

Grundy County Ethics Ordinance

PREAMBLE

WHEREAS, the Illinois General Assembly has enacted the State Officials and Employees Ethics Act (Public Act 93-615, effective November 19, 2003, as amended by Public Act 93-617, effective December 9, 2003), which is a comprehensive revision of State statutes regulating ethical conduct, political activities and the solicitation and acceptance of gifts by State officials and employees; and

WHEREAS, the Act requires all units of local government and school districts, within six months after the effective date of Public Act 93-615, to adopt ordinances or resolutions regulating the political activities of, and the solicitation and acceptance of gifts by, the officers and employees of such units "in a manner not less restrictive" than the provisions of the Act, and

WHEREAS, it is the clear intention of the Act to require units of local government and school districts to implement regulations that are at least as restrictive as those contained in the Act, and to impose penalties for violations of these regulations that are equivalent to those imposed by the Act, notwithstanding that such penalties may exceed the general authority granted to units of local government to penalize ordinance violations; and

WHEREAS, it is the clear intention of the Act to provide units of local government with all authority necessary to implement its requirements on the local level regardless of any general limitations on the power to define and punish ordinance violations that might otherwise be applicable, and

WHEREAS, because the Act provides for the imposition of significant penalties for violations of said local regulations, it is necessary to adopt the required regulations by Ordinance rather than by Resolution.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY BOARD OF THE COUNTY OF GRUNDY, AS FOLLOWS:

SECTION 1 The Grundy County Ethics Ordinance is hereby enacted with the following provisions.

ARTICLE I DEFINITIONS

Section 1-1. For purposes of this ordinance, the following terms shall be given these definitions:

"Campaign for elective office" means any activity in furtherance of an effort to influence the selection, nomination, election or appointment of any individual to any

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federal, State or local public office or office in a political organization, or the selection, nomination, or election of Presidential or Vice-Presidential electors, but does not include activities (i) relating to the support or opposition of any executive, legislative, or administrative action, (ii) relating to collective bargaining, or (iii) that are otherwise in furtherance of the person's official duties.

"Candidate" means a person who has filed nominating papers or petitions for nomination or election to an elected office, or who has been appointed to fill a vacancy in nomination, and who remains eligible for placement on the ballot at a regular election, as defined in section 1-3 of the Election Code (10 ILCS 5/1-3).

"Collective bargaining" has the same meaning as that term is defined in Section 3 of the Illinois Public Labor Relations Act (5 ILCS 31 5/3).

"Compensated time" means, with respect to an employee, any time worked by or credited to the employee that counts toward any minimum work time requirement imposed as a condition of his or her employment, but for purposes of this Ordinance, does not include any designated holidays, vacation periods, personal time, compensatory time off or any period when the employee is on a leave of absence. With respect to officers or employees whose hours are not fixed, "compensated time" includes any period of time when the officer is on premises unless the control of the employer and any other time when the officer or employee is executing his or her official duties, regardless of location.

"Compensatory time off" means authorized time off earned by or awarded to an employee to compensate in whole or in part for time worked in excess of the minimum work time required of that employee as a condition of his or her employment.

"Contribution" has the same meaning as that term is defined in section 9-1.4 of the Election Code (10 ILCS 5/9-1.4).

"Employee" means a person employed by the County of Grundy, whether on a full-time or part-time basis or pursuant to a contract, whose duties are subject to the direction and control of an employer with regard to the material details of how the work is to be performed, but does not include an independent contractor.

"Employer" means the County of Grundy.

"Gift" means any gratuity, discount, entertainment, hospitality, loan, forbearance or other tangible or intangible item having monetary value including, but not limited to, cash, food and drink and honoraria for speaking engagements related to or attributable to government employment or the official position of an officer or employee.

"Leave of absence" means any period during which an employee does not receive (i) compensation for employment, (ii) service credit towards pension benefits, and (iii) health insurance benefits paid for by the employer.

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“Officer” means a person who holds, by election or appointment, an office created by statute or ordinance, regardless of whether the officer is compensated for service in his or her official capacity.

“Political activity” means any activity in support or in connection with any campaign for elective office or any political organization, but does not include activities (i) relating to the support or opposition of any executive, legislative or administrative action, (ii) relating to collective bargaining, or (iii) that are otherwise in furtherance of the person’s official duties.

“Political organization” means a party, committee, association, fund or other organization (whether or not incorporated) that is required to file a statement of organization with the State Board of Elections or a county clerk under Section 9-3 of the Election Code (10 ILCS 5/9-3), but only with regard to those activities that require filing with the State Board of Elections or a county clerk.

