

LOCAL LAW
INTRODUCTORY NO. 8-19
CHAUTAUQUA COUNTY

A LOCAL LAW AMENDING THE CHAUTAUQUA COUNTY CODE OF ETHICS

BE IT ENACTED, by the County Legislature of the County of Chautauqua, New York, as follows:

I. Local Law 1-19 of the County of Chautauqua, entitled "A Local Law Amending the Chautauqua County Code of Ethics, is hereby amended by substitution to state as follows:

Section 1. Short Title

This code of ethics shall be known as the "Chautauqua County Code of Ethics."

Section 2. Legislative Purpose.

The purpose of this Code is to establish minimum standards of ethical conduct for County officers and employees to ensure that County government is free from improper influence. Ethical conduct ultimately depends on the personal integrity of County officers and employees and on the vigilance of their communities. The establishment of the standards and guidelines set forth in this code is a step toward providing the highest caliber of public administration for County government and increased confidence in its officials, while recognizing that public service cannot require a complete divesting of all proprietary interests nor impose overly burdensome disclosure requirements if County government is to attract and hold competent administrators.

By requiring public disclosure of interests that may influence or be perceived to influence the actions of County officials, this code is intended to facilitate consideration of potential problems before they arise, to minimize unwarranted suspicion, and to enhance the accountability of government to the people.

The disclosure requirements of this Code of Ethics are in addition to any other requirements imposed by law. Additional disclosure to the public is available pursuant to the New York State Freedom of Information Law and Election Law requirements. Copies of all contracts with the County are also available for public inspection at the Office of the Clerk of the County Legislature.

Section 3. Definitions

When used in this Code and unless otherwise expressly stated:

1. "Agency" means any office, board, body, advisory board, council, commission, agency, department, district, administration, division, bureau, or committee of the County.

2. "Appear" and "Appear Before" mean communicating in whatever form, whether personally or through another person.

3. "County Officer or Employee" means any officer or employee of the County, whether paid or unpaid, including Public Officials and all other members of any Agency of the County, but does not include a judge, justice, officer, or employee of the Unified Court System.

4. "Dependent" means an individual who will be claimed by the County Officer or Employee as a dependent on the current year's State or Federal tax return.

5. "Family Member" means a spouse, child, step-child, parent, step-parent, sibling, step-sibling, half-sibling, Dependent, and household member of a County Officer or Employee.

6. "Person" means an individual, corporation, partnership, unincorporated association, and all other entities.

7. "Related Person" means a spouse, fiancé(e), parent, child, or sibling, including step and half relations, a grandparent, parent-in-law, sibling-in-law, Dependent, member of the County Officer or Employee's household, first cousin, aunt, uncle, niece, or nephew.

8. "Public Official" means any official who has discretionary authority, either alone or as a member of an Agency, but does not include a judge, justice, officer, or employee of the Unified Court System.

Section 4. Conflicts of Interest of County Officers and Employees

1. No County Officer or Employee shall directly or indirectly do or take any act prescribed below, or agree to do such acts, or attempt such acts, or induce another Person to do such acts:

- a. act or Appear as agent, broker, employee, consultant, or representative for any third party in connection with any transaction that involves discretionary acts of any County Officer or Employee or act or Appear in any matter in which the County is a party or a complainant except on behalf of the County or himself or herself.
- b. solicit any gift, or accept or receive any gift having a value of seventy-five dollars (\$75.00) or more per year from any Person, other than a Family Member, whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise, or in any other form, who the County Officer or Employee knows is considering or has had any transactions with the County that involves any discretionary act by the County Officer or Employee.
- c. take or refrain from taking any action on any matter before the County in order to obtain a pecuniary or material benefit different from that to be derived by the general public for:

- (i) himself or herself;
- (ii) a Family Member;
- (iii) 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;
- (iv) 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 five percent (5%) of the outstanding stock;
- (v) any Person with whom the County Officer or Employee or his or her Family Member has an employment, professional, business, or financial relationship, provided, however, that relationships which are available to and entered into by the general public on the same terms and conditions as those applicable to the County Officer or Employee, such as relationships in the nature of bank accounts, credit cards, bank loans, and mortgages, shall not be deemed to be financial relationships for purposes of this section; or
- (vi) 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 two thousand dollars (\$2,000.00) per calendar year.

