

ORANGE COUNTY LEGISLATURE

LOCAL LAW NO. 5 OF 2015

A LOCAL LAW ENTITLED "ORANGE COUNTY ETHICS AND DISCLOSURE LAW."

BE IT ENACTED, by the County Legislature of the County of Orange, as follows:

Section 1. Title, Purpose, and Statutory Authority.

A. Title: This Law shall be known as and may be cited as the "County Ethics Law."

B. The purposes of this Local Law are to:

- (1) Establish standards of ethical conduct for officers, employees and consultants of Orange County;
- (2) Provide officers, employees and consultants of Orange County, whether elected or appointed, paid or volunteer, with clear guidance on such standards;
- (3) Promote public confidence and integrity in the agencies and administrative offices of our local government;
- (4) Facilitate the consideration of potential ethical problems before they arise, minimize unwarranted suspicion, and enhance the accountability of government to the people by requiring public disclosure of financial interests that may influence or be perceived to influence the actions of Orange County officers and employees; and
- (5) Provide for the fair and effective administration of this Local Law.

C. This Local Law is enacted pursuant to § 806 of the General Municipal Law of the State of New York and § 10 of the Municipal Home Rule Law and is not intended to, nor shall it authorize any conduct prohibited by Article 18 of the General Municipal Law.

Section 2. Definitions.

Unless otherwise stated or unless the context otherwise requires, the following terms shall, for the purpose of this Local Law, have the meaning herein indicated throughout this Local Law:

APPEAR and **APPEAR BEFORE**: Communicating in any form, including, without limitation, personally, through another person, by letter, or by telephone or electronic means.

BOARD OF ETHICS (or ETHICS BOARD): The Board of Ethics of the County of Orange, as continued, re-established and reconstituted pursuant to § 4 of this Local Law.

CHIEF FISCAL OFFICER: The Commissioner of Finance or other officer having similar powers and duties.

CONTRACT: Any claim, account or demand against or agreement with the County, express or implied, and shall include the designation of a depository of public funds and the designation of a newspaper, including but not limited to an official newspaper, for the publication of any notice, resolution, ordinance, local law or other proceeding where such publication is required or authorized by law.

CONTRACTUAL GOODS/SERVICES: Any work performed or goods delivered by a person or entity to the Customer or Client under mutual agreement of the two parties and provided the transaction has been finalized, without dispute, by the two parties.

COUNTY: County of Orange, and shall include any County improvement district, district corporation, or other district or a joint service established for the purpose of carrying on, performing or financing one or more improvements or services intended to benefit the health, welfare, safety or convenience of the inhabitants of the County or to benefit the real property within the County.

COUNTY OFFICER OR EMPLOYEE: Any officer or employee of the County, whether paid or unpaid, and includes, without limitation, all members of any office, board, body, advisory board, council, commission, agency, department, district, administration, division, bureau or committee of the County. "County officer or employee" shall not include:

- A. An individual when serving in his or her capacity as a judge, justice, officer or employee of the court system; or
- B. A member of an advisory board of the County if, but only if, the advisory board has no authority to implement its recommendations or to act on behalf of the County or to restrict the authority of the County to act.

CUSTOMER or CLIENT: Any person for whom a County officer or employee has directly supplied contractual goods/services during the previous 24 months.

GIFT and FINANCIAL BENEFIT: Includes any money, service, license, permit, contract, authorization, loan, travel, entertainment, hospitality, or any promise thereof or any other gratuity or promise thereof or anything of value. A financial transaction may be a financial benefit but shall not be a gift unless it is on terms not available to the general public. "Gift" and "financial benefit" do not include campaign contributions authorized by law or other items or services otherwise excluded as gifts as provided for in § 6(D) of this Local Law.

INTEREST: a direct or indirect pecuniary or material benefit accruing to a County officer or employee as the result of a contract with the County of Orange which such officer or employee serves. For purposes of this Local Law, a County officer or employee shall be deemed to have an interest in the contract of:

- a. his or her spouse, unemancipated children, dependents, and members of the household except a contract of employment with the County which such officer or employee serves;

- b. A firm, partnership, company, or association of which such officer or employee is a member or employee of;
- c. A corporation of which such officer or employee is an officer, director or employee; and,
- d. A corporation, any stock of which is owned and controlled directly or indirectly by such officer or employee where such officer or employee owns five percent or more of outstanding stock but shall not include any publicly traded corporation.

LOCAL ELECTED OFFICIAL: shall mean an elected official of the political subdivision (County Executive, District Attorney, County Clerk, Sheriff, and Legislators), except judges or justices of the unified court system.

MINISTERIAL ACT: An action performed in a prescribed manner without the exercise of judgment or discretion as to the propriety of the act.

OUTSIDE EMPLOYER OR BUSINESS:

- a. Any activity, other than service to the County, from which the County officer or employee receives compensation for services rendered or goods sold or produced;
- b. Any entity, other than the County, of which the County officer or employee is a member, officer, director, or employee and from which he/she receives compensation for services rendered or goods sold or produced; or
- c. Any entity in which the County officer or employee has an ownership interest, except a corporation of which the County officer or employee owns less than 5% of the outstanding stock.
- d. For purposes of this definition, "compensation" shall not include reimbursement for necessary expenses, including travel expenses or allowances.

PARTY: shall have the same meaning as contained in § 1-104 of the N.Y.S. Election Law.¹

PERSON: Both individuals and entities.

PROSPECTIVE EMPLOYER: Any person whom any officer or employee of Orange County required to annually file an ethics disclosure form under this Law, or the Relative/Immediate Family Member of, has within the past twelve months sought employment from, to the extent that such officer or employee has actual knowledge of such Relative/Immediate Family Member of such officer or employee actual seeking such employment or independent contract from such person or entity. The phrase "past twelve months" shall not refer to the twelve months preceding the adoption of this Local Law but the twelve months preceding the matter giving rise to the conduct which permits or disallows a contract or expenditure under this Local Law.

¹ Election Law Section 1-104 (3), the term "party" means any political organization which at the preceding election for governor polled at least fifty thousand votes for its candidates for governor.

