

# **PROPOSED CUYAHOGA COUNTY CODE OF ETHICS**

*-- revised and approved 10/01/2010, Code of Ethics Workgroup*

We, the Code of Ethics Workgroup, citizens of Cuyahoga County charged by the Cuyahoga County Transition Advisory Group Executive Committee with preparing the way for a new era of responsible ethical government in Cuyahoga County, respectfully submit the following recommendations to the Cuyahoga County Council

We urge the adoption of these recommendations, in order to assure a mechanism for all persons participating in and contracting with, and otherwise doing business with our County to ascertain clear, understandable, ethical standards and to comply with those standards. We further urge the adoption of the recommendations for ongoing education with respect to those standards, disclosure mechanisms to facilitate transparency in the operations of government, and protection of whistleblowers to encourage openness in reporting from within government operations. We consider essential to the purposes of our charge, and therefore recommend the establishment of an independent Board of Ethics to advise, investigate, and seek prosecution of those who would undermine good government by conduct at variance with the standards set forth here.

In fulfillment of our charge we submit and urge the adoption of the following Cuyahoga County Code of Ethics.

-- Code of Ethics Workgroup  
Members and Friends of the League of Women Voters

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## **ARTICLE I: PREAMBLE**

Residents of Cuyahoga County have the right to expect the highest ethical behavior from the County's elected and appointed officials and employees. Ethical behavior requires that County officials and employees, as stewards of the common good, must be honest, impartial and responsible to the people. This Code shall serve not only as a basis for discipline, but also and more importantly, as a guide to nurture and sustain an ethical culture.

To meet these expectations, ethical officials and employees of Cuyahoga County will:

- Perform their duties with transparency, competence and impartiality;
- Comply faithfully with all laws and regulations applicable to the County;
- Promote decisions that benefit public interest, not private advantage;
- Keep safe all funds and properties of the County;
- Inspire public confidence in County government;
- Promote a work environment free of discrimination and distress;
- Aim for the best product for the lowest cost without sacrificing quality and fiscal responsibility;
- Show civility and respect in all dealings with colleagues, associates and the public;
- Collaborate with public agencies, local governments and other organizations to further the interests of the County;
- Avoid outside interests incompatible with the proper and lawful discharge of duty;
- Reject favoritism and all attempts to influence County decisions unfairly.

The County Council of Cuyahoga County, recognizing that representative government depends upon maintaining the trust of its citizens, does hereby enact the following Code of Ethics to ensure the highest standards of conduct for themselves, all elected and appointed officials, and all County employees. All such persons shall be well informed of their responsibilities toward that end.

## **ARTICLE II: GENERAL PROVISIONS**

### **A. DEFINITIONS**

All definitions pertaining to this Code are found in Article VI.

### **B. COVERED PERSONS**

The provisions of this Code of Ethics shall apply to all elected and appointed officials and all employees of Cuyahoga County, its administrative departments, agencies, boards and commissions, including the providers of all County adjunct judicial services. In addition, parts of this Code shall also govern lobbyists, contractors and others who seek to influence or do business with the County. This Code of Ethics does not govern the conduct of the Courts of Common Pleas and Appeals which, together with all of their employees, remain covered by the Ohio Ethics Law for the State Judiciary.

### **C. RELATIONSHIP TO OHIO LAW**

Cuyahoga County continues to be governed by existing Ohio Ethics Law and guided by the Ohio Ethics Commission, and it is the intention of this Code to reinforce rather than to replace that principled oversight. That body of law is a guide to the conduct of all covered persons. It is incorporated and restated herein for reference, and should be updated whenever those laws are amended.

### **D. MINIMUM STANDARD**

This countywide Code of Ethics shall constitute a minimum standard for ethical conduct and practices in Cuyahoga County government. Other offices, departments or agencies may impose rules in addition to those enumerated here,

including but not limited to the provisions of this Code. If the provisions of this Code conflict with any other County ordinance, regulation or rule, this Code shall control.

#### **E. ESTABLISHMENT OF A COUNTY ETHICS BOARD**

The County Council hereby establishes the Cuyahoga County Ethics Board, which shall be scrupulously independent and shall be guaranteed sufficient resources to assure compliance with County ethics provisions, vigorously educate all covered persons, investigate and act upon complaints, render advice, maintain records and monitor necessary technology for transparency. [See Article V]

#### **F. SEVERABILITY**

The various provisions of this Code of Ethics are intended to be severable, and the validity or invalidity of one or more such provisions shall not affect the validity of the remaining provisions.

#### **G. AMENDMENT**

The County Council, as initiated by its own members, by citizens or by the County Executive, or as recommended by the County Ethics Board, may amend any provision of this Code of Ethics which is not otherwise mandated by the Ohio Revised Code [hereafter, ORC] or the Charter of Cuyahoga County.

