

County of Tioga

Local Law No. 5 of the Year 1990.

A Local Law establishing a Tioga County Ethics Law.

Be It Enacted by the Legislature of the County of Tioga as follows:

SECTION 1: PURPOSE

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

SECTION 2:

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

(a) "Agency" means any of the division of County government, referred to in subdivision (d) of this section except the Legislature.

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

(c) "Child" means any son, daughter, step-son or step-daughter of a County Officer, employee or appointed official if such child is under 18 or is a dependent of the officer, employee or appointed official as defined in the Internal Revenue code Section 152(a)(1) and (2) and any amendments thereto.

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

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

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

(g) "Officer" or "employee" means any officer or employee of the County of Tioga and any elected officials, appointed officials and heads of any agency, institution, department, office branch, division, council, commission, board or bureau of the County of Tioga whether paid or unpaid.

(h) "County elected official" means the County Executive, a County Legislator, the County Clerk, the District Attorney, the County Coroner, the County Treasurer or Comptroller and the Sheriff.

(i) "Appointed official" means any individual who is appointed by the County Executive or Chairman or the County Legislature to any agency, institution, department, office, branch, division, council, commission, board or bureau, whether unpaid or paid.

(j) "Relative" means a spouse or child of a County officer, employee or appointed official.

(k) "Reporting officer, employee or appointed official" means an officer, employee or appointed official or a candidate for County elected office who is required to complete and file an annual statement of financial disclosure pursuant to this Local Law.

(l) "Spouse" means the husband or wife of an officer, employee or appointed official subject to the provisions of this Local Law unless legally separated from such officer, employee or appointed official.

(m) "Jurisdiction" shall mean having authority, capacity, power or right to act with regard to the management and administration of policy and supervision of personnel of the county agency (as defined above at II(a) in which he/she is an officer, employee or appointed official (as defined at II(g)).

(n) "Reporting Category" for the purpose of completing the financial disclosure reports (Forms A, and B; pursuant to Article IV, sections 3, 4 and 5 of this law) means the category of interest, income, value or worth of said reported items. No exact dollar amounts are to be included in the completion of the statements of financial disclosure; rather all amounts are to be indicated using the following categories:

"A". \$0 - \$5,000

"B". \$5,001 - \$10,000

"C". \$10,001 - \$25,000

"D". \$25,001 - \$ 50,000

"E". \$50,001 - \$100,000

"F". Over \$100,001

(o) "Chief Elected Official" means, for the purposes of interpreting this local law only, the County Executive, the Chair of the County Legislative Board, or his or her designee.

SECTION 3: CODE OF ETHICS

A. Prohibited Activities

It is the policy of the County Legislature that all officers and employees must avoid conflicts or potential conflicts of interest. A conflict or a potential conflict exists whenever an officer or employee or their relatives as defined above in II(j) has an interest, direct or indirect, which conflicts with their duty to the County or which could adversely affect an individual's judgment in the discharge of his or her responsibilities. No officer or employee shall:

1. Take action or participate in any manner whatsoever in his or her official capacity in the discussion, negotiation or the awarding of any contract or in any business or professional dealings with the County of Tioga or any agency thereof in which the official or employee has or will have an interest, direct or indirect, in such contract or professional dealings.

2. Engage in, solicit, negotiate for or promise to accept private employment or render services for his or her personal benefit when such employment or service creates a conflict or impairs the proper discharge of his or her official duties.

3. Solicit, directly or indirectly, any gifts or receive or accept any gift having the value of Seventy-five (\$75.00) dollars, or more, whether in the form of money, services, loan, travel, entertainment, hospitality, thing or promise, or in any other form, under circumstances in which it could be reasonably inferred that the gift was intended to influence him or her, or could reasonably be expected to influence him or her, in the performance of his or her official duties or was intended as a reward for any official action on his or her part.

4. Disclose confidential financial information acquired in the course of his or her official duties or use such information to further his or her personal interest.

