

LIVINGSTON COUNTY ETHICS AND DISCLOSURE LAW

Local Law No. 4 of the year 1990

A Local Law Relative to the Filing of Financial Disclosure Statements by designated County Officials and Providing for a Local Code of Ethics, pursuant to Section 806 and 812, subdivision 3 of the General Municipal Law.

SPONSORS:

Be it enacted by the Livingston County Board of Supervisors of the County of Livingston as follows:

I: PURPOSE

The purpose of this law is to create the Livingston County Ethics and Disclosure Law in compliance with Article 18 of the New York State General Municipal Law. The citizenry of Livingston County are entitled to the expectation of exemplary ethical behavior from County Officials and employees. This law is intended to create the minimum standards which constitute that behavior. This legislation recognizes that varying degrees of professional and governmental responsibility warrant equitable requirements of disclosure in pursuit of official integrity, which must be balanced against individual constitutional rights. Any particulars not determined in this law shall be construed within the provisions of General Municipal Law Article 18.

II. DEFINITIONS

Unless otherwise indicated, the following terms shall be defined such for the purpose of the Livingston County Ethics Law:

(a) "Agency" for the purposes of this law, means any of the divisions of County government, referred to in subdivision (e) of this section except the Board of Supervisors.

(b) "Appropriate body" pursuant to Article 18 of General Municipal Law means the Board of Ethics of the County of Livingston.

(c) "Child" means any son, daughter, step son or step daughter of a County Officer, employee or appointed official if such child is under 18 or is a dependent of the officer, employee or appointed official as defined in applicable sections of the Internal Revenue Code.

(d) "Chief Elected Official" means the Chairman of the Board of Supervisors or his or her designee.

(e) "County" means the County of Livingston or any department, board, executive division, institution, office, branch, bureau, commission, agency, or other division or part thereof.

(f) "County Official" means the following for purposes of this law only.

(1) All "local officers or employees," meaning the heads (other than local elected officials) of any agency, department, division, council, board, commission, or bureau of Livingston County and their deputies and assistants, whether paid or not, and any other officers and employees of such agencies, departments, divisions, boards, bureaus, commissions, or councils who hold policy making positions, whether unpaid or not, as annually determined by the appointing authority and set forth in a written list which shall be promulgated by the Chairman of the Board each year, prior to January 31st after conferring with the relevant department heads. This list shall include the

office, title or job classification of such officers and employees. The term "local officer or employee" shall not mean a Judge, Justice, officer or employee of the Unified Court System.

(2) All "local elected officials," meaning the County Supervisors, the County Clerk, District Attorney, County Treasurer, County Sheriff and County Coroner.

(3) All officers and employees whose duties are not of a majority ministerial in nature, or which include duties involving the negotiation, authorization or approval of:

(i) contracts, leases, franchises, revocable consents, concessions, variances, special permits, or licenses as defined in section seventy three of the public officers law;

(ii) the purchase, sale, rental or lease of real property, goods or services, or a contract therefor;

(iii) the obtaining of grants of money or loans, or

(iv) the adoption or repeal of any rule or regulation having the force and effect of law.

(g) "Dependent" means any person related or unrelated living in the same household with a County Officer, employee or appointed official and claimed as a dependent for Income Tax Purposes by said County Officer, employee or appointed official.

(h) "Employee" or "Employees", means any employee or officer of the County of Livingston other than those designated as County Officials herein.

(i) "Interest" means a direct or indirect pecuniary or material benefit accruing to a County official, his or her spouse, child or dependent whether as the result of a contract with the County or otherwise. For the purpose of this chapter, a County Official shall be deemed to have an interest in the contract of (i) his/her spouse, children or dependents, except a contract of employment with the County (ii) a firm, partnership or association of which such County Official or his/her spouse, child or dependent is a member or employee; (iii) a corporation of which such County Official or his/her spouse, child or dependent is an officer or director; and (iv) the outstanding capital stock of a corporation which is owned by a County Official or his/her spouse, child or other dependent.

(j) "Jurisdiction" shall mean having authority, capacity, power or right to act with regard to the management and administration of policy and supervision of personnel of the county agency in which the County Official or employee is employed.

(k) "Legislation" means a matter which appears upon the calendar or agenda of the Board of Supervisors of Livingston County or upon that of a committee thereof upon which any official action has been taken and shall include adopted acts, local laws, ordinances or resolutions.