### **ARTICLE III: PROHIBITED CONDUCT**

#### **A. PENALTIES**

1. **Violations of Ohio Law.** Except as otherwise noted or as later amended, violation of an Ohio statute by engaging in prohibited conduct as detailed in this section constitutes a first-degree misdemeanor, punishable by up to six months in prison and a fine of up to \$1000. [ORC 102.099(A) and (B); ORC 2929.21 to .28]
2. **Violations of County Ordinance.** Covered persons who engage in conduct prohibited by this Cuyahoga County Code of Ethics shall be subject to prosecution and liable for penalties set forth in Article V.C.5 of this Code.

#### **B. MISUSE OF OFFICIAL POSITION**

1. **Misuse of Official Position.** No covered persons, either during or for one year after County service, shall use their County positions to advocate before their agencies for their own financial interest or for that of clients, family members or business associates. [ORC 102.03(A)]
2. **Misuse of Confidential Information.** No covered persons, either during or at any time after County service, shall divulge without authorization any confidential information which has been officially so designated as essential to the proper conduct of County business. [ORC 102.03(B)]
3. **Misuse of Authority to Secure Anything of Value.** No covered persons shall use their authority to secure anything of value which could improperly influence the discharge of official duties. [ORC 102.03(D)]
4. **Misuse of County Resources.** No covered persons shall use, request, or permit the private use of County resources, including but not limited to motor vehicles, equipment and supplies. Printing, mailing or electronic communicating of personal or political material is likewise prohibited.
5. **Nepotism, Patronage.** No covered persons shall participate in any employment decisions involving family members or business associates. Nor shall they provide unsolicited recommendations for jobs or contract awards to family members or business associates seeking to do business with the County or to influence its actions.

### C. GIFTS AND HONORARIA

1. **Soliciting or Accepting Anything of Value.** No covered persons shall solicit or accept anything of value for themselves or family members -- including money, goods, hospitality, property, services, campaign contributions or promise of employment -- which could improperly influence the discharge of official duties. [ORC 102.03(E), (F) and (G)]
2. **Gifts from Prohibited Sources.** No prohibited sources shall give or promise anything of value to county officials or employees or their family members. [See IV.D.3] [ORC 102.03(E) and (F)]
3. **Accepting Honoraria.** No covered persons who are required to file financial disclosure forms shall solicit or accept honoraria, except for actual travel expenses or for recognition unrelated to their County office or position. [ORC 102.03(H)(1)]

### D. UNLAWFUL INTEREST IN CONTRACTS

1. **Conflict of Interest in County Contracts.** No covered persons shall authorize or use their influence to authorize any contract in which they, their family members or business associates have an interest. This includes employment contracts. Violation of this law constitutes a fourth-degree felony, punishable by a sentence of between six and eighteen months and/or a fine of up to \$5,000. [ORC 2921.42(A)(1) and (E)]
2. **Profit or Gain from County Contracts.** No covered persons shall have interests in any contracts awarded by their agency, unless competitively bid and awarded to the lowest bidder. Exempted from this prohibition are no-bid contracts for less than \$150 which are not required by law to be opened to competitive bidding. See ORC 2921.42 (B) for other exceptions to this law. [ORC 2921.42(A)(4) and (5)]
3. **Voiding of Tainted Contracts or Investments.** Any contract or investment in which covered persons, their family members or business associates are found to have had an improper interest shall be void and unenforceable. [ORC 2921.42(H)]

### E. OTHER CONFLICTS OF INTEREST

1. **County Investments.** No covered persons shall authorize or use their influence to authorize the investment of County funds in any security in which they, their family members or business associates have an interest or receive fees. Violation of this law constitutes a fourth degree felony, punishable by a sentence of between six and eighteen months and/or a fine of up to \$5,000. [ORC 2921.42(A)(2) and (E)]
2. **Outside Employment.** No covered persons, either during or for one year after service, shall hold any position of profit in any entity seeking a no-bid contract with a County agency on which they currently or previously served. [ORC 2921.42(A)(3)]
3. **Secondary Employment.** No covered persons compensated by the County shall engage in secondary employment if that employment is incompatible with the proper discharge of official County duties or might impair objectivity or independent judgment on the job. This includes elective office in another jurisdiction or in a political party.
  - a. All covered persons shall disclose secondary employment in writing to the Human Resources Department and to the County Ethics Board on an official form approved by the latter, updating this information whenever it changes.
  - b. Prior to accepting an additional job, such persons shall obtain official advice from the County Ethics Board, which must respond within five business days of the request. The Board in its discretion may limit the type of classifications of secondary employment that require disclosure (III.C.3.a) and/or prior approval (III.C.b.)

c. In situations pre-dating the adoption of this Code of Ethics, the covered person shall seek official advice from the County Ethics Board, within sixty days of the effective date of this Code.

d. *Penalty* -- If the secondary employment is ruled a conflict of interest, the covered person shall either terminate that employment or face dismissal from County service, in compliance with existing personnel practices and collective bargaining agreements.

4. **Board Appointments.** No appointee to a County policy-making board or commission shall have one or more of the following conflicts of interest with the intended board's objective and impartial operations:

- a. Elected or appointed employment with the County during the 12 months immediately preceding the board appointment;
- b. One or more family members or business associates serving on the same board; or
- c. An interest in one or more contracts in effect with or under consideration by that board.

