

Chapter 53

ETHICS, CODE, DISCLOSURE AND BOARD

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[HISTORY: Adopted by the Broome County Legislature 12-20-2012 by L.L. No. 1-2013. Amendments noted where applicable.]

ARTICLE I
Code of Ethics

§ 53-1. Purpose and intent.

Pursuant to the provisions of § 806 of the General Municipal Law, the County Legislature of the County of Broome recognizes that there are rules of ethical conduct for public officers and employees which must be observed if a high degree of moral conduct is to be obtained and if public confidence is to be maintained in our unit of local government. It is the purpose of this article to promulgate these rules of ethical conduct for Broome County Government officers and employees. These rules shall serve as a guide for Broome County Government officers and employees. The rules of ethical conduct of this article, as adopted, shall not conflict with, but shall be in addition to, any prohibition of Article 18 of the General Municipal Law or any other general or special law relating to ethical conduct and interest in contracts of Broome County Government officers and employees.

§ 53-2. Definitions.

As used in this article, the following terms shall have the meanings indicated:

BROOME COUNTY GOVERNMENT OFFICER OR EMPLOYEE — An officer or employee of the County of Broome, whether paid or unpaid, including members of any administrative board, commission or other agency thereof. No individual shall be deemed to be a Broome County Government officer or employee solely by reason of being a volunteer fireman or civil defense volunteer.

GENERAL MUNICIPAL LAW — The General Municipal Law of the State of New York.

GIFT — Anything of more than nominal value given to an officer or employee in any form, including, but not limited to, money, service, loan, travel, lodging, meals, tickets, refreshments, entertainment, discount, forbearance, or promise, having a monetary value.

IMMEDIATE FAMILY MEMBER — Spouse, child, parent, sibling, grandparent, grandchild (including step and in-law relationships), legal guardian of or any other relative or individual residing in the same household as a Broome County Government officer and employee.

INTEREST — A pecuniary or material benefit accruing to a Broome County Government officer or employee or to a Broome County Government officer's or employee's spouse, minor children and dependents; or a firm, partnership or association of which such officer or employee is a member or employee; or a corporation of which such officer or employee is an officer or director; or a corporation, any stock of which is accrued or controlled, directly or indirectly, by such officer or employee.

NOMINAL VALUE — Nominal value means an item of minimal or insignificant value given as a routine social amenity which could not be reasonably interpreted or construed as attempting to influence a Broome County Government officer or employee.

PUBLIC OFFICERS LAW — The Public Officers Law of the State of New York.

§ 53-3. Standards of conduct.

- A. Gifts. No Broome County Government officer, employee, or individual whose name has been submitted by the County Executive to the Legislature for confirmation to become a County officer or employee, a member of the Legislature or a Legislative employee shall directly or indirectly solicit, accept or receive any gift having more than a nominal value, whether in the form of money, service, loan, travel, lodging, meals, refreshments, entertainment, discount, forbearance or promise, ticket or in any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence him or her, or could reasonably be expected to influence him or her, in the performance of his or her official duties or was intended as a reward for any official action on his or her part. The following are excluded from the definition of a gift:
- (1) Complimentary attendance, including food and beverage, at a bona fide charitable or political event or food and beverage offered by the sponsor of a widely attended event. The term "widely attended event" shall mean an event: a) which reasonable guideline shall be 25 individuals other than members, officers or employees from Broome County Government who attends or was in good faith invited to attend; and b) which is related to the attendee's duties or responsibilities or which allows the officer or employee to perform a ceremonial function appropriate to his or her position. For the purpose of this exclusion, an officer's or employee's duties or responsibilities shall include but not be limited to attending an event or a meeting at which a speaker or attendee addresses an issue of public interest or concern as a significant activity at such event or meeting. Additionally, for the purpose of this exclusion for Broome County Government officers or employees or their staff attending with or on behalf of such elected officials, attending an event or a meeting at which more than 1/2 of the attendees, or individuals invited in good faith to attend, are residents of the County from which the Broome County Government officer or employee was elected.
 - (2) Awards, plaques and other ceremonial items which are publicly presented, or intended to be publicly presented, in recognition of public service, provided that the item or items are of the type customarily bestowed at such or similar ceremonies and are otherwise reasonable under the circumstances, and further provided that the functionality of such items shall not determine whether such items are permitted under this paragraph.
 - (3) An honorary degree bestowed upon a Broome County Government officer or employee by a public or private college or university.
 - (4) Promotional items having no substantial resale value, such as pens, mugs, calendars, hats, and T-shirts which bear an organization's name, logo or message in a manner which promotes the organization's cause.
 - (5) Goods and services, or discounts for goods and services, offered to the general public or a segment of the general public defined on a basis other than status as a Broome County Government officer or employee and offered on the same terms and conditions as the goods or services are offered to the general public or segment thereof.

