or refrain from taking any action on any matter before the County in order to obtain a pecuniary or material benefit for: (1) himself or herself; (2) a family member; (3) any partnership or unincorporated association of which the County officer or employee is a member or employee or in which he or she has a proprietary interest; (4) any corporation of which the County officer or employee is an officer or director or of which he or she legally or beneficially owns or controls more than 5% of the outstanding stock; (5)

any person with whom the County officer or employee or his or her family member has an employment, professional, business, or financial relationship; or (6) any person from whom the County officer or employee, or his or her spouse, has received a pecuniary or material benefit having an aggregate value greater than \$1,000 per year.

4. No County officer or employee who, or whose spouse, owns or controls 5% or more stock in a firm and no partnership or unincorporated association as defined in Subsection 3 above may do business with the County unless:

- a. The value of the goods or services does not exceed \$500 per year; or
- b. The goods or services are provided after public notice and competitive bidding; or
- c. The goods or services consist of rental property so long as the County officer or employee is not employed by the department or agency that is providing funds for the rental, tenancy, or shelter.

5. No County officer or employee shall directly or indirectly compel any non-elected officer or employee of the County to participate in an election campaign, or compel the payment of any assessment, subscription, or contribution to a political party, political party organization, election campaign, or candidate, nor shall such County officer or employee circulate political petitions during working hours on County property. No political solicitation for funds shall take place at any time on County property. No County property or equipment shall be used in connection with any election campaign or to aid any political party, political party organization, election campaign, or candidate. This paragraph shall not prohibit a general solicitation of a class of persons, other than those expressly prohibited, of which such solicited officer or employee happens to be a member. Notwithstanding the foregoing, the County

buildings (after normal working hours) and County recreational facilities may be available to a political party organization or election campaigns for political activities, meetings and functions.

6. County officers or employees shall not take or refrain from taking any action on any matter before the County which gives the impression of favoritism in their official duties, and which is based on kinship, rank, position, or influence.

7. Nothing in this section shall be construed to prohibit a County officer or employee or any other person from receiving a County service or benefit or using a County facility, which is generally available to residents or a class of residents in the County.

8. No County officers or employee shall use public resources that are not available to the public in general, such as County staff time, equipment, supplies or facilities, for private gain or personal purposes. Private gain or personal purpose shall be defined as that in which the personal benefit outweighs any public interest and shall include any County resource use for the benefit of friends, relatives or persons with whom the County officer or employee is affiliated in a governmental or nongovernmental capacity.

SECTION 9. Duty to report

Every County officer or employee shall have an affirmative duty to report promptly to the District Attorney and the County Attorney any action which may reasonably be interpreted as an improper attempt to influence them in the conduct of their office. Every County officer or employee shall have an affirmative duty to report promptly to the Board of Ethics any action which the officer or employee reasonably interprets to be a violation of this Code of Ethics.

County officers and employees shall be protected against reprisal for the lawful disclosure of information which the officer or employee reasonably believes to be a violation of this Code of Ethics.

SECTION 10. Disclosure of information

No County officer or employee shall, except where authorized by law, disclose any information for personal gain or to advance the financial interests of any other person or entity.

SECTION 11. Niagara County Board of Ethics Composition

1. The Niagara County Board of Ethics, heretofore created by Resolution of the Niagara County Legislature adopted September 15, 1970 is terminated effective December 31, 1995, subject to the provisions of this Section.

2. The Niagara County Board of Ethics shall consist of five (5) members, to be appointed by the Chairman of the Niagara County Legislature, subject to confirmation by the County Legislature by a simple majority, who shall serve for three (3) year terms of office. Of the five (5) members first appointed, two (2) shall serve for one year, two (2) shall serve for two (2) years, and one (1) shall serve for three (3) years, as designated by the Chairman. In the event of a vacancy prior to the expiration of the three (3) year term of office of any member, a successor shall be appointed by the Chairman within sixty (60) days of the occurrence of the vacancy, for the balance of the term. As vacancies occur, successor members shall be appointed by the Chairman of the Legislature subject to confirmation by the County Legislature by a simple majority. A person appointed to fill a vacancy occurring other than by expiration of a term of office shall be appointed for the unexpired term of the member he or she succeeds.

There shall be no more than three (3) members of the same political party serving on the Board at any one time. A majority of the members shall be persons other than County officers or employees but at least one (1) member shall be a County officer or employee. All members shall reside in Niagara County. All members shall serve without compensation, but shall be entitled to reimbursement for reasonable expenses and for mileage in accordance with those rules established by the Legislature.

