

**ORDINANCE FURTHER AMENDING AND RESTATING  
ETHICS REGULATIONS FOR OFFICERS AND EMPLOYEES  
OF THE DU PAGE COUNTY ELECTION COMMISSION**

November 21, 2013

Ordinance No. 2013-2

WHEREAS, the DuPage County Election Commission (hereinafter referred to as the “Commission”) is duly organized and operating under Article 6A of the Election Code, 10 ILCS 5/6A-1 *et seq.*; and

WHEREAS, the Commission possesses full power to pass all necessary rules, regulations, and procedures for carrying into effect the objects for which the Commission was formed in accordance with Article 6A of the Election Code; and

WHEREAS, the Commission possesses full power to adopt rules and regulations governing the operation of the Commission and employees under its respective statutory grant of power; and

WHEREAS, the Illinois General Assembly has enacted the State Officials and Employees Ethics Act, 5 ILCS 430/1-1, *et seq.*, regulating ethical conduct, political activities and the solicitation and acceptance of gifts by State officials and employees; and

WHEREAS, pursuant to Section 430/70-5 of the said Act, 5 ILCS 430/70-5, all units of local government and school districts, within six months after the effective date thereof, were to adopt ordinances or resolutions regulating the political activities of, and the solicitation and acceptance of gifts by, the officers and employees of such units "in a manner no less restrictive" than the provisions of the Act; and

WHEREAS, while the Commission is not a unit of local governments, it did adopt an Ethics Ordinance in compliance with the Act; and

WHEREAS, the Commission, on August 2, 2012, adopted Ordinance No. 2012-10, “Ordinance Further Amending and Restating Ethics Regulations for Officers and Employees of the DuPage County Election Commission,” adopting DuPage County Ordinance OFI-003C-04 as its ethics ordinance and authorizing an agreement (Exhibit “A”- Memorandum of Understanding – Shared Ethics Officers) with the County to utilize the County’s Ethics Commission, Ethics Officer and Investigator General as a means of enforcing all rules, regulations and provisions of the Commission’s ethics ordinance; and

WHEREAS, subsequent thereto, the County adopted on August 27, 2013, Ordinance No. OFI-013A-12, “Amendment to the DuPage County Ethics Ordinance of 2012”; and

WHEREAS, accordingly, the Commission finds it reasonable and necessary to amend Ordinance No. 2012-10 to adopt changes to the DuPage County Ethics Ordinance according to County Ordinance OFI-013A-12 as its amended ethics ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of the DuPage County Election Commission as follows:

Section 1. The foregoing recitals are hereby incorporated by reference as if fully set forth here.

Section 2. Ordinance No. 2012-10, adopted August 2, 2012, is hereby amended and restated, per County Ordinance OFI-013A-12 “Amendment to the DuPage County Ethics Ordinance of 2012 (see attached).

Section 3. Pursuant to Section 2-454 of the amended DuPage County Ethics Ordinance of 2012, the Commission shall continue to utilize the County’s Ethics Commission, Ethics Officer and Investigator General for enforcement of the rules, regulations, and provisions of the Commission’s Ethics Ordinance, and shall be responsible for all costs relating to the investigation or adjudication of ethics complaints in accordance with that Section. Exhibit “A” – Memorandum of Understanding – Shared Ethics Officers of August 2, 2012, will remain in full force.

Section 4. The Executive Director is hereby directed to transmit certified copies of this Ordinance to the Chief Judge of the Eighteenth Judicial Circuit, 505 N. County Farm Road, Wheaton, IL 60187, Chairman of the DuPage County Board, DuPage County, 421 N. County Farm Road, Wheaton, IL 60187, the DuPage County State’s Attorney, 503 N. County Farm Road, Wheaton, IL 60187, and to the Attorney for the Election Commission, Bond, Dickson & Associates, P.C., at 400 South Knoll Street, Unit C, Wheaton, IL 60187.

Section 5. Any and all policies, resolutions or ordinances of the Commission which may conflict with this Ordinance shall be, and are hereby, repealed.

Section 6. If any Section, provision or part of this Ordinance shall be held invalid or unenforceable for any reason, such invalidity shall not affect the surviving provisions of this Ordinance.

Section 7. This Ordinance shall be in effect from and after its passage and approval, and required recording in the manner provided by law.

PASSED AND APPROVED by the Board of Election Commissioners of the DuPage County Election Commission this 21st day of November 2013.

APPROVED BY:

/s/ Cathy E. Terrill  
Cathy Terrill, Chairperson

/s/ Christopher Hage  
Christopher Hage, Vice Chair

/s/ Art Ludwig  
Art Ludwig, Secretary

ATTEST:

BY:

/s/ Art Ludwig  
Art Ludwig, Secretary

AYES: 3

NAYS: 0

ABSENT: 0

# DuPage County Ethics Ordinance of 2012

Adopted Pursuant to 5 ILCS 430/70-5

## CODE OF DU PAGE COUNTY

### CHAPTER 2. ADMINISTRATION.

#### ARTICLE VII-A: DUPAGE COUNTY ETHICS ORDINANCE OF 2012

Part 1 – General Provisions.....	3
Subpart A – Purpose and Short Title.....	3
Section 2-450 – Short Title.....	3
Subpart B – Application and Adoption by Governmental Entities .....	3
Section 2-451 Application of Ordinance .....	3
Section 2-452 – Shared Enforcement Agreements.....	4
Subpart C – Definitions .....	4
Section 2-453 – Definitions.....	4
Subpart D – Employee Responsibilities .....	6
Section 2-454 – Employee Cooperation .....	6
Section 2-455 – Whistleblower Protection.....	7
Section 2-456 –Training .....	7
Subpart E - Miscellaneous Provisions .....	7
Section 2-457 – Severability .....	7
Section 2-458 – Transition .....	8
Section 2-459 – Application of the Freedom of Information and Open Meetings Acts .....	8
Section 2-460 – Notices .....	8
Section 2-461 – Effective Date.....	9
Part 2 – Ethics Officers.....	9
Subpart A – General Provisions .....	9
Section 2-462 – Indemnification of Ethics Officers.....	9
Section 2-463 – Compensation of Ethics Officers.....	9

Subpart B – Ethics Commission .....	9
Section 2-464 – Composition and Organization of the Ethics Commission.....	9
Section 2-465 – Powers and Duties of the Ethics Commission.....	10
Subpart C – Ethics Adviser .....	11
Section 2-466 Appointment and Qualifications of the Ethics Adviser.....	11
Section 2-467 – Duties of the Ethics Adviser .....	11
Subpart D – Investigator General .....	12
Section 2-468 – Appointment and Qualifications of the Investigator General .....	12
Section 2-469 – Powers and Duties of the Investigator General.....	12
Section 2-470 – Assistant Investigators General .....	13
Part 3 – Prohibited Conduct .....	14
Subpart A – Gift Ban .....	14
Section 2-471 – Gift Ban .....	14
Section 2-472 – Exceptions.....	14
Subpart B – Campaign Contributions .....	15
Section 2-473 – Campaign Contribution Restrictions.....	15
Section 2-474 – Contractor Disclosure of Campaign Contributions .....	15
Subpart C – Prohibited Political Activity .....	16
Section 2-475 – Prohibited Political Activity Defined .....	16
Section 2-476 – Prohibitions.....	17
Subpart D – Conflicts of Interest.....	18
Section 2-477 – Financial Interest Disclosure .....	18
Section 2-478 – Conflict of Interest .....	18
Section 2-479 – Future Employment .....	19
Section 2-480 – Former Employment Relationships .....	20
Section 2-481 – Prohibited Employment .....	20
Section 2-482 – Improper Use of Proprietary or Confidential Information .....	20
Subpart E – Other Prohibited Conduct .....	21
Section 2-483 – Disregard of Obligations Under this Ordinance.....	21
Section 2-484 – Whistleblower Protection.....	21
Part 4 – Complaint and Hearing Procedures .....	21
Section 2-485 – Complaint Filing Procedure.....	21