5. **Failure to Recuse Oneself.** No covered persons shall fail to recuse themselves from participation or decisions in any matters pending before their agencies in which they have personal or family financial or professional interests. [ORC 102.04(E)]

## F. IMPROPER COMPENSATION

1. **Gratuities for Regular Duties and Internal Favors.** No covered persons shall knowingly solicit or accept additional compensation for performing regular official duties. [ORC 2921.43(A)(1) and (2).] Likewise, no covered persons shall receive direct or indirect gratuities for personally assisting others with matters pending before their own agency. [ORC 102.04(C).] Exemptions to the latter prohibitions apply:

- a. If the agency in question is not the one on which the official or employee currently serves; or
- b. If prior to rendering this personal service, the official or employee files a disclosure statement with the County Ethics Board, with the agency with which s/he serves, and with the agency with which the personal service is to be rendered. [ORC 102(D)(1) and (2)]

2. **Gratuities for Employment Favors.** No covered persons shall solicit or accept anything of value in exchange for appointing a person to a County office, position or agency; or for granting preferential treatment (salary, duties, promotion) to a County employee. [ORC 2921.43(B)(1) and (2)]

3. **Penalties for Violations.** Covered persons who solicit or accept improper compensation are guilty of a first-degree misdemeanor and if convicted, shall be disqualified from County employment for seven years. [ORC 2921.43(D) and (E)]

## G. CAMPAIGN CONTRIBUTIONS

1. **Campaign Contributions for Employment Favors.** No person campaigning for County elected office, or their representatives, shall solicit or accept campaign contributions in exchange for appointments to, preferential treatment in, or promises of future County employment. [ORC 2921.43(C)(1) and (2)]

2. **Employee Contributions to an Elected Employer.** No covered persons in County employ shall make political contributions or raise funds for their own elected County employer. Exempted from this total prohibition are voluntary employee contributions to candidates for any other public office. [Ed. note: Fangman v. City of Cincinnati USDC 1:08cv702]

3. **Contribution Limits.** No County elected officials, their campaign committees or political action committees shall accept individual contributions or loans of more than \$1,000 for County Executive or Prosecutor candidates and \$750 for County Council candidates, per election.

## **H. IMPROPER TREATMENT OF EMPLOYEES**

1. **Discrimination.** No covered persons, operations or entities of Cuyahoga County shall favor or discriminate against anyone because of race, religion, age, ethnicity, gender, sexual orientation, disability or political affiliation, pursuant to U.S. Law [Civil Rights Act of 1964, 43 U.S.C. §2000e et. seq.] and the Cuyahoga County Charter.
2. **Sexual Harassment.** No covered person shall harass or otherwise make unwelcome sexual advances that interfere with job performance, create a hostile work environment, or attempt to make a person's submission or rejection of sexual advances a condition of his/her employment or appointment status. [Section 703 of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e et seq.]

## **J. FALSE FILINGS, FRIVOLOUS COMPLAINTS AND FAILURE TO REPORT.**

1. **Filing False Information.** No person shall knowingly file false information with the County Ethics Board on a registry or disclosure report mandated by this Code of Ethics.
2. **Filing a Frivolous Complaint.** No person shall file a complaint with the County Ethics Board which is frivolous or malicious in nature, or which is not in good faith. [See Article V.C.2.d.]
3. **Failure to Report.** No covered person or employee of a contractor bound by the "Whistleblower" obligations of this Code shall fail to report criminal or unethical conduct which s/he knows or reasonably should know. [See Article IV. F.]

## **K. EX PARTE COMMUNICATION**

No member, employee or legal representative of the County Ethics Board, acting in an investigation or hearing pursuant to Article V of this Code, shall participate in or consider any private communication with or on behalf of one party in a proceeding outside of the presence or active participation of other parties to the proceeding.

## **ARTICLE IV: DISCLOSURE, TRANSPARENCY & PREVENTION**

### **A. ETHICS SIGN-OFF**

1. **Signed Ethics Statement.** All covered persons shall receive personal copies of this Code of Ethics and shall sign an ethics statement saying that they have read, understood and agreed to abide by the standards set forth. The signed ethics statement shall be a condition of employment, and signed ethics statements for all covered persons shall be kept with their personnel files.
  - a. *Inaugural Practice* -- The County Executive, as a part of the orientation process for current and new employees of this charter government, shall ensure that a portion of each information session be dedicated to a discussion of ongoing State and new County ethics provisions. This Code shall be included in all orientation materials and/or employee handbooks.
  - b. *Ongoing Practice* -- After the establishment of a County Ethics Board and the completion of the inaugural practice, ethics training and signed ethics statements for new covered persons shall be the responsibility of the Ethics Board.
2. Any covered person who does not submit this signed ethics statement within 30 days of receiving the information shall be subject to the penalties set forth in Section V.C.5.
3. **Appointees to Boards and Commissions.** All appointees to boards and commissions shall, prior to accepting such appointment, and as a condition of such appointment, sign the ethics statement referenced in IV. A.1.b of this Code. Specifically, each such appointee shall submit a statement certifying that the appointee is in compliance with the provision of IV.E.4.b) and has no interests that conflict with the exercise of board duties. Failure to do so

invalidates the appointment. Appointees to advisory boards shall also sign the ethics statement but are not subject to conflict of interest prohibitions and certifications. All ethics statements and certifications shall be kept by the County Ethics Board.

