

CLINTON COUNTY
BOARD OF ETHICS

REGULATIONS

ADOPTED
JUNE 22, 2011

PART 1

PUBLIC INSPECTION OF ANNUAL STATEMENT OF FINANCIAL DISCLOSURE

Section

- 1 Definitions
- 2 Scope
- 3 Statements Access Officer
- 4 Requests for Inspection
- 5 Inspection
- 6 Notice to Subjects of Request for Public Inspection

1. Definitions

- a) “Annual Statement” shall mean the annual statement of financial disclosure filed with the Board pursuant to Local Law No. 1 of the year 2011, as it may be amended from time to time, hereinafter referred to as “Local Law No. 1.”
- b) “Board” shall mean the Ethics Board for Clinton County established pursuant to Local Law No. 1.

2. Scope

The Board shall make available for public inspection the information set forth in an Annual Statement, except that any item of information deleted from the statement pursuant to Local Law No. 1 shall remain confidential and not be available for public inspection.

3. Statements Access Officer

The Deputy County Administrator is hereby designated as the Statements Access Officer. The Statements Access Officer shall:

- a) coordinate the Board’s response to requests for public inspection of Annual Statements;
- b) provide information concerning the location of the Annual Statements, maintain the current list of Annual Statements provided for in Section 4 of this regulation and respond to all inquiries relating to the availability to the public of the Annual Statements; and
- c) receive and process Requests for Public Inspection of Annual Statements in the manner provided in these regulations.

4. Requests for Public Inspection

- a) No member of the public shall be permitted to inspect an Annual Statement unless he or she has first submitted a request pursuant to the Freedom of Information Law. A request for public inspection of an Annual Statement shall be in writing on a form provided by the Statements Access Officer.

- b) The request shall be filed with the Deputy County Administrator, Clinton County Government Center, 137 Margaret Street, Plattsburgh New York 12901, or such other individual as the Board shall designate.
- c) (i) The Statements Access Officer shall respond to a Request for Public Inspection as soon as possible, but no later than five (5) days after the day of receipt of the Request.

(ii) If more than five (5) business days are required to act upon a Request for Public Inspection, the Statements Access Officer shall issue an acknowledgement of the receipt of the Request within five (5) business days after the Request is received. The acknowledgement shall include an estimate of the date that the Annual Statement shall be available for public inspection.
- d) A request for public inspection shall contain the name of the individual whose Statement is sought to be inspected.

5. Inspection

- a) Annual Statements may be inspected by the public in accordance with these regulations at the offices of the County of Clinton.
- b) The Statements Access Officer shall delete from public inspection any item of information required to be deleted pursuant to Local law No. 1.
- c) The Annual Statements are not available for photocopying, photographing, or mechanical duplication in any manner. Handwritten notes may be taken.
- d) No Annual Statement shall be removed from the custody of the Board.

6. Notice to Subjects of Requests for Public Inspection

- a) The Board of Ethics shall notify each individual who is the subject of a request for public inspection at such time a request has been filed. Such notification shall not indicate by whom the request was made.

PART 2

EXTENSION OF TIME FOR FILING AN ANNUAL STATEMENT OF FINANCIAL DISCLOSURE DUE TO JUSTIFIABLE CAUSE OR UNDUE HARDSHIP OR AUTOMATIC EXTENSION OF TIME TO FILE

Section

- 1 Definitions
- 2 Basis for Extension
- 3 Procedure
- 4 Board Action

1. Definitions

- a) “Annual Statement” shall mean the annual statement of financial disclosure filed with the Board pursuant to Local Law No. 1 of the year 2011, as it may be amended from time to time, hereinafter referred to as “Local Law No. 1.”
- b) “Board” shall mean the Ethics Board for Clinton County established pursuant to Local Law No. 1.
- c) “Covered individual” shall mean an individual who is required to file an Annual Statement with the Board pursuant to Local Law No. 1.
- d) “Filing date” shall mean the date by which a covered individual must file his or her Annual Statement with the Board, as fixed by Local Law No. 1, which shall be May 15th of each calendar year.
- e) “Modified filing date” shall have the meaning ascribed to it in Section 3(b) of this regulation.