The Chairman of the Legislature shall appoint a Chairman of the Board of Ethics from among its members. Three (3) members of the Board shall constitute a quorum and the Board shall have the power to act by majority vote of the members of the Board present. The County Attorney, or one of his assistants, shall serve as legal counsel to the Board.

3. In addition to the sanctions set forth in Section 14 of this Code of Ethics for violation of said Code, and other pertinent sections of local and state law, any member of the Board of Ethics may be removed from office prior to the expiration of their term of office by resolution of the County Legislature by a simple majority.

Failure on the part of any member of the Board of Ethics to attend three (3) consecutive meetings of the Board, without good cause shown to the Chairman of the Board, shall be grounds for immediate removal.

SECTION 12. Powers, duties, and functions of the Board of Ethics

The Board shall have the powers, duties, and functions provided by Article 18 of the General Municipal Law including, but not limited to:

1. The Board of Ethics shall be the repository for completed annual Disclosure Statements and such other written instruments, affidavits, and disclosures as required by law. The Board shall inspect all Disclosure Statements to ascertain whether any person required to file a statement has failed to do so, has filed a deficient statement, or has filed a statement which reveals a possible violation of this Code.

2. The Board of Ethics shall possess, exercise, and enjoy all the rights, powers, and privileges necessary to the enforcement of this Code of Ethics, and shall, in all respects, be considered to be an agency of the County.

3. The Board of Ethics shall promulgate rules and regulations in furtherance of its power and duties, including rules governing the conduct of adjudicatory proceedings and appeals therefrom, relating to the assessment of the civil sanctions as set forth in Section 14 of this Code.

4. The Board of Ethics shall periodically review, update, publish, and circulate a "Question and Answer" handbook that discusses common ethical issues that arise under this Code.

5. In the appropriate case, the County Legislature may, by resolution, following a written request from the Chairman of the Board of Ethics, empower the Board to subpoena any individual, whether or not a County officer or employee, or any document or thing deemed necessary to the Board in resolving any pending adjudicatory proceeding or investigation. The County Legislature shall act in a manner so that the subject matter of the request, the person, and the department involved shall not be a matter of public disclosure.

6. The Board of Ethics shall render advisory opinions, in writing, to County officers and employees upon written request of the officer or employee with regard to his or her own affairs. The head of a County department, administrative unit, or other agency may request an advisory opinion with regard to the affairs of any of his or her subordinates. The District Attorney, County Attorney, Sheriff, County

Auditor, Chairman of the Legislature, or Majority Leader or Minority Leader of the Legislature may request an advisory opinion with regard to the affairs of any County officer or employee.

Said advisory opinions shall be rendered, if practicable, within thirty (30) days of the written request. The thirty (30) day time period may be extended by an additional thirty (30) days at the Board's discretion.

Thereafter, if deemed necessary by the Board, the time period may be extended by an additional ninety (90) days upon notification to the Clerk of the Legislature that a particular matter is under investigation and an additional ninety (90) days is required. The Clerk of the Legislature shall cause such notification of extension to be published in the minutes of the Niagara County Legislature without publicly disclosing the subject of the investigation, the person, or the department involved. In any event, the Board shall render its advisory opinion no later than one hundred fifty (150) days from the date of receipt of the written request.

7. Said advisory opinions shall not be made public or disclosed unless required by the Freedom of Information Law (Public Officers Law Article 6) or pursuant to Judicial subpoena or required to be used in a disciplinary proceeding or a proceeding under Section 14 of this Code involving the County officer or employee who requested the opinion. Whenever a request for access to an advisory opinion is received, the County officer or employee who originally requested the advisory opinion shall be notified of the subsequent request for access within three (3) business days of its receipt.

8. All citizens of the County of Niagara may, in writing, notify the Board of Ethics of any perceived violations of the Code of Ethics. The Board shall review said citizen complaints and make an initial determination of whether or not an advisory opinion is appropriate. This determination shall be made by a simple majority of those members of the Board present.

If it is determined by the Board that an advisory opinion will be rendered upon citizen complaint, the Board shall act upon such complaint following the procedures and within the time frame set forth in paragraph 6.

Copies of the advisory opinions rendered pursuant to a citizen's complaint shall be directed to the District Attorney and the County

Attorney. In addition, if any advisory opinion is rendered, written acknowledgement of any investigation and subsequent finding shall be directed to the citizen complainant. For purposes of this Code of Ethics, "citizens of the County of Niagara" shall include persons who reside in, are employed within, or own real property in Niagara County.

9. In the event that the Board of Ethics fails to act, or acts in contravention of the Code of Ethics, an aggrieved party may pursue any remedies available, in law or in equity, including, but not limited to, a proceeding under Article 78 of the Civil Practice Law and Rules.