“Prohibited political activity” means

- (1) Preparing for, organizing or participating in any political meeting, political rally, political demonstration or other political event.
- (2) Soliciting contribution, including but not limited to the purchase of, selling, distributing or receiving payment for tickets for any political fundraiser, political meeting or other political event.
- (3) Soliciting, planning the solicitation of or preparing any document or report regarding anything of value intended as a campaign contribution.
- (4) Planning, conducting or participating in a public opinion poll in connection with a campaign for elective office or on behalf of a political organization for political purposes or for or against any referendum question.
- (5) Surveying or gathering information from potential or actual voters in an election to determine probable vote outcome in connection with a campaign for elective office or on behalf of a political organization for political purposes or for or against any referendum question.
- (6) Assisting at the polls on Election Day on behalf on any political organization or candidate for elective office or against any referendum question.
- (7) Soliciting votes on behalf of a candidate for elective office or a political organization or for or against any referendum question or helping in an effort to get voters to the polls.

(8) Initiating for circulation, preparing, circulating, reviewing or filing any petition on behalf of a candidate for elective office or for or against any referendum question.

(9) Making contributions on behalf of any candidate for elective office in that capacity or in connection with a campaign for elective office.

(10) Preparing or reviewing responses to candidate questionnaires.

(11) Distributing, preparing for distribution or mailing campaign literature, campaign signs or other campaign material on behalf of any candidate for elective office or for or against any referendum question.

(12) Campaigning for any elective office or for or against any referendum question.

(13) Managing or working on a campaign for elective office or for or against any referendum question.

(14) Serving as a delegate, alternate or proxy to a political party convention.

(15) Participating in any recount or challenge to the outcome of any election.

“Prohibited source” means any person or entity who

(1) is seeking official action (i) by an officer or (ii) by an employee, or by the officer or another employee directing that employee;

(2) does business or seeks to do business (i) with the officer or (ii) with an employee, or (iii) with the officer or another employee directing that employee;

(3) conducts activities regulating (i) by the officer or (ii) by an employee or (iii) by the officer or another employee directing that employee; or

(4) has interests that may be substantially affected by the performance or non-performance of the official duties of the officer or employee.

ARTICLE 5 PROHIBITED POLITICAL ACTIVITIES

Section 5-1 Prohibited political activities (a) No officer or employee shall intentionally perform prohibited activity during any compensated time, as defined herein. No officer or employee shall intentionally use any property or resources of the County of Grundy in connection with any prohibited political activity.

(b) At no time shall any officer or employee intentionally require any other officer or employee to perform any prohibited political activity (i) as part of that officer

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or employee's duties, (ii) as a condition of employment, or (iii) during any compensated time off (such as holidays, vacation or personal time off).

(c) No officer or employee shall be required at any time to participate in any prohibited political activity in consideration for that officer or employee being awarded additional compensation of any benefit, whether in the form of a salary adjustment, bonus, compensatory time off, continued employment or otherwise, nor shall any officer or employee be awarded additional compensation or any benefit in consideration for his or her participation in any prohibited political activity.

(d) Nothing in this Section prohibits activities that are permissible for an officer or employee to engage in a part of his or her official duties, or activities that are undertaken by an officer or employee on a voluntary basis which are not prohibited by this Ordinance.

(e) No person either (i) in a position that is subject to recognized merit principles of public employment or (ii) in a position the salary for which is paid in whole or in part by federal funds and that is subject to the Federal Standards for a Merit System of Personnel Administration applicable to grant-in-aid programs, shall be denied or deprived of employment or tenure solely because he or she is a member of an officer of a political committee, of a political party or of a political organization or club.

ARTICLE 10 GIFT BAN

Section 10-1. Gift ban. Except as permitted by this Article, no officer or employee and no spouse of or immediate family member living with any officer or employee (collectively referred to herein as "recipient"), shall intentionally solicit or accept any gift from any prohibited sources, as defined herein, or which is otherwise prohibited by law or ordinance. No prohibited source shall intentionally offer or make a gift that violates this Section.

Section 10-2. Exceptions. Section 10-1 is not applicable to the following:

- (1) Opportunities, benefits and services that are available on the same conditions as for the general public.
- (2) Anything for which the officer or employee, or his or her spouse or immediate family member, pays the fair market value.
- (3) Any (i) contribution that is lawfully made under the Election Code or (ii) activities associated with a fundraising event in support of a political organization or candidate.
- (4) Educational materials and missions.

(5) Travel expenses for a meeting to discuss business.

(6) A gift from a relative, meaning those people related to the individual as father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, and including the father, mother, grandfather, or grandmother of the individual's spouse and the individual's fiancé or fiancée.