Section 2-486 – Investigative Procedure by Investigator General .....	22
Section 2-487 – Hearing Procedure by Ethics Commission .....	24
Section 2-488 – Ethics Commission Decisions and Reconsideration.....	24
Part 5 – Authorized Dispositions .....	25
Section 2-489 – Recommendations for Discipline .....	25
Section 2-490 – Imposition of Fines.....	26
Section 2-491 – Collective Bargaining Restriction .....	26
Part 6 – Administrative Review.....	26
Section 2-492 – Administrative Review .....	26

## **Part 1 – General Provisions**

### **Subpart A – Purpose and Short Title**

#### **Section 1.1– Purpose**

It is the goal of the Board of Election Commissioners and its chairperson to guarantee fair, efficient, and honest operation of the Election Commission and to ensure the integrity and objectivity of its Commissioners and employees. The purpose of this Ordinance is to provide a framework for ethical activities for the Election Commission officers and employees to follow while conducting the business of government on behalf of the community they serve. No one policy can comprehensively encompass all aspects of appropriate business behavior. The fundamental principle underlying all policies is that all activities of public officials and employees must meet appropriate ethical and legal standards.

#### **Section 2-450 – Short Title**

This ordinance may be cited as the “DuPage County Ethics Ordinance of 2012.”

### **Subpart B – Application and Adoption by Governmental Entities**

#### **Section 2-451 – Application of Ordinance**

This ordinance applies to the following entities and persons upon its effective date:

- (a) The DuPage County Election Commissioners and its chairperson.
- (b) All officers and employees of the DuPage County Election Commission, including but not limited to the chairperson and each member of the Election Commission board.

## Section 2-452 – Shared Enforcement Agreements

The county may enter into an agreement with any governmental entity that has adopted this ordinance, or an ordinance or policy substantially similar to it, when that governmental entity desires that the county’s ethics officers shall also serve as its ethics officers. Any agreement adopted under this section shall fully set forth the ethics ordinance or policy of the other entity and shall provide that the other entity shall be solely responsible for any costs associated with the investigation or adjudication of any ethics complaint.

## Subpart C – Definitions

### Section 2-453 – Definitions

For purposes of this ordinance, the following terms are defined as follows:

- (a) “business entity” means the actual organization or individual to which a governmental entity subject to this ordinance has awarded a contract or to which such contract is to be awarded and includes any of the business’s principals, family members of the business’s principals, and any other legal entities in which those principals or family members have a controlling interest or have control over the disbursement of funds of the business.
- (b) “campaign for elective office” means any activity in furtherance of an effort to influence the selection, nomination, election or appointment of any individual to any federal, state or local public office or office in a political organization, or the selection, nomination, or election of presidential or vice-presidential electors, but does not include activities (1) relating to the support or opposition of any executive, legislative or administrative action, (2) relating to collective bargaining, or (3) that are otherwise in furtherance of a person’s official duties.
- (c) “candidate” means an individual who has filed nominating papers or petitions for nomination or election to an elected office, or who has been appointed to fill a vacancy in nomination, and who remains eligible for placement on the ballot at a regular election, as defined in Section 1-3 of the Election Code (10 ILCS 5/1-3).
- (d) “collective bargaining” has the same meaning as that term is defined in Section 3 of the Illinois Public Labor Relations Act (5 ILCS 315/3).
- (e) “compensated time” means, with respect to an employee, any time worked by or credited to the employee that counts toward any minimum work time requirement imposed as a condition of his or her employment, but for purposes of this ordinance, does not include any designated holidays, vacation periods, personal time, compensatory time off or any period when the employee is on a leave of absence. With respect to an officer, employee or other appointee whose hours are not fixed, “compensated time” includes any period of time when such person is executing his or her official duties, regardless of location.
- (f) “compensatory time off” means authorized time off earned by or awarded to an employee to compensate in whole or in part for time worked in excess of minimum work time required of that employee as a condition of his or her employment.
- (g) “contractor or vendor” means owners, officers, managers, lobbyists, agents, consultants, bond counsel and underwriters’ counsel, subcontractors and corporate entities under the control of the

contracting entity, and political action committees to which the contracting person has made contributions.

- (h) “contribution” has the same meaning as the term is defined in Section 9-1.4 of the Election Code (10 ILCS 5/9-1.4).
- (i) “commission” means the ethics commission created pursuant to this ordinance.
- (j) “countywide officials” means the auditor, clerk, clerk of the circuit court, coroner, recorder of deeds, regional superintendent of education, sheriff, state’s attorney, and treasurer.
- (k) “ethics officers” means the members of the commission, the ethics adviser, the investigator general and his or her assistants, collectively.
- (l) “employee” means any person, other than an officer, employed by a governmental entity subject to this ordinance on a full time, part time, temporary, or contractual basis, but does not include an independent contractor. “Employee” includes current employees and any person who was employed at the time of the conduct which is the subject of any complaint filed with the commission in conformance with the provisions of this ordinance.
- (m) “family member” means those individuals related to a person subject to this ordinance as father, mother, son, daughter, brother, sister, uncle, aunt, spouse, including a party to a civil union, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, and stepsister.
- (n) “gift” means any gratuity, discount, entertainment, hospitality, loan, forbearance, or other tangible or intangible item having a fair cash market value including but not limited to cash, food, drink and honoraria for speaking engagements related to or attributable to government employment or the official position of any officer or employee subject to this ordinance.
- (o) “governmental entity” means any legislative, executive, administrative, judicial, or advisory bodies of the State, state universities and colleges, counties, countywide officials, townships, cities, villages, incorporated towns, school districts and all other municipal corporations, boards, bureaus, committees, or commissions of this State or another, any subsidiary bodies of any of the foregoing including but not limited to committees and subcommittees thereof.
- (p) “intra-governmental gift” means any gift given to a person by an officer or employee of the same governmental entity.
- (q) “inter-governmental gift” means any gift given to a person by an officer or employee of another governmental entity.
- (r) “market value” means the price that a gift would bring for tangible or intangible assets of like type, quality and quantity in the local market at the time of acquisition.
- (s) “officer” means a person elected or appointed to the principal executive office of a governmental entity subject to this ordinance or as a member of any administrative or legislative body thereof, for a term as defined by law. Officers include, but are not limited to, the chairperson and each member of the Election Commission, elected countywide officers subject to this ordinance, and members of all boards, commissions or committees subject to this ordinance.



