

**AUTHORIZING THE AMENDMENT OF THE CODE OF ETHICS AND BOARD OF ETHICS FOR THE COUNTY OF CAYUGA.**

BY: Mr. Ryan Foley, Chairperson, Government Operations Committee

WHEREAS, Chapter 1019 of the laws of the State of New York for 1970 required that all municipalities adopt a code of ethics and a board of ethics; and

WHEREAS, by Resolution No. 217 passed on the 12th day of December 1970, the County of Cayuga established a Code of Ethics and a Board of Ethics for Cayuga County; and

WHEREAS, Resolution No. 70-06 amended the Code of Ethics and Board of Ethics for Cayuga County;

WHEREAS, Resolution No. 249-12 further amended the Code of Ethics and Board of Ethics for Cayuga County;

WHEREAS, the Cayuga County Legislature now wishes to amend and update the Code of Ethics and Board of Ethics for Cayuga County; now, therefore, be it

RESOLVED, that the following changes be made to the Code of Ethics and Board of Ethics for the County of Cayuga:

ARTICLE III, Section 1 is amended to read as follows:

There is hereby established a Board of Ethics consisting of five (5) members to be appointed by the Chairman of the County Legislature, all of whom reside in the County of Cayuga and who shall serve without compensation and at the pleasure of the Legislature of the County of Cayuga. A majority of such members shall be persons other than officers or employees of the County of Cayuga, but shall include at least one member who is an elected or appointed officer of the County of Cayuga.

The five (5) members to be appointed shall consist of three (3) recommendations made to the Chairman of the Cayuga County Legislature by the Majority Leader of the Cayuga County Legislature and two (2) recommendations made to the Chairman of the Cayuga County Legislature by the Minority Leader of the Cayuga County Legislature.

RESOLVED, that each and every term and provision of Resolution No. 217 of the year 1970, Resolution No. 70-06, and Resolution No. 249-12 not hereinabove altered shall remain the effect; and be it further

RESOLVED, the amendments to this Resolution shall take effect immediately.



I HEREBY CERTIFY, THAT I HAVE COMPARED THE FOREGOING COPY OF A RESOLUTION DULY PASSED AND ADOPTED BY THE LEGISLATURE OF CAYUGA COUNTY AT A MEETING HELD ON THE 27<sup>TH</sup> DAY OF MARCH 2018 WITH THE ORIGINAL RESOLUTION, AND THAT THE SAME IS A TRUE AND CORRECT COPY AND TRANSCRIPT THEREOF, AND THE WHOLE THEREOF.

3-28-18 - 7:40AM

Sheila P. Smith  
CLERK, CAYUGA COUNTY LEGISLATURE

**Code of Ethics  
Board of Ethics  
For  
The County of Cayuga**

**Issued by  
Cayuga County Legislature**

**ARTICLE I  
INTENT OF BOARD OF  
LEGISLATORS**

**Section 1.** Statement of legislative intent. The Legislature of the County of Cayuga recognizes that there are State statutory provisions mandating counties to establish rules and standards of ethical conduct for public officers and employees which, if observed, can enhance public confidence in local government. In the light of a tendency today on the part of some people to downgrade our local governments and to disregard our public servants and our free institutions generally, it appears necessary that every effort be made to assure the highest caliber of public administration of this County as part of local government. It is the purpose of this resolution to implement this objective through the establishment of standards of conduct, to provide for punishment of violation of such standards and to create a Board of Ethics to render advisory opinions to the County's officers and employees as provided for herein.

**Section 2.** The standards, prohibited acts and procedures established herein are in addition to any prohibited acts, conflicts of interest provisions or procedures prescribed by statute of the State of New York and also in addition to common law rules and judicial decisions relating to the conduct of County officers to the extent that the same are more severe in their application than this resolution.

**ARTICLE II  
CODE OF ETHICS**

**Section 1.** Definitions. As used in this resolution, the term "county" shall mean any board, commission, district, council or other agency, department or unit of the government of the County of Cayuga.

The term "county employees" shall mean any officer or employee of the County of Cayuga, whether paid or unpaid, whether serving in a full-time, part-time or advisory capacity.