2. Basis for Extension

The filing date or modified filing date for a covered individual may be extended only upon a showing of:

- a) justifiable cause, or
- b) undue hardship

3. Procedure

- a) A request for extension shall be delivered to the Board by certified mail or shall be delivered by hand. Upon request, a receipt shall be issued for hand delivery. A request for an extension of the filing date must be postmarked, or delivered to the Board no later than ten (10) calendar days before the filing date.
- b) In the event an individual, through hiring, appointment, promotion, election, or other designation, becomes a covered individual either after the filing date or less than thirty (30) calendar days before the filing date, that individual shall file his or her Annual

Statement with the Board within thirty (30) days after the event making him or her a covered individual, hereinafter referred to as the “modified filing date.” That individual may request an extension of the modified filing date. That request must be postmarked, or delivered to the Board, during the thirty-day period before the modified filing date.

- c) The request for an extension of the filing date or modified filing date must contain the following information:
 - (i) the name of the covered individual, home address, and work address;
 - (ii) the title of the position or job classification under which the individual is employed;
 - (iii) documentation of justifiable cause or undue hardship in the form of a written statement, with copies of any necessary supporting documents the covered individual wishes the Board to consider in granting or denying the request; and
 - (iv) the specific period of time for which the covered individual wishes to be granted an extension, including a date certain upon which the covered individual intends to comply with the filing requirements, provided however that no extension under these rules and regulations shall extend for more than forty-five (45) days after the filing date for that individual. In the case of an individual who is hired, appointed, elected, or otherwise designated as a covered individual, either after the filing date or less than thirty (30) days before that date, no extension of time under these rules and regulations shall extend for more than forty-five (45) days after the modified filing date.

4. Board Action

- a) Upon receipt of a timely request from a covered individual for an extension of the filing date or modified filing date, the Board shall review the material filed to determine whether there has been a showing of justifiable cause or undue hardship. Extensions shall not be granted upon a general statement that undue hardship or justifiable cause exists. The terms “justifiable cause” and “undue hardship” shall mean more than mere inconvenience to the covered individual.
- b) The Board may request additional information from the covered individual who submitted the request. The individual shall then submit the additional information to the Board within ten (10) business days after the Board’s request, either by certified mail or by hand delivery to the Board. In the event the Board does not receive the additional information within ten (10) business days, the Board may make a determination on the basis of the information it has available.
- c) The Board shall notify the covered individual of its determination on the request for an extension of the filing date or modified filing date.
 - (i) If the request is approved, the Annual Statement shall be filed on the date indicated by the Board in its determination issued to the covered individual.

- (ii) If the request for an extension is denied, the covered individual must file the Annual Statement by the filing date or the modified filing date or on the date indicated by the Board in its determination.

PART 3

PROCEDURE FOR REQUESTING THE DELETION OF CERTAIN ITEMS ON THE ANNUAL STATEMENT OF FINANCIAL DISCLOSURE MADE AVAILABLE FOR PUBLIC INSPECTION

Section

- 1 Definitions
- 2 Procedure

1. Definitions

- a) “Annual Statement” shall mean the annual statement of financial disclosure filed with the board pursuant to Local Law No. 1 of 2011, as it may be amended from time to time, hereinafter referred to as “Local Law No. 1.”
- b) “Appointment authority” shall mean that individual or body which has the authority by law, rule, or regulation to appoint a person to a position, or that individual or body to whom that authority may be properly delegated by law, rule, or regulation.
- c) “Board” shall mean the Ethics Board for Clinton County established pursuant to Local Law No. 1.
- d) “Exemption” shall mean a waiver of the requirement that an individual file an Annual Statement.
- e) “Local agency” shall mean an agency, department, division, board, commission, or bureau of Clinton County.
- f) “Employee” shall mean any officer or employee of Clinton County who is neither:
 - (i) a local elected official; nor
 - (ii) a local officer or employee

For purposes of this definition, the terms “local elected official” and “local officer or employee” shall have the meanings ascribed to those terms by subdivisions (2) and (3) respectively, of Section 810 of the General Municipal Law.

- g) “Title” shall mean the name of the position or job in which an employee serves.
- h) “Job classification” shall mean a series of titles which may be included under one classification standard or may be part of a promotional series which may be considered together for purposes of these regulations.
- i) “Employer organization” shall mean an employee organization which is recognized or certified pursuant to Section 204 of the Civil Service Law to represent public employees or a public employer.