- (t) “person” or “person subject to this ordinance” means any officer or employee of a governmental entity subject to this ordinance.
- (u) “political” means any activity in support of or in connection with any campaign for elective office or any political organization, but does not include activities (1) relating to the support or opposition of any executive, legislative or administrative action or (2) relating to collective bargaining, or (3) that are otherwise in furtherance of the person’s official duties.
- (v) “political organization” means a party, committee, association, fund or other organization (whether or not incorporated) that is required to file a statement of organization with the State Board of Elections or a county clerk under Section 9-3 of the Election Code (10 ILCS 5/9-3), but only with regard to those activities that require filing with the State Board of Elections or a county clerk.
- (w) “principals” of a business shall mean an officer of a business entity, and any person or entity with a 7½% or greater ownership interest.
- (x) “prohibited source” means any person or entity who (1) is seeking official action by an officer; or in the case of an employee, by the employee, or by an officer or another employee directing that employee; (2) does business or seeks to do business with the governmental entity subject to this ordinance or in the case of an employee, by the employee or by the officer, or another employee directing the employee; (3) conducts activities regulated by the officer or in the case of an employee, by the employee or by the officer, or another employee directing the employee; (4) has interests that may be substantially affected by the performance or non-performance of the official duties of the person subject to this ordinance; (5) is registered or required to be registered with the Secretary of State under the Lobbyist Registration Act or ordinance pertaining to the registration of lobbyists enacted by the governmental entity , except that an entity not otherwise a prohibited source does not become a prohibited source merely because a registered lobbyist is one of its members or serves on its board of directors; or (6) is an agent, or a family member who is living with a “prohibited source.”
- (y) “ultimate jurisdictional authority” means
  - (1) In the case of an employee, the head of any department to which the employee reports;
  - (2) In the case of the head of a department, the highest-ranking employee of the governmental entity or that person’s designee;
  - (3) In the case of the highest-ranking employee of a governmental entity, the presiding officer of the entity’s corporate authorities or the officer authorized by law to control the entity’s internal operations; and
  - (4) For the presiding officer of a governmental entity’s corporate authorities or any member of such entity’s corporate authorities, the remaining members of such corporate authorities.

## Subpart D – **Employee Responsibilities**

### Section 2-454 – **Employee Cooperation**

All persons subject to this ordinance shall be obligated to cooperate during the course of an investigation and to comply with requests for information from the investigator general and the commission. Subject to constitutional or statutory limitations, the failure or refusal of any person to comply with reasonable requests

for information shall constitute a violation of this ordinance and may be considered by the ultimate jurisdictional authority as grounds for discipline consistent with the enforcement provisions of this ordinance.

#### **Section 2-455 – Whistleblower Protection**

- (a) Whenever any person subject to this ordinance reasonably believes evidence exists that another employee has perpetrated gross mismanagement, gross misuse or waste of public resources or funds, abuse of authority in connection with the administration of a public program or execution of a public contract, a violation of a federal, state, or local law, rule or regulation which is not merely of a technical or minimal nature, or a substantial and specific danger to the public health and safety exists, such person shall bring this evidence to the immediate attention of the chairperson of the Election Commission, any of its members or its Executive Director,, the state’s attorney, the auditor, the employee’s department head, or human resources director. In the event that one of the above named officials or employees is not available, the person shall submit this evidence to the duly authorized designee acting in the stead of the absent official or employee. In the case of an employee of a governmental entity subject to this ordinance other than the Election Commission, he or she may also bring such evidence to the attention of the entity’s chief executive officer, corporate authorities or governing board, or legal counsel.
- (b) Any person who reports a violation or concern, in good faith, shall not be subjected to retaliation, harassment, abuse, threats, and discrimination or any adverse employment consequences as a result of coming forward.
- (c) Any person who reports a violation or concern in good faith, on behalf of another person, shall not be subjected to retaliation, harassment, abuse, threats, and discrimination or any adverse employment consequences as a result of coming forward.
- (d) This section shall not apply to any person who makes a report known to that person to be false on his or her own behalf or on behalf of another.
- (e) The commission shall develop formal procedures and forms for reporting complaints of improper or unethical behavior and shall make information available on the county’s intranet.

#### **Section 2-456 –Training**

All persons subject to this ordinance, within six (6) months after adoption of this ordinance and at least annually thereafter, must complete an ethics training program approved by the commission. A new employee must complete his or her initial ethics training during orientation within the first month of employment or as soon thereafter as such training is available within the first six (6) months of employment. Officers shall attend a training program within six (6) months of being elected or appointed (or as soon thereafter as an ethics training is available) and at least annually thereafter, an ethics training program approved by the commission in conjunction with the ethics adviser. The ethics adviser shall assist human resources personnel in maintaining records related to each person’s completion of such training programs.

#### **Subpart E - Miscellaneous Provisions**

##### **Section 2-457 – Severability**

- (a) The provisions of this ordinance are severable.

- (b) If any court of competent jurisdiction shall adjudge any provision, or part thereof, of this ordinance to be invalid, such judgment shall not affect any other provision, or part thereof, of this ordinance which are not declared to be invalid in said judgment.
- (c) If any court of competent jurisdiction shall adjudge invalid the application of any provision, or part thereof, of this ordinance to a particular person, such judgment shall not affect the application of said provision, or part thereof, to any other person not specifically included in said judgment.

**Section 2-458 – Transition**

- (a) Members of the DuPage County ethics commission appointed pursuant to OFI-003C-04 shall continue as members of the commission for the duration of the terms to which they were appointed.
- (b) The ethics officer of DuPage County appointed pursuant to OFI-003C-04 shall serve as the ethics adviser for the duration of the term to which he or she was appointed.
- (c) The investigator general of DuPage County appointed pursuant to OFI-003C-04 shall serve as the investigator general for the duration of the term to which he or she was appointed.

**Section 2-459 – Application of the Freedom of Information and Open Meetings Acts**

- (a) Documents generated by the investigator general under this ordinance are exempt as allowed by law from the provisions of the Freedom of Information Act.
- (b) Any allegations and related pleadings submitted to the commission are exempt from the Freedom of Information Act so long as the commission does not make a finding of a violation of this ordinance.
- (c) If the commission finds that a violation has occurred, the entire record of proceedings before the commission, the decision and recommendations and the mandatory report are not exempt from the provisions of the Freedom of Information Act, but information contained therein that is otherwise exempt from the Freedom of Information Act must be redacted before disclosure as provided in Section 8 of the Freedom of Information Act.
- (d) The commission may close portions of its meetings, including hearings under this ordinance, in the manner authorized by the Open Meetings Act.

**Section 2-460 – Notices**

- (a) Whenever any provision of this ordinance requires an ethics officer to provide written notice to any individual or entity, such officer shall provide such notice through the use of certified mail, return receipt requested, unless, except in the case of a complainant or respondent as set forth in Part 4, the ethics officer and the individual or entity to whom such officer is to provide notice agree in writing to accept such correspondence in any other written form, including electronic mail, provided that such officer retains a physical copy of all such correspondence.
- (b) Failure of an ethics officer to provide notice to any individual or entity other than a respondent in the manner required by paragraph (a) shall not invalidate any action taken by such officer or the commission.

## Section 2-461 – **Effective Date**

This ordinance becomes effective on November 21, 2013.

## Part 2 – **Ethics Officers**

### Subpart A – **General Provisions**

#### Section 2-462 – **Indemnification of Ethics Officers**

The ethics officers 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 10/1-101 *et. seq.*), 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, such persons 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 and as may be subsequently revised.