5. Take action on a matter before the County or any instrumentality thereof when, to his or her knowledge, the performance of that action would provide a pecuniary or material benefit to himself or herself.

SECTION 4: DISCLOSURE OF INTEREST

1. Any officer who has, will have or intends to acquire a direct or indirect interest in any matter being considered by the Legislature of the County of Tioga or by any other official, Board, Agency, officer or employee of the County of Tioga and who participates in the discussion before or who gives an opinion or gives advice to any Board, Agency or individual considering the same, shall publicly disclose on the official record the nature and the extent of such interest.

2. Any officer or employee of the County of Tioga who has knowledge of any matter being considered by the Board, Agency, officer or employee of the County of Tioga in which matter he or she has or will have or intends to acquire any direct or indirect interest, shall be required immediately to disclose, in writing, his or her interest to such Board, Agency, officer or employee, and the nature and the extent thereof, to the degree that such disclosure gives substantial notice of any potential conflict of interest.

3. On or before January 31 of each year for which the employment is in effect the "Chief Elected Official" shall promulgate two lists, to be known as "Level A" and "Level B", of all positions required to provide financial disclosure. Said lists are discretionary in nature, subject to the law, as determined by this local law and to be construed within Article 18 of the New York State General Municipal Law.

4. "Level A" financial disclosure shall be accomplished by the completion of a form substantially similar to that of the "Level A" form attached to this law,

which is incorporated in substance by reference herein. "Level A" financial disclosure shall be required through the discretionary designation of the "Chief Elected Official", as stated in (IV)(3) above, and is applicable to those designated in Article II, section g, h and i, above. This statement shall be completed and returned to the Ethics Board on or before May 15 of the year for which the employment is in effect.

5. "Level B" financial disclosure shall be accomplished by the completion of a form substantially similar to that of the "Level B" form attached to this law, which is incorporated in substance by reference herein. "Level B" financial disclosure shall be required through the discretionary designation of the "Chief Elected Official", as stated in (IV)(3) above, and is applicable to those who may not fall within the specific purview of (IV)(4), above, but are, with proper discretion, deemed to be "policy making" within the construction of Article 18 of the New York State General Municipal Law. This statement shall be completed and returned to the Ethics Board on or before May 15 of the year for which the employment is in effect.

6. Any person who is subject to the filing requirements of this local law form more than one county may satisfy the requirements by filing only one annual statement of financial disclosure, and filing with the other(s) a notice that such filing has been made, inclusive of the date and place of the filing.

7. Any person who is subject to the reporting requirements of this local law and who has or shall timely file with the Internal Revenue Service an application for automatic extension of time in which to file his/her individual income tax return for the immediately preceding calendar or fiscal year which would extend filing with the IRS beyond May 15 of that year shall be required to submit notice of said application on or before March 31 of the year in which the employment is in effect. Such person shall file a disclosure form, absent only the portions stated within the application for automatic extension, on or before May 15 of the year for which the employment is in effect, and a supplementary statement for any item as so noted on the annual statement of financial disclosure, without liability under Article VIII of this local law, if said supplementary statement is filed within fifteen (15) days of the expiration of the automatic extension.

8. Any person who is required to file an annual statement of financial disclosure may request, prior to May 1 of the year for which the employment is in effect, an extension of filing for an additional specific period of time. Such request shall be made in writing to the Board of Ethics, with approval based upon substantiation of justifiable cause or undue hardship. The Board of Ethics may grant or deny the request, by vote of the membership, and extensions shall be for the specific period of additional time requested.

9. Any person required to file an annual statement of financial disclosure who becomes so required, or experiences as change in reporting levels after March 15, of the year for which the employment is in effect, shall file the appropriate annual statement within thirty (30) days.

SECTION 5: ANNUAL CODE OF ETHICS REVIEW

1. Every official and employee is required to attest on an annual basis that he or she has reviewed the Code of Ethics of the County of Tioga, to be made on or before March 31 of the year for which the employment is in effect. Said attestation is to be filed with the Tioga County Ethics Board.