(7) Anything provided by an individual on the basis of a personal friendship unless the recipient has reason to believe that, under the circumstances, the gift was provided because of the official position or employment of the recipient or his or her spouse or immediate family member and not because of the personal friendship. In determining whether a gift is provided on the basis of personal friendship, the recipient shall consider the circumstances under which the gift was offered, such as: (i) the history of the relationship between the individual giving the gift and the recipient of the gift, including any previous exchange of gifts between those individuals; (ii) whether to the actual knowledge of the recipient the individual who gave the gift personally paid for the gift or sought a tax deduction or business reimbursement for the gift; and (iii) whether to the actual knowledge of the recipient the individual who gave the gift also at the same time gave the same or similar gifts to other officers or employees, or their spouses or immediate family members.

(8) Food or refreshments not exceeding \$75 per person in value on a single calendar day, provided that the food or refreshments are (i) consumed on the premises from which they were purchased or prepared or (ii) catered. For the purposes of this Section, "catered" means food or refreshments that are purchased ready to consume which are delivered by an means.

(9) Food, refreshments, lodging, transportation and other benefits resulting from outside business or employment activities (or outside activities that are not connected to the official duties of an officer or employee), if the benefits have not been offered or enhanced because of the official position or employment of the officer or employee, and are customarily provided to others in similar circumstances.

(10) Intra-governmental and inter-governmental gifts. For the purpose of this Act, "intra-governmental gift" means any gift given to an officer or employee from another officer or employee, and "inter-governmental gift" means any gift given to an officer or employee by an officer or employee of another government entity.

(11) Bequests, inheritances, and other transfers at death.

(12) Any item or items from any one prohibited source during any calendar year having a cumulative total value of less than \$100.

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Each of the exceptions listed in this Section is mutually exclusive and independent of every other.

Section 10-3. Disposition of gifts. An officer or employee, his or her spouse or an immediate family member living with the officer or employee does not violate this Ordinance if the recipient promptly takes reasonable action to return a gift from a prohibited source to its source or gives the gift or an amount equal to its value to an appropriate charity that is exempt from income taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as now or hereafter amended, renumbered or succeeded.

ARTICLE 15 ETHICS ADVISOR

Section 15-1. The Chairman of the Grundy County Board, with the advice and consent of the Grundy County Board, shall designate an Ethics Advisor for the County of Grundy. The duties of the Ethics Advisor may be delegated to an officer or employee of the County of Grundy unless the position has been created as an office by the County of Grundy.

Section 15-2. The Ethics Advisor shall provide guidance in the officers and employees of the County of Grundy concerning the interpretation of and compliance with the provision of this Ordinance and State ethics laws. The Ethics Advisor shall perform such other duties as may be delegated by the County Board of the County of Grundy.

ARTICLE 20 ETHICS COMMISSION

Section 20-1. There is hereby created a commission to be known as the Ethics Commission of the County of Grundy. The Commission shall be comprised of seven members appointed by the Chairman of the County Board, with the advice and consent of the County Board of the County of Grundy. No more than four members of the Commission shall belong to the same political party at the time such appointments are made. Party affiliation shall be determined by affidavit of the person appointed.

Section 20-2. At the first meeting of the Commission, the initial appointees shall draw lots to determine their initial terms. Four commissioners shall serve 2-year terms, and the remaining three commissioners shall serve a one-year term. Thereafter, all commissioners shall be appointed to 2-year terms. Commissioners may be reappointed to serve subsequent terms.

At the first meeting of the Commission, the commissioners shall choose a chairperson from their number. Meetings shall be held at the call of the chairperson or any four commissioners. A quorum shall consist of four commissioners, and official action by the commission shall require the affirmative vote of four members.

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Section 20-3. The Chairman of the County Board, with the advice and consent of the County Board of the County of Grundy, may remove a commissioner in case of incompetency, neglect of duty or malfeasance in office after service on the commissioner by certified mail, return receipt requested of a copy of the written charges against the commissioner and after providing an opportunity to be heard in person or by counsel upon not less than 10 days notice. Vacancies shall be filled in the same manner as original appointments.

Section 20-4. The Commission shall have the following powers and duties

(1) To promulgate procedures and rules governing the performance of its duties and the exercise of its powers

(2) Upon receipt of a signed, notarized, written complaint, to investigate, conduct hearings and deliberations, issue recommendations for disciplinary actions, impose fines in accordance with Section 25-1(c) of this Ordinance and refer violations Article 5 or Article 10 or this Ordinance to the appropriate attorney for prosecution. The Commission shall, however, act only in the receipt of a written complaint alleging a violation of this Ordinance and not upon its own prerogative.