- j) “Disqualifying duties” shall mean duties, performed by an employee, involving the negotiation, authorization, or approval of those matters listed in Section 813(9) (k) (i) (iv) of the General Municipal Law.

2. Procedure

- a) Prior to the due date for the filing of Annual Statements, the Board of Ethics shall establish times when it will meet with individuals who desire to delete from their Annual Statement information that would otherwise be required to be disclosed but has no material bearing on the discharge for the reporting person’s official duties.
- b) After the Board of Ethics has acted on an individual’s request for deletion of certain items, the Annual Statement shall be placed in a secure place by the Deputy County Administrator.

PART 4

ADJUDICATORY PROCEEDINGS

Section

- 1 Intent and Purpose
- 2 Definitions
- 3 Notice of Hearing or Proceeding (Form)
- 4 Time and Place of Hearing or Proceeding
- 5 Evidence and Proof
- 6 Representation
- 7 Oaths
- 8 Adjournments
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- 11 Conduct of Hearings
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- 13 Powers and Duties of Hearing Officer
- 14 Fines, Penalties
- 15 Record of Hearing or Proceeding
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1. Intent and Purpose

The Ethics Board of Clinton County has statutory authority to adopt rules and regulations governing the conduct of adjudicatory proceedings and appeals relating to the assessment of the civil penalties authorized by Section 812(6) of the General Municipal Law, as added by the Ethics in Government Act, and the conduct of hearings held under Article VI (4) (c) and (e) and Article VIII Local Law No. 1 of 2011. In adjudicatory proceedings undertaken pursuant to these regulations, it is the intention and purpose of the Board of Ethics to afford all parties due process protection and fair and just resolution of all matters. The purpose of the Ethics in Government Act is to restore public trust and confidence in government. Effective enforcement, including adjudication, will help to accomplish that purpose.

2. Definitions

- a) “Board” shall mean the Ethics Board established pursuant to Local Law No. 1 of 2011, as it may be amended from time to time, herein referred to as Local Law No. 1.
- b) “Ethics in Government Act” shall mean Chapter 813 of the Laws of 1987, as amended.
- c) “Annual Statement” shall mean the annual statement of financial disclosure which is required to be filed with the Board pursuant to Local Law No. 1.
- d) “Hearing Officer” shall mean the presiding officer in adjudicatory hearings or proceedings conducted pursuant to these regulations.

3. Notice of Hearing or Proceeding (Form)

- a) When the Board elects to go forward with a proceeding to determine whether a civil penalty should be assessed pursuant to Section 812(6) of the General Municipal Law or to take such other action as may be authorized by law, the Board shall serve a written notice, by certified mail or other appropriate method of service authorized under the Civil Practice Law and Rules, to the party and his/her representative of record at least twenty (20) calendar days prior to the date of any hearing or proceeding under these rules. The Notice of Hearing or Proceeding shall contain the following:
 - (i) a statement of the time and place of hearing or proceeding;
 - (ii) a statement of the nature of the hearing or proceeding;
 - (iii) reference to the particular statutes and rules relevant to the hearing or proceeding;
 - (iv) a short, plain language statement of the violation asserted; and
 - (v) a statement for hearing impaired parties and participants concerning the provision of deaf interpretation services without charge
- b) A copy of these Adjudicatory Proceedings Regulations shall accompany each Notice of Hearing or Proceeding which is sent pursuant to these regulations.
- c) The Notice of Hearing or Proceeding shall contain information concerning circumstances under which an adjournment may be granted and the result of failure to appear for a scheduled hearing or proceeding.
- d) The Notice of Hearing or Proceeding shall inform the parties and their representatives of the right of each party to be represented, to testify, to produce witnesses, to present documentary evidence, and to examine opposing witnesses and evidence.

4. Time and Place of Hearing or Proceeding

- a) The time and place of the hearing or proceeding shall be contained in the Notice of Hearing or Proceeding.
- b) The time and place of the hearing or proceeding shall not be changed unless a party formally requests a change pursuant to the adjournment request procedure contained in Section 8.
- c) The time and place of the hearing or proceeding shall, as far as practicable, take into account the convenience of the parties and the availability of witnesses.