- (6) Gifts from a family member, member of the same household, or individual with a personal relationship with the Broome County Government officer or employee, including invitations to attend personal or family social events, when the circumstances establish that it is the family, household or personal relationship that is the primary motivating factor; in determining motivation, the following factors shall be among those considered:
 - (a) The history and nature of the relationship between the donor and the recipient, including whether or not items have previously been exchanged;
 - (b) Whether the item was purchased by the donor; and
 - (c) Whether or not the donor at the same time gave similar items to other Broome County Government officers or employees; the transfer shall not be considered to be motivated by a family, household or personal relationship if the donor seeks to charge or deduct the value of such item as a business expense or seeks reimbursement from a client.
- (7) Contributions reportable under Article 14 of the Election Law, including contributions made in violation of that article of the Election Law.
- (8) Travel reimbursement or payment for transportation, meals and accommodations for an attendee, panelist or speaker at an informational event or informational meeting when such reimbursement or payment is made by a governmental entity or by an in-state accredited public or private institution of higher education that hosts the event on its campus; provided, however, that the Broome County Government officer or employee may only accept lodging from an institution of higher education:
 - (a) At a location on or within close proximity to the host campus; and
 - (b) For the night preceding and the nights of the days on which the attendee, panelist or speaker actually attends the event or meeting.
- (9) Provision of local transportation to inspect or tour facilities, operations or property located in Broome County; provided, however, that such inspection or tour is related to the individual's official duties or responsibilities. Payment or reimbursement for expenses for lodging or travel expenses to and from the locality where such facilities, operations or property are located shall be considered to be gifts unless otherwise permitted under this subdivision.
- (10) Meals or refreshments when participating in a professional or educational program and the meals or refreshments are provided to all participants.
- (11) A ticket or comparable authorization entitling the holder to food, refreshments, entertainment, or any other benefit, if the ticket is widely available and not solely for the individual or group or the one who takes the ticket has paid the face value of the ticket.

- B. Confidential information. He or she shall not disclose confidential information acquired by him or her in the course of his or her official duties or use such information to further his or her personal interest.
- C. Representation before one's own agency. He or she shall not receive or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any Broome County Government agency of which he or she is an officer, member or employee or of any Broome County Government 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 of Broome County Government. He or she shall not receive or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any agency of Broome County Government.
- E. Disclosure of interest in legislation. To the extent that he or she knows thereof, a member of the County Legislature and any Broome County Government officer or employee, whether paid or unpaid, who participates in the discussion or gives official opinion to the County Legislature or any board, agency, department or other administrative unit of Broome County shall publicly disclose on the official record the nature and extent of any direct or indirect financial or other private interest he or she has in such legislation.
- F. Investments in conflict with official duties. He or she shall not 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.
- G. Private employment. He or she shall not 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.
- H. Future employment. He or she shall not, after the termination of service or employment with Broome County Government, appear before any board, agency, department or other administrative unit of the County of Broome in relation to any case, proceeding or application in which he or she personally participated during the period of his or her service or employment or which was under his or her active consideration.
- I. Use of County property and resources. He or she shall not directly or indirectly use or allow the use of property of any kind owned by the County of Broome, including property leased to the County, for other than official County business; nor shall he or she use County of Broome resources or use his or her position as a Broome County Government officer or employee to do anything or cause anything to be done that results in the securing of unwarranted benefits, privileges or exemptions for himself or herself or for any third party.
- J. Nepotism.
 - (1) In hiring. He or she shall not take part in any hiring or employment decision relating to an immediate family member. If a hiring or employment matter arises

relating to an immediate family member, then the Broome County Government officer or employee must advise his or her supervisor of the relationship and must be recused from any and all discussions or decisions relating to the matter.

