

Chapter 40. Ethics, Code of

[HISTORY: Adopted by Dutchess County 4-8-2019 by L.L. No. 2-2019.^[1] Amendments noted where applicable.]

STATUTORY REFERENCES

Conflicts of interest of municipal officers and employees — See General Municipal Law Art. 18.

Freedom of Information Law — See Public Officers Law Art. 6.

Open Meetings Law — See Public Officers Law Art. 7.

CODE OF LOCAL LAWS REFERENCES

County Legislature — See Ch. 24.

Officers and employees — See Ch. 75.

Procurement — See Ch. 81.

Salaries and compensation — See Ch. 97.

ATTACHMENTS

Attachment 1 - Annual Statement of Financial Disclosure

[1]

Editor's Note: This local law also repealed former Ch. 40, Ethics, Code of, adopted 10-11-2000 by L.L. No. 7-2000; as amended 4-17-2001 by L.L. No. 2-2001; 9-10-2001 by L.L. No. 7-2001; 9-13-2004 by L.L. No. 5-2004; 12-7-2010 by L.L. No. 2-2011; and as amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I.)

§ 40-1. Statement of purpose.

A.

This Code of Ethics is enacted pursuant to Article 18 of General Municipal Law. It is the purpose of this Code to establish standards of ethical conduct for officers, employees, and certain appointed officials of the County of Dutchess, to afford them clear guidance as to these standards, and to ensure that County government is free from improper influence so as to assure public confidence and trust. This code shall be in addition to all other legal restrictions, standards, and provisions pertaining to the conduct of County officers and employees and officials.

B.

Pursuant to NY General Municipal Law § 806, Subdivision 1(a), the County of Dutchess adopts a Code of Ethics setting forth for the guidance of its officers and employees the standards of conduct reasonably expected of them.

C.

By adopting a local law, ordinance or resolution as authorized by NY General Municipal Law § 811, Subdivision 1, the County of Dutchess elects, pursuant to NY General Municipal Law § 812, Subdivision 3, to remove itself from the ambit of NY General Municipal Law § 812.

D.

The County Legislature has determined that it is necessary and advisable to repeal Local Law No. 7 of 2000, as amended by Local Law No. 2 of 2001, Local Law No. 7 of 2001, and Local Law No. 5 of 2004 to consolidate in one local law all previous amendments.

§ 40-2. Prior Ethics local law repealed.

Local Law No. 2 of 2019 of the County of Dutchess, and known as the Dutchess County Code of Ethics, is repealed upon the effective date of this chapter; provided, however, that nothing, including this section, shall prohibit the enforcement of said Local Law No. 2 of 2019 of the County of Dutchess, for actions or inactions done or not done as the case may be, by those subject to such Local Law No. 2 of 2019 of the County of Dutchess, prior to the effective date of this chapter. All fines, penalties, criminal, and civil liability as the case may be shall remain in full force and effect and available for enforcement under such repealed Local Law No. 2 of 2019 of the County of Dutchess, for any applicable actions or inaction of those subject to such law as if such law remained in full force and effect for actions taken or inaction prior to the effective date of this chapter.

§ 40-3. Continuation of Board of Ethics and authority thereof.

The Dutchess County Board of Ethics provided for in Local Law No. 7 of 2000, as amended, of the County of Dutchess, is hereby continued and the terms of the members of such Board of Ethics shall continue uninterrupted until their expiration as made under Local Law No. 7 of 2000, as amended, of the County of Dutchess.

§ 40-4. Definitions.

Unless the context clearly provides otherwise, the terms set forth below shall have the following meanings:

APPROPRIATE BODY

The Dutchess County Board of Ethics, c/o Commissioner of Finance, 22 Market Street, Poughkeepsie, New York, 12601.

CHILD or CHILDREN

Any unemancipated son, daughter, stepson, or stepdaughter.