RELATIVE/IMMEDIATE FAMILY MEMBER/MEMBER OF HOUSEHOLD: A spouse, unemancipated child or person claimed as a dependent on the County officer's or employee's latest individual or joint state income tax return or unrelated persons who are continually or at regular intervals living or in the preceding calendar year continually or at regular intervals lived in the same household.²

SUBORDINATE: The subordinate of a County officer or employee means another County officer or employee over whose activities he/she has direction, supervision, or control, either directly or indirectly (for example, the subordinate of a subordinate).

“Unemancipated child” shall mean any son, daughter, stepson or stepdaughter who is under age eighteen, unmarried and living in the household of the reporting individual.

Section 3. Prior Ethics Local Law Repealed.

Local Law No. 2 of 1994, as amended, of the County of Orange, and known as the County Local Ethics Law is repealed upon the effective date of this Local Law; provided, however, that nothing, including this section shall prohibit the enforcement of the said Local Law No. 2 of 1994, as amended, of the County of Orange, for actions or inactions done or not done as the case may be, by those subject to such Local Law No. 2 of 1994, as amended, of the County of Orange, prior to the effective date of this Local Law. All fines, penalties, criminal, and civil liability as the case may be shall remain in full force and effect and available for enforcement under such repealed Local Law No. 2 of 1994, as amended, of the County of Orange, for any applicable actions or inaction of those subject to such law as if such law remained in full force and effect for actions taken or inaction prior to the effective date of this Local Law.

Section 4. Continuation of the Board of Ethics and Authority Thereof.

The Orange County Board of Ethics provided for in Local Law No. 2 of 1994, as amended, of the County of Orange, is hereby continued, reconstituted and the terms of the Members of such Board of Ethics shall continue uninterrupted until their expiration as made under Local Law No. 2 of 1994, as amended, of the County of Orange. The Board shall solely be empowered to make any determination or decision previously permitted for action or inaction of any person covered by Local Law No. 2 of 1994, as amended, of the County of Orange for the actions of or inaction of any such person prior to the effective date of this Local Law. Vacancies in the existing Board of Ethics shall be filled in the manner in which such person who shall have vacated such position was filled for the balance of the term of such member as provided for herein.

Section 5. Board of Ethics.

A. Membership, Qualification of Board Members³, Removal.

1. Appointment and Confirmation. The Board of Ethics shall consist of seven members, appointed by the County Executive⁴, three of whom shall be nominated by the Chairman of

² Derived from Social Services Law Section 481-c Definitions Para. 2

³ The Grand Jury Report, at recommendation # 8, recommended changing the composition of the Ethics Board to have an equal number of appointees of the Executive and Legislative Branches. In Ulster County, the Executive appoints all such members subject to Legislative Confirmation. This footnote not intended to be included in actual law.

the Orange County Legislature, three of whom shall be nominated by the County Executive of Orange County, and one of whom shall be nominated by the Board of Ethics. Of the three nominated by the Chairman of the Orange County Legislature, no more than two shall be of the same enrolled party affiliation. Of the three nominated by the County Executive, no more than two shall be of the same enrolled party affiliation. All appointments shall be confirmed by the Legislature. Failure to gain approval or in the instance of the creation of a vacancy, such succeeding member shall be determined by the entity which the original member was selected.

2. Residency and eligibility requirements. All members of the Board of Ethics shall reside in the County of Orange and be eligible to register to vote in Orange County. Enrollment in a political party shall be deemed effective in conformance with Article 5 of Election Law of the State of New York. No member shall hold the office of Chair, First Vice Chair, Second Vice Chair, Secretary or Treasurer, or Sargent at Arms in a federal, state or Orange County political party.
3. Term of Office. The members of the Board of Ethics shall serve staggered three year terms. At the expiration of the term of office of any member of the Board of Ethics, said member shall continue to serve until reappointed or replaced by a new member.
4. Vacancies. Vacancies in the Board of Ethics shall be filled in the manner the vacated position was initially appointed and for the balance of the unexpired term.
5. Removal of Board Members. In addition to the penalties defined specifically for violation of the Orange County Ethics Law, and other pertinent sections of local, state and federal law, members of the Board of Ethics may be removed for cause by the County Executive. Prior to removal, the Board of Ethics member shall be given written notice of the grounds for removal and an opportunity to demand and receive an adjudicatory proceeding before a neutral and disinterested hearing officer to be provided by the County of Orange. Said proceeding shall be conducted according to "Regulations for Adjudicatory Proceedings" as adopted by the Orange County Legislature.⁵
6. Compensation. Members of the Board of Ethics shall receive no compensation for services rendered but shall be entitled to their reasonable and necessary expenses incurred in the performance of their duties, within appropriations made for such purposes.
7. Hiring of Staff and Consultants.
 - a. The Board of Ethics shall be responsible, for the hiring or retaining of any staff or consultants to the Board of Ethics consistent with civil service and other applicable laws and within appropriations made therefore. The secretary to the Board of Ethics shall not be a member of the Board of Ethics.

⁴ GML § 808 (1) "The members of such board of ethics shall be appointed by such governing body except in the case of a county operating under an optional or alternative form of county government, in which case the members shall be appointed by the county executive or county manager, as the case may be, subject to confirmation by such governing board....".

⁵ Derived from Local Law No. 2 of 1994 Section 6 paragraph 3.

- b. The County Attorney may provide legal and advisory services to the Board of Ethics as it may require in the performance of its duties⁶. Nothing herein shall require the Board of Ethics to utilize the County Attorney to provide such advice and the Board of Ethics may utilize outside Counsel under contract with the Board of Ethics. The County Attorney shall not provide such assistance if he or she deems the same may create a conflict.
 - c. The Board of Ethics shall utilize special counsel in reviewing and/or advising on and/or acting on any matter relating to an attorney actually engaged in the practice of law who is employed by Orange County. Neither such special counsel nor his or her firm shall have appeared in a case during the two years preceding the matter referred to the Board of Ethics, where such Orange County employed attorney or his or her office or department has appeared.
8. **Organization and Meeting Requirements.** The Board of Ethics shall elect a Chairperson and other officers from among its members. The Chairperson or a majority of the Board may call a meeting of the Board. The Board of Ethics shall meet a minimum of two times a year. Four members of the Board shall constitute a quorum and shall be required for the purpose of conducting a meeting. Unless otherwise provide by this local law, a concurring vote of four members shall be required for the Board to take action.

