

CODE OF ETHICS

LAYETTE COUNTY, WI

DATE APPROVED:
DECEMBER 18, 2012
RESOLUTION _____

SECTION 9.0 ETHICS CODE

9.1 Declaration of Policy

Lafayette County elected officials and employees are agents of the public and have the sole purpose of serving that public. They are bound to uphold the Constitution of the United States, the Constitution of the State of Wisconsin and to carry out efficiently and impartially all laws of the United States, the State of Wisconsin, and the Ordinances of Lafayette County. Every decision made and every action taken by Lafayette County officials must be done in the best interests of the public being served. The Lafayette County Board of Supervisors therefore adopts this ethics ordinance in an attempt to ensure the highest of ethical standards and the faithful discharge of their duties.

9.2 Purpose

The purpose of this Code is to establish high ethical standards of conduct for all Lafayette County officials and employees by identifying those acts or actions that are not compatible with the best interest of the County as a whole. It must be recognized that no single ordinance can anticipate every possible individual situation that may arise. However, in all situations, officials and employees must place the interest of the public first and foremost and, as much as possible, avoid even the appearance of impropriety. At the same time, it must be understood that Lafayette County officials and employees are also citizens who retain their individual rights to personal and economic interests. Therefore, the standards of ethical conduct for County officials and employees must distinguish between minor and inconsequential conflicts which are unavoidable and those conflicts which are substantial and material. The provisions of this code, and such policies, rules and regulations which may be established are to be interpreted in the context of the above principles and are deemed to be in the best interest of the public.

9.3 Applicability

This ordinance applies to all Lafayette County officials and employees, whether elected or appointed, paid or unpaid, full time or part time, including all members of boards, committees and commissions, department heads, and all other County employees.

9.4 Exemptions

Political contributions reported under Chapter 11, Wis. Stats., are exempt from the provisions of this code.

9.5 Definitions

- a) **Anything of Value:** Any money or property, favor, service, payment, advance, forbearance, loan or promise of future employment, but does not include such things as compensation and expenses paid by the state or County, fees, honorariums and expenses, unsolicited advertising or promotional material such as pens, pencils, notepads, calendars, informational or educational materials of unexceptional value, plaques, other advertising giveaways or any other thing which is not likely to influence the judgment of individuals covered by this code.
- b) **Anything of Insignificant Value:** Includes unsolicited advertising or promotional materials such as pens, pencils, notepads, calendars, informational or educational materials of insignificant value, (an item from a vendor that costs less than \$25.00 on a one (1) time basis, but not more than \$50.00 worth of items in a calendar year from a vendor), plaques, other advertising giveaways or any other thing which is not likely to influence the judgment of individuals covered by this Code.
- c) **Associated:** When used in reference to an organization, includes any organization in which an individual or a member of his/her immediate family is a director, officer, or trustee, or who has a significant fiduciary relationship or an individual who owns or controls, directly or indirectly, and severally or in the aggregate, at least ten (10) percent of the outstanding equity.
- d) **Confidential Information:** Means written material or oral information related to county government that is not otherwise subject to the open records law and that is designated by statute, court decision, lawful order, ordinances, resolutions or custom as confidential.
- e) **Contract:** Means all agreements executed between the County or a sub-unit thereof and another party or parties, for the provision of goods, materials, supplies, construction or services in exchange for valuable and sufficient consideration.
- f) **Employee:** Means any person employed by the County in any capacity, fulltime or part-time, and not otherwise included in the definition of Official.
- g) **Financial Interest:** Means any interest which yields, directly or indirectly, a monetary or other material benefit to the Official or Employee, or to any person employing or retaining services of the Official or Employee.
- h) **Immediate Family:** Means an Official's or Employee's spouse, children, stepchildren, parents, grandparents, stepparents, or other legal relation who contributes more than one-half (1 /2) support to the Official or employee, or receives that level of support from the Official or employee, or lives in the Official's or Employee's residence.
- i) **Official:** Includes all County elected officials and appointed members of Policy making Boards, Boards and Commissions.

