

# CHAPTER 16

## STATE OFFICIALS AND EMPLOYEES ETHICS ACT

### SECTION

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#### **1-16-1: INCORPORATION OF STATE LAW:**

- A. The provisions of Sections 1-5 (5 ILCS 430/1-5)(definitions) and 5-15 (5 ILCS 430/5-15)(prohibited political activities) and Article 10 (5/ILCS 430/10-10 through10-40)(gift ban) of the State Officials and Employees Ethics Act, 5 ILCS 430/1-1 et seq., (hereinafter referred to as the “Act”) are hereby adopted by reference and made applicable to the officers and employees of this governmental entity to the extent required by 5 ILCS 430/70-5.
- B. Not in limitation of the foregoing, but for the purpose of expressing the scope of this Chapter, the following terms have the definitions ascribed to them.

**CAMPAIGN FOR ELECTIVE OFFICE:** any activity in furtherance of an effort to influence the selection, nomination, election, or appointment of any individual to any federal, State, or local public office or office in a political organization, or the selection, nomination, or election of Presidential or Vice-Presidential electors, but does not include activities (i) relating to the support or opposition of any executive, legislative, or administrative action (as those terms are defined in Section 2 of the Lobbyist Registration Act), (ii) relating to collective bargaining, or (iii) that are otherwise in furtherance of the person's official Village duties.

**CANDIDATE:** a person who has filed nominating papers or petitions for nomination or election to an elected office, or who has been appointed to fill a vacancy in nomination, and who remains eligible for placement on the ballot at either a general primary election or general election.

**COLLECTIVE BARGAINING:** has the same meaning as that term is defined in Section 3 of the Illinois Public Labor Relations Act, including the bargaining over terms and conditions of employment, including hours, wages, and other conditions of employment.

**COMPENSATED TIME:** any time worked by or credited to a Village employee that counts toward any minimum work time requirement imposed as a condition of employment with the Village, but does not include any designated holidays or any period when the employee is on a leave of absence. With respect to officers and employees whose hours are not fixed, “compensated time” includes any period of time when the officer is on premises under the control of the Village and other time when the officer or employee is executing his or her official duties, regardless of location.

**COMPENSATORY TIME OFF:** any authorized time off earned by or awarded to an employee to compensate in whole or in part for time worked in excess of the minimum work time required of that employee as a condition of his or her employment.

**CONTRIBUTION:** has the same meaning as that term is defined in Section 9-1.4 of the Election Code, including but not limited to a gift, subscription, donation, dues, loan, advance, deposit of money, or anything of value that constitutes an electioneering communication made or received in concert or cooperation with or at the request, suggestion, or knowledge of a candidate, a political committee, or any of their agents.

**EMPLOYEE:** 1. Any person employed by the Village, whether full-time, part-time, or pursuant to a contract and whose employment duties are subject to the direction and control of the Village with regard to the material details of how the work is to be performed or 2. Any appointee.

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

**LEAVE OF ABSENCE:** any period during which a Village employee does not receive (i) compensation for employment, (ii) service credit towards pension benefits, and (iii) health insurance benefits paid for by the Village.

**OFFICER:** An elected or appointed official of the Village; regardless of whether the official is compensated.

**POLITICAL:** any activity in support of or in connection with any campaign for elective office or any political organization, but does not include activities (i) relating to the support or opposition of any executive, legislative, or administrative action (as those terms are defined in Section 2 of the Lobbyist Registration Act), (ii) relating to collective bargaining, or (iii) that are otherwise in furtherance of the person's official duties or governmental and public service functions.

**POLITICAL ORGANIZATION:** a party, committee, association, fund, or other organization (whether or not incorporated) that is required to file a statement of organization with the State Board of Elections or a county clerk under Section 9-3 of the Election Code, but only with regard to those activities that require filing with the State Board of Elections or a county clerk.

**PROHIBITED SOURCE:** Any person or entity who:

1. Is seeking official action -
  - a. By the member or officer or
  - b. In the case of an employee, by the employee or by the member, officer or other employee directing the employee;
2. Does business or seeks to do business -
  - a. With the member or officer or
  - b. In the case of an employee, with the employee or with the member, officer or other employee directing the employee;
3. Conducts activities regulated -
  - a. By the member or officer or
  - b. In the case of an employee, by the employee or by the member, officer or other employee directing the employee;
4. Has interests that may be substantially affected by the performance or non-performance of the official duties of the officer or employee; or
5. is registered or required to be registered with the Secretary of State under the Lobbyist Registration Act, except that an entity not otherwise a prohibited source does not become a prohibited source merely because a registered lobbyist is one of its members or serves on its board of

directors.