#### Section 2-463 – **Compensation of Ethics Officers**

- (a) The chairman of the ethics commission, the investigator general and his or her assistants, and the ethics adviser shall be compensated at the rate of \$185 per hour for all time spent in the furtherance of his or her official duties and shall be reimbursed for reasonable expenses incurred in the performance of such duties.
- (b) The members of the commission shall be compensated at a per diem rate of \$175 for official meetings of the commission.

### Subpart B – **Ethics Commission**

#### Section 2-464 – **Composition and Organization of the Ethics Commission**

- (a) The commission shall consist of five (5) commissioners appointed by the county board upon the nomination of the chairman of the county board.
- (b) The chairman of the county board shall from time to time designate one commissioner to serve as chairman of the commission.
- (c) All commissioners shall be residents of DuPage County. No commissioner may during his or her term of appointment: (1) become a candidate for any elective public office; or (2) hold any other elected or appointed public office, except for appointment to a governmental advisory board, study commission, or as an ethics official of another governmental entity; provided, however, a commissioner may resign to become a candidate for elective office or to accept an appointment to a public office. No more than three (3) commissioners shall be members of the same political party. Prior to nomination, the chairman of the county board shall obtain a sworn affidavit of party affiliation from each prospective appointee.

- (d) Each commissioner shall serve a term of two (2) years and until their successors are appointed and qualified. Commissioners serving as members of the commission established pursuant to OFI-003C-04 shall continue to serve as ethics commissioners under this ordinance until such time as their terms have expired or their successors are appointed and qualified. Thereafter, the chairman shall nominate commissioners for appointment to two (2) year terms, or in the case of an unexpired term, to the remainder of the term.
- (e) The commission shall hold an organizational meeting within thirty (30) days of its appointment and thereafter as often as necessary to perform its duties and shall meet at least annually on the anniversary of its first meeting. The Commission shall meet upon the call of its chairman, any two (2) commissioners, or the chairman of the county board.
- (f) Action at a hearing by the commission shall require the affirmative vote of four (4) commissioners. Action of any other meeting by the commission shall require the affirmative vote of three (3) commissioners.
- (g) The chairman of the county board may remove a commissioner with the advice and consent of the county board, with or without cause, by notice to the chairman of the commission and the commissioner by certified mail, return receipt requested.

**Section 2-465 – Powers and Duties of the Ethics Commission**

The commission shall have the following powers and duties:

- (a) To exercise jurisdiction over all persons subject to this ordinance.
- (b) To promulgate procedures and rules in addition to those contained in this ordinance governing the performance of its duties and the exercise of its powers and those of the investigator general.
- (c) To act only upon the receipt of a report or petition from the investigator general and not on its own prerogative.
- (d) To consider an investigator general’s petition to proceed to a hearing on a formal complaint and to consider any written argument of the respondent which is filed within thirty (30) days of respondent’s receipt of the petition of the investigator general.
- (e) To receive, review and rule on the record of the investigator general and respondent’s submission. The commission shall either concur in the investigator general’s recommendation to issue a formal complaint or reject the recommendation of the investigator general and dispose of the original complaint.
- (f) To refer to the investigator general for investigation any allegations of violations of this ordinance received by the commission.
- (g) 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.
- (h) 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 materials relevant to

matters to be heard and, if necessary, petition the Circuit Court of DuPage County for an order that a party comply with the commission's requests. The commission shall employ a court reporter, the reasonable cost of which shall be paid by DuPage County after submission and approval of an invoice.

- (i) To prepare, file and serve a written report to include findings of fact and a decision regarding a complaint, assessment of fines, penalties and recommendation for disposition by the ultimate jurisdictional authority.
- (j) To exercise its powers and duties strictly limited to matters clearly within the purview of this ordinance.
- (k) To seek and receive legal advice from the state's attorney who shall provide legal advice without charge to the commission.
- (l) 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 the 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.

## **Subpart C – Ethics Adviser**

### **Section 2-466 Appointment and Qualifications of the Ethics Adviser**

- (a) An ethics adviser shall be appointed by the county board upon the nomination of the chairman of the county board for a term of two (2) years and until his or her successor is appointed and qualified.
- (b) The chairman of the county board may remove the ethics adviser with the advice and consent of the county board, with or without cause, by notice to the chairman of the commission and the ethics adviser, by certified mail, return receipt requested.
- (c) The ethics adviser shall not (1) become a candidate for any elective office; or (2) hold any other elected or appointed public office except for appointment to a governmental advisory board, study commission, or as an ethics official of another governmental entity; provided, however, the ethics adviser may resign to become a candidate for elective office or to accept an appointment to a public office.
- (d) If the ethics adviser is a county employee, the county board shall determine the rate at which he or she is compensated in lieu of the provisions of this ordinance.

### **Section 2-467 – Duties of the Ethics Adviser**

The ethics adviser shall:

- (a) Provide guidance to any person subject to this ordinance in the interpretation and implementation of this ordinance, upon a written inquiry, with a written response;
- (b) Review statements of economic interest and disclosure forms of any person subject to this ordinance;

- (c) Assist in the preparation and publication of manuals and guides explaining the duties of individuals covered by this ordinance;
- (d) Assist in the preparation of public information materials to facilitate compliance, implementation, and enforcement of this ordinance;
- (e) Assist in maintaining accurate records of attendance of persons at training seminars and appropriate distribution of compliance materials; and
- (f) Provide such guidance and assistance as set forth in this section to all persons subject to the ordinance.

## **Subpart D – Investigator General**

### **Section 2-468 – Appointment and Qualifications of the Investigator General**

- (a) The county board shall appoint an investigator general upon the nomination of the chairman of the county board for a period of four (4) years and until his or her successor is appointed and qualified. A person serving as investigator general under OFI-003C-04 on the effective date of this ordinance shall serve as investigator general for the duration of such person’s term and until his or her successor is appointed and qualified.
- (b) The investigator general shall not be an employee of any governmental entity.
- (c) The investigator general shall be an attorney licensed to practice law in the State of Illinois.
- (d) During the time in which the investigator general holds office, he or she shall not (1) become a candidate for any elective office, or (2) hold any other elected or appointed public office except for appointment to an uncompensated advisory board or study commission or as an ethics official to another governmental entity; provided, however, the investigator general may resign to become a candidate for elective office or to accept an appointment to a public office.
- (e) The chairman of the county board may remove an investigator general with the advice and consent of the county board, with or without cause, by notice to the chairman of the commission and the investigator general, by certified mail, return receipt requested.

### **Section 2-469 – Powers and Duties of the Investigator General**

The investigator general shall:

- (a) Provide guidance to the commission and assist it in the discharge of its duties;
- (b) Provide fair notice to each person alleged to have violated this ordinance in accordance with the procedures set forth in this ordinance;
- (c) Receive complaints, and conduct investigations in accordance with the procedures set forth in this ordinance;
- (d) Provide a status report to the commission within thirty (30) days after receipt of a complaint, and every thirty (30) days thereafter until the investigation is closed and the cause concluded;

- (e) In the course of the preliminary investigation, compel testimony under oath and the production of any material from any person or source relevant to the preliminary investigation, and, if necessary, petition the Circuit Court of DuPage County for the issuance of a court order compelling compliance;
- (f) Give written notice to a person providing information under this Section of his or her right to:
  - (1) refuse to provide self-incriminating testimony;
  - (2) retain an attorney at his or her sole option and expense;
  - (3) have such an attorney or, if required by any collective bargaining agreement, a union representative present during any interview; and
  - (4) when the person being interviewed is the subject of the investigation, be informed in writing of the nature of the investigation.
- (g) Present evidence of alleged violations of this ordinance to the commission;
- (h) Compile and refer to the chairman of the commission and to the chairman of the county board, an annual statistical report for each year consisting of:
  - (1) the number of complaints filed,
  - (2) the number of complaints he or she deemed to have sufficiently alleged a violation of this ordinance,
  - (3) the number of complaints resolved,
  - (4) the decision issued for each complaint resolved, and
  - (5) the status of any pending complaints.