B. Powers and duties of Ethics Board

(1) **Render Advisory Opinions.** The Board of Ethics shall render advisory opinions to the officers and employees of the County of Orange with respect to Article 18 of General Municipal Law, the Code of Ethics of the County of Orange (as set forth herein and known as the "Orange County Ethics and Disclosure Law"), and the Administrative Code. Such advisory opinions shall be in response to written request from any such officer or employee under such rules and regulations as the Board may prescribe.

- a. **Who Opinions May be Issued to.** An advisory opinion shall be rendered on the request of a County officer or employee or supervisory official of a County officer or employee and shall apply only to such person. The request shall be in such form as the Board may require and shall be signed by the person making the request. The opinion of the Board shall be based on such facts as presented in the request or subsequently submitted in a written, signed document.
- b. Advisory opinions shall be issued only with respect to proposed future action by a public servant. A County officer or employee whose conduct or action is the subject of an advisory opinion shall not be subject to penalties or sanctions by virtue of acting or failing to act due to a reasonable reliance on the opinion, unless material facts were omitted or misstated in the request for an opinion. The Board may amend a previously issued advisory opinion after giving reasonable notice to the County officer or employee that it is reconsidering its opinion, provided that such amended advisory opinion shall apply only to future conduct or action of the person. The Board of

⁶ Noted in Grand Jury Report in Recommendation # 7: "Increase the Resources of the Board of Ethics." This footnote not intended to be in the actual local law.

Ethics shall endeavor in all circumstances to render an advisory opinion within ten business days⁷ from the date in which the Board of Ethics determines that it has received sufficient information to render such opinion but shall do so within thirty days from the date of receiving all such sufficient information, unless the person seeking the opinion consents to an extension and agrees to not engage in the action which triggered the request for an opinion during the pendency of the request for an opinion.

- c. Advisory Opinions to be summarized as part of the Annual Report. The Board of Ethics shall provide a summary of the advisory opinions issued in each year as part of the Board of Ethics Annual Report.⁸The advisory opinions of the Board shall be maintained on an annual and cumulative basis.

(2) **Receive Information and Act on the Same.** The Board may accept from the general public or any of its own members or any County officer or employee a complaint or allegation of conflict of interest of any officer or employee of Orange County. The Board may also accept from the general public or any of its own members or any County officer or employee a complaint or allegation of a violation of this Local Law by a County officer or employee.

- a. Complaints to be signed. All such complaints shall be signed.
- b. Complaints to remain Confidential unless Violation. All such complaints or allegations are to be kept in the confidential records of the Board by the Board unless made public by the Board after a determination of a violation has been made.
- c. Ethics Board Member to Bring Forward an Allegation or Complaint of a Conflict of Interest. To the extent that a Board member personally receives information of an allegation or complaint of a conflict of interest based upon information and belief, then such Member of the Board of Ethics shall bring the complaint forward for review and investigation by the Board of Ethics. Such member may continue to participate in the review of the allegation or complaint only so long as such Member is not a witness but only forwarded an allegation he or she received. The Members of the Ethics Board shall be entitled to the source of the information and belief of the allegation or complaint which information may be chosen to be kept confidential by the Ethics Board to the extent permitted by law.

(3) **Dismissal of Complaint.** Should the Board determine that there appears to be no merit to the complaint, it shall dismiss the complaint and notify the County officer or employee of its determination in writing.

(4) **Meetings of Board and Hearings by Board.**

- a. Meetings of the Board shall conform to Article 7 of the Public Officers (Open Meetings) Law.

⁷ The Grand Jury Report recommended "Require Prompt Reporting of Ethics Board Opinions." Grand Jury Report item # 6. This footnote not intended to be in the actual local law.

⁸ See, Opinion of NYS, Dept. of State, Committee on Open Government dated December 1, 2003, which opines that Advisory Opinions of a local Board of Ethics "may" not be disclosed under Freedom of Information Law Section 87(2) (b) as an unwarranted invasion of personal privacy and/or Section 87(2) (g), as it consists of a recommendation of the Board which is not final or binding.

- b. Confidentiality of Hearings/Meetings relating to possible violation of Law. No meeting or proceeding or hearing of the Board of Ethics concerning a possible violation of this Local Law by a County officer or employee shall be open to the public, except upon the written request of the officer or employee or as required by the provisions of Article 7 of the Public Officers Law or by some other state or federal law or regulation.
- d. Should the Board determine, by a super majority vote of its members, that there appears to be merit or probable cause in the complaint or allegation, it shall send a written invitation to the officer or employee in question to appear at a private meeting of the Board and explain the apparent conflict of interest. The written invitation shall be in the form of a notice and shall contain a statement of the facts upon which the Board has relied for its determination of probable cause and a statement of the provisions of law allegedly violated. The Board shall also inform the County officer or employee of the Board's procedural rules. Such County officer or employee shall have a reasonable time to respond either orally or in writing and shall have the right to be represented by counsel or any other person.
- d. If, after consideration of the response of the officer or employee, the Board determines by a super majority vote of its members that there remains probable cause to believe that a violation has occurred, the Board shall hold or direct a hearing to be held on the record to determine whether such violation has occurred and/or refer the matter to the appropriate department or appointing authority if the County officer or employee is subject to the jurisdiction of any state law or collective bargaining agreement which provides for conduct of disciplinary proceedings. When such matter is referred to such department or appointing authority, the department or appointing authority shall consult with the Board before issuing a final decision.
- e. If the Board determines, by clear and convincing evidence and by a super majority vote of its members, after a hearing or the opportunity for a hearing, that a County officer or employee has violated this Local Law, it shall, after consultation with the head of the department or appointing authority for the officer or employee, issue an order either imposing such penalties as provided for by this Local Law as it deems appropriate or recommending such penalties to the head of the department or appointing authority. The Order shall include findings of fact and conclusions of law. When a penalty is recommended, the head of the department or the appointing authority shall report to the Board what action was taken.
- f. The Board's findings and conclusions and Order shall be made public if it is determined that the person who was the subject of the hearing violated this Local Law.
- g. The Board shall maintain an index of all persons found to be in violation of this Local Law by name, office and date of order. The index and the determination of probable cause and orders in such cases shall be made available for public inspection and copying.
- h. Remedy Not Exclusive. Nothing contained in this section shall prohibit the appointing officer of a County officer or employee from terminating or otherwise disciplining such

public servant, where such appointing officer is otherwise authorized to do so; provided, however, that such action by the appointing officer shall not preclude the Board from exercising its powers and duties under this Local Law with respect to actions of any public servant.