(3) To receive information from the public pertaining to its investigations and to require additional information and documents from persons who may have violated the provisions of this Ordinance.

(4) To compel the attendance of witnesses and to compel the production of books and papers pertinent to an investigation. It is the obligation of all officers and employees of the County of Grundy to cooperate with the Commission during the course of its investigations. Failure or refusal to cooperate with requests by the Commission shall constitute grounds for discipline or discharge.

(5) The powers and duties of the Commission are limited to matters clearly within the purview of this Ordinance.

Section 20-5 (a) Complaints alleging a violation of this Ordinance shall be filed with the Ethics Commission.

(b) Within 5 business days after receipt of a complaint, the Commission shall send by certified mail, return receipt requested, a notice to the respondent that a complaint has been filed against him or her and a copy of the complaint. The Commission shall send by certified mail, return receipt requested, a confirmation of the receipt of the complaint to the complainant within 5 business days after receipt by the Commission. The notices to the respondent and the complainant shall also advise them of the date, time, and place of the meeting to determine the sufficiency of the complaint and to establish whether probable cause exists to proceed. In the alternative, the notices to the respondent and the complainant may be made by personal service.

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(c) Upon not less than 48 hours public notice, the Commission shall meet to review the sufficiency of the complaint and if the complaint is deemed sufficient to allege a violation of this Ordinance, to determine whether there is probable cause, based on the evidence presented by the complaint to proceed. The meeting may be closed to the public to the extent authorized by the Open Meetings Act. The Commission shall issue notice to the complainant and the respondent of the Commission's ruling on the sufficiency of the complaint and, if necessary, on probable cause to proceed within 10 business days after receiving the complaint.

If the complaint is deemed sufficient to allege a violation of Article 10 and or Article 5 (if the Commission does not seek incarceration as a possible penalty for a violation) of this Ordinance and there is a determination of probable cause, then the Commission's notice to the parties by personal service, shall include a hearing date scheduled within 6 weeks after the complaint receipt. Alternatively, the Commission may elect to notify in writing the State's Attorney to prosecute such actions and request that the complaint be adjudicated judicially. The Commission shall transmit to the State's Attorney the complaint and all additional documents in the custody of the Commission concerning the alleged violation. If the complaint is deemed not sufficient to allege a violation or if there is not a determination of probable cause, then the Commission shall send by certified mail, return receipt requested, a notice of the decision to dismiss the complaint and that notice shall be made public.

(d) On the scheduled date and upon at least 48 hours public notice of the meeting, the Commission shall conduct a hearing on the complaint and allow both parties the opportunity to present testimony and evidence. The hearing may be closed to the public only if authorized by the Open Meetings Act.

(e) Within 30 days after the date the hearing or any recessed hearing is concluded, the Commission shall either (i) dismiss the complaint or (ii) issue a recommendation for discipline to the alleged violator and to the Chairman of the County Board, or impose a fine upon the violator, or both. The particular findings in the case, any recommendation for discipline and any fine imposed shall be a matter of public information.

(f) If the hearing was closed to the public, the respondent may file a written demand for a public hearing on the complaint within 7 business days after the issuance of the recommendation for discipline or imposition of a fine, or both. The filing of the demand shall stay the enforcement of the recommendation or fine. Within 14 days after receiving the demand, the Commission shall conduct a public hearing on the complaint upon at least 48 hours public notice of the hearing and allow both parties the opportunity to present testimony and evidence. Within 7 days thereafter, the Commission shall publicly issue a final recommendation to the alleged violator and to the Chairman of the County Board, or impose a fine upon the violator, or both.

(g) If a complaint is filed during the 60 days preceding the date of any election at which the respondent is a candidate, the Commission shall render its decision as required

under subsection (e) within 7 days after the complaint is filed, and during 7 days preceding that election, the Commission shall render such decision before the date of that election, if possible.

(h) The Commission may fine any person who intentionally violates any provision of Article 10 of this Ordinance in an amount of not less than \$1,001 and not more than \$5,000. The Commission may fine and person who knowingly files a frivolous complaint alleging a violation of this Ordinance in an amount of not less than \$1,001 and not more than \$5,000. The Commission may recommend any appropriate discipline up to and including discharge.

(i) A complaint alleging the violation of this Act must be filed within one year after the alleged violation.

ARTICLE 25 WHISTLE BLOWER PROTECTION

Section 25. Definitions In This Article

“Public body” means (1) any officer, member, or agency; (2) the federal government; (3) any local law enforcement agency or prosecutorial office; (4) any judiciary, grand or petit jury, law enforcement agency, or prosecutorial office; and (5) any officer, employee, department agency, or other division of any of the foregoing.