(l) "Policy making position" means an official or employee whose duties are not of majority ministerial in nature or which include duties involving the negotiation, authorization, or approval of any matters listed in section (f) (3) above.

(m) "Relative" means a spouse or child of a County Official or employee.

(n) "Reporting Category" for the purpose of completing the financial disclosure statements pursuant to Article IV, this law means the category of interest, income, value or worth of said reported items. No exact dollar amounts are to be included in the completion of the statements of financial disclosure; rather all amounts are to be indicated using the following categories:

A.) \$ 0 \$ 5,000.

B.) \$ 5,001. \$ 10,000.

- C.) \$10,001. \$ 25,000.
- D.) \$25,001. \$ 50,000.
- E.) \$50,001. \$100,000.
- F.) OVER \$100,001.

(o) "Reporting Person" means a County Official who files an annual disclosure statement or a statement indicating a conflict of interest pursuant to section iv (1) and (2) herein, or an employee who files such a conflict of interest statement pursuant to section IV (1) and (2) herein.

(p) "Spouse" means the husband or wife of a County Official or employee subject to the provisions of this Local Law unless legally separated from such County Official or employee.

III. CODE OF ETHICS

A. Prohibited Activities

It is the policy of the Board of Supervisors that all County Officials and employees must avoid conflicts or potential conflicts of interest. A conflict or a potential conflict exists whenever a County Official or employee or his or her spouse, relative or dependent has an interest, direct or indirect, which conflicts with the County Official's or employee's duty to the County or which could adversely affect his or her judgment in the discharge of his or her responsibilities. No County Official or employee shall:

1. Take action or participate in any manner whatsoever in his or her official capacity in the discussion, negotiation or the awarding of any contract or in any business or professional dealings with the County of Livingston or any agency thereof in which the County Official or employee has or will have an interest, direct or indirect, in such contract or professional dealings.
2. Engage in, solicit, negotiate for or promise to accept private employment or render services for his or her personal benefit when such employment or service creates a conflict or impairs the proper discharge of his or her official duties.
3. Solicit, directly or indirectly, any gifts, or receive or accept any gift having the value of Seventy five (\$75.00) Dollars, or more, whether in the form of money, services, loan, travel, entertainment, hospitality, thing or promise, or in any other form, under circumstances in which it could be reasonably inferred that the gift was intended to influence him or her, or could reasonably be expected to influence him or her, in the performance of his or her official duties or was intended as a reward for any official action on his or her part.
4. Disclose confidential (financial or other) information acquired in the course of his or her official duties or use such information to further his or her personal interest.
5. Take action on a matter before the County or any instrumentality or agency thereof when, to his or her knowledge, the performance of that action would provide a pecuniary or material benefit to himself or herself, or his or her spouse, relative or dependent.
6. Serve on any committee or county body charged with the oversight of any matter in which a spouse, relative or dependent may be directly or indirectly affected. This shall include but not be limited to serving on a committee of the Board of Supervisors which oversees a department in which a spouse, relative or dependent is employed or who is employed by an individual or entity doing business with such department.

IV. DISCLOSURE OF INTEREST

1. Any County Official or other employee, who has, will have or intends to acquire a direct or indirect interest in any matter being considered by the Board of Supervisors of the County of Livingston or by any other County Official, Board or Agency or employee of the County of Livingston and who participates in the discussion before or who gives an opinion or gives advice to any Board, Agency or individual considering the same, shall publicly disclose on the official record the nature and the extent of such interest.
2. Any County Official or other employee of the County of Livingston who has knowledge of any matter being considered by any Board, Agency, officer or employee of the County of Livingston in which matter he or she or his or her spouse, relative or dependent has or will have or intends to acquire any direct or indirect interest, shall be required immediately to disclose, in writing, his or her or their interest to such Board, Agency, officer or employee, and the nature and the extent thereof, to the degree that such disclosure gives substantial notice of any potential conflict of interest.
3. All County Officials, annually must file with the Livingston County Ethics Board a statement of financial disclosure. The statement adopted by the Board shall be completed and returned to the Ethics Board on or before May 15th, of the year for which the employment is in effect.
4. A County Official who is subject to the filing requirements of this local law from more than one county may satisfy the requirements by filing only one annual statement of financial disclosure, and filing with the other(s) a notice that such filing has been made, inclusive of the date and place of the filing.
5. Any County Official who has or shall timely file with the Internal Revenue Service an application for automatic extension of time in which to file his/her individual income tax return for the immediately preceding calendar or fiscal year shall be required to submit an annual statement of financial disclosure on or before May 15th, of the year in which the employment is in effect. Such person shall file a supplementary statement for any item as so noted on the annual statement of financial disclosure, without liability under Article VIII of this local law, if said supplementary statement is filed within fifteen (15) days of the expiration of the automatic extension.
6. Any County Official who is required to file an annual statement of financial disclosure may request, prior to May 1st, of the year for which the employment is in effect, an extension of filing for an additional specific period of time. Such request shall be made in writing to the Livingston County Ethics Board with approval based upon substantiation of justifiable cause or undue hardship. The Board of Ethics may grant or deny the request, by vote of the membership, and extensions shall be for the specific period of additional time requested.
7. Any County Official required to file an annual statement of financial disclosure who becomes so required, or experiences a change in reporting levels after May 15th, of the year for which the employment is in effect, or becomes a candidate for a county elected office, shall file the appropriate annual statement within thirty (30) days.