Examples of material or pecuniary benefits include, but are not limited to, hiring, promoting, authorizing a pay increase, providing a performance review, a job assignment or job description change, work schedule change, approving a voucher or expense claim, awarding a contract, extension of time to perform a contract, a contract dollar amount increase, and purchasing goods. Nothing in this section shall be construed as prohibiting a County Officer or Employee from performing a purely ministerial act.

Notwithstanding the above, a County Officer or Employee may respond to questions asked by an individual who will be taking or refraining from taking an action.

- d. solicit directly or indirectly any non-elected County Officer or Employee or any entity that is not subject to competitive bidding, to participate in an election campaign, or pay any assessment, subscription, or contribution to a political party, political party organization or election campaign. This paragraph shall not prohibit a general solicitation of a class of persons, other than those expressly prohibited, of which such solicited County Officer or Employee happens to be a member.
- e. except where authorized by law, disclose any confidential information acquired in the course of official duties or use any such information for personal gain or to advance the financial interests of any other Person.

- f. after termination of his or her term of office or employment with the County, Appear Before the County or receive compensation for any services rendered on behalf of any Person other than the County in relation to any particular matter upon which he or she took any discretionary act during his or her term of office or employment with the County.
- g. no paid County Officer or Employee shall for two years after the termination of employment provide professional or managerial services for a third party on any matter involving his or her former County Agency.

This subsection shall not apply to any elected official, member, or employee of a federal, state, or local government or one of their agencies or instrumentalities, or to any action by a licensed attorney that is permitted by the New York State Rules of Professional Conduct. Retired County Officers or Employees who were working for a third party on a matter involving their former County Agency at the time of enactment of this Law may continue to perform such work as long as their actions do not violate the terms of this paragraph “g” as it was written on their date of retirement.

- h. act or Appear as an attorney in: (1) any litigation in which the County is a party or complainant that involves torts, civil rights, contracts, or eminent domain, except on behalf of the County or himself of herself; or (2) any other matter in which the County is a party or complainant that would constitute a violation of the New York State Rules of Professional Conduct.

2. No partnership, unincorporated association, corporation or any other entity owned or controlled by a County Officer or Employee shall Appear Before any County department or Agency which employs such County Officer or Employee except on behalf of the County or itself.

3. Nothing in this Local Law 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 to a class of residents in the County.

4. Nothing in this Local Law shall be construed to prohibit a County Officer or Employee from performing any ministerial act.

5. Nothing in this Local Law shall be construed to prohibit an unpaid member of a County Agency from acting or appearing for a third party regarding a matter unrelated to the business of their County Agency, nor prohibit a County Officer or Employee who is an elected Public Official of another governmental entity from acting or appearing in their official capacity on behalf of such other governmental entity.

6. Nothing in this Local Law shall be construed to prohibit an unpaid member of an advisory County board, bureau, council, committee, or commission from acting or appearing for a third party regarding a contract with the County when such member has no power or duty to:

- a. negotiate, prepare, authorize or approve the contract or authorize or approve payment thereunder;
- b. audit bills or claims under the contract; or
- c. appoint a County Officer or Employee who has any of the powers or duties set forth above.

7. Nothing in this Local Law shall be construed to prohibit a County Officer or Employee from serving in an unpaid capacity as an officer or director of a non-profit or governmental entity, when such service is in furtherance of the official duties of the County Officer or Employee.

Section 5. Interests in Contracts Pursuant to General Municipal Law

1. No County Officer or Employee may have an interest in a contract that is prohibited by section 801 of New York General Municipal Law.