5. Evidence and Proof

- a) The formal rules of evidence do not apply to adjudicatory hearings or proceedings conducted pursuant to these rules. However, the rules of privilege recognized by law shall be given effect. Objections to evidentiary offers may be made and shall be a part of the record. Subject to these rules, any party may, for the purpose of expediting the

hearing or proceeding and when the interests of the parties will not be substantially prejudiced thereby, submit all or part of the evidence in written form.

- b) The hearing officer may exclude irrelevant or unduly repetitive evidence or cross-examination from any hearing or proceeding.
- c) The burden of proof shall be on the party who initiated the hearing or proceeding, unless otherwise provided by statute.
- d) No decision or determination by the hearing officer or the Board shall be made except on consideration of the record as a whole, or such portions thereof as may be cited by any party to the hearing or proceeding and as supported by and in accordance with substantial evidence.
- e) Each party shall have the right of cross-examination.
- f) Official notice may be taken of all facts of which judicial notice may be taken and of other facts within the specialized knowledge of the Board. When official notice is taken, every party shall be given notice thereof and shall, on timely request, be afforded an opportunity prior to decision to dispute the fact or its materiality.
- g) All findings of fact shall be based exclusively on the evidence in the record and on matters officially noticed.

6. Representation

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

7. Oaths

- a) All oaths required by these rules may be taken before any person authorized to administer oaths within the State of New York.
- b) Oaths shall be administered to all witnesses who testify or appear in any hearing or proceeding conducted pursuant to these rules.

8. Adjournments

- a) Adjournment of any hearing or proceeding conducted pursuant to these rules shall be granted only for good cause.
- b) Written requests for adjournment shall be submitted to the hearing officer in the hearing or proceeding for which the adjournment is sought. The request must be accompanied by an affidavit which contains sufficient detail to allow the hearing officer to rule on the request.

9. Time Limits

- a) Under these rules, adjudicatory proceedings shall be conducted in an expeditious manner with all due regard for the rights of the parties concerned. Every effort should be made by the parties to effectuate a speedy disposition of the case.
- b) Parties to any hearing or proceeding are required to file all papers, statements, proofs, and other evidence with the hearing officer at a time to be designated by the officer. An extension of time for filing those items will be granted by the hearing officer only upon formal request.

10. Decision After Hearing or Proceeding

- a) All final recommendations of the hearing officer, and all decisions and determinations of the Board, shall be in writing or stated in the record and shall include findings of fact, conclusions of law, and reasons for the decision or determination and, when appropriate, shall direct that specific action be taken by the parties. The final decisions or determinations of the Board shall be binding upon the Board.
- b) A copy of all final decisions and determinations of the Board and recommendations of the hearing officer shall be made available to the parties to the hearing or proceeding, and shall be delivered or mailed forthwith to each party and to its representative of record.
- c) Except as required for the disposition of ex parte matters authorized by law, members or employees of the Board assigned to make a determination or decision, or to make findings of fact and conclusions of law in any hearing or proceeding, shall not communicate directly or indirectly, in connection with any issue of fact, with any person or party, nor in connection with any issue of law, with any party or its representative, except upon notice and opportunity for all parties to participate. Any member or employee of the Board may communicate with other members or employees and may have the aid and advice of agency staff, other than staff which has been, or is, engaged in the investigative or prosecuting functions in connection with the case under consideration or a factually related case.
- d) The Board shall maintain the final decision or determination in any hearing or proceeding in a file with an index by name of party and subject matter. The index and the notice of civil assessment, if any, shall not be made available for public inspection and copying except as provided in Section 16 of these rules. Each decision or determination shall be so filed and indexed within sixty (60) days after having been rendered.

11. Conduct of Hearings

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

12. Hearing Officer

All hearings or proceedings under these rules shall be conducted by a hearing officer, designated by the Board, who shall have the power and authority of presiding officers or hearing officers as defined by the State Administrative Procedure Act (SAPA), any other pertinent statute or local law, ordinance, or resolution, and these regulations. The hearing officer shall be an individual who has in no way been involved with the action or proceeding in question.