**PROHIBITED POLITICAL ACTIVITY:**

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

11. Distributing, preparing for distribution, or mailing campaign literature, campaign signs, or other campaign material on behalf of any candidate for elective office or for or against any referendum question.
12. Campaigning for any elective office or for or against any referendum question.
13. Managing or working on a campaign for elective office or for or against any referendum question.
14. Serving as a delegate, alternate, or proxy to a political party convention.
15. Participating in any recount or challenge to the outcome of any election, except to the extent that under subsection (d) of Section 6 of Article IV of the Illinois Constitution each house of the General Assembly shall judge the elections, returns, and qualifications of its members.

**1-16-2: GIFT BAN:**

- A. Solicitation: Except as otherwise provided in this Chapter, no officer or employee shall intentionally solicit or accept any gift from any prohibited source. This ban applies to and includes the spouse of and immediate family living with the officer or employee.
- B. Offer: No prohibited source shall intentionally offer or make a gift that violates this Section.
- C. Disposition of gifts: An officer or employee, his or her spouse or an immediate family member living with the officer or employee, does not violate this Chapter if the recipient promptly takes reasonable action to return a gift from a prohibited source to its source or gives the gift or an amount equal to its value to an appropriate charity that is exempt from income taxation under Section 501 (c)(3) of the Internal Revenue Code of 1986, as now or hereafter amended, renumbered, or succeeded.
- D. Exceptions. The restrictions set forth in this Section shall not apply to the following:
  1. Opportunities, benefits, and services that are available on the same conditions as for the general public.

2. Anything for which the officer or employee pays the market value.
3. Any -
  - a. Contribution that is lawfully made under the Election Code or under this Act or
  - b. Activities associated with a fundraising event in support of a political organization or candidate.
4. Educational materials and missions.
5. Travel expenses for a meeting to discuss Village business.
6. A gift from a relative, meaning those people related to the individual as father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, and including the grandfather or grandmother of the individual's spouse and the individual's fiancé or fiancée.
7. Anything provided by an individual on the basis of a personal friendship unless the officer or employee has reason to believe that, under the circumstances, the gift was provided because of the official position or employment of the officer or employee and not because of the personal friendship.

In determining whether a gift is provided on the basis of personal friendship, the officer or employee shall consider the circumstances under which the gift was offered, such as:

- a. The history of the relationship between the individual giving the gift and the recipient of the gift, including any previous exchange of gifts between those individuals;
- b. Whether to the actual knowledge of the officer or employee the individual who gave the gift personally paid for the gift or sought a tax deduction or business reimbursement for the gift; and
- c. Whether to the actual knowledge of the officer or employee the

individual who gave the gift also at the same time gave the same or similar gifts to other officers or employees.

8. Food or refreshments not exceeding \$75 per person in value on a single calendar day; provided that the food or refreshments are
  - a. Consumed on the premises from which they were purchased or prepared or
  - b. Catered for the purposes of this Section, "catered" means food or refreshments that are purchased ready to eat and delivered by any means.
9. Food, refreshments, lodging, transportation, and other benefits resulting from the outside business or employment activities (or outside activities that are not connected to the duties of the officer or employee as an office holder or employee) of the officer or employee, or the spouse of the officer or employee, if the benefits have not been offered or enhanced because of the official position or employment of the officer or employee, and are customarily provided to others in similar circumstances.
10. Intra-governmental and inter-governmental gifts. For the purpose of this Act, "intra-governmental gift" means any gift given to a officer or employee of the Village from another officer or employee of the Village; and "inter-governmental gift" means any gift given to a officer or employee of the Village, by an officer or employee of another governmental entity.
11. Bequests, inheritances, and other transfers at death.
12. Any item or items from any one prohibited source during any calendar year having a cumulative total value of less than \$100.

Each of the exceptions listed in this Section is mutually exclusive and independent of one another.

- E. Parity: It is the intent of the Village that this Section be interpreted no more strictly or liberally than the corresponding provisions of the Act.

**1-16-3: POLITICAL PROHIBITED ACTIVITIES:**

- A. No officer or employee shall intentionally perform any prohibited political

activity during any compensated time. No officer or employee shall intentionally use any property or resources of the Village in connection with any prohibited political activity.