COMPLAINT

A signed written communication from any source whatsoever containing factual allegations of misconduct of a County employee or officer which, if proven, would constitute a violation of the Dutchess County Code of Ethics. A complaint need not be addressed to the Dutchess County Board of Ethics so long as the substance of the allegations involves purported unethical conduct of a County employee or officer as outlined in § 40-5.

COUNTY

The government of the County of Dutchess and Dutchess Community College.

COUNTYWIDE ELECTED OFFICIAL

The County Executive, County Clerk, District Attorney, Comptroller and Sheriff.

DOMESTIC PARTNER

A person who is formally a party in a domestic partnership or similar relationship with the officer or employee, entered into pursuant to the laws of the United States or of any state, local or foreign jurisdiction, or registered as the domestic partner of the other person with any registry maintained by the employer of either party or any state, municipality, or foreign jurisdiction; or is formally recognized as a domestic-partner beneficiary or covered person under the other person's employment benefits or health insurance; or is dependent or mutually interdependent on the other person for support, as evidenced by the totality of the circumstances indicating a mutual intent to be domestic partners, including but not limited to: common ownership or joint leasing of real or personal property; common householding, shared income or shared expenses; children in common; signs of intent to marry or formally become domestic partners as described above.

FAMILY MEMBER/MEMBER OF HOUSEHOLD

A spouse, domestic partner, unemancipated child or a person claimed as a dependent on your latest individual or joint state income tax return or unrelated persons who continually or at regular intervals lived in your household in the preceding calendar year.

HEARSAY EVIDENCE

Evidence of a statement which was made by someone other than by a witness while testifying at a hearing and which is offered to prove the truthfulness of the matter stated.

INTEREST

A direct or indirect pecuniary or material benefit accruing to an officer or employee, or his or her relative or family member/member of household whether as a result of a contract with the County or otherwise. For the purpose of this chapter, a County officer or employee shall be deemed to have an interest in the contract of:

- A. A relative or family member/member of household except as to a contract of employment with the County;
- B. A firm, partnership or association of which such officer or employee is a member or employee;
- C. A corporation of which such officer or employee is an officer, director or employee;
- D. A corporation of which more than 5% of the outstanding stock is owned by any such officer, employee, or his or her relative or family member/member of household.

LEGISLATION

A matter which appears on the agenda of the County Legislature or on a committee thereof, on which any official action will be taken and shall include proposed or adopted acts, local laws, ordinances or resolutions.

OFFICER or EMPLOYEE

An elected or appointed officer or employee of the County of Dutchess and Dutchess Community College, whether paid or unpaid.

RELATIVE

A spouse, domestic partner, child, stepchild, parent, stepparent, brother, sister, stepbrother, stepsister, or legal guardian of any of said persons of an officer or employee or of the spouse or domestic partner of the officer or employee.

SPOUSE

The husband or wife of an officer or employee unless living separate and apart pursuant to:

- A. A judicial order, decree or judgment of separation; or
- B. A legally binding written agreement of separation in accordance with the Domestic Relations Law.

UNEMANCIPATED CHILD

A child who is under the age of 18, unmarried and living in the household of an officer or employee.

§ 40-5. Standards of conduct.

Every officer or employee of the County shall be subject to and abide by the following standards of conduct:

- A. Gifts. No officer or employee shall directly or indirectly solicit any money or receive any money, whether in the form of cash, check, loan, credit, or any other form in any amount, or solicit any gifts, or accept or receive any individual annual gift, having a value of \$75 or more, whether in the form of

services, loan, travel, entertainment, hospitality, thing or promise, or any other form, under circumstances in which it could be reasonably inferred that the money or gift was intended to influence, or could reasonably be expected to influence, him or her in the performance of official duties or was intended as a reward for any official action.

(1)

Complimentary attendance offered by the sponsor of a widely attended event, at which at least 20 individuals, other than officers or employees of the County, attend or were, in good faith, invited to attend, in person, shall not be considered a gift.