**\*Section 2.** Rule with respect to conflicts of interest. No County employee shall; have any interest, financial, or otherwise, direct or indirect, or engage in any business or transaction or professional activity or incur any obligation of any nature which is in substantial conflict with the proper discharge of his/her duties in the public interest.

**Section 3.** Standards

- (a) No County employee shall accept other employment which will impair his independence of judgment in the exercise of his official duties.
- (b) No County employee shall accept employment or engage in any business or professional activity which will require him to disclose confidential information which he has gained by reason of his official position or authority.
- (c) No County employee shall use or attempt to use his official position to secure unwarranted privileges or exemptions for himself or others.
- (d) No County employee shall engage in any transaction as representative or agent of the County with any business entity in which he has direct or indirect financial interest that might

reasonably tend to conflict with the proper discharge of his official duties.

- (e) A County employee shall not by his conduct give reasonable basis for the impression that any person can improperly influence him or unduly enjoy his favor in the performance of his official duties, or that he is affected by the kinship, rank, position or influence of any party or person.
- (f) Each County employee shall abstain from making personal investments in enterprise which he has reason to believe may be directly involved in decisions to be made by him or which will otherwise create substantial conflict between his duty in the public interest and his private interest.
- (g) Each County employee shall endeavor to pursue a course of conduct which will not raise suspicion among the public that he is likely to be engaged in acts that are in violation of his trust.
- (h) No County employee employed on a full-time basis, nor any firm or association of which such employee is a member, nor corporation a substantial portion of the stock of which is owned or controlled directly or indirectly by such employee shall sell goods or services to any person, firm, corporation or association which is licensed or whose rates are fixed by the County in which such employee serves or is employed.

### ARTICLE III CODE OF ETHICS

**Section 1.** There is hereby established a Board of Ethics consisting of five (5) members to be appointed by the Chairman of the County Legislature, all of whom reside in the County of Cayuga and who shall serve without compensation and at the pleasure of the Legislature of the County of Cayuga. A majority of such members shall be persons other than officers or employees of the County of Cayuga ~~the County employees,~~ but shall include at least one member who is an elected or appointed ~~County official~~ officer of the County of Cayuga.

\* The five (5) members to be appointed shall consist of three (3) recommendations made to the Chairman of the Cayuga County Legislature by the Majority Leader of the Cayuga County Legislature and two (2) recommendations made to the Chairman of the Cayuga County Legislature by the Minority Leader of the Cayuga County Legislature. ~~Members appointed to the Ethics Board may not be appointed officers or employees of Cayuga County.~~

#### **Section 2.**

Powers and duties.

a) The Board shall render advisory opinions in writing to the officers or employees of the County regarding specific matters pertaining to potential conflicts of interest, filings and reporting requirements with respect to this Code and Article 18 of the General Municipal Law. Such opinions shall be rendered only upon written request by the officer or employee concerning only the subject of the inquiry as it pertains to the requesting person's own concerns, except that the County Administrator may request advisory opinions on matters of general concern.

b) The Board shall accept from any member of the general public or from its own members or from any officer or employee of the County and consider any complaint or allegation, except an anonymous complaint or allegation, of conflict of interest on the part of any officer or employee of the County or any other violation of the Code. All such complaints or allegations are to be kept in the confidential records of the Board. Should the Board determine that there is apparent merit in the complaint or allegation, it shall send

a copy of the complaint or allegation and a written invitation to the officer or employee so charged to appear at a private meeting of the Board and explain the apparent conflict of interest or Code violation. Should such officer or employee fail to appear in response to such invitation or should he or she appear and fail to satisfy the Board that there is no conflict of interest or Code violation, the Board may commence an adjudicatory proceeding in accordance with the Regulations for Adjudicatory Proceedings annexed hereto and made a part hereof as Schedule A. At the conclusion of those proceedings the Board shall send a written report on the matter to the County *Legislature*. The report shall include findings of fact and conclusions of law and any *recommendation* as to penalties, including but not limited to fines or suspension, removal from office or employment. The report shall not be made public except by the unanimous vote of the board.