- i. Regulations of Procedure. The Orange County Legislature hereby adopts regulations governing the conduct of adjudicatory proceedings and appeals relating to the proceedings authorized herein, including the assessment of the civil penalties herein authorized, which are appended to this Local Law as APPENDIX C. Such regulations shall provide for the due process procedural mechanisms substantially similar to those set forth in Article Three of the State Administrative Procedure Act, but such mechanisms need not be identical in terms of scope.
- j. In January of each calendar year, the Board of Ethics shall select a panel of five (5) individuals, licensed to practice law in the State of New York to serve as hearing officers during the calendar year.
- k. Right to Counsel. Any person compelled to appear in person or who voluntarily appears before the Board of Ethics shall be accorded the right to be accompanied, represented by, and/or advised by counsel or such other person as may be provided by a collective bargaining agreement with Orange County applicable to such person.

(5) **Other Powers of Board.** In addition to other powers and duties provided for herein, the Board:

- a. May make recommendations with respect to this Local Law or amendments thereto upon its own motion or upon the request to the Orange County Executive, the Orange County Legislature, or both;
- b. Shall promulgate rules and regulations governing its own organization and procedures, except as prescribed herein.
- c. Shall maintain records of its opinions and proceedings. Copies of all rules and regulations promulgated by the Board and any and all amendments thereto which may be adopted from time to time shall be filed with the Clerk of the Orange County Legislature and County Attorney within 10 days of their adoption;
- d. Shall administer the provisions of this Local Law;
- e. Shall review, index and maintain all annual disclosure statements filed with the Board of Ethics.
- f. Shall prepare and submit an annual report to the Orange County Executive and Legislature summarizing the activities of the Board of Ethics, listing any recommended changes to the text or administration of this Local Law.
- g. Shall provide for public inspection of certain records. The records of the Board of Ethics which shall be available for public inspection are those whose disclosure is required by Article 6 of the Public Officers Law of the State of New York or by other state or federal law or regulation.

(6) **Referral by Local Boards.** Referral by Local Board to Board of Ethics. The Board shall not act with respect to officers and employees of any municipality located within the County or agency thereof where such municipality has established its own Board of Ethics, except that the local board may, at its option, refer matters to the County Board.

Section 6. Standard of Conduct of All County Officers and Employees.

A. General prohibition.

A County officer or employee, whether or not required to file an ethics disclosure form as otherwise provided for herein, shall not use his/her official position or office or take or fail to take any action in a matter which he/she knows or has reason to know may provide a personal financial benefit or secure unwarranted privileges or exemptions for any person, employer, business, or prospective employer of any person.

B. Recusal by Officers and Employees.

(1) A County officer or employee shall promptly recuse himself/herself from acting on a matter before the County when knowingly acting on the matter, or knowingly failing to act on the matter, may cause a direct and specific benefit to (i) such person; (ii) the Outside Employer, business, or prospective employer of such County officer or employee; (iii) the Outside Employer, business, or prospective employer of a relative or immediate family member of the County officer or employee; a relative or immediate family member; a customer or client of any such person.

(2) A County officer or employee shall promptly recuse himself/herself from acting on a matter before the County when such action would give the reasonable appearance of a conflict of interest or impropriety.

(3) Whenever a County officer or employee is required to recuse himself/herself, he/she must refrain from further participation in the matter.

C. Representation. A County officer or employee shall not represent any private interest before any County agency or department or in any litigation in which the County of Orange is a party or complainant.

D. Appearances. A County officer or employee shall not appear before any agency or department of the County except on his/her own behalf or on behalf of the County or on behalf of his or her constituent(s) in the case of an elected official or attorney therefore.

E. Hiring practices ("*Anti-Nepotism*") and disclosure regarding contract relationship and county employment of relatives/immediate family members and/or members of the household

(1) No County officer or employee with actual authority to cause the hiring of any person shall participate in any decision to hire any relative/ immediate family member and/or member of the household.

- (2) Such actual authority shall be presumed even if the person extending the offer of employment is not the relative/ immediate family member of the person being hired if the person or persons extending the offer of employment is appointed by or serves at the pleasure of the relative/immediate family member or member of the household of the person being hired.
- (3) Every County officer and employee related equal to or closer in degree, by blood or marriage, than first cousin, and members of the household, to any person(s) seeking a contractual relationship with the County or seeking employment within any department, section or function of the County shall promptly disclose such relationship upon learning of such relationship or the seeking of such relationship.
- (4) The disclosure requirements of this section shall be made in writing, directed to the Chairman of the Board of Ethics, and shall be made at the earliest opportunity next following the date upon which such officer, employee, or board member, commission member, council member, or agency member first learns of or has knowledge of the making of the application by the person seeking employment and/or appointment.

F. Prohibition on Acceptance of Gifts⁹.

(1) A County officer or employee shall not accept or solicit any gift or gifts having an aggregate value of \$75 or more in any twelve month consecutive period, nor shall he/she accept or solicit any gift or financial benefit under circumstances in which it could reasonably be inferred that the gift was intended to influence such County officer or employee in the performance of his/her official duties or was intended to be a reward for any official action on his/her part;¹⁰

(2) The term "gift"¹¹ shall mean anything of more than nominal value given to a public official in any form including, but not limited to money, service, loan, travel, lodging, meals, refreshments, entertainment, discount, forbearance, or promise, having a monetary value. The following are excluded from the definition of a gift:

- (i) complimentary attendance, including food and beverage, at bona fide charitable or political events;
- (ii) complimentary attendance, food and beverage offered by the sponsor of a widely attended event. The term "widely attended event" shall mean an event which at least twenty-five individuals other than members, officers, or employees from the governmental entity in which the public official serves attend or were, in good faith, invited to attend, and which is related to the attendee's duties or responsibilities or which allows the public official to perform a ceremonial function appropriate to his or her position. For the purposes of this

⁹ The Grand Jury Report suggests changes in the Gift Law. Recommendation 3 of Grand Jury Report suggests prohibiting gifts of an aggregate amount of \$75 or more in any twelve month consecutive period. This footnote not intended to be in the law.