**Section 2-470 – Assistant Investigators General**

The county board may, in its discretion, appoint such assistant investigators general as the chairman of the county board may nominate to assist the investigator general in the performance of his or her duties under this ordinance for a term of two (2) years. Such assistant investigators general shall possess the same qualifications of the investigator general and be vested with all of the powers and duties of the investigator general under this ordinance subject to the control and direction of the investigator general, provided that in the event a conflict exists between the investigator general and a matter to be investigated, the chairman of the commission shall authorize an assistant investigator general to perform his or her duties absent the control and direction of the investigator general.



## Part 3 – Prohibited Conduct

### Subpart A – Gift Ban

#### Section 2-471 – Gift Ban

- (a) No person subject to this ordinance, or family member living with such person (collectively hereinafter referred to as “recipients”) shall intentionally solicit or accept any gift from any prohibited source or in violation of any ordinance, federal or state statute, rule or regulation. No prohibited source shall intentionally offer or make a gift that violates this section.
- (b) A recipient does not violate this section if the recipient promptly takes reasonable action to return the prohibited gift to its source.
- (c) A recipient does not violate this section if the recipient gives the gift or an amount equal to its value to an appropriate charity that is exempt from income taxation under Section 501(c)(3) of the Internal Revenue Code of 1986 as now or hereafter amended, renumbered or succeeded.

#### Section 2-472 – Exceptions

The restrictions set forth in this Subpart A of this ordinance shall not apply to the exceptions set forth in this section, each of which is mutually exclusive and independent of one another. The exceptions set forth in this section shall be construed in the same manner as those applicable to state officers and employees as set forth in the State Officials and Employees Ethics Act in effect now and as may be subsequently amended.

- (a) Opportunities, benefits and services which are available on the same conditions as for the general public.
- (b) Anything for which the recipient pays the fair cash market value.
- (c) Any (1) contribution that is lawfully made under the Election Code or under this ordinance or (2) activities associated with a fund-raising event in support of a political organization or candidate.
- (d) Educational materials and missions.
- (e) Travel expenses related to meetings to discuss official governmental business.
- (f) A gift from a relative, meaning (for the purposes of the gift ban provisions of this ordinance only) those people related to the recipient as a family member, fiancé or fiancée, or a half-brother, half-sister, or the father, mother, grandfather, or grandmother of the recipient’s spouse, fiancé or fiancée.
- (g) Anything provided to a recipient on the basis of a personal friendship, unless the recipient has reason to believe that, under the circumstances, the gift was provided because of the official position or employment of the recipient and not because of the personal friendship. In determining whether a gift is provided on the basis of a personal friendship, the recipient shall consider the circumstances under which the gift was offered, such as: (1) the history of the relationship between the individual giving the gift and the recipient, including any previous exchange of gifts between those individuals; (2) whether to the actual knowledge of the recipient, the individual who gave the gift personally paid for the gift or sought a tax deduction or business reimbursement for the gift; and

- (3) whether to the actual knowledge of the recipient the individual who gave the gift also at the same time gave the same or similar gifts to other recipients.
- (h) Food or refreshments not exceeding the amount permitted under Section 10-15 of the State Officials and Employees Ethics Act applicable to state officers and employees on a single calendar day; provided that the food or refreshments are (1) consumed on the premises from which they were purchased or prepared or (2) catered. For the purpose of this section, "catered" means food or refreshments that are purchased ready to consume which are delivered by any means.
  - (i) Food, refreshments, lodging, transportation and other benefits resulting from the outside business or employment activities (or outside activities that are not connected to the duties of the recipients) of the recipients if the benefits have not been offered or enhanced because of the official position or employment of the recipient and are customarily provided to others in similar circumstances.
  - (j) Intra-governmental and inter-governmental gifts.
  - (k) Bequests, inheritances and other transfers at death.
  - (l) Any item or items from any one prohibited source during any calendar year having a cumulative total value of less than the amount permitted under Section 10-15 of the State Officials and Employees Ethics Act applicable to state officers and employees.

## **Subpart B – Campaign Contributions**

### **Section 2-473 – Campaign Contribution Restrictions**

- (a) All officers and candidates for public office that are subject to this ordinance shall comply with Section 9-8.5 of the Election Code and its limitations on political committee campaign contributions, and any subsequent revisions thereto as adopted by the General Assembly. Persons found to be in violation of the campaign contribution limitations set forth in the Election Code are subject to any fine, penalty or sanction as provided by statute or determined by the State Board of Elections.
- (b) No person subject to this ordinance shall intentionally solicit, accept, offer, or make on public property any campaign contribution, except as provided herein. "Public property" means any building or portion thereof owned or exclusively leased by a governmental entity at the time the contribution is solicited, offered, accepted, or made. "Public property" does not however, include any portion of a building that is rented or leased from the governmental entity by a private person or entity.

### **Section 2-474 – Contractor Disclosure of Campaign Contributions**

- (a) A person responsible for preparing a contract for the procurement of goods or services, or change order thereto, for consideration by a governmental entity shall, prior to approval, obtain from the contractor, union, or other vendor, a written disclosure of all contributions made by such entity within the current and previous calendar year to any incumbent officer who will, in any way, participate in, or whose office will benefit, from the award of such contract or change order. Such disclosure shall be updated annually during the term of a multi-year contract on the anniversary of the contract's award.
- (b) The requirements of this Section apply to all procurements, including change orders and renewals, in excess of the threshold amount including those in which the governmental entity employed a

procurement process other than competitive bidding to award the contract for such goods or services.

- (c) For the purpose of this Section, “threshold amount” means an amount at or in excess of \$5,000 less than an amount set by the statute applicable to the governmental entity that would otherwise require procurement through a competitive bidding process. In the event that no statute imposes a competitive bidding requirement upon the governmental entity, the threshold amount shall be \$5,000 less than the amount set forth in Section 5-1022(a) of the Counties Code at the time of the procurement.

## Subpart C – **Prohibited Political Activity**

### Section 2-475 – **Prohibited Political Activity Defined**

“Prohibited political activity” means:

- (a) preparing for, organizing or participating in any political meeting, political rally, political demonstration, or other political event; soliciting contributions, including but not limited to the purchase of, selling, distributing or receiving payment for tickets for any political fundraiser, political meeting, or other political event;
- (b) soliciting, planning the solicitation of, or preparing any document or report regarding anything of value intended as a campaign contribution;
- (c) planning, conducting, or participating in a public opinion poll in connection with a campaign for elective office or on behalf of a political organization for political purposes or for or against any referendum question;
- (d) surveying or gathering information from potential or actual voters in an election to determine probable vote outcome in connection with a campaign for elective office or on behalf of a political organization for political purposes or for or against any referendum question;
- (e) assisting at the polls on election day on behalf of any political organization or candidate for elective office or for or against any referendum question;
- (f) soliciting votes on behalf of a candidate for elective office or a political organization or for or against any referendum question or helping in an effort to get voters to the polls;
- (g) initiating for circulation, preparing, circulating, reviewing, or filing any petition on behalf of a candidate for elective office or for or against any referendum question;
- (h) making contributions on behalf of any candidate for elective office in that capacity or in connection with a campaign for elective office;
- (i) preparing or reviewing responses to candidate questionnaires;
- (j) distributing, preparing for distribution, or mailing campaign literature, campaign signs, or other campaign material on behalf of any candidate for elective office or for or against any referendum question;
- (k) campaigning for any elective office or for or against any referendum question;

- (l) managing or working on a campaign for elective office or for or against any referendum question; serving as a delegate, alternate, or proxy to a political party convention; or
- (m) participating in any recount or challenge to the outcome of any election.