- (2) In supervising. An immediate family member of a Broome County Government officer or employee may not be employed in a position where an immediate supervisor/subordinate relationship would exist.
- (3) In contracting. He or she shall not take part in any contracting decision:
 - (a) Relating to an immediate family member; or
 - (b) Relating to any entity in which an immediate family member is an officer, director or partner, or in which an immediate family member owns or controls 10% or more of the stock of such entity. If a contracting matter arises relating to an immediate family member, then the employee must advise his or her supervisor of the relationship and must be recused from any and all discussions or decisions relating to the matter.

§ 53-4. Suits against County.

Nothing herein shall be deemed to bar or prevent the timely filing by a present or former Broome County Government officer or employee of any claim, account, demand or suit against the County of Broome or any agency thereof on behalf of himself or herself or any member of his or her family arising out of any personal injury or property damage or for any lawful benefit authorized or permitted by law.

§ 53-5. Annual statement of financial disclosure.

- A. Any individual who is subject to the filing requirements of both Subdivision 2 of § 73-a of the Public Officers Law and of this § 53-5 may satisfy the requirements of this section by filing a signed copy of the statement filed pursuant to § 73-a of the Public Officers Law with the Board of Ethics in accordance with the provisions of this § 53-5.
- B. On or before April 15 of each year, a statement of financial disclosure covering the preceding calendar year shall be filed with the Board of Ethics by:
 - (1) The following elected officials: County Executive, County Legislators, County Clerk, Sheriff and District Attorney.
 - (2) The following heads of agencies, departments, divisions and their deputies and assistants:¹

Aging, Office for
 Director of Office for Aging
 Deputy Director of Office for Aging

1. Editor's Note: Amended at time of adoption of Charter and Code (see Ch. 1, General Provisions, Art. I)

Audit and Control

- Comptroller
- Deputy Comptroller
- Director of Weights and Measures

Aviation

- Commissioner of Aviation
- Deputy Commissioner of Aviation

Broome Community College

- President of Broome Community College
- Vice President of Academic Affairs
- Vice President for Administration and Financial Affairs
- Vice President for Student Affairs

Central Foods

- Director of Central Food and Nutrition Services

Community Alternative Systems Agency

- CASA Program Coordinator

County Clerk

- Executive Deputy County Clerk
- Deputy County Clerk
- Records Management Officer
- Deputy Clerk — DMV

County Executive

- Deputy County Executive
- Administrative Assistant to County Executive
- Executive Assistant to County Executive

District Attorney

- Chief Assistant District Attorney

Elections

- Commissioners of Elections
- Deputy Commissioners of Elections

Emergency Services

- Director of Emergency Services/Fire Coordinator
- Deputy Director of Emergency Services

Employment and Training

- Employment and Training Director
- Deputy Employment and Training Director

Office of Management and Budget

- Director of the Office of Management and Budget
- Deputy Director of OMB — Treasury

Deputy Director of OMB — Budget
Deputy Director of OMB — Accounting

Health

Public Health Director
Deputy Public Health Director

Historian

County Historian

Information Technology

Director of Information Technology
Assistant Director of Information Technology

Law

County Attorney
Chief Assistant County Attorney
Deputy County Attorney (DSS)

Legislature

Clerk of County Legislature
Deputy Clerk of County Legislature
2nd Deputy Clerk of County Legislature
Legislative Assistant

Library

Library Director

Mental Health

Commissioner of Community Mental Health Services
Deputy Commissioner of Community Mental Health Services

Nursing Home

Willow Point Nursing Home Administrator
Deputy Nursing Home Administrator — Fiscal Services
Deputy Nursing Home Administrator — Health Services