B.

Confidential information. No officer or employee shall disclose confidential information acquired in the course of official duties or use such information to further a personal interest.

C.

Representation before one's own agency. No officer or employee shall receive or enter into any agreement, express or implied, for compensation, direct or indirect, for services to be rendered in relation to any matter before any agency of which he or she is an officer, member or employee of any agency over which he or she has jurisdiction or to which he or she has the power to appoint any member, officer, or employee.

D.

Representation before any agency for a contingent fee. No officer or employee shall receive or enter into any agreement, express or implied, for compensation, direct or indirect, for services to be rendered in relation to any matter before any agency of the County, whereby his or her compensation is to be dependent or contingent on any action by such agency with respect to such matter, provided that this subsection shall not prohibit the fixing at any time of fees based on the reasonable value of the services rendered.

E.

Disclosure of interests and recusal. A County officer or employee shall promptly recuse himself/herself from acting on a matter, including but not limited to legislation and contracts, before the County when knowingly acting on the matter, or knowingly failing to act on the matter, may cause a direct or indirect pecuniary or material benefit to:

(1)

Such person;

(2)

The outside employer, business, or prospective employer of such County officer or employee;

(3)

The outside employer, business, or prospective employer of a relative or family member/member of household of the County officer or employee; a relative or family member/member of household; a customer or client of any such person.

F.

Process of recusal. Whenever a County officer or employee is required to recuse himself or herself under this Ethics Law, he or she shall:

(1)

Promptly inform his or her immediate supervisor in writing;

(2)

Promptly file with the Board of Ethics a signed statement disclosing the nature and extent of the conflict which forms the basis for recusal;

(3)

In the case that said officer is a County Legislator, he or she shall promptly file said signed statement with the Clerk of the Legislature while satisfying all other requirements of this subsection;

(4)

Immediately refrain from participating further in the particular matter.

G.

Investments in conflict with official duties. No officer or employee shall invest or hold any investment directly or indirectly in any financial, business, commercial or other private transaction which creates a conflict with his or her official duties.

H.

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

I.

Future employment. No officer or employee shall, within a period of one year after termination of service or employment, appear before any agency of the County, except on his or her own behalf. No officer or employee shall, after termination of service or employment, appear before any agency of the County in relation to any matter, case, proceeding, application or transaction with respect to which such person was directly concerned or in which he or she personally participated during his or her service or employment.

J.

Conflicts of interest prohibited. No County officer or employee shall have an interest in any contract between the County and a corporation or partnership of which he or she is an officer or employee when such County officer or employee has the power to:

(1)

Negotiate, prepare, authorize, or approve the contract or authorize or approve payment thereunder;

(2)

Audit bills or claims under the contract;

(3)

Appoint an officer or employee who has any of the powers or duties set forth above, and, no chief fiscal officer, treasurer, or their deputy or employee shall have an interest in a bank or trust company designated as a depository, paying agent, registration agent or for investment of funds of the County of which he or she is an officer or employee.

(4)

The provisions of this section shall in no event be construed to preclude the payment of lawful compensation and necessary expenses of any County officer or employee in one or more positions of public employment, the holding of which is not prohibited by law.

K.

Certain interests prohibited. No officer or employee of the County who has an interest in any real property, either individually or as an officer or employee of a corporation or partnership, shall participate in the acquisition or plan for acquisition of said property or any property adjacent to said property by the County. The term "participation" shall include the promotion of the site as well as the negotiation of the terms of acquisition.

L.

Nepotism. No relative or family member/member of household of any person employed in a department of the County shall be entitled to hold a position of full-time or part-time employment in the same department of the County as their relative if the position applied for is in the direct line of supervision in the subject department. Notwithstanding the definition of "relative" of § 40-4, for purposes of this subsection, "relative" shall mean a spouse, child, stepchild, parent, stepparent, brother, brother-in-law, sister, sister-in-law, stepbrother, stepsister, father-in-law, mother-in-law, or legal guardian of any of said persons. With respect to prospective employees who have relatives as defined herein or family member/members of households in other County departments, the hiring official shall exercise sound discretion in employing such individual in order to avoid the appearance of impropriety, which relationship shall be fully disclosed to the Board of Ethics.