2. Every County Officer and Employee shall disclose interests in contracts with the County at the time and in the manner required by section 803 of New York General Municipal Law.

Section 6. Use of County Resources

The use of County resources by County Officers and Employees shall be in compliance with County policies and procedures.

Section 7. Procurement Integrity

1. While procuring property or services of more than fifty thousand dollars (\$50,000.00) in value, no County Officer or Employee shall solicit, discuss, or accept, directly or indirectly, any promise of future employment or business opportunity from any contractor competing for such procurement.

2. While competing for award of a County procurement of property or services of more than fifty thousand dollars (\$50,000.00) in value, no contractor shall discuss or make, directly or indirectly, any offer or promise of future employment or business opportunity to any official of the County involved in such procurement.

Section 8. Annual Disclosure

1. All Public Officials who are elected or paid, and all County Officers or Employees who are authorized to use County-issued credit cards or to approve vouchers, purchase orders,

contracts and payroll such as purchasing clerks and purchasing agents, shall file with the Ethics Board, by depositing with the Office of the County Executive, a signed annual disclosure statement using a form approved by the Ethics Board which shall be substantially in conformance with the 2019 disclosure statement form filed with the Clerk of the County Legislature.

- a. within thirty (30) days of taking office; and
- b. no later than April 30 of each year thereafter.

Within thirty (30) days of any material change in the information contained in his or her most recently filed statement, the County Officer or Employee shall file a signed amendment to the statement indicating the change. The Ethics Board shall have free and unlimited access to all forms at all times.

2. If a County Officer or Employee who is elected or paid is not able, after reasonable efforts, to obtain some or all of the information required by paragraph two of this section which relates to his or her spouse or household member, he or she shall so state, as part of the annual disclosure statement.

3. The Ethics Board shall review all disclosure statements. Upon being satisfied as to the content and completeness of a statement, the Ethics Board shall return the statement to the Office of the County Executive, which will in turn file the original statement with the County Clerk and an electronic copy with the Clerk of the Legislature. All such statements are public records and shall be kept on file for at least seven (7) years.

Section 9. Lists of Titles Required to File; Notice of Filing Requirements; Verification of Filing; Training and Distribution of Code

1. A list of those titles which are subject to County disclosure requirements, as the same may be amended from time to time by the Ethics Board, is on file with the Clerk of the Legislature and in the office of the County Executive.

2. Before May 15th of each year, the County Executive shall verify that every affected County Officer or Employee has filed his or her annual disclosure statement.

3. Failure of the County Executive or of an individual subject to disclosure statement filing requirements to comply with such requirements shall not relieve any individual from his or her duty to file a disclosure statement pursuant to this Code of Ethics.

4. All County Officers and Employees subject to the requirements of the Chautauqua County Code of Ethics are required to undergo annual Ethics Board training to inform and educate them as to the requirements of this Code. The training will include either a paper copy of the Code or information about where the Code can be found online. Training will be administered as follows:

- a. The County Department of Human Resources will provide a paper copy of the training materials to new employees as part of the new employee orientation process, and will secure written confirmation of receipt, or will send the training materials to new employees via e-mail and secure written confirmation of receipt.
- b. The County Department of Human Resources will issue training materials to Department Heads, who shall administer annual training for all County employees under their purview between January 1st and March 31st. Department Heads must ensure that each employee under their purview signs off on a paper or electronic form confirming review of the training, and shall certify completion of departmental training to the Human Resources Director.
- c. For County boards and commissions, the appointing authorities or their designees will provide a copy of the training materials to each board member upon first appointing such board member, and will secure written or electronic confirmation of receipt.
- d. For County boards and commissions, the appointing authorities or their designees will administer annual training for all existing board members between January 1st and March 31st. Appointing authorities or their designees must ensure that each board member under their purview acknowledges receipt of the training materials, either electronically or by signing off on a form confirming receipt of the training materials.
- e. The Director of the Department of Human Resources will notify the County Ethics Board when Department Heads have certified employee completion of the annual training, and appointing authorities or their designees will notify the County Ethics Board when all board members have acknowledged receipt of the annual training materials.