Personnel

Personnel Officer
Director of Employee Relations
Equal Employment Opportunity Compliance Officer

Planning and Economic Development

Commissioner of Planning and Economic Development

Probation

Probation Director
Deputy Probation Director

Public Defender

Public Defender

Chief Assistant Public Defender

Public Transportation

Commissioner of Public Transportation

Deputy Commissioner of Public Transportation

Public Works, Parks, Recreation and Youth Services

Commissioner of Public Works, Parks, Recreation and Youth Services

Deputy Commissioner of Public Works/Buildings and Grounds

Deputy Commissioner of Public Works/Engineering

Deputy Commissioner of Public Works/Highways

Director of Security

Director of Solid Waste Management

Director of Parks, Recreation and Youth Services

Arena Manager

Purchasing

Director of Purchasing

Real Property Tax Service

Director of Real Property Tax Services

Assistant Director of Real Property Tax Services

Risk and Insurance

Manager of Risk and Insurance

Sheriff

Undersheriff

Corrections Major

Social Services

Commissioner of Social Services

Deputy Commissioner of Social Services

Deputy Commissioner of Social Services — Temporary Assistance

Deputy Commissioner of Social Services — Administrative Services

Stop DWI

STOP DWI Coordinator

Veterans Services

Director

- (3) Members of the following boards, councils, commissions, bureaus and agencies:
- (a) Agricultural and Farmland Protection Board.
 - (b) Broome Community College Board of Trustees.
 - (c) Broome Tobacco Asset Securitization Board.

- (d) Board of Ethics.
 - (e) Catskill Regional Off-Track Betting Corporation Board of Directors.
 - (f) Central Library Board of Trustees.
 - (g) Industrial Development Agency Board of Directors.
 - (h) Land Bank.
 - (i) Local Development Corporation.
 - (j) Soil and Water Conservation District Board of Directors.
 - (k) Veterans Memorial Arena and Performing Arts Theater Board of Directors.
- (4) Such other Broome County Government officers or employees as certified by the County Executive and approved by the Board of Ethics.
- C. Any such Broome County Government officer or employee whose duties commence after April 15 of any year shall be notified by the Personnel Department to file such financial statement with the office of the Clerk of the Legislature within 15 days after the commencement of duties. The Board of Ethics shall be notified by the office of the Clerk of the Legislature to review such statement.
- D. Schedule of relevant dates and deadlines.
- (1) March 15: The office of the Clerk of the Legislature shall distribute the statement of financial disclosure to Broome County Government officers and employees. Statement of financial disclosure forms shall be postmarked or returned to the office of the Clerk of the Legislature on or before April 15. The statement of financial disclosure shall be in a sealed envelope marked "Confidential Annual Statement of Financial Disclosure filed with Broome County Board of Ethics."
 - (2) May 1: The Clerk of the Legislature shall produce a list of delinquent individuals who have failed to file their financial disclosure statement and shall forward said list to the County Executive, appropriate department heads and the delinquent individuals.
 - (3) May 15: The Board of Ethics shall be notified by the office of the Clerk of the Legislature that all sealed financial disclosure envelopes received are available in the office of the Clerk of the Legislature for review.
 - (4) On or before June 1: The Board of Ethics shall inspect the financial disclosure statements.
 - (5) On or before June 15:
 - (a) The Board of Ethics shall notify the reporting individual in writing, stating that a deficiency exists and providing the individual with a fifteen-day period to cure the deficiency.

- (b) The Board of Ethics shall notify the reporting individual in writing of a possible violation and provide the individual a fifteen-day period to submit a written response.
- (6) On or before July 15:
 - (a) The Board of Ethics shall review the revised statements and check if the deficiency has been cured.
 - (b) The Board of Ethics shall review the written response from the reporting individual. If the Board determines that further inquiry is justified, it shall contact the reporting individual within a fifteen-day period and give the reporting individual an opportunity to be heard.
 - (7) August 1: The Board of Ethics shall file a report to the County Executive, Chairperson of the County Legislature and County Attorney, with a copy to the reporting individual. The report shall be included in the individual's permanent personnel file, as appropriate. The final report shall include a list of all nonfiling individuals, a list of individuals whose deficiency has not been cured and a list of individuals in violation.