- j) **Organization:** Means any stock or non-stock corporation, partnership, proprietorship, firm, enterprise, franchise, incorporated or unincorporated association, trust or other legal entity other than an individual or body politic.
- k) **Personal Interest:** Means any interest arising from blood or marriage relationships or from close business or political associations, whether or not any financial interest is involved.
- l) **Significant Fiduciary Relationship:** Means owning or controlling, directly or indirectly: (a) at least ten (10) percent of the outstanding stock or stock of any business corporation having a cost or market value of at least five thousand dollars (\$5,000); or (b) an interest of at least ten (10) percent or five thousand dollars (\$5,000) of any organization.

9.6 Fair and Equal Treatment

- a) **Use of Public Property:** An official or employee shall not use, or knowingly permit the use, of County services or County-owned vehicles, equipment, materials for unauthorized non- governmental purposes or for unauthorized personal convenience or for profit, unless such services or use are available to the public generally and consistent with practices and policies of the County.
- b) **Obligations to Citizens:** An official or employee shall not grant any special consideration, treatment or advantage to any citizen beyond that which is available to every other citizen. This section does not affect the duty of County supervisors to diligently represent their constituency.

9.7 Conflicts of Interest

- a) **Receipt of Gifts and Gratuities Prohibited:** An official or employee shall not accept anything of value whether in the form of a gift, service, loan or promise from any person which may impair his or her independence of judgment or action in the performance of his or her official duties.
- b) **Exception:** It is not a conflict of interest for an official or employee to receive a gift or gratuity that is an unsolicited item of insignificant value or anything which is given to them independent of their position as an official or employee.
- c) **Business Interest:** An official or employee shall not engage in any business or transaction or act in regard to any financial interest, direct or indirect, which:
 - 1. Is incompatible with the proper discharge of his or her official duties for the benefit of the public; or,
 - 2. Is contrary to the provisions of this code; or,
 - 3. May impair his or her independence of judgment or action in the performance of his or her official duties.
- d) **Employment:** An official or employee shall not engage in or accept any private employment or render any service for a private interest when such employment or service is incompatible with the proper discharge of his or her official duties or which may impair his or her independence of judgment or action in the performance of his or her official duties unless otherwise permitted by law or unless disclosure is made as hereinafter provided. An employee shall obtain prior approval from their

Department Head, or in the case of a Department Head, from the applicable oversight committee, before engaging in outside employment.

- e) **Contracting:** An official or employee or a business in which an official or employee holds a 10% or greater interest, may not enter into a contract with the County involving a payment or payments of more than \$1,000 amount within a twelve month period unless the official or employee has made a written disclosure of the nature and extent of such relationship or interest to the County Clerk and reported such interest to the County Board. Further, pursuant to s. 946.13, Wis. Stats., an official or employee is prohibited from participating in the formation of a contract or contracts with Lafayette County involving the receipts or disbursements of more than \$15,000 in any year.
- f) **No Financial Gain:** Except as otherwise provided or approved by the County Board, no Official or Employee shall use his/her public position or office to obtain financial gain or anything of value for the private benefit of himself/herself or his/her immediate family, or for an organization with which he/she is associated.

9.8 Financial Interest in Legislation

A member of the County Board who has a financial interest in any proposed action before the County Board shall disclose the nature and extent of such interest to the County Clerk and the **County Board prior to or during the initial discussion of such action and shall refrain from** participating in the discussion of and/or voting on such action. A member of the County Board shall request to be excused by the Board or Committee chairperson for the duration of any deliberations concerning such action in which the member has a financial interest. Any other official or employee who has a financial interest in any proposed action before the County Board, and who participates in discussion with or gives an official opinion or recommendation to the County Board, shall first disclose the nature and extent of such interest to the County Board.