c) The Board shall render advisory opinions in writing to officers or employees regarding specific matters pertaining to potential violations of this Code. Such opinions shall be rendered only upon written request by the officer or employee concerning only the subject of the inquiry as it pertains to the requesting individual's own obligations under this Code. Such opinions shall be on the advice of counsel employed by the Board of Ethics or, if none, of the County Attorney.

d) The Board shall administer and enforce this Code and conduct any investigations necessary to carry out the provisions hereof. Pursuant to the powers and duties of the Board, the Board may administer oaths or affirmations, subpoena witnesses, compel their attendance and require the production of any books or records which it may deem relevant or material.

e) The Board may make recommendations with respect to amendments to this Code to the Legislature.

f) The Board, upon its formation, shall be governed by Regulations For Adjudicatory Proceedings in the form annexed hereto and made a part hereof as Schedule A. The Board shall maintain records of its opinions and proceedings *in the County Attorney's Office*.

g) Notwithstanding the provisions of article 6 of the Public Officers Law, the only records of the Board which shall be available for public inspection are:

- i. Written disclosures filed pursuant to this Code;
- ii. Notices of hearings or proceedings;
- iii. Notices of penalties imposed under section 7 hereof; and
- iv. Advisory opinions with names of individuals redacted

h) The Board may retain counsel admitted to practice in the State of New York subject to confirmation and funding approval by the Legislature.

i) The Board shall be empowered to request support staff and assistance from the Legislature in furtherance of its duties and responsibilities.

**Section 3.** Such Board of Ethics upon its formation shall promulgate its own rules and regulations as to its form and procedures and shall maintain appropriate records of its opinions and proceedings.

**\*Section 4.** The term of each member of the Ethics Board shall be five (5) years and the term shall be staggered, so that one (1) member is

appointed/reappointed each year. The initial appointment to the Board of Ethics shall be as follows:

The first majority appointment to the Ethics Board appointed by the Chairman of the Cayuga County Legislature shall serve for a term of one (1) year; the first minority appointment by the Chairman of Cayuga County Legislature shall serve a term of two (2) years; the second majority appointment made by the Chairman of the Cayuga County Legislature shall serve for a term of three (3) years; the second minority appointment made by the Chairman of the Cayuga County Legislature shall serve for a term of four (4) years; and the third majority appointment made by the Chairman of the Cayuga County Legislature shall serve for a term of five (5) years. Thereafter each appointment or reappointment shall serve for five (5) years and shall be made according to Article III, Section 1, as amended.

#### **ARTICLE IV ADMINISTRATIVE**

**Section 1.** Upon the adoption of this resolution, the Clerk of the County Legislature shall cause a copy thereof to be distributed to every County employee of this County. Failure to distribute any such copy or failure of any County employee to receive such copy shall have no effect on the duty of compliance with this code, nor the enforcement of provisions hereof. The Clerk of the County Legislature shall further cause a copy of this resolution to be kept posted conspicuously in each public building under the jurisdiction of the County. Failure to so post this resolution shall have no effect on the duty of compliance herewith, nor the enforcement provisions hereof.

**Section 2.** Within thirty (30) days of the adoption of this resolution, the Clerk of the County Legislature shall file a copy thereof in the office of the State Comptroller.

**Section 3.** The County Legislature may appropriate moneys from the general County funds for the maintenance of and for personal services to the Board of Ethics established hereunder, but such Board of Ethics may not commit the expenditure of County moneys, except within the appropriate provided herein.

#### **ARTICLE V SEVERABILITY CLAUSE**

**Section 1.** If any clause, sentence, paragraph, section or part of this resolution shall be adjudged by any court of complete jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

#### **ARTICLE VI EFFECTIVE DATE**

**Section 3.** This resolution shall take effect immediately.

\*Amended by Resolution No. 70-06  
Revised September 2006

Amended by Resolution 249-12 on June 24, 2012  
Amended by Resolution \_\_\_\_-18 on March 27, 2018

## SCHEDULE A

### REGULATIONS FOR ADJUDICATORY PROCEEDINGS

<u>Section</u>	<u>Title</u>
1	Intent and Purpose
2	Definitions
3	Notice of Hearing or Proceeding
4	Time and Place of Hearing or Proceeding
5	Evidence and Proof
6	Representation
7	Oaths
8	Adjournments
9	Time Limits
10	Decision after Hearing or Proceeding
11	Conduct of Hearings
12	Hearing Officer
13	Powers and Duties of Hearing Officer
14	Fines, Penalties
15	Record of Hearing or Proceeding
16	Privacy/confidentiality

#### 1. Intent and Purpose

The Board of Ethics of Cayuga County has statutory authority to follow rules and regulations governing the conduct of adjudicatory proceedings and appeals relating to compliance with the Cayuga County Code of Ethics, and the conduct of hearings held thereunder.