6. Legislative Law Section 1-c was amended, effective April 25, 2007 to delete a monetary amount of \$75 and provides that the gift cannot have "more than a nominal value" (L 2007, ch 14, § 23)

¹¹ This definition of items excluded from "gift" is largely taken from Section 1-c of the Legislative Law of the State of New York. The *italicized portions* are intended to be additions to Section 1-c.

exclusion, a public official's duties or responsibilities shall include but not be limited to either

- a. attending an event or a meeting at which a speaker or attendee addresses an issue of public interest or concern as a significant activity at such event or meeting; or
 - b. for elected public officials, or their staff attending with or on behalf of such elected officials, attending an event or a meeting at which more than one-half of the attendees, or persons invited in good faith to attend, are residents of the county, district or jurisdiction from which the elected public official was elected;
- (iii) awards, plaques, and other ceremonial items which are publicly presented, or intended to be publicly presented, in recognition of public service, provided that the item or items are of the type customarily bestowed at such or similar ceremonies and are otherwise reasonable under the circumstances, and further provided that the functionality of such items shall not determine whether such items are permitted under this paragraph;
 - (iv) an honorary degree bestowed upon a public official by a public or private college or university or school;
 - (v) promotional items having no substantial resale value such as pens, mugs, calendars, hats, and t-shirts which bear an organization's name, logo, or message in a manner which promotes the organization's cause;
 - (vi) goods and services, or discounts for goods and services, offered to the general public or a segment of the general public defined on a basis other than status as a public official and offered on the same terms and conditions as the goods or services are offered to the general public or segment thereof;
 - (vii) gifts from a family member, member of the same household, or person with a personal relationship with the public official, including invitations to attend personal or family social events, when the circumstances establish that it is the family, household, or personal relationship that is the primary motivating factor; in determining motivation, the following factors shall be among those considered:
 - (a) the history and nature of the relationship between the donor and the recipient, including whether or not items have previously been exchanged;
 - (b) whether the item was purchased by the donor; and,
 - (c) whether or not the donor at the same time gave similar items to other public officials; the transfer shall not be considered to be motivated by a family, household, or personal relationship if the donor seeks to

charge or deduct the value of such item as a business expense or seeks reimbursement from a client;

- (viii) contributions reportable under Article 14 of the Election Law, including contributions made in violation of that article of the Election Law;
- (ix) travel reimbursement or payment for transportation, meals and accommodations for an attendee, panelist or speaker at an informational event or informational meeting when such reimbursement or payment is made by a governmental entity or by an in-state accredited public or private institution of higher education that hosts the event on its campus provided, however, that the public official may only accept lodging from an institution of higher education: (A) at a location on or within close proximity to the host campus; and (B) for the night preceding and the nights of the days on which the attendee, panelist or speaker actually attends the event or meeting;
- (x) provision of local transportation to inspect or tour facilities, operations or property located in New York state *or in an adjoining state*, provided, however, that such inspection or tour is related to the individual's official duties or responsibilities and that payment or reimbursement for expenses for lodging or travel expenses to and from the locality where such facilities, operations or property are located shall be considered to be gifts unless otherwise permitted under this subdivision;
- (xi) meals or refreshments when participating in a professional or educational program and the meals or refreshments are provided to all participants;
- (xii) food or beverage valued at fifteen dollars or less; and
- (xiii) payment by any for-profit, non-profit association or organization which the County Officer or Employee receives professional training or assistance from and is directly related to their position or duties; by way of example and not limitation, if the New York State Association of Counties provides a partial or whole payment for a County Officer or Employee to attend a seminar, meeting, or training session, the same is not a gift.

Nothing herein shall permit the acceptance of any travel costs, services, or reimbursement thereof without permission from the County Executive or such other County Officer or Employee based on personnel or other policies of the County.

- (xiv) gifts or benefits having a value of \$100 or less that are received by a County officer or employee listed in § 11 of the Domestic Relations Law of the State of New York for the solemnization of a marriage by that officer or employee at a place other than his or her normal public of business at a time other than his or her normal hours of business.¹²

¹² See, N.Y.S. General Municipal Law Section 805-b Solemnization of marriages:

- (xv) professional advice with respect to issues that come before the County of Orange which has a monetary value.

G. Political solicitation. No County officer or employee shall directly or indirectly, use his or her authority or official influence to compel or induce any subordinate of the officer or employee to participate in an election campaign or contribute to a political committee.¹³

H. Maintenance of Confidential information. The New York State Freedom of Information Law (Public Officers Law § 87, Subdivision 2) describes information that is not required to be released under the Freedom of Information Law. This description should guide County employees and officers as to the information that may be considered confidential. Confidential information under this Local Law does not exceed the bounds for confidential information set by Public Officers Law § 87, Subdivision 2. Before a County employee or officer discloses information that may be considered confidential, he/she is encouraged to seek a written determination from the Department's Records Access Officer. The Department's Records Access Officer may seek an opinion from the County Attorney prior to making a determination. The restrictions on disclosure and use of confidential information described herein apply without regard to the circumstances in which the information was acquired and include information gained through means other than the possessor's association with the County.

I. Avoidance of Conflicts. County officers and employees shall not knowingly acquire, solicit, negotiate for, or accept any interest, employment, or anything of value which would put them in violation of this Local Law, including but not limited to solicitation of employment for themselves, their spouse, child member of the household of any County contractor if such officer or employee has discretion to award a contract to such contractor or has appropriate money for such specific contract (but not a contract awarded under an appropriation in the annually adopted County budget).

J. Prohibition of Inducement of others. A County officer or employee shall not induce or aid another officer or employee of the County to violate any of the provisions in this Local Law.

K. Investments by County Officers/Employees. A County officer or employee shall not knowingly invest or knowingly hold any investment directly or indirectly in any business, financial, commercial or other private transaction doing business with the County of Orange which would create a conflict with his/her official duties.

L. Bidding by Officers and Employees on county owned real property acquired by tax sale.

“Notwithstanding any statute, law or rule to the contrary, no public officer listed in section eleven of the domestic relations law shall be prohibited from accepting any gift or benefit having a value of one hundred dollars or less, whether in the form of money, property, services or entertainment, for the solemnization of a marriage by such public officer at a time and place other than the public officer's normal public place of business, during normal hours of business. For the purpose of this section, a town or village judge's normal hours of business shall mean those hours only which are officially scheduled by the court for the performing of the judicial function.