## **B. FINANCIAL DISCLOSURE**

The following shall file financial disclosure statements with the Ohio Ethics Commission by April 15 of each year and file a duplicate with the County Ethics Board: County elected officials, appointed or hired heads of all County offices and departments, and all holders of other substantive positions in County agencies, boards and commissions. The Board, pursuant to its rulemaking authority, shall determine precisely which positions are subject to this provision. In addition, candidates for County elective office required by Ohio Law to file financial disclosure statements shall file a duplicate statement with the Board. The County Ethics Board shall make the disclosures available to public inspection. [ORC 1.02]

1. **Fees.** The fee required by Ohio law shall accompany each filing to the Ohio Ethics Commission. [ORC 1.02.02 (E)(1)]
2. **Penalties.** Penalties for late filing, failure to file, or filing false information shall conform to state law. [ORC 102.02(F) and 102.099]

## **C. CAMPAIGN DONOR DISCLOSURE**

All candidates for election or re-election to any County office shall provide the Board with duplicates of all reports of donations filed with the County Board of Elections. Such candidates shall also identify the primary employer of all individual donors who contribute an amount in excess of \$100.00 per election.

## **D. LOBBYIST REGISTRY AND REPORTS**

1. **Registry.** All lobbyists shall register with Cuyahoga County on a form devised by the County Ethics Board. The form shall include the entity for which the person is lobbying, the employer's name, type of business and current contact information.
2. **Gift Prohibition or Limit.** Lobbyists shall not pay Food and beverage expenses on behalf of any County elected or appointed official in amounts that exceed \$100 annually. All other monetary or non-monetary gifts or gratuities by lobbyists to County officials or employees are prohibited.
3. **Campaign Contributions.** Campaign contributions to County elected officials shall conform to U.S. and Ohio campaign finance law and this Code [Article III.G].
4. **Reports.** All lobbyists shall file a report to the Ethics Board every April 15 and October 15 containing the following:
  - a. A current list of the contracts or policies they are trying to influence;
  - b. Campaign contributions to County elected officials, as permitted by U.S. and Ohio campaign finance law and this Code of Ethics. [Article III.G]
  - c. Food and beverage expenses that shall not exceed a \$100 annual limit per elected or appointed County official.
  - d. A \$25 filing fee to help defray administrative costs.
5. **Gift Prohibition.** All monetary or non-monetary gifts or gratuities by lobbyists to County officials or employees are prohibited, with the exceptions noted above. [See Article IV.D.2.b and c]
6. **Transparency.** The County Ethics Board shall review and make all registrations and bi-annual filings available for public inspection.

## E. CONTRACTOR REGISTRY

1. **Registry.** All contractors doing or seeking to do business with the County must register with the County department responsible for procurement and the County Ethics Board, using the form determined by the Ethics Board. Information to be submitted shall include but not be limited to: corporate name, address, type of business and names of principals and contracts with the County during the past four years. Registration shall be valid for twelve months and shall be accompanied by an annual filing fee of \$50 to help defray administrative costs. As necessary, the department responsible for procurement may choose to require additional information.
2. **Signed Ethics Statement.** Contractors shall also sign an ethics statement indicating they have read, understood and agreed to follow the pertinent sections of this Code of Ethics.
3. **First-time Awards.** Registration and the signed ethics statement shall be pre-conditions for the signing of any first-time contract with the County. This provision does not prevent contractors not currently on the registry from submitting competitive bids.
4. **Penalties.** Contractors who fail to comply with provisions 1, 2, and 3, if applicable, shall be prohibited from entering into any contracts with the County until they are in compliance. Contractors who are found [Article V.C. 5.b] to be in violation of this Code of Ethics shall be removed from the registry and be prohibited from entering into contracts with the County for a period determined by the County Ethics Board, along with such other penalty (ies) as the Board may deem appropriate.
5. **Transparency.** The County Ethics Board shall make the documents specified in Article IV.E.1 and 2 available for public inspection.

## F. WHISTLEBLOWER PROTECTION

The rights, responsibilities, prohibitions and protections prescribed in this section apply to all covered persons as well as to all contractors and their employees. In this section only, the following definitions shall apply: a “Supervisor” is a public official or employee with authority over the employment status of the complainant or whistleblower; and an “Employer” is a principal of a private entity working on a County contract and with authority over the employment status of others.