§ 53-6. Advertisements by elected officials and candidates.

Pursuant to the provisions of § 73-b of the Public Officers Law, no elected government official or candidate for elected local office in the County of Broome shall knowingly appear in any advertisement or promotion, including public or community service announcements, published or broadcast through any print or electronic media (including television, radio and Internet) by any private or commercial entity or any other entity that publishes such advertisement for a fee, if the advertisement or promotion is paid for or produced in whole or in part with funds of the state, a political subdivision thereof or a public authority.

§ 53-7. Distribution of Code of Ethics.

The County Executive of the County of Broome shall cause a copy of this Code of Ethics to be distributed to every Broome County Government officer and employee by the Personnel Department within 30 days after the effective date of this article. Each Broome County Government officer and employee thereafter shall be furnished a copy by the Personnel Department before entering upon the duties of his or her office or employment.

§ 53-8. Penalties for offenses.

In addition to any penalty contained in any other provision of law, any individual who shall knowingly and intentionally violate any of the provisions of this code may be fined, suspended or removed from office or employment, as the case may be, in the manner provided by law.

ARTICLE II
Board of Ethics

§ 53-9. Membership.

Pursuant to the provisions of Article 18 of the General Municipal Law, there is hereby established a Broome County Board of Ethics consisting of three members to be appointed by the County Executive, subject to confirmation by the Broome County Legislature. The majority of such members shall not be Broome County Government officers or employees or officers or employees of any other municipality wholly or partially located in the County. At least one of whom shall be a Broome County Government officer or employee or an officer or employee of a municipality located therein. No more than two members shall be of the same political party, with at least one member belonging to the political party of Row A and one from Row B of the New York State Board of Elections voting ballot.

§ 53-10. Advisory opinions.

- A. The Board of Ethics shall render advisory opinions to Broome County Government officers or employees with respect to Article 18 of the General Municipal Law and codes of ethics adopted pursuant thereto. The advisory opinion will be rendered pursuant to the written request of any such officers and employees. The Broome County Board of Ethics shall render a written opinion within 30 days of the request, whenever possible, after investigating fully the circumstances surrounding the request. An opinion rendered by the Board of Ethics, until and unless amended or revoked, shall be binding on the Board of Ethics in any subsequent proceeding concerning the individual who requested the opinion and who acted in good faith, unless material facts were omitted or misstated by the individual in the request for an opinion. Such opinion may also be relied upon by such individual and may be introduced in any criminal or civil action. Such requests shall be confidential, but the Board of Ethics may publish such opinions, provided that the name of the requesting individual and other identifying details shall not be included in the publication.
- B. The Board of Ethics shall make recommendations with respect to the drafting and adoption of a Code of Ethics or amendments thereto upon the request of the governing body of any municipality in the County.

§ 53-11. Coexistence with municipal boards of ethics.

The Broome County Board of Ethics shall not act with respect to the officers and employees of any municipality located within the County where such municipality has established its own board of ethics, except that a local board of ethics may refer matters to the Broome County Board of Ethics.

§ 53-12. Terms of office, officers, meetings.

- A. Members of the Board of Ethics shall be appointed for terms of three years. If the County Executive fails to fill a vacancy on the Board of Ethics within 60 days after a vacancy occurs, the County Legislature shall proceed to fill such vacancy. Whenever a

vacancy occurs by expiration of term, a member may continue his or her office until the vacancy is filled.

- B. The Board of Ethics shall elect each year a Chairman and Secretary. Special meetings of the Board of Ethics shall be held at the call of any member on at least three days' written notice, mailed to the last-known address of the members. It shall adopt rules of proceeding for the conduct of its meetings, including the requirement that minutes shall be kept for every meeting, and establish regular meeting dates.
- C. Two members of the Board of Ethics shall constitute a quorum.

§ 53-13. Compensation.