10. Such advisory opinions shall be in writing and shall discuss, at minimum, the issue the Board is presented with, a summary of the evidence or information upon which the Board is basing its decision, the response, if any, from the person whose conduct is questioned, and the decision of the Board, including recommendations for sanction under Section 14 of this Code, referrals to other government agencies, or conclusions that no further action is necessary.

11. The Board may make such additional rules and regulations as it shall consider appropriate in relation to its procedures.

12. The Board of Ethics shall be empowered to request support staff assistance from the Chairman of

the Legislature or the Director of Human Resources, as necessary, in furtherance of its duties and responsibilities.

13. The Board of Ethics shall meet, at a minimum, on a quarterly basis, and at any other time or times deemed necessary by the Chairman of the Board to responsibly fulfill its duties to the citizens of the County of Niagara.

SECTION 13. Compilation and distribution of this code

The Director of Human Resources shall cause a copy of this Code to be distributed to every officer and employee of the County within sixty (60) days after the effective date of this Local Law or as soon thereafter as may be practicable. Every officer and employee elected or appointed thereafter shall be furnished with a copy of such Code within ten (10) days after entering upon the duties of their office or employment. A "Question and Answer" handbook shall be prepared and circulated. The Board of Ethics shall periodically review and update the "Question and Answer" handbook that discusses common ethical questions arising under this Code. **This periodic review should be undertaken at least once every two (2) years.**

SECTION 14. Complaints and hearings

1. All complaints alleging a violation of this code must be submitted in writing. The complainant must sign his or her name and state his or her address.
2. The identity of the complainant and the nature of the complaint shall be kept confidential whenever reasonably possible.
3. Upon receipt of a complaint, the Board shall make a determination as to whether, on its face, the complaint alleges a violation of the Code of Ethics. If a determination is made that a violation is not alleged by the complaint, the Board shall notify the complainant of its determination in writing.
4. If a determination is made that a violation is alleged by the complaint, the Board shall notify, in writing, the person against whom the complaint is made of the nature of the complaint and the Code provisions allegedly violated. The Board shall also notify the complainant that the complaint has been received and shall be reviewed by the Board.
5. The person charged with a violation shall have fifteen days from receipt of notice of the violation to respond in writing to the Board's notice of alleged violation. The response shall either admit the violation or state facts supporting a denial of the charge.
6. If the charge is denied, the Board shall either dismiss the charge if the facts presented so warrant or conduct a fact hearing.
7. A fact hearing shall consist of sworn testimony, affidavits or such documentary evidence as the Board allows. The person charged shall be allowed to present evidence and to confront evidence presented against him or her. The person charged may be represented by legal counsel. Strict rules of evidence under the laws of the State of New York shall not apply to the hearing. The Board may direct that the hearing be stenographically recorded and transcribed.
8. After the hearing is concluded, the Board shall issue its decision in writing, indicating the reasons therefor. Such decision shall be rendered, if practicable, within the time limits set forth for advisory opinions as contained in Section 12 herein.

SECTION 15. Sanctions

1. Disciplinary action

Any County officer or employee who engages in any action that violates any provision of this Code may be warned or reprimanded or suspended or removed from office or employment, except as otherwise provided by the Public Officers Law of the State of New York, or be subject to any other sanction authorized by law or collective bargaining agreement by the appointing authority or person or body authorized by law to impose such sanctions. No provision herein shall bar a county officer or employee from pursuing any and all rights afforded to them under any collective bargaining agreement to which they are a party should the Board of Ethics recommend oral warning, written reprimand, suspension from employment with or without pay, or removal from office as a result of the officer or employee having been found to have engaged in any action that violates any provision of this Code. An oral warning, written reprimand, suspension from employment with or without pay, removal from office or employment, or other authorized sanction may be imposed in addition to any other penalty contained in this Code or in any other provision of law.

Any sanctions prescribed by this code relative to employees shall be subject to the terms and procedures outlined in the respective Collective Bargaining Agreements and shall not supersede the terms of the properly executed Collective Bargaining Agreements.

2. Civil fine

Any County officer or employee who violates any provision of this Code may be subject to a civil fine of up to \$1,500 for each violation. A civil fine may be imposed in addition to any other penalty contained in any other provision of law or in this Code, other than a civil forfeiture, pursuant to Subdivision 4 of this section.

3. Damages

Any person, whether or not a County officer or employee, who violates any provision of this Code shall be liable in damages to the County for any losses or increased costs incurred by the County as a result of the violation. Such damages may be imposed in addition to any other penalty contained in any other provision of law or in this Code, other than a civil forfeiture, pursuant to Subdivision 4 of this section.