13. Powers and Duties of Hearing Officer

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

- a) administer oaths and affirmations;
- b) at the request of any party, sign and issue subpoenas in the name of the Board requiring the attendance and giving of testimony by witnesses and the production of books, papers, documents, and other evidence. Subpoenas shall be regulated by the Civil Practice Law and Rules. Nothing herein contained shall affect the authority of an attorney for a party to issue such subpoenas under the provisions of the Civil Practice Law and Rules;
- c) provide for the taking of testimony by deposition;
- d) regulate the course of the hearings, set the time and place for continued hearings and the time for filing of briefs and other documents;
- e) direct the parties to appear and confer to consider the simplification or settlement of the issues by consent of the parties; and
- f) prepare findings of fact and recommendations

14. Fines, Penalties

- a) At the close of the hearing or proceeding, the hearing officer shall make findings of fact and a recommendation as to the appropriate penalty or fine to be assessed or any other action to be taken. The proposed findings of fact and recommendation shall be transmitted to the Board for approval and simultaneously mailed or delivered to the parties to the proceeding. The parties shall have an opportunity to respond in writing, in the form of a brief, to the findings of fact and recommendation of the hearing officer, and such written response shall be directed to the Board for its consideration within fifteen

(15) days after the submission of the hearing officer's recommendation to the Board. In their brief submitted in response to the findings of fact and recommendation of the hearing officer, the parties may not submit or discuss evidence which is not a part of the official record of the hearing or proceeding. The Board shall act on the findings of fact and recommendation as expeditiously as possible. The Board may affirm or reverse the findings of fact and recommendation of the hearing officer in whole or in part, or it may remand and/or dismiss the proceeding based upon the record produced at the hearing.

- b) The assessment of civil penalties under the applicable law and procedures shall not preclude the referral of an appropriate violation to a prosecutor for prosecution of criminal charges, except where the violation is imposed under Section 812(6) of the General Municipal Law for failure to file or a false filing of an Annual Statement.
- c) If the alleged violation has been established, the Board determines in light of all the circumstances that the violation is not serious enough to warrant assessment of a civil penalty, or if the imposition of civil penalties is not otherwise authorized by law, the Board in its discretion may take such other action as appropriate, including, but not limited to, a written admonition or a recommendation that disciplinary action be taken or a referral to a prosecutor for prosecution of criminal charges. The Board may forward a copy of such admonition or recommendation for disciplinary action to the individual's appointing authority, as appropriate.

15. Record of Hearing or Proceeding

- a) The record in hearings or proceeding under these rules shall include:
 - (i) all notices, pleadings, motions, and intermediate rulings;
 - (ii) evidence presented;
 - (iii) a statement of matters officially noticed, except matters so obvious that a statement of them would serve no useful purpose;
 - (iv) questions and offers of proof, objections thereto, and rulings thereon;
 - (v) proposed findings and exceptions, if any;
 - (vi) any findings of fact, conclusions of law, or other recommendations made by the hearing officer; and
 - (vii) any decision, determination, opinion, order, or report rendered
- b) The Board shall make a complete record of all hearings and proceedings conducted before it. For this purpose, unless otherwise required by statute, the Board may use whatever means it deems appropriate, including, but not limited to, the use of stenographic transcriptions or electronic recording devices. Within a reasonable time after the Board gives notice of its decision, determination, opinion, or order, but before commencement of judicial review, any party to the hearing or proceeding may request the Board to prepare the record or any part thereof, together with any transcript of the hearing or proceeding or any part thereof. The Board shall then prepare the requested portions of the record and transcript within a reasonable time and furnish a copy to the requesting

party. Except when any statute provides otherwise, the Board shall charge the reasonable cost of preparing and furnishing the requested portion of the record and transcript.

16. Appeal

An appeal of a decision of the Board shall be made in accordance with the rules set forth in Article 78 of the Civil Procedure Law Rules.

17. Privacy/Confidentiality

- a) Notwithstanding the provisions of Article 6 of the Public Officers Law, the only records of the Board which shall be available for public inspection are:
 - (i) the information set forth in the Annual Statement, except any item of information deleted pursuant to Local Law No. 1;
 - (ii) notices of delinquency sent under Local law No. 1;
 - (iii) notices of reasonable cause sent under Local law No. 1; and
 - (iv) notices of civil assessment imposed under General Municipal Law 812(6)
- b) Notwithstanding the provisions of Article 7 of the Public Officers Law, no meeting or proceeding of the Board shall be open to the public, except as expressly provided otherwise by the Board.
- c) Information which would reveal confidential material protected by federal or state statute shall be deleted from any final decision, order, determination, or declaration issued by the Board.