**Section 2-476 – Prohibitions**

- (a) No employee subject to this ordinance shall intentionally perform any prohibited political activity during any compensated time. Nor shall such person intentionally use any public property or resources in connection with any prohibited political activity for the benefit of any campaign for elective office, any political organization or for or against any referendum question.
- (b) No person subject to this ordinance shall at any time intentionally misappropriate the services of any employee by requiring that employee to perform any prohibited political activity (1) as part of that employee's duties, (2) as a condition of employment, or (3) during any time off that is compensated, including, but not limited to vacation, holidays or personal time off.
- (c) No person subject to this ordinance shall require an employee at any time to participate in any prohibited political activity in consideration for that employee being awarded any additional compensation or employee benefit, in the form of salary adjustment, bonus, compensatory time off, continued employment or otherwise awarded any additional compensation or employee benefit in consideration of participating in any prohibited political activity.
- (d) No person subject to this ordinance shall award an employee any additional compensation or employee benefit, in the form of salary adjustment, bonus, compensatory time off, continued employment or otherwise awarded any additional compensation or employee benefit in consideration of voluntarily participating in any prohibited political activity.
- (e) No person subject to this ordinance shall deny or deprive an employee of employment or tenure solely because such person is a member or an officer of a political committee, political party, political organization, or political club.
- (f) No person subject to this ordinance shall require an employee to (1) purchase tickets, solicit others to purchase tickets, sell, distribute or receive payment for political tickets for any political fundraiser or campaign fund for a specific candidate for political office or (2) financially contribute to any political organization, political party, political rally, political fundraiser, political meeting or political event.
- (g) No person subject to this ordinance shall intentionally solicit or accept campaign contributions upon the real property of a governmental entity subject to this ordinance. An inadvertent acceptance of a campaign contribution shall not be considered a violation of this ordinance, if reasonable and timely action is taken to return the contribution to its source.
- (h) Nothing in this section prohibits activities that are otherwise appropriate for an employee to engage in as a part of his or her official employment duties or activities that he or she undertakes on a voluntary basis as permitted by law.

## Subpart D – Conflicts of Interest

### Section 2-477 – Financial Interest Disclosure

- (a) All officers subject to this ordinance shall disclose their financial interests and holdings in any business seeking a relationship with the government entity in which the officer holds office where such person has an ownership interest of 7 ½% or greater in the manner required by the Public Officer Prohibited Activities Act, (50 ILCS 105/*et seq.*).
- (b) An officer making a disclosure as required by paragraph (a) shall:
  - (1) publicly disclose the nature and extent of interest prior to or during deliberations concerning the proposed award of the contract;
  - (2) withdraw from discussion of the subject matter; and
  - (3) abstain from any vote on the award of the contract.

### Section 2-478 – Conflict of Interest

- (a) No person, subject to this ordinance and while representing or employed by their governmental entity, shall engage in any act that is in conflict with the performance of such person’s official duties. A conflict of interest exists whenever official action could result in a personal advantage or disadvantage to the interested person, including, but not limited to the following:
  - (1) receives or has any financial interests in any purchase, sale or lease to or by the governmental entity where that purchase, sale or lease was obtained with prior knowledge that the business entity intended to take such action;
  - (2) represents, or whose firm represents, any individual or business entity who would receive direct financial benefit as a result of the official action under consideration;
  - (3) accepts or seeks any employment, travel, compensation or gift from any person doing business or seeking to do business with the governmental entity for which person has responsibility;
  - (4) receives or accepts a gift, compensation, or travel that was given for the purpose of obtaining special consideration or to influence official action where a reasonable and prudent person would believe that the purpose was to obtain special consideration or to influence official action; or
  - (5) violates any provision of the Public Officer Prohibited Activities Act. (50 ILCS 105/01 *et seq.*)
- (b) Any officer who has a conflict situation should abstain from discussion and shall not vote on any contract with the person or business entity involved in the conflict. If the conflict situation is an action that is prohibited by the Public Officer Prohibited Activities Act, an officer cannot avoid the conflict by abstaining from discussion or vote on the contract.
- (c) Any person 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 adviser of such conflict. The ethics adviser shall state the disposition of the potential

conflict in writing and maintain an official copy of such disposition. No officer shall participate in deliberations where such officer has a conflict of interest as defined by this ordinance and shall not in any way participate in the decision.

- (d) Notwithstanding any other law or ordinance, a person, his or her family members living with that person is ineligible to serve on a board, commission, authority, or task force authorized or created by the governmental entity with respect to which such person serves (1) if that person is entitled to receive more than 7 ½% of the total distributable income under a contract let by such entity other than an employment contract or (2) if that person together with his or her family member living with that person are entitled to receive more than 15% in the aggregate of the total distributable income under a contract let by such entity other than an employment contract; except this provision does not apply to any of the following:
  - (i) a person, his or her family member living with that person, who is serving in an elective public office, whether elected or appointed to fill a vacancy; and
  - (ii) a person, his or her family member living with that person, who is serving on an advisory body that makes non-binding recommendations to an agency of the governmental entity, but does not make binding recommendations or determinations or take any other substantive action.

#### Section 2-479 – **Future Employment**

- (a) No person subject to this ordinance, may accept or discuss an offer of future employment with any individual or business entity doing or seeking to do business with the governmental entity such person serves if either:
  - (1) The person knows or has reason to believe that the offer of employment was intended as compensation or reward or to influence official action pertaining to the business entity;
  - (2) The person has decision-making responsibility for a matter and that individual or business entity is offering employment to the decision maker unless that person has disclosed in writing to his or her ultimate jurisdictional authority that the employee intends to discuss future employment with this person or business entity. In this case, the person shall be removed from any decision-making relative to this person or business entity. This section shall apply to persons with approval authority, or input on approval or selection, but shall not include those persons who fill a review or compliance function in the approval/selection process.
- (b) In the situation where an officer is offered future employment by an individual doing business with such officer's governmental entity, the officer shall promptly, disclose to the ethics adviser, in writing, the intention of discussing future employment and such officer shall withdraw from discussion and shall not vote on any contract with the business entity.
- (c) Lobbying the County of DuPage by Certain Persons Prohibited.
  - (1) No former employee or officer of the County of DuPage shall, within a period of one year immediately after the termination of their employment, knowingly accept employment or receive compensation or fees for services from any person or entity to lobby any officer or employee of the county, when during the year immediately preceding termination of employment, that employee or officer (i) participated personally and substantially in a

regulatory or licensing decision that directly applied to the person or entity, or its parent or subsidiary; or (ii) participated personally and substantially in the award of a contract or issuance of a change order, with a cumulative value of \$25,000 or more to the person or entity, or its parent or subsidiary.