4. Civil forfeiture

Any person, whether or not a County officer or employee, who intentionally or knowingly violates any provision of this Code, may be subject to a civil forfeiture to the County in a sum equal to three times the value of any financial benefit he or she received as a result of the conduct that constituted the violation. A civil forfeiture shall be imposed in addition to any other penalty contained in any other provision of law or in this Code, other than a civil fine pursuant to Subdivision 2 or damages pursuant to Subdivision 3 of this section.

5. Violation

Any person, whether or not a County officer or employee, who intentionally and knowingly violates any provision of this Code shall be guilty of a violation and, upon conviction thereof, if a County officer or employee, shall forfeit his or her County office or employment, subject to the procedures in Civil Service Law and the respective Collective Bargaining Agreements.

Any person, whether or not a County officer or employee, who intentionally and knowingly solicits, requests, commands, importunes, or aids a person to violate any provision of this Code shall be

guilty of a violation and, upon conviction thereof, if a County officer or employee, shall forfeit his or her County office or employment, subject to the procedures outlined in Civil Service Law and the respective Collective Bargaining Agreements.

6. Debarment

a. Any person, whether or not a County officer or employee, who intentionally or knowingly violates any provision of this Code, shall be prohibited from entering into any contract with the County for a period not to exceed 25 years. The term of such prohibition shall be established by the Board of Ethics after notice and hearing as set forth herein.

b. No person, whether or not a County officer or employee, shall enter into a contract in violation of a bar imposed pursuant to Subdivision a of this subsection.

c. Nothing in this subsection shall be construed to prohibit any person from receiving a service or benefit or from using a facility, which is generally available to the public.

d. Under this subsection, a corporation, partnership, or other entity shall not be held vicariously liable for the actions of an employee. A corporation, partnership, or other entity shall not be debarred because of the actions of an employee unless the employee acted in the execution of company policy, request, or custom. A store, region, division, or other unit of an entity shall not be debarred because of the actions of an employee of that unit unless the employee acted at the direction, or with the actual knowledge or approval, of the manager of the unit.

7. Whenever any provision of this Code is in conflict with any article of a valid collective bargaining agreement between Niagara County and any of its recognized unions or in conflict with any provisions of the Civil Service Law of the State of New York or the Penal Law, the provisions of the respective collective bargaining agreements or the Civil Service and Penal Laws shall be in full force and effect and shall supersede the provisions of this Code.

SECTION 16. Enforcement of Sanctions

The Board of Ethics shall make recommendations for oral warnings or written reprimands. It shall utilize the Human Resources Department, the Payroll Department, the Civil Service Commission, or any other appropriate County agency or department to see to it that warnings, reprimands, suspensions, or removals from office are effectuated. It shall utilize the County Attorney's Office to see to it that civil fines, damages, civil penalties, and debarments are executed. It shall refer activity that could constitute a criminal violation to the Niagara County Sheriff and the District Attorney's Office. The Board of Ethics shall also file copies of its opinions and determinations with the County Clerk. Whether such opinions, determinations, and proceedings are subject to public disclosure shall be governed by the State Freedom of Information Law.

SECTION 17. Injunctive relief

1. Any citizen of the County, or officer or employee of the County may initiate an action or special proceeding, as appropriate, in a court of appropriate jurisdiction for injunctive relief to enjoin an officer or employee of the County from violating this Code or to compel an officer or employee of the County to comply with the provisions of this Code. In lieu of, or in addition to, injunctive relief, the action or special proceeding, as appropriate, may seek a declaratory judgement.

2. No action or special proceeding shall be prosecuted or maintained pursuant to Subdivision 1 of this section, unless (a) the plaintiff or petitioner shall have filed with the Board of Ethics a written complaint alleging the violation by the officer or employee, (b) it shall appear by and as an allegation in the complaint or petition filed with the court that at least one hundred fifty (150) days have elapsed since the

filing of the complaint with the Board of Ethics, and that the Board has failed to file a determination in the matter, and (c) the action or special proceeding shall be commenced within ten (10) months after the alleged violation occurred. If the violation is a continuing one, action must occur within ten (10) months of discovery of the alleged violation.

SECTION 18. Severability of code provisions

If any provision of this Local Law or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Local Law which can be given effect without the invalid provision or application and to this end the provisions of this Local Law are declared severable.

SECTION 19. Effective date

This Local Law shall take effect upon filing with the New York State Secretary of State, after which it shall become a law.

Resolutions amending Code of Ethics:

Resolution No. AD-0005-96
Resolution No. IL-0048-96
Resolution No. AD-024-97
Resolution No. IL-002-98
Resolution No. AD-026-98
Resolution No. AD-006-01
Resolution No. IL-053-07
Resolution No. AD-009-19