¹³ Derived from N.Y.S. Civil Service Law Section 107 (3):

“No officer or employee of the state or any civil division thereof, shall, directly or indirectly, use his authority or official influence to compel or induce any other officer or employee of the state or any civil division thereof, to pay or promise to pay any political assessment, subscription or contribution.”

- (i) No Orange County officers, employees or elected or appointed officials whose titles are listed in the attached schedule (APPENDIX D) may bid for or acquire or purchase any parcel or parcels of real property which is offered for sale by the County of Orange in any manner as a result of the tax delinquency of such parcel or parcels. This prohibition shall include a prohibition against such County officers, employees or officials bidding upon or acquiring or purchasing such properties directly or through an agent, representative, attorney or other third party, including but not limited to a spouse, child or member of the household. It shall be presumptive proof of a violation of this Law if such County officer, employee or official shall have acquired any interest whatsoever, including but not limited to the holding of a mortgage, lien or other financial interest, in any such property, howsoever acquired, either directly or through any third parties, within two (2) years of the date upon which such property was sold or conveyed by the County of Orange.
- (ii) If, however, an Orange County officer, employee, or elected or appointed official, whose title is listed in the attached Appendix "D", owns land that adjoins a parcel or parcels which have been offered for sale, then such County officer, employee or official may by written request to the Board of Ethics seek to purchase said parcel upon the receipt of written approval to do so by the Board of Ethics. The Board of Ethics shall deny such approval on the basis of the existence of, or the appearance of, a prohibited conflict of interest, as defined under this Local Law, and/or other prevailing State or other laws, rules and regulations.

M. **Duty to Report Violations**¹⁴. Legislators, Countywide Elected Officials, and Department Heads and those holding the title of Deputy Commissioner or other person secondarily in charge of an entire Department shall be required to report violations of this local law to the Board of Ethics.

N. **Waiver**. A County officer or employee may apply for a waiver request form from any of the standards set forth herein upon a showing of compelling need. A waiver request form will be available from the Secretary of the Ethics Board and may be modified from time to time by the Board of Ethics as deemed necessary.

O. **Related Prohibitions**. No officer or employee shall take action or participate in any manner whatsoever in his or her official capacity in the discussion, negotiation or the awarding of any contract or in any business or professional dealings with the County of Orange or any agency thereof in which the official or employee, their spouse, child or sibling or a member of the household has or will have an interest, direct or indirect, in such contract or professional dealings.

Section 7: Prohibition of Interest in Contracts with County.

A. Prohibited interests.

¹⁴ Recommended by the Grand Jury Report. Item # 12. This footnote not intended to be in actual local law.

1. No County officer or employee shall have an interest in a contract with the County, or an interest in a bank or trust company, that is prohibited by New York State General Municipal Law § 801.¹⁵

2. Unless the contract is required by law to have been so awarded, a contract entered into between the County and the Prospective Employer or Outside Employer of any person who appropriated funds for such contract, other than as part of the adopted annual County budget, or any employee who recommended such contract or approved such contract shall be null, void, and wholly unenforceable.

3. Unless the contract is required by law to have been so awarded, a contract willfully entered into by or with the County and the Prospective Employer or actual employer of any relative/immediate family member of a person who appropriated funds for such contract, other than as part of the adopted annual County budget, or any employee who played a role in recommending such contract for approval or approved such contract shall be null, void, and wholly unenforceable¹⁶.

4. Any contract willfully entered into by or with the County in which there is an interest prohibited shall be null, void, and wholly unenforceable, to the extent provided by General Municipal Law § 804.

5. Any contract willfully entered into by or with the County where an officer or employee violated the provisions of this law due to the relationship (or in the case of a prospective employer, the prospective relationship) between such officer or employee or relative/immediate family member or a member of the household of such officer or employee shall be null, void, and wholly unenforceable.

B. Disclosure of interest.

In accordance with General Municipal Law § 803, any County officer or employee who has, will have, or later acquires an interest in or whose spouse or a member of the household has, will have or later acquires an interest in any actual or proposed contract, purchase agreement, lease agreement or other agreement, including oral agreements, with the County shall publicly disclose the nature and extent of such interest in writing to and file with his or her immediate supervisor if they have a supervisor, and the Clerk of the County Legislature as soon as he or she has knowledge of such actual or prospective interest and in an annual ethics disclosure form if such form is required to be filed as described herein. Such written disclosure shall be made a part of and set forth in the official records of the proceedings of the Legislature. The Clerk of the Legislature shall immediately file a copy of such disclosure with the County Executive and the Board of Ethics.

Section 8: Annual Disclosure.

Annual disclosure will take place in accordance with General Municipal Law § 812, except the following provisions shall be controlling:

¹⁵ See, Local Law Section 14, "Supersession of State Law."

¹⁶ It is not the intent of this paragraph to void contracts between the employers of Orange County Employees or the employers of the relative/immediate family member of an Orange County employee. Rather, it is the intent to void those of the employer of the relative/immediate family member's employer when such Orange County employee played a role in appropriating funds relating to the contract or recommending such contract or approving such contract.

A. County officers, employees, and contractors required to file disclosure statement. Annual disclosure statements shall be filed by all elected County officials, department heads and their deputies and those individuals who are employees of contractors and have the authority for policy-making decisions, including but not limited to the list of titles and contractors appended to this Local Law as **APPENDIX A**, which may be amended from time to time by resolution of the County Legislature. The list of contractors includes the actual person, not the employer of such person who performs substantive managerial or administrative functions as a contracting party on behalf of Orange County¹⁷.

B. County political party officials. The annual financial disclosure statement shall also be required of the Chair, First Vice Chair, Second Vice Chair, Treasurer and Secretary, Sargent at Arms, of a county political party, if such person or his successor in office received compensation or reimbursement of expenses from a constituted committee or political committee funds during the reporting period aggregating a combined total of \$30,000 or more.¹⁸

C. Any person who shall become a candidate for the office of any elected official of Orange County. The disclosure forms shall be filed by the candidate within 7 days after the filing of the nominating petitions of said candidate.¹⁹

D. Time and place for filing. Annual disclosure statements shall be filed with the Secretary of the Board of Ethics:

(1) Within 60 days of taking office; and,

(2) No later than May 1 of each year thereafter.

E. Changes in disclosed information. If it becomes apparent to any person required to file an annual disclosure form that there was an error in the same, the same shall be promptly corrected by filing an amended form with the Board of Ethics.