V. PROMULGATION OF CODE OF ETHICS REVIEW

1. Upon entering office or employment, every County Official and every other employee shall receive a copy of the Code of Ethics of the County of Livingston with annual disclosure statements attached. The Livingston County Personnel Officer shall include a copy of the Code in each County Official or employee's personnel package and shall have each County Official or employee sign a receipt for the Copy of the Code. All current Livingston County Officials and other employees shall receive a copy of the Code by the Personnel officer within ten (10) business days after this Code becomes law.

VI. INDUCEMENT OF VIOLATIONS

1. A Livingston County Official or employee, who intentionally induces any County Official or employee to take any action or to refrain from taking any action, which action or inaction violates any provision of this law, and who knows or should have known that such action or inaction violates any provision of this law, shall be hereby deemed to have violated this law.

VII. CIVIL AND ADMINISTRATIVE PENALTIES

1. Any Livingston County Official or employee who engages in any action that violates any provision of this law, may be warned or reprimanded or suspended or removed from office or employment or be subject to any other sanction authorized by law to impose such sanctions. A warning, reprimand, suspension, removal or other authorized sanction may be imposed in addition to any other penalty contained in this law or in any other provision of law.

2. A County Official who knowingly and willfully fails to file an annual statement of financial disclosure or who knowingly and willfully with intent to deceive makes a false statement or gives information which such individual knows to be false on such statement of financial disclosure filed pursuant to this section shall be assessed a civil penalty in an amount not to exceed ten thousand dollars. Assessment of a civil penalty hereunder shall be made by the Livingston County Board of Ethics. A civil penalty for false filing may not be imposed hereunder in the event a category of "value" or "amount" reported hereunder is incorrect unless such reported information is falsely understated. Upon an appropriate determination and vote, the Livingston County Ethics Board may file a written recommendation with the Chief Elected Official or other disciplinary body, establishing grounds for removal for cause, in accordance with other provisions of the Livingston County Laws pertaining to officers, officials and employees and rules governing conduct. Notwithstanding any other provision of law to the contrary, no other penalty, civil or criminal may be imposed for a failure to file, or for a false filing, of such statement, except that the appointing authority may impose disciplinary action as otherwise provided by law.

The Livingston County Board of Ethics shall adopt rules governing the conduct of adjudicatory proceedings and appeals relating to the assessment of the civil penalties herein authorized. Such rules shall provide for due process procedural mechanisms substantially similar to those set forth in Article Three of the State Administrative Procedure Act but such mechanisms need not be identical in terms or scope. Assessment of a civil penalty shall be final unless modified, suspended or vacated within thirty days of imposition and upon becoming final shall be subject to review at the instance of the affected reporting individual in a proceeding commenced against the Livingston County Board of Ethics pursuant to Article seventy eight of the Civil Practice Laws and Rules.

VIII. ESTABLISHMENT OF THE LIVINGSTON COUNTY ETHICS BOARD

The Board of Supervisors hereby establishes an Ethics Board consisting of three (3) members.

VIX. QUALIFICATIONS OF LIVINGSTON COUNTY ETHICS BOARD MEMBER

1. No Ethics Board members shall hold office in any political party or be employed as a lobbyist. A Ethics Board member may make campaign contributions, but may not participate in any election campaign.