#### **Section 2-480 – Former Employment Relationships**

No employee, within one (1) year of entering employment with a governmental entity subject to this ordinance, may participate in the decision making or awarding of a contract to a business entity by whom they were formerly employed unless the employee, in writing, has disclosed the prior employment relationship to such employee's ultimate jurisdictional authority before participating in any decision making regarding the former employer.

#### **Section 2-481 – Prohibited Employment**

No person subject to this ordinance shall be employed in any other business, position or occupation (including self-employment) or have an ownership interest in any company that interferes with such person's official position or the full and proper performance of such person's duties, including, but not limited to:

- (a) Employment with any vendor, individual or business entity that transacts any business with the governmental entity which such person serves.
- (b) Any employment that interferes with or compromises the employee's position with said governmental entity in order to further such person's own personal interests or those of another.
- (c) Any employment that the public may reasonably interpret to be in conflict with the person's official duties.
- (d) Any employment that conflicts with said governmental entity's purpose, duties and interests.
- (e) Any ownership interest in any business entity which transacts or engages in any business with said governmental entity.

#### **Section 2-482 – Improper Use of Proprietary or Confidential Information**

- (a) No person may intentionally disclose or use for his or her personal benefit or for the benefit of another, any information acquired in the course of official duties, which is not available as a matter of public knowledge or public record.
- (b) The identity of any person reporting any possible or alleged misconduct to the investigator general shall be kept confidential and may not be disclosed without the consent of that person, unless the law otherwise requires such disclosure. However, the investigator general may provide any information in his or her possession to any law enforcement agency with jurisdiction to investigate any matter which has come to the investigator general's attention. The confidentiality granted by this section does not preclude the disclosure of the identity of a person in any capacity other than as the source of an allegation. Ethics commissioners, the investigator general, individuals appearing before the commission and their representatives shall not disclose information which may lawfully be exempted from disclosure under the Freedom of Information Act or this ordinance.

- (c) No person subject to this ordinance may intentionally disclose any information discussed during a meeting lawfully closed pursuant to the Illinois Open Meetings Act.

## **Subpart E – Other Prohibited Conduct**

### **Section 2-483 – Disregard of Obligations Under this Ordinance**

- (a) Subject to constitutional and statutory limitations, no person shall refuse to cooperate during the course of an investigation or refuse to comply with requests for information from the investigator general and the commission.
- (b) No person shall provide, or cause another to provide, any information such person knows to be false, frivolous, or made in bad faith, to any ethics officer or ultimate jurisdictional authority in relation to their duties under this ordinance.
- (c) No person shall intentionally obstruct or interfere with any ethics officer, investigation, or hearing conducted under this ordinance.

### **Section 2-484 – Whistleblower Protection**

No person subject to this ordinance shall retaliate against any person who has reported a suspected violation of this ordinance in good faith. Any such person who violates the provisions of this section subjects themselves to disciplinary action which may include, but is not limited to; a demotion, denial of promotion or merit increase, reassignment of responsibilities, or other disciplinary action including termination of employment.

## **Part 4 – Complaint and Hearing Procedures**

### **Section 2-485 – Complaint Filing Procedure**

- (a) A person alleging a violation of this ordinance shall submit a written complaint to the office of the investigator general. Such complaint shall include the following:
  - (1) The complainant’s name and contact information, including the complainant’s mailing address, telephone number, and electronic mail address, if any;
  - (2) The name, employment position held, and all contact information known to the complainant regarding the person who is the subject of the complaint;
  - (3) A detailed description of the act or acts alleged by the complainant to be violations of this ordinance; and
  - (4) A list of all known witnesses who may provide relevant information or testimony regarding the allegations contained in the complaint, along with all known contact information for those witnesses.
- (b) Whenever a person submits a complaint to an officer, governmental entity or employee subject to this ordinance other than the investigator general, the recipient of such complaint shall immediately forward the complaint to the office of the investigator general.



- (c) Upon receipt of a complaint, the investigator general shall promptly notify the complainant and the chairman of the commission in writing of his or her receipt of the complaint, including a copy of the complaint in such correspondence.
- (d) Any person who, acting in good faith, submits a complaint pursuant to this ordinance shall have all of the protections against retaliation afforded to a whistleblower under the provisions of this ordinance and the laws of the State of Illinois, and his or her identity shall be kept confidential and may not be disclosed without his or her consent, unless the disclosure of the person's identity is otherwise required by law. However, the disclosure of the identity of a complainant in any capacity other than as the source of an allegation is not prohibited, and, notwithstanding any other provision of this ordinance or the laws of the State of Illinois, the investigator general is authorized to, as he or she deems appropriate, provide any and all information, including the identity of a complainant, to any administrative or law enforcement agency with jurisdiction to investigate any suspected criminality or other impropriety that may come to his or her attention.

#### **Section 2-486 – Investigative Procedure by Investigator General**

- (a) Upon receipt of a complaint, the investigator general shall promptly conduct a jurisdictional investigation to determine whether the commission possesses personal jurisdiction over the person, and subject matter jurisdiction over the act(s), named and alleged in the complaint.
  - (1) Should the jurisdictional investigation result in a finding that the commission does not possess both personal jurisdiction over the person and subject matter jurisdiction over any act, named and alleged in the complaint, then the investigator general shall close the investigation of the complaint, and shall thereafter promptly notify the chairman of the commission and the complainant in writing of the closure of the investigation of the complaint and the basis therefore. If the investigator general determines that jurisdiction to investigate any person or act alleged named or alleged in the complaint is vested with another authority, prior to closing the investigation, the investigator shall notify the complainant of the proper authority with which the complaint should be filed and, at the option and direction of the complainant (i) forward the complaint to such authority or (ii) provide the complainant with information necessary for the complainant to forward the complaint to such authority unless the public interest requires the investigator general to immediately refer the complaint to the proper authority. The closure of an investigation by the investigator general does not bar the investigator general from resuming the investigation if the circumstances warrant, and is not subject to review by any court or administrative tribunal absent fraud on the part of the investigator general.
  - (2) Should the jurisdictional investigation result in a finding that the commission does possess both personal jurisdiction over the person and subject matter jurisdiction over any act, named and alleged in the complaint, the investigator general shall promptly notify the person subject to the complaint (hereinafter referred to as the “respondent”) and the appropriate ultimate jurisdictional authority in writing that a complaint against the respondent has been submitted to the investigator general, and of the act or acts alleged in the complaint, unless, in the sole discretion of the investigator general, such notice would interfere with a potential or ongoing law enforcement investigation or prosecution. The notice shall inform the respondent that he or she shall, within thirty (30) days of the date of the notice, respond in writing to the complaint, by submitting a written response to the office of the investigator general.