F. Contents of annual disclosure statements and waiver request forms. The County Legislature shall have the power and authority to promulgate and amend the form from time to time by local law and as provided for in and in conformity with § 811 or other applicable provisions of General Municipal Law.

G. The annual disclosure form shall be acknowledged and notarized and in substantially the form which is annexed hereto and made a part hereof as Appendix B. The Legislature, may, by local law, amend such form and such updated form shall be transmitted by the Clerk of the Legislature to the Chairman of the Ethics Board for use in the following calendar year or for use in such year as the amendment to the form is made if made before April 1. Such revised form shall also be utilized by new employees or Officers who have not yet filed a disclosure form, provided, however, that such new employee or Officer shall have sixty days from commencing employment until when the revised form must be filed.

¹⁷ This provision is discussed in the Grand Jury at recommendation number 13. Note: This footnote not intended to be included in the actual law. .

¹⁸ Derived from N.Y.S. Public Officer's Law Section 73 1. (K)

¹⁹ Derived from N.Y.S. Gen. Munic. Law Section 812 and Orange County Local Law No. 2 of 1994, Section 5 Para 4.(c).

H. Maintenance of annual disclosure statements. The secretary of the Board of Ethics shall transmit to the Board of Ethics all annual disclosure statements required by this Local Law within five business days of receiving such statements.

I. Good faith efforts. Failure to disclose the information required by Subsection A of this section with respect to a County officer's or employee's spouse or member of the household or other relative as required by this local law shall not constitute a violation of the subsection if the officer or employee has made a good faith effort to obtain the information and if he/she sets forth those efforts in his/her annual disclosure statement.

J. Distribution of disclosure form. On or before the first day of March of each year, beginning with the year 2016 and thereafter, the Chairman of the Board of Ethics shall cause the annual statement of financial disclosure to be distributed to those persons required to file the same. The Chairman of the Board of Ethics may request the assistance of the Commissioner of Human Resources, provided the County Executive concurs with the same, in causing such dissemination to occur.

K. Hardship provision. Any person who is subject to the reporting requirements of this section and who timely filed with the Internal Revenue Service an application for automatic extension of time in which to file his or her individual income tax return for the immediately preceding calendar or fiscal year shall be required to submit such financial disclosure statement on or before May 1 but may, without being subjected to any civil penalty on account of a deficient statement, indicate with respect to any item of the disclosure statement that information with respect thereto is lacking but will be supplied in a supplemental statement of financial disclosure which shall be filed on or before the seventh day after the expiration of the period of such extension of time actually granted within which to file such individual income tax return, provided that failure to file or to timely file such supplementary statement of financial disclosure or the filing of an incomplete or deficient supplementary statement of financial disclosure shall be subject to the notice and penalty provisions of this Local Law respecting annual statements of financial disclosure as if such supplementary statements were an annual statement.

L. Disclosure forms subject to Public Officers Law Article 6 ("Freedom of Information Law").²⁰ Ethics disclosure forms of county elected officials (County Executive, District Attorney, Sheriff, County Clerk and Legislators) shall be posted on the Orange County website. All other ethics disclosure forms shall be available for inspection and photocopying in accordance with New York State "Freedom of Information Law." Prior to public disclosure of any ethics disclosure form, the following personal information will be redacted: the address, phone number, email address of any person, the names of the employee or officer's minor children, any other relevant information determined by the Ethics Board necessary or appropriate to be redacted for reasons relating to the public safety or one or more persons or otherwise permitted to be redacted under the Public Officers Law, on the Ethics Board's own initiative, or upon the request of the officer or employee with the consent of the Ethics Board, but only if such information is not required to be made public pursuant to the Public Officers Law. The Sheriff and County Attorney of Orange County may be consulted by the Ethics Board in making a determination relating to portions of forms (or entire forms) not to be published.

Section 9. Penalties for Offenses.

²⁰ Pursuant to recommendation of Grand Jury Report, recommendation # 4. This footnote not intended to be printed in local law.

A. Void contracts. Any contract or agreement entered into by or with the County in which there is an interest prohibited by this Local Law shall be null, void, and wholly unenforceable, to the extent provided by § 804 of General Municipal Law or the provisions of this Local Law.

B. Civil penalties. Any County officer or employee who violates any provision of this Local Law, including any reporting individual who knowingly and willfully fails to file an annual statement of financial disclosure or who knowingly and willfully with intent to deceive makes a false statement or gives information which such individual knows to be false on such statement of financial disclosure filed pursuant to this Local Law, shall be assessed a civil penalty in an amount not to exceed \$10,000 or the value of any financial benefit obtained by the violator or the spouse, child, or member of the household of the violator of this Local Law, whichever is greater. Assessment of a civil penalty hereunder shall be made by the Orange County Board of Ethics. Assessment of a civil penalty shall be final unless modified, suspended or vacated within 30 days of imposition and, upon becoming final, shall be subject to review at the instance of the affected reporting individual in a proceeding commenced against the Orange County Board of Ethics pursuant to Article 78 of the Civil Practice Law and Rules.

C. Criminal penalties. For a violation of this Local Law, the Orange County Board of Ethics may, in lieu of a civil penalty, refer a violation to the appropriate prosecutor, and upon such conviction, but only after such referral, such violation shall be punishable as a Class A misdemeanor. A civil penalty for false filing may not be imposed hereunder in the event a category of "value" or "amount" reported hereunder is incorrect unless such reported information is falsely understated.

D. Disciplinary action. Any County officer or employee who violates any provision of this Local Law may be warned, reprimanded, suspended, or removed from office or employment, and/or be subject to any other sanction authorized by law or collective bargaining agreement by the appointing authority or body authorized by law to impose such sanctions. A warning, reprimand, suspension, removal or other authorized sanction may be imposed in addition to any other penalty contained in this section or in any other provision of law.

Section 10. Prohibitions Relating to Private Employment²¹.

I. Employment Solicitation²². No officer or employee shall engage in, solicit, negotiate for or promise to accept private employment or render services for his or her personal benefit when such employment or service creates a conflict or impairs the proper discharge of his or her official duties.