SECTION 6: ETHICS BOARD

1. Establishment

The Legislature of the County of Tioga, pursuant to Article 18 of the New York State General Municipal Law, hereby establishes the Tioga County Board of Ethics, responsible for ensuring full compliance with this code of ethics and disclosure. The Ethics Board shall consist of seven members, two of whom shall be nominated by the Tioga County Legislature Majority Leader. Two shall be nominated by the Minority Leader of that body. Three shall be nominated by the Chief Elected Official of Tioga County. No more than two shall be of the same enrolled party affiliation. No more than one member shall presently be a County officer or employee, and none shall presently hold elected office. All shall be approved by majority vote of the entire board. Failure to gain approval or in the instance of the creation of a vacancy, such succeeding member shall be determined by the entity through which the original member was selected. Any action of the board requires four affirmative votes.

2. Membership

The members of the Ethics Board shall serve staggered 3 year terms, provided that the first appointments to the Ethics Board shall be as follows: one member, appointed by the Chief Elected Official, for a one year term; one member appointed by the Chief Elected Official, one member appointed by the Majority Leader of the Tioga County Legislature and one appointed by the Minority Leader of the Tioga County Legislature, each for a two year term; one member, appointed by the Chief Elected Official, one member appointed by the Majority Leader of the Tioga County Legislature and one appointed by the Minority Leader of the Tioga County Legislature, each for a three year term. Members of the Ethics Board shall not serve more than two full three year terms.

3. Removal

In addition to penalties defined specifically for violation of the Tioga County Ethics Law, and other pertinent section of local, state and federal law, members of the Ethics Board may be removed for cause by the County Executive or Chairman with the concurrence of two-thirds of the County Legislature. Prior to removal, the Ethics Board member shall be given written notice of the grounds for removal and an opportunity to reply.

4. Powers and Duties

a) The Board of Ethics shall possess all powers and duties authorized by Section 808 of General Municipal Law.

b) The Board of Ethics shall be the repository for completed annual statements of financial disclosure, pursuant to section 808(5) of the General Municipal Law and Article IV herein and such written instruments, affidavits, and disclosures as required under this local law.

c) The Board of Ethics shall possess, exercise and enjoy all the rights, powers and privileges necessary and proper to the enforcement of the Code of Ethics and completion and filing by reporting officers, employees and appointed officials of the County of annual statements of financial disclosure required by this act.

d) The Board of Ethics shall promulgate rules and regulations in furtherance of its powers and duties enumerated herein. Said rules and regulations shall include rules governing the conduct of adjudicatory proceedings and appeals relating to the assessment of the civil penalties herein authorized. The County Legislature may empower the Board of Ethics to subpoena any individual, whether or not a County officer, employee or appointed official, and any document or thing which the Board of Ethics deems necessary to the resolution of any pending adjudicatory proceeding or matter.

e) The Board of Ethics shall render advisory opinions in writing regarding specific matters pertaining to filings and reporting categories, to officers, employees and appointed officials of the County with respect to this Local Law and Article Eighteen of the General Municipal Law. Such opinions shall be rendered only upon written request by the officer, employee or appointed official concerning only the subject of the inquiry as it pertains to the requesting individual's own filing requirements.

f) Such opinions shall not be made public or disclosed unless required by the Freedom of Information Law (Public Officers Law Article 6) or required for use in a disciplinary proceeding or proceeding under Article VII of this Local Law involving the officer, employee or appointed official who requested the

advisory opinion. Whenever a request for access to an advisory opinion herein is received, the officer, employee or appointed official who requested the opinion shall be notified of the request within forty-eight (48) hours of the receipt of the request. Under no circumstances shall the "Reporting Categories" be disclosed to the public, as stated in New York State General Municipal Law Section 813.18(a)(1).

g) The Chief Elected Official shall designate the County Attorney or such other attorney admitted to practice in the State of New York to serve as counsel to the Board of Ethics.

h) The Ethics Board shall be empowered to request support staff assistance from the County Legislature or the Chief Elected Official in furtherance of its duties and responsibilities.