M.

Use of County resources. County resources shall be used for lawful County purposes. County resources include, but are not limited to, County personnel, and the County's money, vehicles, equipment, materials, supplies or other property. No County officer or employee may use or permit the use of County resources for personal or private purposes, but this provision shall not be construed as prohibiting: any use of County resources authorized by law or County policy; the use of County resources for personal or private purposes when provided to a County officer or employee as part of his or her compensation; or the occasional and incidental use during the business day of County telephones and computers for necessary personal matters such as family care and changes in work schedule. No County officer or employee shall cause the County to spend more than is reasonably necessary for transportation, meals or lodging in connection with official travel.

N.

Political solicitation. No County officer or employee shall directly or indirectly compel or induce a subordinate County officer or employee to make, or promise to make, any political contribution, whether by gift of money, service or other thing of value. No County officer or employee may act or decline to act in relation to appointing, hiring or promoting, discharging, disciplining, or in any manner changing the official rank, status or compensation of any County officer or employee, or an applicant for a position as a County officer or employee, on the basis of the giving or withholding or neglecting to make any contribution of money or service or any other valuable thing for any political purpose.

§ 40-6. Matters against County.

Nothing herein shall be deemed to bar or prevent the appearance of a present or former officer or employee before any agency on his or her own behalf, on behalf of a family member/member of household, or on behalf of a relative, to express an opinion or comment on a matter before that agency, nor prevent the appearance or timely filing of any claim, account, demand or suit against the County or any agency thereof where the matter arises out of any personal injury or property damage or for any lawful benefit authorized or permitted by law.

§ 40-7. Distribution of Code of Ethics.

Within 30 days of the effective date of this chapter, the County Attorney shall cause a copy of this Code of Ethics to be distributed to every officer and employee required to file a financial disclosure statement and shall further cause a copy of this chapter to be posted in all County-owned or -leased buildings. Thereafter, each new officer and employee shall be furnished a copy of this chapter within 30 days of being elected, appointed, or hired by the County. Each officer and employee required to file a financial disclosure statement shall complete Code of Ethics training provided by the County Attorney during such officer's or employee's initial employee orientation and sign a sworn statement

that such officer or employee has received and read the Dutchess County Code of Ethics. Such sworn statement shall be filed with the County Attorney's office by the deadline for filing financial disclosure statements (i.e., May 15). Failure to distribute, post, receive or read a copy of this chapter, attend training, or to submit a sworn statement regarding receipt and reading of the Code of Ethics shall have no effect on the duty of compliance or the enforcement of the provisions of this chapter.

§ 40-8. Obligation to file financial disclosure statement; maintenance of disclosure statement.

A.

The Dutchess County Commissioner of Human Resources shall, prior to February 1 of each calendar year in which changes to affected positions become effective, submit to the Dutchess County Legislature for approval, by resolution, a list specifying by name of office or by title or classification those officers, employees, and local elected officials of the Executive and Legislative Branches of County government who shall be required to complete and file an annual financial disclosure statement.

(1)

Such list may include but is not limited to the heads of County-created agencies, departments, divisions, councils, boards, commissions or bureaus and their deputies and assistants, and the officers and employees of such agencies, departments, divisions, boards, bureaus, commissions or councils created by the County who hold policymaking positions.

(2)

Such officers and employees shall be responsible to complete and file a financial disclosure statement in substantially the form set forth herein and in accordance with the requirements of this chapter.

(3)

On or before March 15 of each year, the County Attorney shall cause to be distributed to those persons holding the positions set forth on such list said financial disclosure statement.