2. No more than two members of any Ethics Board may be members of the same political party. For purposes of this section, political party shall mean the two major political parties.
3. Ethics Board members shall be reimbursed for reasonable and necessary expenses. The Board of Supervisors may authorize, by local law, per diem compensation for Ethics Board members.
4. All Ethics Board members shall reside in Livingston County.
5. A majority of the Board of Ethics shall not be County Officials or employees of the County of Livingston or officers or employees of any municipalities wholly or partially located in the County of Livingston, but shall include at least one member who is either a County Official, or employee of the County of Livingston or an officer or employee of any municipality within the County of Livingston.

X. APPOINTMENT OF LIVINGSTON COUNTY ETHICS BOARD MEMBERS

1. The members of the Livingston County Ethics Board shall be appointed within sixty days of the establishment of the Ethics Board and no later than January 20 of each year thereafter.
2. Each member of the Livingston County Ethics Board shall be appointed as follows:
 - A. The Board of Supervisors shall appoint three (3) Ethics Board members.
 - B. The term of office of Ethics Board members shall be three years. Each member shall serve until his or her successor has been appointed, except that the three members first appointed shall serve for terms of office which shall expire on December 31 of the year in which the Ethics Board is established and the first and second years thereafter. No member shall serve for more than two full three year terms.

XI. LIVINGSTON COUNTY ETHICS BOARD VACANCIES

1. When a vacancy occurs in the membership of the Ethics Board, it shall be filled for the unexpired term in the same manner as the original appointment no later than thirty days after the vacancy occurs.
2. If an Ethics Board vacancy is not filled within sixty days after it occurs, the State of New York Temporary State Commission on Local Government Ethics or its successor may fill the vacancy.

XII. REMOVAL OF ETHICS BOARD MEMBERS

1. An Ethics Board member may be removed by the Chairman of the Livingston County Board of Supervisors upon the advice and consent of the Board of Supervisors or by the State of New York Temporary State Commission on Local Government Ethics or its successor if requested by a majority vote of the Board of Supervisors.
2. Grounds for removal of Ethics Board members will be substantial neglect of duty, gross misconduct in office, inability to discharge the powers or duties of office, or violation of this law, after written notice and opportunity for reply.

XIII. LIVINGSTON COUNTY ETHICS BOARD MEETINGS & QUORUM REQUIREMENTS

1. At its first meeting each year, the Ethics Board shall elect a chair from among its membership. Two members of the Ethics Board shall constitute a quorum. A vote of at least two Ethics Board members shall be required for the board to take any action. The chair or any two members may call a meeting of the Ethics Board.

2. The Ethics Board shall hold a meeting before April 30 of each year, at which the Ethics Board shall review the list of Livingston County Officials required to make annual disclosure and shall hold a meeting before May 30 of each year, at which the Ethics Board shall review the annual disclosure statements. The Ethics Board shall meet within one hundred fifty days of the effective date of this local law to review such lists and within one hundred eighty days to review such statements. The Ethics Board may hold as many additional meetings per year as it shall deem necessary or as shall be called by the chair or any two members, provided that a meeting of the Ethics Board shall be held 3 days after the filing of a complaint alleging a violation of this law, at which meeting such complaint shall be considered by the Ethics Board, as well as any other matters before it.

XVI. POWERS AND DUTIES OF THE LIVINGSTON COUNTY ETHICS BOARD

1. The Ethics Board shall have all the Powers and Duties prescribed to the Temporary State Commission on Local Government Ethics by Section 813, subdivision 9 of the General Municipal Law and any other applicable provisions of this law. Any inconsistencies herein shall resolve in favor of the Powers and duties found in Section 813, subdivision 9 of the General Municipal Law.

2. The Ethics Board may act only with respect to County Officials and employees of Livingston County.

3. The termination of a County Official, or employee from a Livingston County office or from employment with Livingston County shall not affect the jurisdiction of the Ethics Board with respect to the requirements imposed by this section.

4. In addition to any other duties prescribed by Section 813, subdivision 9 of the General Municipal Law, the Ethics Board shall have the following powers and duties:

(a) to prescribe and promulgate rules and regulations governing its own internal organization and procedures in a manner consistent with this law;

(b) to cause to be filed with the State of New York Temporary State Commission on Local Government Ethics or its successor a copy of the form for any disclosure statements required to be filed under this local ethics code, if any;

(c) to review lists of Livingston County Officials and their disclosure statements.

(d) to conduct investigations.