The members of the Board of Ethics shall receive no salary or compensation for their services, but shall, within the appropriations provided therefor, be entitled to actual and necessary disbursements and expenses in performing the duties of their office.

§ 53-14. Removal of members.

Members of the Board of Ethics may be removed by the County Executive, subject to confirmation by the County Legislature.

§ 53-15. Powers and duties.

- A. Appoint an Executive Director, if necessary, and such staff as may be necessary to carry out its duties. The Board of Ethics may delegate authority to the Executive Director, if any, to act in the name of the Board of Ethics between meetings of the Board, provided that such delegation is in writing and the specific powers to be delegated are enumerated, and further provided that the Board of Ethics shall not delegate the power to conduct hearings, determine violations, recommend disciplinary action, impose any civil fine, refer any matter to a prosecutor or render any advisory opinion. The office of the Clerk of the Legislature shall provide such office space, equipment and clerical personnel as may be necessary to support the operation of the Board of Ethics.
- B. Adopt, amend and rescind rules and regulations to govern procedures of the Board of Ethics, including the promulgation of rules and regulations of the same import as those of the Joint Commission on Public Ethics or its successor under New York State Law. Such rules and regulations shall include, but not be limited to, the procedure whereby an individual who is required to file an annual financial disclosure statement with the Board of Ethics may request an additional period of time within which to file such statement, due to justifiable cause or undue hardship; such rules or regulations shall provide for a date beyond which, in all cases of justifiable cause or undue hardship, no further extension of time will be granted.
- C. Make available forms for annual statements of financial disclosure required to be filed pursuant to the Code of Ethics.

- D. Act as a repository for completed financial disclosure forms filed pursuant to the Code of Ethics.
- E. Review completed financial disclosure statements filed in accordance with the Code of Ethics no later than June 1 and July 15.
- F. Receive complaints alleging a violation of the Code of Ethics.
- G. Permit any individual required to file a financial disclosure statement to request the Board of Ethics to delete from the copy thereof made available for public inspection one or more items of information, which may be deleted by the Board of Ethics upon a finding by the Board of Ethics that the information which would otherwise be required to be disclosed will have no material bearing on the discharge of the reporting individual's official duties. If such request for deletion is denied, the Board of Ethics, in its notification of denial, shall inform the individual of his or her right to appeal the Board's determination pursuant to its rules governing adjudicatory proceedings and appeals.
- H. Permit any individual required to file a financial disclosure statement to request an exemption from any requirement to report one or more items of information which may pertain to such individual's spouse or child, which item or items may be exempted by the Board of Ethics upon a finding by the Board of Ethics that the reporting individual's spouse or child objects to providing the information necessary to make disclosure and that the information which would otherwise be required to be reported would have no material bearing on the discharge of the reporting individual's official duties. If such request for exemption is denied, the Board of Ethics, in its notification of denial, shall inform the individual of his or her right to appeal the Board's determination pursuant to its rules governing adjudicatory proceedings and appeals.
- I. Permit any individual who has not been determined by the County Executive to hold a policy-making position but who is otherwise required to file a financial disclosure statement to request an exemption from such requirement in accordance with rules and regulations governing such exemptions. Such rules and regulations shall provide for exemptions to be granted either on the application of an individual or on behalf of individuals who share the same job title or employment classification which the Board of Ethics deems to be comparable for purposes of this section. Such rules and regulations may permit the granting of an exemption where, in the discretion of the Board of Ethics, the public interest does not require disclosure and the applicant's duties do not involve the negotiation, authorization or approval of:
 - (1) Contracts, leases, franchises, revocable consents, concessions, variances, special permits or licenses as defined in § 73 of the Public Officers Law;
 - (2) The purchase, sale, rental or lease of real property, goods or services or a contract therefor;
 - (3) The obtaining of grants of money or loans; or
 - (4) The adoption or repeal of any rule or regulation having the force and effect of law.

§ 53-16. Inspection of financial disclosure statements.