B.

Members of the Dutchess County Board of Ethics shall be responsible to complete and file a financial disclosure statement in substantially the form set forth herein and in accordance with the requirements of this chapter.

C.

Candidates for Countywide elected official who file designating petitions for nomination at a primary election shall file such statement with the appropriate body within seven days after the last day allowed by law for the filing of designating petitions naming them as candidates for the next succeeding primary election. **Blank Financial Disclosure Statements shall be made available for candidates at the Dutchess County Board of Elections.**

D.

Candidates for independent nomination for Countywide elected official who have not been designated by a party to receive a nomination shall file such statement with the appropriate body within seven days after the last day allowed by law for the filing of independent nominating petitions naming them as candidates for local elected official in the next succeeding general or special or village election.

E.

Candidates for Countywide elected official who receive the nomination of a party other than at a primary election (whether or not for an uncontested office) shall file such statement with the

appropriate body within seven days after the date of the meeting of the party committee at which they are nominated.

F.

As used in this section, the terms "party," "committee" (when used in conjunction with the term "party"), "designation," "primary," "primary election," "nomination," "independent nomination," "ballot" and "uncontested office" shall have the same meanings as those contained in § 1-104 of the Election Law.

G.

The appropriate body shall obtain from the "Board of Elections," as such term is defined in § 1-104 of the Election Law, lists of all candidates for Countywide elected official, and from such lists shall determine and publish lists of those candidates who have not, within 10 days after the required date for filing such statement, filed the statement required by this section. **The appropriate body shall issue one or more press releases and have them distributed to news media for publication publicizing the names of the candidates who have not timely filed their Financial Disclosure Statements. The appropriate body shall also publish the names of such delinquent candidates in the meeting minutes of the appropriate body.**

H.

A Countywide elected official who is simultaneously a candidate for Countywide elected official shall satisfy the filing deadline requirements of this section by complying only with the deadline applicable to one who holds such Countywide elected office.

I.

A candidate whose name will appear on both a party designating petition and on an independent nominating petition for the same office or who will be listed on the election ballot for the same office more than once shall satisfy the filing deadline requirements of this section by complying with the earliest applicable deadline only.

J.

Financial disclosure statements filed pursuant to this Code of Ethics shall be sealed, indexed, and maintained on file for five years, in an appropriate manner, by the Board of Ethics. Such disclosure statements shall be available for public inspection in accordance with the New York State Freedom of Information Law.^[2] Such disclosure statements shall be destroyed upon the expiration of this five-year period.

[2]

Editor's Note: See Public Officers Law Art. 6.

[1]

Editor's Note: See the Annual Statement of Financial Disclosure, included as an attachment to this chapter.

§ 40-9. Financial disclosure statement.

Please refer to the Annual Statement of Financial Disclosure for Dutchess County, included as an attachment to this chapter.

§ 40-10. Financial disclosure statement: filing; variances; extensions.

A.

Any County officer or employee required to file an annual statement of financial disclosure pursuant to this chapter shall file such completed statement on or before May 15 of each year for the preceding calendar year directly with the appropriate body. Any County officer or employee required to file such statement who leaves County employment shall complete such statement for the preceding calendar year as well as for the current year covering up until the date of separation so that it may be collected by Human Resources at the exit interview.

B.

Any candidate for Countywide elected official required to file an annual statement of financial disclosure pursuant to this chapter shall complete such statement for the preceding calendar year.

C.

Any County officer or employee required to file such statement who is employed after May 15 of any year shall file such statement within 30 days of such employment.

D.

Any person who is subject to the reporting requirements of this chapter and who timely files with the Internal Revenue Service an application for an extension of time in which to file his or her individual income tax return for the immediately preceding calendar or fiscal year shall be required to submit such financial disclosure statement within 15 days after the expiration of the period of such extension of time within which to file such individual income tax return.

E.