- B. At no time shall any officer or employee intentionally require any other officer or employee to perform any prohibited political activity (i) as part of that employee's duties, (ii) as a condition of employment, or (iii) during any compensated time off.
- C. No officer or employee shall be required at any time to participate in any prohibited political activity in consideration for that officer or employee being awarded any additional compensation or any benefit, whether in the form of a salary adjustment, bonus, compensatory time off, continued employment, or otherwise, nor shall any officer or employee be awarded additional compensation or any benefit in consideration for the officer's or employee's participation in any prohibited political activity.
- D. Nothing in this Section shall prohibit activities that are otherwise permissible for an officer or employee to engage in as a part of his or her official or employment duties or activities that are undertaken by an officer or employee on a voluntary basis as permitted by law.

**1-16-4: COMPLAINTS; PROCEDURE AND ADMINISTRATION:**

- A. Complaints alleging a violation of this Ordinance shall be filed with the Village Attorney.
- B. Within 3 business days after the receipt of a complaint, the Village Attorney shall send by certified mail, return receipt requested, a notice to the respondent that a complaint has been filed against him or her and a copy of the complaint. The Village Attorney shall send by certified mail, return receipt requested, a confirmation of the receipt of the complaint to the complainant within 3 business days after receipt by the Village Attorney.
- C. The Village Attorney shall review the sufficiency of the complaint and, if the complaint is deemed sufficient to allege a violation of this Ordinance, determine whether there is probable cause, based on the evidence presented by the complainant, to proceed. The Village Attorney shall issue notice to the complainant and the respondent of the Village Attorney's ruling on the sufficiency of the complaint and, if necessary, on probable cause to proceed within 10 business days after receiving the complaint.

- D. In the event the Village Attorney finds the complaint to be sufficient and there is probable cause to proceed, the Village Attorney will refer the matter to the Village Prosecutor or the Lake County State's Attorney for prosecution.
- E. In lieu of or in addition to filing a complaint as provided for in paragraph D, the Village Attorney may file with the respondent's supervisor a recommendation to issue any appropriate discipline up to and including discharge; provided the Village Attorney may not recommend resignation or removal of an elected officer. Any discipline provided for under this Chapter shall comply with any collective bargaining agreement applicable to the respondent.
- F. Special Rules for Elections: If a complaint is filed during the 60 days preceding the date of any election at which the respondent is a candidate, the Village Attorney shall render its decision as required under subsection (C) within 7 days after the complaint is filed, and if during the 7 days preceding that election, the Village Attorney shall render such decision before the date of that election, if possible.

**1-16-5: PENALTIES; LIMITATIONS:**

- A. Fines:
  - 1. Any person who intentionally violates any provision of Section 2 of this Chapter shall be fined in an amount of not less than \$1,001 and not more than \$5,000.
  - 2. Any person who knowingly files a frivolous complaint alleging a violation of this Chapter shall be fined in an amount of not less than \$1,001 and not more than \$5,000.
  - 3. Any person who knowingly and intentionally obstructs or interferes with an investigation and hearing conducted under this Chapter shall be fined in an amount not less than \$1,001 and not more than \$5,000.
- B. Criminal Penalties: The penalties for violations of Section 3 of this Chapter shall be the same as those penalties set forth in 5 ILCS 430/50-5(a) for similar violations of the Act.
- C. Limitations: A complaint alleging the violation of this Act must be filed within one year after the alleged violation.

**1-16-6: AMENDMENTS; SEVERABILITY:**

- A. Amendments: Any amendment to the Act that becomes effective after the effective date of this Chapter shall be incorporated into this Chapter by reference and shall be applicable to the solicitation, acceptance, offering and making of gifts and to prohibited political activities. However, any amendment that makes its provisions optional for adoption shall not be incorporated into this Section by reference without formal action by the Board of Trustees.
- B. Severability: If the Illinois Supreme Court declares the Act unconstitutional in its entirety, then this Section shall be repealed as of the date that the Illinois Supreme Court's decision becomes final and not subject to any further appeals or rehearings. This Section shall be deemed repealed without further action if the Act is found unconstitutional by the Illinois Supreme Court.

If the Illinois Supreme Court declares part of the Act unconstitutional but upholds the constitutionality of the remainder of the Act, or does not address the remainder of the Act, then the remainder of the Act as adopted by this Section shall remain in full force and effect; however, that part of this Section relating to the part of the Act found unconstitutional shall be deemed repealed without further action by this governmental entity.