The Board of Ethics, or the Executive Director and staff of the Board if responsibility therefor has been delegated, shall inspect all financial disclosure statements filed with the Board of Ethics on or before June 1 and review the revised statement on or before July 15 to ascertain whether any individual subject to the reporting requirements of the Code of Ethics has failed to file such a statement, has filed a deficient statement or has filed a statement which reveals a possible violation of the Code of Ethics.

§ 53-17. Notice of failure to file statement or filing deficient statement.

If an individual required to file a financial disclosure statement with the Board of Ethics has failed to file a disclosure statement or has filed a deficient statement, the Board of Ethics shall direct the office of Clerk of the Legislature to notify the reporting individual in writing, stating the failure to file or detailing the deficiency, providing the individual with a fifteen-day period to cure the deficiency. Such notice shall be confidential.

§ 53-18. Penalties for failure to file or filing false statements.

A reporting individual who knowingly and willfully fails to file an annual statement of financial disclosure or who knowingly and willfully, with intent to deceive, makes a false statement or gives information which such individual knows to be false on such statement of financial disclosure filed pursuant to § 53-5 of the Code of Ethics shall be assessed a civil penalty in an amount not to exceed \$10,000. Assessment of a civil penalty hereunder shall be made by the Board of Ethics with respect to individuals subject to its jurisdiction. For a violation of this section, the Board of Ethics may, in lieu of a civil penalty, refer a violation to the District Attorney and, upon such conviction, but only after such referral, such violation shall be punishable as a Class A misdemeanor. Notwithstanding any other provision of law to the contrary, no other penalty, civil or criminal, may be imposed for a failure to file or for a false filing of such statement, except that the appointing authority may impose disciplinary action as otherwise provided by law.

§ 53-19. Violations of Code of Ethics.

- A. If a reporting individual has filed a statement which reveals a possible violation of the Code of Ethics, or the Board of Ethics receives a sworn complaint alleging such a violation, or if the Board of Ethics determines on its own initiative to investigate a possible violation, the Board of Ethics shall notify the reporting individual in writing, describing the possible or alleged violation and providing the individual with a fifteen-day period in which to submit a written response setting forth information relating to the activities cited as a possible or alleged violation of law. If the Board of Ethics thereafter makes a determination that further inquiry is justified, the Board of Ethics shall conduct a hearing within a fifteen-day period and give the reporting individual an opportunity to be heard. The Board of Ethics shall also inform the reporting individual of its rules regarding the conduct of adjudicatory proceedings and appeals and the due process procedural mechanisms available to such individual. If the Board of Ethics determines at any stage of the proceeding that there is no violation or that any potential

conflict-of-interest violation has been rectified, it shall so advise the reporting individual and the complainant, if any. All of the foregoing proceedings shall be confidential.

- B. If the Board of Ethics determines that a violation has occurred, it shall prepare a notice of violation to the reporting individual and direct the office of the Clerk of the Legislature to deliver the notice to the complainant, if any, to the County Executive, the County Legislature and the County Attorney.

§ 53-20. Rules for proceedings and appeals.

The Board of Ethics shall be deemed to be an agency within the meaning of Article III of the State Administrative Procedure Act and shall adopt rules governing the conduct of adjudicatory proceedings and appeals taken pursuant to a proceeding commenced under Article 78 of the Civil Practice Law and Rules of the State of New York relating to the assessment of the civil penalties herein authorized and the Board of Ethics' denials of requests for certain deletions or exemptions to be made from a financial disclosure statement as authorized in § 53-15G or H hereof. Such rules, which shall not be subject to the approval requirements of the State Administrative Procedure Act, shall provide for due process procedural mechanisms substantially similar to those set forth in such Article III, but such mechanisms need not be identical in terms or scope. Assessment of a civil penalty or the Board of Ethics' denial of such a request shall be final, unless modified, suspended or vacated within 30 days of imposition, with respect to the assessment of such penalty, or unless such denial of a request is reversed within such time period and, upon becoming final, shall be subject to review at the insistence of the affected reporting individuals in a proceeding commenced against the Board of Ethics pursuant to Article 78 of the Civil Practice Law and Rules of the State of New York.

§ 53-21. Filing of notices.