Section 10. Reporting Violations.

All County Officers and Employees are encouraged to report any instances of suspected or known violations of this Code. Reports may be made to a supervisor, or to the Chautauqua County Ethics Board, PO Box 13, Jamestown, New York 14702-0013. Making a report with knowledge that all or part of the information in the report is false is a violation of this Code and may result in penalties as provided herein.

Section 11. Inducement of Violations

Any Person, whether or not a County Officer or Employee, who intentionally induces any County Officer or Employee to take any action or to refrain from taking any action in violation of any provision of this Code, violates this Code.

Section 12. Civil and Administrative Penalties

1. 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 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.

2. Any County Officer or Employee who violates any provisions of this Code may be subject to a civil fine of up to ten thousand dollars (\$10,000) for each violation, as may be determined by the Ethics Board. A civil fine may be imposed in addition to any other penalty contained in any other provisions of law or in this Code.

3. Any 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.

Section 13. County Ethics Board

1. Establishment. The County Legislature hereby establishes an Ethics Board consisting of five (5) members. The Ethics Board shall be responsible for ensuring full compliance with the Code of Ethics. All actions of the Ethics Board shall be by a vote of at least three (3) members. Members of the Ethics Board shall serve without compensation.

2. Appointment. Members of the Ethics Board shall be appointed by the County Executive and confirmed by a two-thirds vote of the County Legislature. No Ethics Board members shall hold office in a political party, be employed as a lobbyist, be an immediate relative of a County Officer or Employee, or have any financial interest in any contracts or other transactions involving the County.

3. Term. The members of the Ethics Board shall serve three-year staggered terms, with three terms expiring in odd years and two terms expiring in even years. If a vacancy occurs on the Ethics Board, the new member shall be appointed to fill the unexpired portion of the term. Members of the Ethics Board may be removed for cause by the County Executive with the concurrence of two-thirds of the County Legislature. Grounds for removal shall be neglect of duty, misconduct in office, inability to discharge the powers or duties of the office, or violation of the Code of Ethics. Prior to removal, the Ethics Board member shall be given written notice of the reasons for removal and an opportunity to reply.

4. Powers and Duties. The Ethics Board shall have the following powers and duties:

- a. Prescribe and promulgate rules and regulations governing its internal organization and procedures consistent with the Code of Ethics;
- b. Review with County Officers or Employees the disclosure requirements of this Code, and ensure proper filing of all disclosure statements;
- c. Conduct investigations, hearings, and other examinations relating to the Code of Ethics, with the power to issue subpoenas where necessary;
- d. Recommend and impose sanctions, penalties, or fines in accordance with the Code of Ethics;
- e. Render advisory opinions upon request of any County Officer or Employee;

- f. Recommend content for training and education of County officers and employees regarding the requirements of the Code of Ethics;
- g. Prepare an annual report;
- h. Recommend changes or improvements to the Code of Ethics;
- i. Perform such other related duties as requested by the County Executive;
- j. Meet at least four times a year, and send notice of meetings and the names of Ethics Board members to the County's official newspapers and to radio stations in the County. In addition, notice of meetings and the names of Ethics Board members shall be posted on the County's website; and
- k. Arrange for a separate post office box for the Ethics Board, accessible only by officers of the Ethics Board.

Section 14. Separability.

If any clause, sentence, paragraph, or section of this Code of Ethics is adjudged by any court of competent jurisdiction to be invalid, such adjudication shall not affect, impair or invalidate the remainder thereof, and the unaffected portions of this Code of Ethics shall remain in full force and effect.

II. This Local Law shall become effective upon filing with the Secretary of State.

Sponsor: Legislator Scudder

Emailed: 12/6/19

Adopted by Legislature: 12/18/19

Public Hearing by County Executive: 1/2/2020

Adopted As Local Law 1-20

R/C Vote: 19 Yes

Date State Filed: 1/10/2020