These rules and regulations shall apply to all proceedings undertaken by the Board. Persons subject to the requirements of the law shall be entitled to receive an adjudicatory hearing or proceeding as to every action or decision as to them taken by the Board, including but not limited to extensions of time, waivers and/or exemptions from the disclosure requirements.

#### 2. Definitions

(a) "Board" shall mean the Board of Ethics established pursuant to the Cayuga County Code of Ethics.

(b) "Hearing Officer" shall mean the presiding officer in adjudicatory hearings or proceedings conducted pursuant to these regulations, who shall be independent of the Board and of the County of Cayuga and shall be appointed by the Board at the expense of the County as such hearing officer shall reside and conduct his or her principal business outside of the County.

#### 3. Notice of Hearing or Proceeding

(a) Where the Board elects to go forward with a proceeding to determine compliance with the requirements of State and local law, or to take such other action as may be authorized by law, the Board shall serve a written notice, by certified mail or other appropriate method of service authorized under the Civil Practice Law and Rules, to the parties and their representatives of record at least twenty (20) calendar days prior to the date of any hearing or proceeding under these rules. The Notice of Hearing or Proceeding shall contain the following:

- i. A statement of the time and place of the hearing or proceeding;
- ii. A statement of the nature of the hearing or proceeding;
- iii. Reference to the particular statutes and rules relevant to the hearing or proceeding;
- iv. A short, plain language statement of the violations asserted, if any, including identification of all persons known to the Board as of the date of the Notice having knowledge or information concerning the alleged violation; and
- v. A statement for hearing impaired parties and participants concerning the provision of deaf interpretation services without charge.

(b) A copy of these regulations shall accompany each Notice of Hearing or Proceeding which is sent pursuant to these regulations.

(c) The Notice of Hearing or Proceeding shall contain information concerning circumstances under which an adjournment may be granted and the result of failure to appear for a scheduled hearing or proceeding.

(d) The Notice of Hearing or Proceeding shall inform the parties and their representatives of the right of each party to be represented, to testify, to produce witness, to present documentary evidence, and to examine opposing witnesses and evidence.

#### 4. Time and Place of Hearing or Proceeding

(a) The time and place of the hearing or proceeding shall be contained in the Notice of Hearing or Proceeding.

(b) The time and place of the hearing or proceeding shall not be changed unless a party formally requests a change pursuant to the adjournment request procedure contained in Section 8 hererof.

(c) The time and place of the hearing or proceeding shall, as far as practicable, take into account the convenience of the parties and the availability of witnesses.

#### 5. Evidence and Proof

(a) The formal rules of evidence do not apply to adjudicatory hearings or proceedings conducted pursuant to these rules. However, the rules of privilege recognized by law shall be given effect. Objections to evidentiary offers may be made and shall be a part of the record. Subject to these rules, any party may, for the purpose of expediting the hearing or proceeding and when the interests of the parties will not be substantially prejudiced thereby, submit all or part of the evidence in written form.

(b) The hearing officer may exclude irrelevant or unduly repetitive evidence or cross-examination from any hearing or proceeding.

(c) The burden of proof shall be upon the Board of Ethics to establish by clear and convincing evidence the facts and findings which

support its decisions, including but not limited to a finding that non-compliance with the requirements of law has had or will have a material bearing on the discharge of the official duties of the person subject thereto.

(d) No decision or determination by the hearing officer or the Board shall be made except on consideration of the record as a whole, or such portions thereof as may be cited by any party to the hearing or proceeding and as supported by and in accordance with substantial evidence.

(e) Each party shall have the right of cross-examination.