Any person who is required to file an annual financial disclosure statement and who is granted an additional period of time within which to file such statement due to justifiable cause or undue hardship, in accordance with the rules and regulations on the subject adopted by the appropriate body, shall file such statement within the additional period of time granted.

F.

Each County officer or employee or candidate for Countywide elected official required to file a financial disclosure statement shall be provided with a time-dated receipt of such filing.

G.

Any County officer or employee who is required to file an annual financial disclosure statement, and who fails to file on or before May 15 of any year, shall be notified by certified mail by the appropriate body, and shall file such statement within 15 days of such notification subject to the penalty provided for in § 40-11.

H.

Any candidate for Countywide elected official who is required to file an annual financial disclosure statement and who fails to file by the date defined in § 40-8 shall be notified by certified mail by the appropriate body.

I.

Any person required to file a financial disclosure statement may request an exemption from any requirement to report one or more items of information which pertain to such person's family member/member of household or relatives, which item or items may be exempted upon a finding by a majority of the Board of Ethics that the reporting individual's family member/member of household or relatives objects to providing the information necessary to make such disclosure and that the information which would otherwise be required to be reported will have no material bearing on the discharge of the reporting individual's official duties.

§ 40-11. Penalties for offenses.

A.

Any officer or employee who is required to complete and file an annual financial disclosure statement, and has failed to file within 15 additional days after having been given at least one reminder, in writing, may be assessed a civil penalty not to exceed \$100 for the first such failure and not to exceed \$150 for a second such failure and not to exceed \$250 for any failure to file thereafter. In assessing any penalty, the Board of Ethics shall consider any mitigating circumstances offered by the offending party. In addition to these penalties, a persistent violator shall be subject to a fine not to exceed \$500. A persistent violator is one who fails to file the annual statement of financial disclosure for three years.

B.

Any officer or employee who knowingly and willfully, with intent to deceive, makes a false statement, or gives information on such statement, which such individual knows to be false, shall be assessed a civil penalty in an amount not to exceed \$2,500.

C.

Any officer or employee who knowingly and willfully violates any other provisions of the County Ethics Law, or of Article 18 of the General Municipal Law, or any other law establishing rules of conduct for public officers and employees, may be assessed a civil penalty not to exceed \$2,500 and may be subject to disciplinary action by the officer's or employee's department head and/or the Commissioner of Human Resources and/or other proper authority.

§ 40-12. Dutchess County Board of Ethics; composition.

A.

Pursuant to Article 18 of the New York General Municipal Law, there is hereby established the Dutchess County Board of Ethics.

B.

The Board of Ethics shall consist of five members appointed by the County Executive subject to confirmation by the County Legislature. No more than three shall be of the same enrolled party affiliation. No more than two of said members shall be officers or employees of the County or officers or employees of municipalities wholly or partially located in the County and at least one of whom shall be an elected or appointed officer or employee of the County or a municipality located within the County. All shall serve for a term of three years, appointed on staggered basis such that no more than two members need to be appointed in one year. Members whose terms expire may be reappointed for additional three-year terms subject to confirmation by the County Legislature. The Board of Ethics shall appoint a Chair from among its members for a term of one year. Three members of the Board shall constitute a quorum. The County Attorney or one of his or her assistants shall serve as legal counsel to the Board. The Board shall meet, at a minimum, at least once a calendar year, and at any other time or times deemed necessary by the Chair of the Board or upon the request of a majority of its members.

C.

The County Legislature may appropriate moneys for the maintenance and personal services connected with the Board of Ethics.

D.

The members of the Board of Ethics shall receive no compensation for their services on such Board.

§ 40-13. Board of Ethics: powers; duties; functions.

A.

The Board of Ethics shall have the powers, duties and functions provided by Article 18 of the General Municipal Law.

B.

The Board of Ethics shall be the repository for completed financial disclosure statements and such other written instruments, affidavits, and disclosures as required by law. The Dutchess County Commissioner of Finance shall inspect all financial disclosure statements to ascertain whether a person required to file a statement has failed to do so and inform the Dutchess County Board of Ethics in writing of the results of such inspection. The Board of Ethics shall have the authority to request further information from any person required to file an annual statement of financial disclosure pursuant to this chapter and to take such further action as the Board deems warranted as allowed by this code. The Board of Ethics shall review all financial disclosure statements annually.

C.

The Board of Ethics shall render advisory opinions in writing to officers and employees of the County, upon written request of the officer or employee, with regard to his or her own affairs. Such advisory opinions shall be with respect to Article 18 of the General Municipal Law and any Code of Ethics adopted pursuant thereto, except that the County Board of Ethics shall not act with respect to the officers and employees of any municipality located within the County or agency thereto, where such municipality has established its own Board of Ethics, except that the local Board may at its option refer matters to the County Board of Ethics. Such opinions shall be rendered, if practicable, within 30 days of the written request. The thirty-day time period may be extended an additional 30 days at the Board's discretion.

D.

The County Executive, members of the County Legislature, Comptroller, Sheriff, District Attorney or County Clerk may request an advisory opinion with regard to the affairs of any County officer or employee. Such opinions shall be rendered, if practicable, within 30 days of the written request. The thirty-day time period may be extended an additional 30 days at the Board's discretion. Thereafter, if deemed necessary by the Board, the time period may be extended by an additional 90 days upon notification to the County Executive and Clerk of the County Legislature that a particular matter is under review and an additional extension is required. In any event, the Board shall render its opinion no later than 150 days from the date of receipt of the written request.

E.

Unless specifically requested by the individual charged with a violation, or the party requesting an advisory opinion, said opinions shall not be made public or disclosed unless required by the Freedom of Information Law,^[1] pursuant to judicial subpoena or required on a disciplinary proceeding involving an officer or employee.

[1]

Editor's Note: See Public Officers Law Art. 6.

F.

The Board of Ethics, by majority vote of the whole, may request the County Legislature to authorize them to subpoena an individual, whether or not a County officer or employee, or any document or thing deemed necessary to the Board in resolving any pending proceeding or investigation.

G.

The Board of Ethics may make recommendations with respect to the drafting and adoption of a Code of Ethics or amendments thereto upon the request of the County Legislature or the governing body of any municipality in the County.

§ 40-14. Board of Ethics: complaints, hearings, and assessment of penalties.

A.

The Board of Ethics shall possess, exercise and enjoy all the rights, powers and privileges necessary and proper to the enforcement of the Code of Ethics.

B.

The Board may accept from the general public or any of its own members or any County officer or employee a complaint of conflict of interest of any officer or employee of the County. The Board may also accept from the general public or any of its own members or any County officer or employee a complaint of a violation of this chapter by a County officer or employee.

C.

Complaints shall remain confidential unless there has been a finding of a violation. All such complaints or allegations are to be kept in the confidential records of the Board until a determination of a violation has been made.

D.

Power of Board of Ethics member to initiate complaint. To the extent that the complaint is upon the information and belief of a member of the Board of Ethics after such member shall have received notice thereof, such member may forward under his or her own name such complaint and state that it is on information and belief. The members of the Board of Ethics shall be entitled to the source of the information and belief of the complaint, which information shall be kept confidential by the Board of Ethics to the extent permitted by law (unless ordered released by a court-ordered subpoena). Said Board member advancing a complaint shall henceforth be excluded from voting on the merits of the complaint if such member is a witness to any of the allegations of the complaint. In order for a determination to be rendered, the Board must have received and reviewed a complaint which shall form the basis for the determination.

E.

Confidentiality of hearings/meetings relating to possible violation of law. No meeting or proceeding or hearing of the Board of Ethics concerning a possible violation of this chapter by a County officer or employee shall be open to the public, except upon the written request of the officer or employee or as required by the provisions of Article 7 of the Public Officers Law or by some other state or federal law or regulation.