A. Prohibition relating to Appropriators or Authorizers. No county officer or employee responsible for appropriating funds for the effectuation of, or negotiating or authorizing a contract or signing a contract may ask for, pursue or accept a private post-government employment opportunity with any person or entity who actually received such contract for a period of two years after ceasing to be an officer or such an employee of Orange County. Appropriating funds for the effectuating of a contract shall relate to a specific matter, not voting generally on the annual County budget.²³

²¹ The Grand Jury Report recommended that standards be instituted for employees leaving county employment. Recommendation #10 of Grand Jury Report. This footnote not intended to be included in actual local law.

²² The Grand Jury report recommended: "Prohibit soliciting employment from County contractors." Recommendation # 12 of Grand Jury Report. This footnote not intended to be included in actual local law.

²³ The County Executive enters into hundreds and perhaps thousands of contracts annually on behalf of the County. It is not the intent herein to prohibit a Legislator from accepting employment from those "run of the mill" contracts. Rather, from time to time, the

B. Intent. It is the intent of this section to prohibit elected officials or higher level County employees who have negotiated or signed a contract the County is a party to, from benefitting by later being hired by such contracting party.

C. Departmental Prohibitions. No county officer or employee, for the two-year period after serving as a county officer or employee, may represent or render services to a private person or organization in connection with any matter involving the exercise of discretion before the municipal office, board, department or comparable organizational unit for which he or she serves. The exercise of discretion does not relate to ministerial matters.

D. Particular Transactions. No county officer or employee, at any time after serving as a county officer or employee, may represent or render services to a private person or organization for financial gain for themselves or a relative/immediate family member or member of household in connection with any particular transaction in which he or she personally and substantially participated while serving as a municipal officer or employee.

E. Waiver. The above provisions of this section may be waived by the Board of Ethics upon a finding that an appropriator, negotiating or contracting person on behalf of the County had no direct involvement with the selection of the contractor or that the involvement was limited to issuing an approval of or appropriation for a recommended contractor that the approver or appropriator was not otherwise involved with the selection of. The person seeking the waiver shall demonstrate their entitlement to it by clear and convincing evidence to the Board of Ethics.

F. Two Year Prohibition of appearances before county boards/agencies for financial gain. Unless requested in writing by the County Executive or Chairperson of the Legislature, a County officer or employee shall not, after the termination of service or employment with the County, appear for financial gain before any board or agency of the County in relation to any case for a period of two years and shall not appear for financial gain at any time in any proceeding or application in which he/she personally participated, except in a ministerial way, during the period of his/her service or employment or which was under his/her active consideration.

G. Action by Board of Ethics Against Former Employee. The Board of Ethics provided by this Local Law has the authority to act against any former County officer or employee and levy fines or make referrals as if such County officer or employee were still a County officer or employee during the two year period provided for herein, provided the said Board of Ethics shall have commenced (on notice to such former employee or officer) their review or investigation of the transaction giving rise to the investigation or transaction within two years of such officer or employee's ceasing to be an Orange County Officer or Employee.

Section 11. Judicial Review.

Any person aggrieved by a recommendation of the Board of Ethics, as implemented by the County, may seek judicial review and relief pursuant to Article 78 of the Civil Practice Law and Rules of the State of New York.

Section 12. Training.

The Department of Human Resources with the assistance of the Ethics Board shall provide training to all officers or employees of Orange County. Such training may consist of written and/or audio or video presentations or the dissemination of written materials. The training shall provide illustrative, but non-exclusive examples in relation to acceptable and unacceptable gifts and when a county employee shall be required to notify someone of a conflict or potential conflict.

Section 13. Supersession of State Law.

Whenever the requirements of this Local Law are inconsistent with the provisions of Article 18 of the General Municipal Law, the more restrictive provisions or those imposing higher standards shall govern.

Section 14. Construal of Provisions.

A. No existing right or remedy shall be lost, impaired, or affected by reason of this Local Law.

B. Nothing in this Local Law shall be deemed to bar or prevent a present or former County officer or employee from timely filing any claim, account, demand, or suit against the County on behalf of himself/herself or any member of his/her family arising out of personal injury or property damage or any lawful benefit authorized or permitted by law.

C. If any provision of this Local Law is held by a court of competent jurisdiction to be invalid, that decision shall not affect the validity and effectiveness of the remaining provisions of this Local Law.

Section 15. Distribution and Posting.

A. Within 90 days after the adoption of this Local Law and thereafter as appropriate, the Board of Ethics shall transmit to the Orange County Legislature and Clerk of the Legislature, in a form suitable for posting, copies of those provisions of this Local Law which the Board of Ethics deems necessary for posting in the County of Orange. Within 30 days after receipt of those copies, the Clerk of the Legislature shall cause the copies to be posted conspicuously where public notices are generally posted.

B. Within 90 days after the effective date of this Local Law and thereafter as appropriate, the Board of Ethics shall transmit to the Clerk of the Legislature, in a form suitable for distribution, copies of those provisions of this Local Law which the Board of Ethics deems necessary for distribution to the officers and employees of the County. Within 30 days after receipt of those copies, the Clerk of the Legislature, with the assistance of the Commissioner of the Department of Human Resources shall cause the copies to be distributed to every officer and employee of the County and made readily

available to the public. Every County officer or employee elected or appointed thereafter shall be furnished a copy of those provisions upon entering upon the duties of his/her position.

C. Failure of the County to comply with the provisions of this section or failure of any County officer or employee to receive a copy of those provisions of this Local Law shall have no effect on the duty of compliance with this Local Law or on the enforcement of its provisions.

Section 16. Severability.

The provisions of this Local Law shall be severable, and if any clause, sentence, paragraph, subdivision or part of this Local Law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder, but shall be confined in its operation to the clause, sentence, paragraph, subdivision or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Section 17. Effective Date. This act shall take effect January 1, 2016 except sections 16 and 17 shall take effect upon filing with the Secretary of State.

ENACTED BY THE FOLLOWING VOTE:

Ayes 20; Noes 0; Absent 1
(Absent: Amo)

Filed with Secretary of State: November 9, 2015
Effective: November 16, 2015

APPENDIX A: LIST OF COUNTY OFFICERS AND EMPLOYEES SUBJECT TO DISCLOSURE

APPENDIX B: ANNUAL DISCLOSURE FORM

APPENDIX C: REGULATIONS FOR ADJUDICATORY PROCEEDINGS

APPENDIX D: LIST OF COUNTY OFFICERS AND EMPLOYEES PROHIBITED FROM PURCHASING
COUNTY DEED SALE PARCELS

8/24/15 ON DESK