“Supervisor” means an officer, a member, or an employee who has the authority to direct and control the work performance of an employee or who has the authority to take corrective action regarding any violation of a law, rule, or regulation of which the employee complains.

“Retaliatory action” means the reprimand, discharge, suspension, demotion, or denial of promotion or transfer of any employee in the terms and conditions of employment, and that is taken in retaliation of an employee’s involvement in protected activity, as set forth in Section 25-2.

Section 25-2. Protected activity. An officer, a member, or an agency shall not take any retaliatory action against an employee because the employee does any of the following:

- (1) Discloses or threatens to disclose to a supervisor or to a public body an activity, policy, or practice of any officer, member, agency, or other employee that the employee reasonably believes is in violation of a law, rule, or regulation.
- (2) Provides information to or testifies before any public body or Ethics Commission conducting an investigation, hearing, or inquiry into any

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violation of a law, rule, or regulation by any officer, member, agency, or other employee.

- (3) Assists or participates in a proceeding to enforce the provisions of this Ordinance.

Section 25-3. Burden of proof. A violation of this Article may be established only upon a finding that (i) the employee engaged in conduct described in Section 25-2 and (ii) that conduct was a contributing factor in the retaliatory action alleged by the employee. It is not a violation, however, if it is demonstrated that the officer, member, other employee, or agency would have taken the same unfavorable personnel action in the absence of that conduct.

Section 25-4. Remedies. The employee may be awarded all the remedies necessary to make the employee whole and to prevent future violations of this Article. Remedies imposed may include, but are limited to all of the following:

- (1) reinstatement of the employee to either the same position held before the retaliatory action or to an equivalent position;
- (2) up to 2 times the amount of back pay;
- (3) interest on the back pay and
- (4) the reinstatement of full fringe benefits and seniority rights.

Section 25-5. Preemption. Nothing in this Article shall be deemed to diminish the rights, privileges or remedies of an employee under any other federal or state law, rule, or regulation or under any collective bargaining agreement or employment contract.

ARTICLE 30 PENALTIES

Section 25-1. Penalties. (a) A person who intentionally violates any provision of Article 5 of this Ordinance may be punished by a term of incarceration in a penal institution other than a penitentiary for a period of not more than 364 days, and may be fined in an amount not to exceed \$2,500.

(b) A person who intentionally violates any provision of Article 10 of this Ordinance is subject to a fine in an amount of not less than \$1,001 and not more than \$5,000.

(c) Any person who intentionally makes a false report alleging a violation of any provision of this Ordinance to the local enforcement authorities, the State's Attorney or any other law enforcement official may be punished by a term of incarceration in a penal

institution other than a penitentiary for a period of not more than 364 days and may be fined in an amount not to exceed \$2,500.

(d) A violation of Article 5 of this Ordinance shall be prosecuted as a criminal offense by the State's Attorney, or his/her designee, for the County of Grundy by filing in the circuit court an information, or sworn complaint, charging such offense. The prosecution shall be under and conform to the rules of criminal procedure. Conviction shall require the establishment of the guilt of the defendant beyond a reasonable doubt.

A violation of Article 10 of this Ordinance may be prosecuted as a quasi-criminal offense by the State's Attorney, or his/her designee, or, if an Ethics Commission has been created, by the Commission through the designated administrative procedure.

(e) In addition to any other penalty that may be applicable, whether criminal or civil, an officer or employee who intentionally violates any provisions of Article 5 or Article 10 of this Ordinance is subject to discipline or discharge.

SECTIONS 2: This Ordinance shall be in effect upon its passage, approval, as provided by law, and any and all previous Ethics or Gift Ban Ordinance of the County of Grundy are hereby repealed, including the Ordinance No. 99-015, Government Ethics Gift Ban Ordinance.

NOW THEREFORE BE IT FURTHER ORDAINED that the Grundy County Board enacts and adopts the Grundy County Ethics Ordinance, as presented above. Said ordinance shall be effective upon passage and shall apply to all employees of the County of Grundy with the exception of those in the Office of the State's Attorney and those in the Office of the Circuit Clerk.

AMENDMENT ADOPTED BY THE COUNTY BOARD OF GRUNDY COUNTY, ILLINOIS AT ITS REGULAR MONTHLY MEETING THIS _____ DAY OF _____, 20__.

Ron Severson, Chairman
County Board of Grundy County, Illinois

ATTEST: _____
Lana J. Phillips
County Clerk

AYES: _____

NAYS: _____

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