F.

The Board's findings and conclusions and order shall be made public if it is determined that the person who was the subject of the hearing knowingly violated this chapter or that it is unreasonable that such person did not know of such violation.

G.

Upon receipt of a complaint, the Board of Ethics shall make a determination as to whether, on its face, the complaint alleges a violation of the Code of Ethics. If a determination is made that a violation of the Code of Ethics is not alleged by the complainant, the Board shall notify the complainant of its determination in writing.

H.

If a determination is made that a violation of the Code of Ethics is alleged by the complainant, the Board shall notify in writing the person against whom the complaint is made of the nature of the complaint and the provision of the Code of Ethics allegedly violated.

I.

The officer or employee charged with a violation shall have 15 days from receipt of notice of alleged violation to respond in writing to the Board's notice of alleged violation. The fifteen-day time period may be extended an additional 15 days at the Board's discretion. The response shall either admit the violation or state facts supporting a denial of the charge.

J.

If the charge is denied, the Board shall either dismiss the charge if the facts presented so warrant or conduct a hearing.

K.

A fact hearing shall consist of sworn testimony, affidavits, or such document evidence as the Board allows. The person charged shall be allowed to be represented by legal counsel and allowed to present evidence and to confront evidence presented against him or her. Strict rules of evidence under the laws of New York State shall not apply to the hearing. The Board may direct that the hearing be recorded and transcribed.

L.

After the hearing is conducted, the Board shall issue its decision in writing, indicating the reason therefor. Any determination by the Board that a violation of this Code of Ethics has occurred shall be based on a majority vote of the whole Board; specifically, at least three votes in favor of such determination shall be required. Such decision shall be rendered, if practicable, within the time limits set forth for opinions as contained in § 40-13D above. No determination may be based solely on hearsay evidence.

M.

Upon the Board's determination that a violation of the Code of Ethics has occurred, and pursuant to § 40-11 of this Code of Ethics, the Board of Ethics may assess a penalty as allowed by this code or issue a cease-and-desist order or both.

N.

Any determination resulting in a fine, cease-and-desist order, or disciplinary action by the Board of Ethics shall be subject to review by a special proceeding in New York Supreme Court. Such a proceeding must be commenced within 30 days of receipt of notice of a determination. The Supreme Court, in its review, may make its own findings of fact based upon the record before it.

(1)

In instances where the Board of Ethics levies a fine in excess of \$1,000, the aggrieved party may seek review by the Dutchess County Legislature solely on the issue of excessive fine. The request for legislative review shall be in writing and filed with the Clerk of the Legislature and the Board of Ethics within 10 days of receipt of notice of said determination. Upon receipt of such request, the Clerk shall refer the matter to the Budget, Finance, and Personnel Committee of the Legislature for its review and recommendation. In conducting its review, the Committee shall be restricted to only materials or testimony presented to the Board of Ethics. The Committee shall recommend an affirmance or reduction of the fine. The Committee's recommendation shall be in the form of a resolution submitted for action by the full Legislature. The Legislature shall have 90 days from the date the Clerk receives the notice within which to act on the request. The failure by the Legislature to take action within the 90 days shall be deemed an affirmance of the determination of the Board of Ethics.

(2)

The time within which to commence a special proceeding in Supreme Court shall be tolled pending action by the County Legislature and the County Executive upon adoption of the resolution as provided in the County Charter.

§ 40-15. Authority.

The provisions of this chapter are enacted pursuant to the authority granted by Article 18 of the General Municipal Law. Notwithstanding anything to the contrary, the County of Dutchess hereby elects to remove itself from the ambit of all of the provisions of General Municipal Law § 812.

§ 40-16. Severability.

If any clause, sentence, paragraph, subdivision, section, or part of this chapter or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this chapter, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

§ 40-17. Effective date.

This chapter shall become effective January 1, 2020.