SECTION 7: APPEAL OF DESIGNATION OF POLICY MAKING POSITION

Appeal may be taken by the filing of a written petition in opposition to such designation within thirty (30) days from the date that the designation was filed with the Tioga County Board of Ethics. Upon receipt of the petition, the Board of Ethics shall make a determination upon the merits of the application within thirty (30) days.

SECTION 8: PENALTIES

A 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 section shall be assessed a civil penalty in an amount not to exceed ten thousand dollars. Assessment of a civil penalty hereunder shall be made by the Tioga County Board of Ethics. For a violation of this section, other than for conduct which constitutes a violation of subdivision twelve of section seventy-three of the Public Officers Law, the Tioga 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. Upon an appropriate determination and vote, the Tioga County Ethics Board may file a written recommendation with the Chief Elected Official or other disciplinary body, establishing grounds for removal for cause, in accordance with other provision of the Tioga County Laws pertaining to officers, officials and

employees and rules governing conduct. Notwithstanding any other provision of law to the contrary, no other penalty, civil or criminal may be imposed for a failure to file, or for a false filing, of such statement, except that the appointing authority may impose disciplinary action as otherwise provided by law. The Tioga County Board of Ethics shall adopt rules governing the conduct of adjudicatory proceedings and appeals relating to the assessment of the civil penalties herein authorized. Such rules shall provide for due process procedural mechanisms substantially similar to those set forth in Article Three of the State Administrative Procedure Act, but such mechanisms need not be identical in terms or scope. Assessment of a civil penalty shall be final unless modified, suspended or vacated within thirty days of imposition and upon becoming final shall be subject to review at the instance of the affected reporting individual in a proceeding commenced against the Tioga County Board of Ethics pursuant to Article seventy-eight of the Civil Practice Law and Rules.

SECTION 9: ANNUAL STATEMENT OF FINANCIAL DISCLOSURE

The Tioga County Legislature hereby designated Forms "Level A" and "Level B", as attached, as the official annual statement of financial disclosure for the purposes of fulfilling the requirements of Article IV, sections 3, 4, and 5, respectively, of the Tioga County Ethics and Disclosure Law.

SECTION 10: SEVERABILITY

The various elements of the Tioga County Ethics Law are explicitly intended to be construed within the application of Article 18 of the New York State General Municipal Law. Should any portion of this law be determined to be unconstitutional or improper, said determination shall have no bearing on the severable remainder of this local law.

SECTION 11: SUPERSESION

This Local Law hereby supersedes Local Law No. 1 of the year 1979.

SECTION 12: EFFECTIVE DATE

This Local Law shall be effective January 1, 1991.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 5 of 1990 of the (County) of Tioga was duly passed by the Tioga County Legislature on December 10, 1990 , in accordance with the applicable provisions of law.

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19 of the (County) (City) (Town) (Village) of was duly passed by the on , 19 , and was (approved)(not disapproved)(repassed after disapproval) by the on and was deemed duly adopted on , 19 , in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19 of the (County)(City)(Town)(Village) of was duly passed by the on , 19 , and was (approved)(not disapproved)(repassed after disapproval) by the on , 19 . Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual)election held on , 19 , in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19 of the (County)(City)(Town)(Village) of was duly passed by the on , 19 , and was (approved)(not disapproved)(repassed after disapproval) by the on , 19 . Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of , 19 , in accordance with the applicable provisions of law.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19 of the City of having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on , 19 , become operative.

*Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairman of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19 _____ of the County of _____, State of New York, having been submitted to the electors at the General Election of November _____, 19 _____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and of a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1, above.

Clerk of the County legislative body, City, Town or Village Clerk or officer designated by local legislative body

(Seal)

Date:

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized Attorney of locality.)

State of New York

County of Tioga

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Signature

Title

County of Tioga

City

Town

Village

Date: