



DUPAGE COUNTY ETHICS TRAINING

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What Does the Ordinance Cover?

- ▣ Gift Ban
- ▣ Political Contributions
- ▣ Prohibited Political Activity
- ▣ Conflicts of Interest
- ▣ Disregard of the Ordinance and Retaliation



Gift Ban

- ❑ No person subject to the ordinance may accept or solicit a gift from a “prohibited source.”
- ❑ Prohibited sources generally are people and entities which do business with your unit of government.
- ❑ Prohibited gifts usually do not include gifts from friends and relatives, education or travel expenses related to a person’s official position or items with a value of less than \$100 in any year.
- ❑ Gifts do not include food or refreshments that do not exceed \$75 per day.



Prohibited Political Activity

- ❑ In general, employees are prohibited from engaging in certain political activity during compensated time.
- ❑ Most prohibited political activity involves fundraising activities, meeting planning, or electioneering.
- ❑ No person may require or reward an employee's participation in political activity.
- ❑ Again, no solicitation of campaign contributions on public property.



Conflicts of Interest

- ▣ Officers and employees must avoid conflicts of interest.
 - Disclosure of financial interests
 - Future employment offers
 - Prior employment relationships
 - Use of “inside” information
- ▣ Inform Ethics Adviser of potential conflicts.



Other Unethical Behavior

- ▣ Interference with investigations
 - Failure to cooperate
 - Providing false information
- ▣ Retaliation against whistleblowers



Shared Enforcement Agreement

- ▣ Appointed agencies:
 - Adopted the DuPage County Ethics Ordinance
 - Approved an intergovernmental agreement to utilize the County's ethics officers
 - ▣ Affords access to Ethics Adviser, Investigator General and Ethics Commission
 - ▣ Promotes uniformity and consistency in application
 - ▣ Provides greater transparency
 - ▣ Utilizes resources more efficiently
 - ▣ Requires agencies to reimburse the County for utilization (Ethics Adviser and Investigator General)
 - ▣ Agreement continues unless terminated



Complaint Procedure

- ❑ Complaints must be in writing and directed to the Investigator General (IG).
- ❑ IG reviews complaints and determines if the person accused of a violation is subject to the ordinance and whether the act or acts complained of are covered by the ordinance.
- ❑ IG can assist a complainant with filing a complaint with proper agency.
- ❑ If IG can proceed with investigation, he must inform the complainant, the respondent, and the “ultimate jurisdictional authority” (UJA) of the respondent of the existence of the complaint.



Who is My “UJA?”

The UJA for an appointee is the remaining members of the appointed board.



Complaint Procedure

- ▣ IG conducts preliminary investigation to determine whether reasonable cause exists to believe a violation occurred.
- ▣ IG may compel testimony under oath as he or she deems necessary.
- ▣ IG prepares a written summary report to the Ethics Commission Chairman, the respondent, the complainant, and the UJA indicating the results of his or her inquiry.



Complaint Procedure

- ▣ If the IG believes reasonable cause exists that an ethics violation has occurred, he or she may petition the Commission for leave to file a formal complaint.
- ▣ The Commission may deny the petition and end the inquiry or authorize the petition and set a hearing within six weeks.



Hearing Procedure

- ▣ The Commission will conduct a hearing in accordance with its rules.
- ▣ Commission hearings are closed to the public, but the Commission must make an audio recording of the hearing or retain a court reporter.
- ▣ The IG prosecutes the complaint to the Commission and has the burden of proof by a preponderance of evidence (civil standard).



Commission Decision

- ▣ If the Commission grants the complaint (finds the respondent “guilty” of the ethics violation), it must issue findings of fact and make recommendations of discipline.
- ▣ The Commission’s decision must be reduced to writing and forwarded to the respondent, the complainant, the IG, and the UJA.
- ▣ The respondent may petition the Commission for reconsideration.



Discipline

- ▣ The Commission may recommend that the respondent be
 - Reprimanded,
 - Ordered to cease and desist the offensive action,
 - Ordered to return money or items or offer restitution for anything improperly received ,
 - Suspended or terminated (if an employee),
 - Ordered to make a charitable donation to a charity in the amount of an improper gift or contribution.
- ▣ The Commission may also fine an offender up to \$5,000.



ETHICAL QUESTIONS

Examples and Explanations

Question 1

- ▣ A vendor invites you to a conference.
- ▣ As part of the invitation, the vendor has agreed to waive your entry fee of \$150.
- ▣ Is it okay to accept this waiver from the vendor?



Question 1

- A. Yes, because this waiver is not considered a gift under the Ethics Ordinance.
- B. Yes, because the entry fee is less than \$200.00.
- C. No, because the vendor is a prohibited source and it is a violation of the Ordinance to accept gifts from a prohibited source.
- D. No, because the entry fee is more than \$100.00.



Explanation

- ❑ Section 2-455(n) defines a gift, in pertinent part, as a discount or other tangible or intangible item having a fair cash market value.
- ❑ Section 2-473 prohibits you from accepting any gift from a prohibited source.
- ❑ Section 2-474 contains exceptions to this prohibition including any item from any one prohibited source during any calendar year having a cumulative total value less than the amount permitted under the State Officials and Employees Ethics Act which is currently \$100.00.



Follow-Up

Q. Would the answer change if it was not from a prohibited source?

A. Yes. The Gift Ban section of the Ethics Ordinance does not prohibit the acceptance of gifts from non-prohibited sources.



Question 2

- ❑ A vendor who is also a childhood friend invites you to attend the fundraiser of an elected official as his guest.
- ❑ You know the ticket price for the event is \$150.
- ❑ Can you accept?



Question 2

- A. Yes. The gift is from my personal friend and, therefore, the gift ban does not apply.
- B. Yes, because you don't really like the other Board member and don't consider the ticket to be a gift.
- C. No, because any gift exceeding \$100, no matter who it is from, is a violation of the gift ban section of the ordinance.
- D. Maybe.



Explanation

Although it is an exception to the gift ban section of the ordinance to accept gifts based on a personal friendship, the gift cannot have been provided because of your official position.



Factors to Consider

- ▣ The history of the relationship between you and the giver, including any previous exchanges of gifts;
- ▣ Whether you have any knowledge as to whether the giver personally paid for the gift or sought a tax deduction or business reimbursement for the gift; and
- ▣ Whether you have knowledge that the giver also gave the same or similar gift at the same time to other recipients.



Follow-Up

- ▣ Your friend later tells you that he was able to deduct the cost of the tickets as a business expense.
- ▣ What do you do?



Follow-Up

- A. You thank him for his gift and do nothing else.
- B. You donate an amount equal to the value of the ticket to a qualifying charitable organization.
- C. You return your used ticket to your friend.
- D. You pay your friend an amount equal to the value of the ticket.



Explanation

- ❑ As soon as you discovered that the ticket was deducted as a business expense by your friend, it became a gift from a prohibited source.
- ❑ Section 2-473 states that a recipient does not violate the Ethics Ordinance if that person gives the gift or an amount equal to its value to an appropriate charity that is exempt under Section 501(c)(3) of the Internal Revenue Code.
- ❑ Had the recipient discovered the fact that the ticket was a prohibited gift prior to its use, the recipient could have also returned it the source. However, the Ordinance does not provide the recipient the opportunity to pay the source for the gift.



Question 3

- ▣ You see a friend in the audience of a meeting who is also financial supporter of a candidate that you support.
- ▣ You approach him and mention that you are selling tickets to that candidate's upcoming fundraiser. You ask if he will attend.
- ▣ Have you violated the Ethics Ordinance?



Question 3

- A. No. Because he is a friend and not a prohibited source so you can ask him for donations.
- B. Maybe.
- C. Yes. It is a violation of the Ethics Ordinance to solicit campaign contributions on County Property.
- D. Yes. It is a violation of the Ethics Ordinance to solicit campaign contributions while you are performing your duties as County Board Member.



Explanation

- ▣ Section 2-475 of the Ethics Ordinance makes it a violation of the Ethics Ordinance to intentionally solicit, accept, offer, or make on public property any campaign contributions.
- ▣ This prohibition applies to all public property, including property owned by other units of government.



Follow-Up

- ❑ Your personal attorney is running for Judge of the Circuit Court.
- ❑ Her campaign has rented a large meeting room at Arrowhead Country Club, a facility owned by the Wheaton Park District, for a fundraising reception.
- ❑ Can you bring a check and pay at the door without violating the Ethics Ordinance?



Follow-Up

- A. No. The fundraiser is on public property.
- B. Yes. The candidate is your personal attorney and you are making the contribution based on your personal business relationship with her.
- C. Yes, because a facility is not considered public property when it is rented or leased by a private entity.
- D. No. Contributing to judicial candidates creates the appearance of favoritism.



Explanation

- ▣ In general, the Ordinance prohibits soliciting, accepting, offering, or making campaign contributions on public property.
- ▣ However, Section 2-475(b) provides that "Public property" does not include any portion of a building that is rented or leased from a governmental entity by a private person or entity.



Question 4

- ▣ A political campaign mistakenly e-mails you at your official e-mail address and asks you to RSVP to its upcoming fundraiser. You're very busy reviewing a large procurement document so you ask your administrative assistant to respond and tell the campaign you will attend.
- ▣ Have you violated the Ethics Ordinance?



Question 4

- A. Yes. You cannot direct government employees to perform campaign work.
- B. No. Because the government employee is merely responding to correspondence a someone else initiated.
- C. Yes. Government employees may not engage in fundraising, even on personal time.
- D. No. While the e-mail involves political fundraising, responding to is not considered political activity under the Ethics Ordinance.



Explanation

Although it is permissible for a government employee to participate in political activity during uncompensated personal time, Section 2-478 of the Ethics Ordinance prohibits the use of public resources in connection with political activity and it prohibits the awarding of an employee any additional compensation or employee benefit in consideration of voluntarily participating in any prohibited political activity.



Question 5

- ❑ During the course of your duties as a board member, you learn that a large contract will soon be awarded to a publicly traded company.
- ❑ This information is not available to the general public.
- ❑ Based on this knowledge, you purchase a large amount of this company's stock.
- ❑ Have you violated the Ethics Ordinance?



Question 5

- A. No. It is never improper for you to use your personal knowledge for your financial gain.
- B. Maybe.
- C. Yes. It is a violation of the Ethics Ordinance for you to use any information acquired during the course of official duties, which is not available as a matter of public knowledge.
- D. Yes. However, you can inform a family member or friend about this information and they could purchase the stock.



Explanation

- ▣ Section 4-484 of the Ethics Ordinance prohibits any person from using for his or her personal benefit any information acquired in the course of official duties, which is not available as a matter of public knowledge or public record.
- ▣ This same section also prohibits the use or disclosure of this information for the benefit of another.



ANY QUESTIONS?