1. **Rights.** All covered persons and contractual employees have, without impediment, the following rights:
  - a. To speak freely about work-related matters, including unlawfully suppressed information, suspected illegal or unethical conduct, or suspected misuse of County funds or other resources;
  - b. To communicate freely with County Council members or investigators and to respond with candor to Council inquiries or investigations;
  - c. To expect reasonable conditions of employment, respect for individual privacy and unrestricted access to their personal and personnel records.
2. **Responsibilities.** Covered persons, contractors or employees of contractors who believe they have knowledge of criminal or ethical misconduct shall make immediate, lawful and protected disclosure to their supervisors, employers, or to the County Ethics Board. Supervisors or employers receiving such a report shall immediately refer the complaint to the County Ethics Board.
3. **Protections and Prohibitions.** No covered persons, contractors or employees of contractors shall retaliate against a complainant or whistleblower because of lawful, protected disclosure or refusal to comply with an illegal order. Specifically, no supervisor or employer shall discharge, demote, suspend, threaten, harass, deny promotion to or in any other manner discriminate against a complainant or whistleblower because of lawful and protected disclosure.

4. **Posting of this Policy.** All County offices, departments and agencies shall conspicuously display notices of whistleblower rights, responsibilities and protections. The County Ethics Board shall also devise additional means to keep all covered persons and the public informed.
5. **Penalties.** Any supervisor or contractor found to have violated these provisions shall incur such penalties and liabilities allowable by law for the relief necessary to make the whistleblower whole. This shall include but not be limited to penalties and liabilities determined by the County Ethics Board or other law enforcement authority, subject to employment procedures and collective bargaining agreements. [Article V.C.5] Contracts held by entities whose employers are found to be in violation of this whistleblower section shall be void and unenforceable. [See Article III.D.3]

## **ARTICLE V. CUYAHOGA COUNTY ETHICS BOARD**

### **A. ESTABLISHMENT.**

This ordinance hereby establishes the Cuyahoga County Ethics Board (Ethics Board or Board) composed of five respected, independent, civic-minded, resident citizens who shall administer both the letter and the spirit of this Code of Ethics.

1. **Terms of office.** Board members shall serve staggered, three-year, uncompensated terms, beginning with the appointment of one member for a one-year term, two members for two-year terms, and two members for three-year terms.
2. **Nominating, appointing and confirming authorities.** Leaders of established countywide, nonpartisan, nonprofit entities interested in good government and institutional integrity shall be invited to submit to the County Executive the names of two nominees for each expected Board vacancy. At the discretion of the County Council, suggested nominating authorities may include the NAACP, the Norman Minor Bar Assn., an inter-faith clergy group, the Greater Cleveland Partnership, the Young Presidents' Organization, the Cleveland Metropolitan Bar Association, the City Club, a local university ethics faculty, the Center for Community Solutions, the North Shore Federation of Labor, a County employee association or the League of Women Voters. The County Executive shall appoint Ethics Board members from the lists provided, which appointments shall be confirmed by a two-thirds majority vote of the County Council.
3. **Board Composition.** The Board, in the aggregate, shall consist of members who:
  - a. Reflect the range of communities in Cuyahoga County and include at all times at least one member from the City of Cleveland;
  - b. Consist of no more than three members of the same political party;
  - c. Reflect the diversity of age, gender and race of the County's population;
  - d. Have no record of criminal conduct;
  - e. Hold no positions of financial, political or business interest in County governmental affairs during their term of service;
  - f. Make no monetary or non-monetary political contributions to any candidates for District or County office during their terms of service; and
  - g. Have signed the ethics statement required of all County covered persons, stating that they have read, understood, and agreed to abide by the standards set forth.
4. **Vacancies.** To fill an Ethics Board vacancy, the County Executive shall appoint a replacement from the same list or shall request further nominees from the nominating authorities. Such interim appointees shall also be confirmed by a two-thirds majority vote of the County Council.

5. **Removal.** A Board member may be removed for cause by a two-thirds vote of the County Council. S/he shall receive written notice of charges and shall be granted a hearing, on request, to show reason why s/he should not be removed.
6. **Organization.** Within four weeks of Board confirmation and every anniversary thereafter, the five members shall convene and elect a Chair, who shall then preside for one year. The Board shall meet in public session at least four times each calendar year and shall post all minutes and records of official actions on line. The Board shall adopt needed procedural rules within 60 days of the first meeting. Three members shall constitute a quorum, and in the absence of a quorum the Board shall conduct no business. At the end of each calendar year, the Board shall submit to the County Executive and the County Council a written summary of the year's actions and accomplishments.
7. **Support.** The County Ethics Board shall be furnished with such supplies, professional assistance and technical support as necessary for the discharge of the Board's duties as mandated in this Code of Ethics.

## **B. DUTIES**

The Cuyahoga County Ethics Board shall see that the following duties are fulfilled:

1. **Appointment of a County Ethics Officer.** Appoint a salaried, full-time County Ethics Officer who is licensed to practice law in Ohio and has at least two years of experience in ethics or related civil or municipal law. The Ethics Officer is the agent of the County Ethics Board and shall be delegated the responsibility for carrying out the decisions and duties of the Board and the requirements of this Code of Ethics. These delegated duties may include rendering official advice, processing or initiating complaints, conducting inquiries and investigations, acting in the capacity of counsel for the Ethics Board, hiring staff and consultants, managing office functions, developing reporting forms and convening the Internal Ethics Committee.
2. **Additional Staffing.** Approve, in consultation with the County Ethics Officer, the hiring or other arrangements to obtain such educational, technical or clerical assistance as may be necessary and sufficient to fulfill the Board's assigned duties.
3. **Education and Training.** Provide a periodic, mandatory training course for all covered persons and new County personnel in the requirements and processes mandated by this Code of Ethics, and determine the timetable for such training. The training may be jointly undertaken with the Human Resources Department. Initial training of the entire workforce shall be completed within the first calendar year after the passage of this Code. Educational duties shall include but not be limited to:
  - a. Receiving from every covered person a signed ethics statement of understanding and intent to abide by the provisions of this Code;
  - b. Informing all contractors and vendors of all applicable provisions of this Code.
  - c. Informing all covered persons of their rights, responsibilities and protections under this Code's whistleblower provisions;
  - d. Maintaining an up-to-date educational publication for covered persons highlighting the expectations, requirements and recourses set forth in this Code; and
  - e. Posting the full text of this Code of Ethics for public access on the County's website.
4. **Advice.** Determine and render written, official advice as to whether given facts or circumstances constitute a conflict of interest or a violation of this Code of Ethics.
5. **Complaints.** Receive or initiate, inquire into and take action as necessary on complaints or allegations by covered persons, the general public or the Ethics Board itself regarding suspected violations of this Code of Ethics. (See V. C.)

6. **Public Meetings.** Conduct at least four public Board meetings per year. Additional meetings shall be called by the Chair or by three Board members in a written request to the Chair.
7. **Forms.** Devise all forms as necessary to fulfill the requirements of this Code of Ethics.
8. **Electronic Management and Data Monitoring.** Monitor submitted disclosures, registries and reports. Post and maintain the data required by this Code as electronic public documents.
9. **Administrative Fees.** Impose and collect all fees which this Code and its enforcement may require and apply them to the Ethics Board's administrative costs.
10. **Rules and Procedures.** The Board shall prescribe regulations to carry out the purposes of this Code. These regulations may contain such provisions as in the judgment of the Board are necessary or proper to effectuate the purposes of this Code, to prevent circumvention or evasion thereof, or to facilitate compliance therewith.
11. **Oaths and Subpoenas.** Administer oaths, issue subpoenas and compel witnesses or evidence, as needed, to implement this Code.
12. **Recommendations to County Council and County Executive.** Make recommendations to the County Council and the County Executive about amendments to this Code of Ethics.
13. **Annual Report to County Council and County Executive.** Make and publish an annual report to the County Council and the County Executive, detailing all activities and dispositions of complaints conducted during the prior calendar year.
14. **Internal Ethics Committee.** Communicate with employees of County offices and departments by means of an Internal Ethics Committee. The director of each County office and department shall select from its employees a representative to serve on an Internal Ethics Committee, subject to the approval of the County Ethics Officer. Such representatives shall serve as liaisons between departmental employees and the Board and shall have the following additional responsibilities:
  - a. Understand thoroughly the provisions and processes of this Code of Ethics;
  - b. Attend periodic meetings called by the Ethics Board or its County Ethics Officer;
  - c. Disseminate within the office or department the appropriate policies or materials relating to ethics for employees;
  - d. Assist in the required education and training sessions within the office or department.

## C. DUE PROCESS

1. **Complaints.** Any individual who believes a violation of this Code of Ethics has occurred may initiate a complaint either with the Cuyahoga County Ethics Board or the Ohio Ethics Commission. This Code outlines the procedure to be followed by the County Ethics Board.
  - a. The complaint shall be in writing and filed with the County Ethics Officer;
  - b. The complaint shall contain the name, address and phone number of the complainant, name and position of the respondent, a statement of the alleged facts and circumstances, and a certification that this complaint represents what the complainant in good faith believes to be a violation of this Code of Ethics.
  - c. The County Ethics Officer shall, within five business days of receipt, date stamp it, acknowledge its receipt to the complainant, submit it to the Ethics Board and notify the respondent. The Ethics Officer and the Ethics Board shall otherwise keep its substance confidential.
  - d. Anonymous complaints may be lodged in person or via a "Whistleblower Hotline," as established by the Ethics Board.

2. **Preliminary Inquiries.** The County Ethics Officer shall initiate the process by filing each complaint received with the County Ethics Board and shall complete a preliminary inquiry within 45 days. The Ethics Officer shall keep all information, records and proceedings confidential. Outcomes of the inquiry may be as follows:
  - a. *Investigation* -- Upon determination that a violation may have occurred and upon notification of the respondent, a full investigation shall commence.
  - b. *Referral* -- Upon determination that federal or state criminal violations may have occurred, the County Ethics Officer, with notice to the Board, shall refer the complaint to the Ohio Ethics Commission or the appropriate county, state or federal enforcement entity. If the inquiry is referred, the County Ethics Officer shall notify the complainant and the respondent within one week.
  - c. *Termination*-- The County Ethics Officer, with notice to the Board, may terminate the inquiry (1) if the events occurred before the adoption of the provision violated; (2) if the respondent is not a person covered by this Code of Ethics; or (3) if there is insufficient evidence to believe that the Code has been violated. If the inquiry is terminated, the County Ethics Officer shall notify the complainant and the respondent within one week.
  - d. *Determination of frivolous complaint* -- The County Ethics Officer shall file a complaint against any person whom s/he believes has violated this Code's prohibition against frivolous or malicious complaints. [See Article III.J.2]
3. **Conduct of Investigations.** The Board or the County Ethics Officer acting in its name shall conduct interviews, take statements, receive and inspect documents and records and otherwise obtain evidence and gather information by lawful means, including subpoena power. They shall keep information, records and proceedings confidential. Within 60 days of commencing the investigation, the Board shall:
  - a. Terminate the investigation if no violation is found, and notify the complainant and the respondent immediately;
  - b. Extend the investigation for up to 60 additional days, upon showing of need;
  - c. Issue a confidential findings report of the investigation to the respondent, who may, within 30 days, accept or reject the finding, request or waive a hearing, or opt for settlement;
  - d. Make an effort, if a violation is found, to resolve it voluntarily by settlement. Options for settlement may be an administrative fee or community service.
4. **Hearings.** Upon request of the respondent, the Board shall conduct a hearing within 45 days. Time may be extended for cause upon application to the Board. A notice of the hearing, its date, time and location, shall be issued to the respondent or to his/her counsel.
  - a. The respondent shall have access to evidence the Board intends to use at the hearing, as well as to any evidence from the investigation which might substantiate innocence.
  - b. The hearing and all papers, records and disclosures will be confidential except for the contents of the final order which shall be public.
5. **Penalties.** The Board shall, upon finding violation(s) of this ordinance, determine and impose civil penalties as provided in this subsection. The following County penalties shall be available:
  - a. *Warning* -- a confidential letter of warning to the respondent alone, if violation was inadvertent or unintentional;
  - b. *Admonition* -- a letter to the respondent, complainant, County Council and County Executive, indicating that the respondent has been found to have violated this ordinance;
  - c. *Censure* -- Notification to the respondent, complainant, County Council and County Executive, indicating that a violation took place and expressing strong disapproval of the respondent's actions;
  - d. *Ban on further contracts with the County* -- In the case of a contractor's violation of this Code, removal from the contractor registry for a period to be determined by the Board;
  - e. *Administrative Fee* -- as set forth in this Code;
  - f. *Restitution, recovery of damages and litigation costs* -- as determined by the Board;

- g. *Suspension* -- Recommendation to the appropriate hiring authority for suspension from employment without pay, in compliance with existing personnel practices and collective bargaining agreements;
  - h. *Expulsion/Dismissal* -- Recommendation to the appropriate hiring authority for revoking the employment contract with the County, in compliance with existing personnel practices and collective bargaining agreements;
  - i. *Removal from elective office* -- Recommendation for removal process as provided in the County Charter.
6. **Disposition.** In cases where recommended penalties involve altering employment contracts, the Human Resources Commission shall notify the Board of the disposition of those recommendations within 30 days.
7. **Appeal.** Upon imposition of such penalties by the Ethics Board or upon recommendation of employment sanctions, the aggrieved party may file an appeal within 30 days to the Court of Common Pleas in accordance with applicable law.

## ARTICLE VI. DEFINITIONS

**GENERAL PROVISIONS** -- Except as listed below, words used in this Code of Ethics conform to accepted common usage and specifically to general usage prescribed in the Ohio Revised Code, §1.43.

**administrative fee** -- the civil penalty equivalent of a fine, levied by and payable to the County Ethics Board.

**advice** -- A written, expert judgement and recommendation by the County Ethics Officer as to whether an issue raised poses ethical problems and how the issue may best be resolved. If the recipient acts in accordance with that advice, s/he is in compliance with the Code of Ethics.

**agency** -- Any department, office, board, commission or other public body established by official action of Cuyahoga County or its Charter.

**anything of value** -- See GIFT.

**board (lower case)** -- An abbreviation for any authority, board, commission or special district to which County officials appoint at least one member or to which County funds are appropriated.

**business associate** -- Any person or firm with whom any County official or employee may have a business or financial relationship by virtue of ownership, control, position, influence, or other financial interest.

**campaign contribution** -- Any monetary or non-monetary donation to a person campaigning for County elected office.

**compensation** -- Monetary or non-monetary payment for labor or services, including but not limited to salary, fee or gratuity.

**complainant** -- A person who submits a complaint of ethical misconduct to the County Ethics Board.

**conflict of interest** -- A situation in which two interests collide, preventing impartial decision-making. [See also INTEREST]

**contract** -- A binding, legal agreement providing goods or services, including employment.

**contractor** -- A person or business -- including but not limited to service providers, vendors, consultants and their subcontractors -- that provides goods or services to the County under terms specified in a binding, officially approved agreement.

**covered persons** -- All elected and appointed County officials and employees. This includes Council members and staff, the Prosecuting Attorney and staff, and all County-appointed members and employees of paid and volunteer boards and commissions or their agencies. Sections of this Code also apply to contractors and lobbyists. [See II.A]

**day** -- A calendar day, unless otherwise noted.

**disclosure** -- The reporting of financial information, personal or business connections, gifts, activities, campaign contributions or potential conflicts of interest.

**due process** -- A course of formal legal proceedings carried out regularly with established rules and principles; a fundamental right of any covered person accused of a violation of this Code of Ethics.

**family members** -- Persons related by blood or by significant relationship such as sharing a household. Specifically, the term references a spouse, domestic partner, parent/guardian, child, grandparent, grandchild, brother, sister, uncle, aunt, nephew, niece, first cousin, plus step-, half- and in-law equivalents. [See also IMMEDIATE FAMILY]

**finding** -- The official decision reached by the County Ethics Board after thorough investigation or a formal hearing.

**gift** -- Anything of value, including but not limited to money, goods, future employment, interest in realty, payments, loans and services. [See also HONORARIUM]

**gratuity** -- Supplementary compensation as a “tip” to an official or employee for having granted any favor or service to the donor.

**honorarium** -- Payment of money or anything of value, directly or indirectly, to an elected or appointed County official or employee (or to any other person on his or her behalf) as consideration for a speech, a presentation, or a written document that relates to the official’s or employee’s County position.

**immediate family** -- Spouse or domestic partner, children, parents and step-equivalents.

**interest** -- Being in a position to gain or profit from a financial or personal connection to a party seeking to do business with the County or any of its agencies. This includes but is not limited to the role of owner, part owner, officer, partner, legal counsel or board member of a company or organization.

**lawful disclosure** -- Public divulgence of a County matter not legally required to be kept confidential because of personal privacy, ongoing litigation, or property negotiations. [See also PROTECTED DISCLOSURE, WHISTLEBLOWER]

**lobbyist** -- An individual wholly or partially compensated for direct, private communication with County policy-making officials or their staffs, with the purpose of influencing the expenditure of funds in the awarding of a contract or other financial arrangement; or for making direct, private contact with same to promote, advocate or oppose the passage, modification, defeat, approval or veto of any legislation or policy.

**nepotism** -- The practice of hiring or appointing family members to positions, or of awarding other favors to same.

**nominating authority** -- Leader of a nonprofit entity invited to provide suggested nominees to the County Executive for appointment to the County Ethics Board.

**official** -- A person who is elected or appointed to head a County office, department or agency or board.

**patronage** -- The practice of hiring or appointing political allies or business associates to governmental positions.

**personal gain** -- Any benefit or advantage a County official or employee receives when an interested party enters into a contract with the County.

**prohibited source** -- A party that gives or promises an unlawful gift to any covered person, specifically a party doing or seeking to do business with, regulated by, or interested in matters before the County, its departments, agencies, boards or commissions, including any lobbyist or contractor.

**protected disclosure** -- Rightful public divulgence of a County matter covered by the whistleblower provisions of this Code. [See also LAWFUL DISCLOSURE and section V.F.1 above]

**recusal/to recuse** -- The act of removing oneself from decision-making in matters where one has a conflict of interest.

**respondent** -- A person accused of ethical misconduct in a complaint submitted to the County Ethics Board.

**secondary employment** -- Compensated employment in addition to a covered person’s employment with the County.

**settlement** -- Mutual agreement between a complainant, a respondent and the County Ethics Board, in which the complainant agrees to dismiss the complaint, and the respondent agrees not to pursue his/her defenses and to accept a penalty mediated with the Ethics Board.

**to waive** -- To give up, voluntarily, a legal right to which one is entitled.

**whistleblower** -- A person who reports possible crimes or violations of this Code of Ethics.

## **POST SCRIPTS: ADDITIONAL IDEAS FOR INCLUSION IN THIS CODE:**

The Code of Ethics Workgroup encountered several other good ideas which were not duly pursued by our established study and consensus process. We include them here as suggestions for additional provisions which the County Council may wish to consider as they ready this Code for passage during Winter 2010-2011:

1. **“Pay to Play.”** An additional provision under the Campaign Contribution heading. See recommendation of Campaign Finance Workgroup.
2. **Second Financial Disclosure requirement every October 15 to the County Ethics Board.** This would align with the Contractor and Lobbyist registries to permit easier searching and cross-referencing. See recommendation of Campaign Finance Workgroup.
3. **Spousal Disclosure.** Possible item to be added to the Ohio Financial Disclosure Form.
4. **Gift Log.** To be required of all covered persons, lodged and posted online at the County Ethics Board. This idea was not explored fully enough by this workgroup.
5. **“Clean Elections”** -- A proposal for public financing of County elections which could remove one root cause of much unethical conduct. This idea would have no place in a Code of Ethics, but would nevertheless impact positively upon the cultural change this workgroup would like to effect in Cuyahoga County. See recommendation of the Campaign Finance Workgroup.