(f) Official notice may be taken of all facts of which judicial notice may be taken and of other facts within the specialized knowledge of the Board. When official notice is taken, every party shall be given notice thereof and shall, on timely request, be afforded an opportunity prior to decision to dispute the fact or its materiality.

(g) All findings of fact shall be based exclusively on the evidence in record and on matters officially noticed.

(h) In making its findings and decisions and carrying out its duties with regard to ensuring compliance with State laws and the Cayuga County Code of Ethics, the non-compliance has a material bearing on the discharge if the person's official duties and that such non-compliance was willful can the enforcement and punitive powers of the Board be exercised.

#### 6. Representation

Any person compelled to appear in person, or who voluntarily appears in any hearing or proceeding conducted according to these rules, shall be accorded the right to be accompanied, represented, and advised by counsel. Nothing herein shall be construed either to grant or to deny to any person who is not a lawyer the right to appear for or represent others in any hearing or proceeding herein.

#### 7. Oaths

(a) All oaths required by these rules may be taken before any person authorized to administer oaths within the State of New York.

(b) Oaths shall be administered to all witnesses who testify or appear in any adjudicatory proceeding conducted pursuant to these rules.

#### 8. Adjournments

(a) Adjournment of any hearing or proceeding conducted pursuant to these rules shall be granted only for good cause.

(b) Written requests for adjournment shall be submitted to the hearing officer in the hearing or proceeding for which the adjournment is sought. The request must be accompanied by an affidavit which contains sufficient detail to allow the hearing officer to rule on the request.

#### 9. Time Limits

(a) Under these rules adjudicatory proceedings shall be conducted in an expeditious manner with all due regard for the rights of the parties concerned. Every effort should be made by the parties to effectuate a speedy disposition of the case.

(b) Parties to any hearing or proceeding are required to file all papers, statements, proofs, and other evidence with the hearing officer at a time to be designated by the officer. An extension of time for filing those items will be granted by the hearing officer only upon formal request.

#### 10. Decision after Hearing or Proceeding

(a) All final recommendations of the hearing officer, and all decisions and determinations of the Board shall be in writing or stated in the record and shall include findings of fact, conclusions of law, and reasons for the decision or determination and, when appropriate, shall direct that specific action be taken by the parties. The final decisions or determinations of the Board shall be binding upon the Board.

(b) A copy of all final decisions and determinations of the Board and recommendations of the hearing officer shall be made available to the parties to the hearing or proceeding, and shall be delivered or mailed forthwith to each party and to its representative of record.

(c) Except as provided in the Cayuga County Code of Ethics or as otherwise provided herein, members of the Board shall not communicate directly or indirectly with any party or representative thereof in connection with any pending adjudicatory proceeding.

(d) The Board shall maintain the final decision or determination in any adjudicatory proceeding in a file with an index by name of party and subject matter. The index and the notice of civil assessment, if any, shall not be made available for public inspection and copying except as provided in Section 16 of these rules. Each decision or determination shall be so filed and indexed within sixty (60) days after having been rendered.

#### 11. Conduct of Hearings

The hearing officer, exercising discretion, may elect to conduct any hearing or proceeding under these rules ex parte after a showing that the party who is the subject of the hearing and its representative of record have been notified by certified mail of the pending hearing or proceeding or otherwise served with notice of the hearing. The party who is the subject of the hearing shall at no time be deprived of the opportunity to appear. However, if a party has been served with two (2) written notices of a hearing and fails to appear after each notice, the hearing officer upon proof of service, shall have the authority to proceed with the scheduled hearing. Proof of service shall consist of a signed certified mail receipt or affidavit.

#### 12. Hearing Officer

All hearings or proceedings under these rules shall be conducted by a hearing officer, retained and provided by the County, who shall have the power and authority of presiding officers or hearing officers as defined by the State Administrative Procedure Act (SAPA), any other pertinent statute or local law, ordinance, or resolution, and these regulations. The hearing officer shall be an

individual who has in no way been involved with the action or proceeding in question.