- (b) Upon the investigator general's determination that both personal and subject matter jurisdiction exists over the matter as set forth in paragraph (a) of this section, the investigator general shall promptly engage in a preliminary investigation to determine whether reasonable cause exists to believe that a violation of this ordinance has occurred. In the course of the preliminary investigation, the investigator general may compel testimony under oath and the production of any material from any person or source relevant to the preliminary investigation, and the investigator general may, if necessary, petition the Circuit Court of DuPage County for the issuance of a court order compelling compliance. The investigator general shall give written notice to a person providing information under this Section of his or her right to (1) refuse to provide self-incriminating testimony; (2) retain an attorney at his or her sole option and expense; and (3) to have such attorney or, if required by any collective bargaining agreement, union representative, present during any interview.
- (c) Upon the conclusion of the preliminary investigation, the investigator general shall promptly issue a written summary report and deliver the same to the chairman of the commission, the complainant, the respondent, and the appropriate ultimate jurisdictional authority. The summary report of the preliminary investigation shall include the following:
- (1) a description of the act(s) alleged in the complaint to be violations of this ordinance;
  - (2) the finding of the investigator general as to whether reasonable cause exists to believe that a violation of the ordinance has occurred, and the basis therefore;
  - (3) any recommendation for any corrective or disciplinary action to be taken as a result of the act(s) alleged to be in violation of this ordinance, including but not limited to termination;
  - (4) a determination by the investigator general as to whether a petition for leave to file a formal complaint will be submitted to the chairman of the commission; and
  - (5) any other information that the investigator general deems appropriate and relevant to the preliminary investigation, the finding, and any resulting recommendation.
- (d) Should the preliminary investigation result in a finding that no reasonable cause exists to believe that a violation of this ordinance has occurred, the investigator general shall close the investigation of the complaint, and shall thereafter promptly notify the chairman of the commission, the complainant, the respondent, and the appropriate ultimate jurisdictional authority, in writing, of the closure of the investigation of the complaint and the basis therefore. The closure of an investigation by the investigator general does not bar the investigator general from resuming the investigation if the circumstances warrant, and is not subject to review by any court or administrative tribunal absent fraud on the part of the investigator general.
- (e) Should the preliminary investigation result in a finding that reasonable cause exists to believe that a violation of this ordinance has occurred, the investigator general may, in his or her sole discretion, promptly submit to the chairman of the commission a petition for leave to file a formal complaint against the respondent. The petition shall set forth the act(s) alleged to be in violation of this ordinance, and the grounds that exist to support the issuance of a formal complaint. The investigator general shall submit the petition to the chairman of the commission, and serve a copy of the petition and written notice of the submission upon the respondent and the appropriate ultimate jurisdictional authority. The notice shall inform the respondent of the nature of the

investigation, the respondent's right to refuse to provide self-incriminating testimony and to retain an attorney at his or her sole option and expense, and that the respondent shall, within thirty (30) days of the date of the notice respond in writing to the petition by submitting a written response to the chairman of the commission, with a copy to the office of the investigator general.

- (f) Upon the submission of the respondent's written response to the petition of the investigator general for the issuance of a formal complaint, the commission shall meet and determine whether it shall grant or deny the petition.
  - (1) Should the commission deny the petition, the commission shall close the cause and promptly send written notice of its decision and the basis therefore to the investigator general, the respondent, and the ultimate jurisdictional authority.
  - (2) Should the commission grant the petition, the petition shall serve as the formal complaint against the respondent and the commission shall set a hearing date within six (6) weeks thereafter and promptly provide written notice of the decision to grant the petition and the hearing date to the investigator general, the respondent, and the ultimate jurisdictional authority.
- (g) During the course of an investigator general's review of any complaint under this Section, the investigator general shall provide a written status report to the commission within thirty (30) days after receipt of a complaint, and every thirty (30) days thereafter until the investigation is closed and the cause concluded.

#### Section 2-487 – **Hearing Procedure by Ethics Commission**

- (a) The commission shall conduct any hearing upon any complaint before it fairly and in accordance with such rules as it may from time to time adopt.
- (b) The rules of evidence applicable to civil and/or criminal trials shall not strictly apply to the commission hearings, but the chairman of the commission may exclude any material he or she deems irrelevant, immaterial, incompetent or unduly repetitious.
- (c) On the hearing date scheduled by the commission, the commission shall conduct a closed meeting as permitted by law. The commission shall make an audio recording of the proceedings, including of all testimony presented to the commission and any of the commission's deliberations. The commission, may, in its sole discretion, retain the services of a court reporter.
- (d) The investigator general shall prosecute the complaint before the commission and carries the burden of proving the allegations against the respondent by a preponderance of the evidence.
- (e) The respondent may appear *pro se* at any commission hearing or, at the respondent's option, retain legal counsel at his or her own expense.
- (f) If required by any collective bargaining agreement, the respondent may have a union representative present during any hearing.

#### Section 2-488 – **Ethics Commission Decisions and Reconsideration**

- (a) Within the appropriate time proscribed by rules of the commission, but not later than forty-five (45) days from the close of the hearing, the commission shall (1) deny the complaint or (2) grant the

complaint and issue findings and any recommendation of discipline or imposition of any penalty upon the respondent. The commission need not include a copy of evidence it received as part of its written findings.

- (b) The commission shall promptly transmit written notice of its findings and recommendations to the complainant, the respondent, the ultimate jurisdictional authority and the investigator general. Where the commission recommends or imposes any disciplinary sanctions, the notice to the respondent shall inform the respondent of his or her right to petition the commission for reconsideration.
- (c) A respondent's petition for reconsideration shall be in writing and filed with the commission within fourteen (14) days of the commission's mailing of its decision. The commission shall decide the petition for reconsideration only on the formal record. The decision of the commission becomes final upon the expiration of fourteen (14) day period following the commission's mailing of its findings to the respondent, or upon the commission's decision on a petition for reconsideration of the commission.
- (d) A decision by the commission to impose a penalty is subject to judicial review under the Administrative Review Act. All other decisions by the commission are final and not subject to administrative or judicial review.

## **Part 5 – Authorized Dispositions**

### **Section 2-489 – Recommendations for Discipline**

- (a) When the investigator general has recommended that a complaint be resolved other than by formal complaint or where the commission has found that a respondent has violated any provision of this ordinance, the commission may recommend to a respondent's ultimate jurisdictional authority one or more of the following courses of disciplinary action against the respondent:
  - (1) A reprimand.
  - (2) To cease and desist the offensive action.
  - (3) A return or refund of money or other items, or an amount of restitution for services, received in violation of this ordinance.
  - (4) Suspension or termination of an employee.
  - (5) Donation to a charity of an amount equal to a prohibited gift or excess campaign contribution.
- (b) Upon receipt of any recommendations from the commission under this Section, the ultimate jurisdictional authority of a respondent who violates any provision of this ordinance may take disciplinary action against the respondent, as recommended by the commission or as it deems appropriate, to the extent it is constitutionally permissible for the ultimate jurisdictional authority to take such action. The ultimate jurisdictional authority shall make its action, or determination to take no action, available to the public.

### **Section 2-490 – Imposition of Fines**

- (a) The commission may impose an administrative fine of up to \$5,000 per violation against any person who violates any provision of this ordinance, which it shall require be deposited into the governmental entity's general revenue fund.
- (b) No ultimate jurisdictional authority may waive or reduce any fine imposed under this Section.

### **Section 2-491 – Collective Bargaining Restriction**

Any recommendation for discipline or any action taken against any employee pursuant to this ordinance by the 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 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.

## **Part 6 – Administrative Review**

### **Section 2-492 – Administrative Review**

The decision of the commission to dismiss a complaint is not subject to administrative review under the Illinois Code of Civil Procedure. The commission's imposition of any penalty, fine or sanction is a final decision and subject to administrative review pursuant to the Illinois Code of Civil Procedure.