9.9 Disclosure of Privileged Information

An official or employee shall not disclose or permit the disclosure of confidential or privileged information of any type to any person not lawfully authorized to receive such privileged information. An official or employee shall not use privileged information to advance his or her personal financial interest or that of his or her immediate family or for any other reason. Wisconsin government places a very strong emphasis on open government. When an exception exists to the Wisconsin Open Meetings law, it is for the purpose of protecting individual reputation and interests, business interests, competitive or financial interests or some other recognized legitimate and significant public policy purpose. Failure to maintain the confidentiality of information presented or discussed in closed session jeopardizes the privacy and liberty interests of individuals, businesses and government itself. No official or employee shall discuss, disclose, divulge, leak or share in any way information from a closed public meeting to any person not personally present at that public meeting. The only exception to this provision is information discussed of necessity with another County Board Committee or Board while meeting formally in a

lawfully posted meeting and which committee is directly involved in some aspect pertaining to the business of the original closed session.

It is imperative that all public officials recognize the importance of their ethical obligation to maintain private information in a confidential matter. Any violation of this provision shall be considered to be a particularly serious and egregious matter.

9.10 Gifts and Favors

An official or employee shall not accept, from any person or organization directly or indirectly, anything of value without full payment, if it could reasonably be expected to influence his or her vote, governmental actions or judgments or is provided to such official or employee because of their position or office and could reasonably be considered as a reward for any governmental action or inaction.

9.11 Nepotism

- a) Department Heads are prohibited from hiring a person related to them for County employment where that newly hired person would be either directly or indirectly supervised by the hiring Department Head.
- b) No person shall be employed, promoted, or transferred to any department, division, or work unit when, as a result, the employee would be directly supervising or receiving direct supervision from a related person.
- c) ."Related person" shall mean spouse, parents, children, siblings, uncle, aunt, nephew, niece, grandparents, grandchildren, father-in-law, mother-in-law, stepchildren, stepparents and any person sharing the employee's residence.

9.12 State Statutes Incorporated

- a) Statutes Incorporated by Reference: The following sections of the Wisconsin Statutes as may be, from time to time amended, are hereby incorporated by reference and made a part of this Code of Ethics:
 - § 19.01 (Oaths and Bonds); and,
 - § 19.21 (Custody and Delivery of Official Property and Records); and,
 - §19.81-§19.89 (Open Meetings of Governmental Bodies); and,
 - §19.59 (Codes of Ethics for Local Government Officials, Employees and Candidates).
- b) Violation of Incorporated Statutes: Officials shall comply with the sections of the Wisconsin Statutes incorporated in this Code and failure to do so shall constitute a violation of this Code of Ethics.

9.13 Enforcement and Administrative Procedures

- a) **Advisory Opinions:** Any person governed by this Code of Ethics may apply in writing to the County Corporation Counsel for an advisory opinion and shall be guided by any opinion rendered. The applicant shall present his or her interpretation of the facts at issue and of the applicability of provisions of this Code before the advisory opinion is rendered. All requests for opinion and opinions rendered shall be in writing. Records of

the Corporation Counsel's opinions, opinion requests and investigations of violations shall be closed to public inspection, as required by Chapter 19 of the Wisconsin Statutes as from time to time amended. The applicant may authorize in writing that such records be made public.