### 13. Powers and Duties of Hearing Officer

A hearing officer is authorized to do the following in any hearing or proceeding to which he or she is assigned:

(a) Administer oaths and affirmations;

(b) At the request of any party, sign and issue subpoenas in the name of the Board requiring the attendance and giving of testimony by witnesses and the production of books, papers, documents, and other evidence. Subpoenas shall be regulated by the Civil Practice Law and Rules. Nothing herein contained shall affect the authority of an attorney for a party to issue subpoenas under the provisions of the Civil Practice Law and Rules;

(c) Provide for the taking of testimony by deposition;

(d) Regulate the course of the hearings, set the time and place for continued hearings and the time for filing of briefs and other documents;

(e) Direct the parties to appear and confer to consider the simplification or settlement of the issues by consent of the parties; and

(f) Prepare findings of fact and recommendations.

### 14. Fines, Penalties

(a) At the close of the hearing or proceeding, the hearing officer shall make findings of fact and a recommendation as to the appropriate penalty or fine to be assessed or any other action to be taken. The proposed findings of fact and recommendation shall be transmitted to the Board for approval and simultaneously mailed or delivered to the parties to the proceeding. The parties shall have an opportunity to respond in writing, in the form of a brief, to the findings of fact and recommendation of the hearing officer, and such written response shall be directed to the Board for its consideration within fifteen (15) days after the service of the hearing officer's findings and recommendations upon the parties. In their brief submitted in response to the findings of fact and recommendation of the hearing officer, the parties may not submit or discuss evidence which is not a part of the official record of the hearing or proceeding. The Board shall act on the findings of fact and recommendation as expeditiously as possible. The Board may affirm or reverse the findings of fact and recommendation of the hearing officer in whole or in part, or it may remand and/or dismiss the proceeding based upon the record produced at the hearing.

(b) The assessment of penalties under the Cayuga County Code of Ethics shall not preclude the referral of an appropriate violation to a prosecutor for prosecution of criminal charges.

(c) If the alleged violation has been established, and the Board determines in light of all the circumstances that the violation is not serious enough to warrant assessment of penalty, the Board in its discretion may take such other action as appropriate, including but not limited to a written admonition or a recommendation that disciplinary action be taken. The Board

may forward a copy of such admonition or a recommendation for disciplinary action to the individual's appointing authority, as appropriate.

15. Records of Hearing or Proceeding

(a) The record in hearing or proceeding under these rules shall include:

- i. All notices, pleadings, motions, and intermediate rulings;
- ii. Evidence presented;
- iii. A statement of matters officially noticed, except matters so obvious that a statement of them would serve no useful purpose;
- iv. Questions and offers of proof, objections thereto, and rulings thereon;
- v. Proposed findings and exceptions, if any;
- vi. Any findings of fact, conclusions of law, or other recommendations made by the hearing officer; and
- vii. Any decision, determination, opinion, order, or report rendered.

(b) The Board shall make a complete record of all hearings and proceedings conducted before it. For this purpose, unless otherwise required by statute, the Board may use whatever means it deems appropriate, including but not limited to the use of stenographic transcriptions or electronic recording devices. Within a reasonable time after the Board gives notice of its decision, determination, opinion, or order, but before commencement of judicial review, any party to the hearing or proceeding may request the Board to prepare the record or any part thereof, together with any transcript of the hearing or proceeding or any part thereof. The Board shall then prepare the requested portions of the record and transcript within a reasonable time and furnish a copy to the requesting party at no charge.

16. Privacy/confidentiality

(a) Notwithstanding the provisions of Article 6 of the Public Officers Law, the only records of the Board of which shall be available for public inspection are:

- i. Written disclosures filed under section 5 of the Cayuga County Code of Ethics,
- ii. Notices of hearings or proceedings;
- iii. Notices of penalties imposed under section 14 hereof; and
- iv. Advisory opinions with names of individuals redacted.

(b) Notwithstanding the provisions of Article 7 of the Public Officers Law, no meeting or proceeding of the Board shall be open to the public, except as expressly provided otherwise by the Board.

(c) Information which would reveal confidential material protected by Federal or State statute shall be deleted from any final decision, order, determination, or declaration issued by the Board.

**Resolution adopted on June 26, 2012**  
**Resolution No. 249-12**

Certified by: Mary Jones, Clerk  
Cayuga County Legislature

Date: June 25, 2012