- b) Ethics Inquiry Board:** There is hereby created an Ethics Inquiry Board to consist of three members and one alternate, one of whom shall be an attorney licensed to practice law in the State of Wisconsin, appointed by the County Board Chairperson with the approval of the County Board. The members of the Ethics Inquiry Board shall be residents of the Lafayette County and shall not be County Public Officials during the time of appointment, and shall serve staggered three year terms expiring on the third Tuesday in April of the third year following their appointment except as otherwise provided in the implementation of this ordinance. The Corporation Counsel shall provide legal advice, secretarial service and assistance to the Board. The Board shall be entitled to mileage and per diem payments for meetings and hearings of the Board on the same basis as provided other Lafayette County Boards, Committees or Commissions.
- c) Complaints:** A verified complaint shall be in writing and shall contain all of the following
1. The name, address, telephone number and position within the County, if applicable, of the complainant; and,
 1. The name, address and position within the County of the individual who is the subject named in the complaint; and,
 2. The specific provision(s) of this Lafayette County ethics ordinance and/or Wisconsin Statute(s) alleged to have been violated; and,
 3. The factual details supporting the alleged ethics violation. The complaint shall be submitted to the Lafayette County Corporation Counsel. If the complaint contains all of the information required above, the Corporation Counsel shall deliver it to the Chairperson of the Ethics Board within five working days. If the Corporation Counsel determines that the complaint is missing any of the information required above, the Corporation Counsel shall return the complaint to the person submitting it with an explanation of the reason; the person submitting the complaint may then bring the complaint into compliance and submit a corrected complaint to the Corporation Counsel.
- d) Procedure Before the Board:** Upon receipt of a complaint from the Corporation Counsel, the Board shall:
1. Cause notice to be given to the respondent by regular mail within ten (10) business days of receipt of the complaint by the chairperson. Such a notice shall contain a specification of the charges against the respondent as well as a notice that the respondent may file a written statement of his or her position with the board. The respondent shall receive a copy of the complaint.
 2. Schedule and begin hearings on the complaint between 15 and 30 calendar days of receipt of the complaint by the chairperson. The Board shall keep a record of the hearing. The Board shall have the power to compel the attendance of witnesses and to issue subpoenas and

administer oaths as granted to other boards and commissions under Wisconsin Statute §885.01. Persons requesting the Board to issue subpoenas shall be responsible for all associated costs.

3. The burden of proof shall rest with the complainant. The burden of proof shall be a preponderance of the evidence.
4. Hear the respondent's position and the testimony of witnesses, if any. All hearings shall be conducted under oath or affirmation.
5. Permit the respondent and the complainant to call such witnesses as either desires and to cross-examine the witnesses of the other. Any party may choose to be represented by counsel or other representative at their own expense.
6. Consider the evidence and make findings thereon.
7. By its chairperson or designee, make rulings on motions and objections made by any party in such a manner as to assure due process protection to the parties.
8. Conduct deliberations and issue a written decision consisting of its findings of fact and conclusions of law which decision shall be reviewed and signed by each member of the Board. If the Board determines that no violation of this ethics ordinance has occurred, it shall dismiss the complaint and, if requested to do so by the accused, issue a public statement.

e) Enforcement: If the Ethics Board finds, by a preponderance of the evidence, that the allegations in the complaint are true, the Board shall forward its written decision along with its recommendations for sanctions under subsection G. below to the full Lafayette County Board.

f) Penalties: The Ethics Board may recommend to the County Board any one or more of the following sanctions:

1. That the official or employee conform his or her conduct to this ethics code.
2. That the official or employee be issued a private or public reprimand.
3. In the case of a citizen member, that the appointing authority consider removing the person from the committee, board or administrative agency.
4. In the case of any employee, that the employee's hiring or appointing authority consider imposing discipline up to and including discharge of the employee.
5. In the case of an elected County Board Supervisor, that the County Board consider sanctioning, censuring or expelling the Supervisor.
6. In addition to the above listed sanctions, the County Board may impose a nonrefundable forfeiture of not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (1,000.00) upon the individual found to have violated any of the provisions of this ordinance.

9-13.1 Severability

If any of the provisions of this ordinance is held to be invalid or unconstitutional or if the application of any provision of this ordinance to any person or circumstance is held to be invalid or unconstitutional, such holding shall not affect any other provision or applications of this chapter which can be given effect without the invalid or unconstitutional provisions or applications.

I, Linda L. Bawden, Clerk of the County of Lafayette, State of Wisconsin, do certify that this ordinance was adopted by the Lafayette County Board of Supervisors at a meeting held on December 18, 2012.

Linda Bawden, Lafayette County Clerk