The Board of Ethics shall cause a copy of any notice of delinquency or notice of violation sent pursuant to § 53-17 or 53-19 hereof to be included in the reporting individual's permanent personnel file, as appropriate, and be available for public inspection.

§ 53-22. Additional powers and duties.

In addition to any other powers and duties specified by law, the Board of Ethics shall have the power and duty to:

- A. Administer and enforce all the provisions of §§ 53-17 through 53-21.
- B. Administer and enforce all the provisions of §§ 53-24 through 53-31.
- C. Conduct any investigation necessary to carry out the provisions of §§ 53-15 through 53-21 and §§ 53-24 through 53-31. Pursuant to this power and duty, the Board of Ethics may administer oaths or affirmations, subpoena witnesses, compel their attendance, and require the production of any books or records which it may deem relevant or material.

§ 53-23. Records available for public inspection.

- A. The records of the Board of Ethics which shall be available for public inspection through FOIL for a period of seven years are:
- (1) The information set forth in an annual statement of financial disclosure filed pursuant to the Code of Ethics, except any of the categories of value or amount, which shall remain confidential, and any item of information deleted pursuant to § 53-15G hereof.
 - (2) The information set forth in the contribution and gift sworn statements filed pursuant to § 53-26.
 - (3) Notices of delinquency sent and delinquent list produced under § 53-17 hereof.
 - (4) Notices of civil assessments imposed under § 53-18 hereof.
 - (5) Notices of violation sent under §§ 53-5D(7), 53-19 and 53-30 hereof.
- B. No other records of the Board of Ethics shall be available for public inspection. No meeting or proceeding of the Board of Ethics shall be open to the public, except if expressly provided otherwise by the Board of Ethics.

ARTICLE III**County of Broome Professional Service Agreement****§ 53-24. Definitions.**

As used in this article, the following term shall have the meaning indicated:

PROFESSIONAL BUSINESS ENTITY — An entity seeking a public contract or agreement for professional service, public works, or purchase/lease of equipment, supplies and materials, and which may be an individual, including the individual's spouse, if any, and any child living at home; firm; corporation; professional corporation; partnership; organization or association. The definition of a "business entity" includes all principals who own 10% or more of the equity in the corporation or business trust, partners and officers in the aggregate employed by the entity, as well as any subsidiaries directly controlled by the business entity. The definition of "business entity" shall also include bargaining units that represent Broome County employees or affiliates of said bargaining units.

§ 53-25. Contributions and gifts.

- A. The County shall not enter into contracts or agreements for professional services, public works, or purchase/lease of equipment, supplies and materials with any party if that party has solicited or made any contribution, including in-kind contributions, within one calendar year immediately preceding the date of the contract or agreement, which exceeded the permitted thresholds set forth in Article 14 of the Election Law of the State of New York.
- B. It shall be a violation of Chapter 53 of the Broome County Code for a professional business entity to:

- (1) Make or solicit a contribution or gift in violation of Articles I or III of Chapter 53 of the Broome County Charter and Code.
- (2) Knowingly conceal or misrepresent a contribution or gift given or received.
- (3) Make or solicit contributions or gifts through intermediaries for the purpose of concealing or misrepresenting the source of the contribution/gift.
- (4) Engage in the exchange of contributions or gifts that would circumvent the intent of Article III of Chapter 53 of the Broome County Charter and Code.
- (5) Directly or indirectly, through or by any other individual or means, do any act which would subvert the provisions of Article III of Chapter 53 of the Broome County Charter and Code or the intent thereof.

§ 53-26. Contribution statement and gift statement by professional business entity.

- A. Election Law signed statements. The Broome County Government shall require a signed statement for any contract or agreement that requires formal bidding under the New York State General Municipal Law or the Broome County Charter and Code attesting that the professional business entity has not made a contribution within one calendar year immediately preceding the date of the contract or agreement which exceeded the permitted thresholds set forth in Article 14 of the Election Law of the State of New York.
- B. Gifts signed statement. The County shall require a signed statement for any contract or agreement that requires formal bidding under the New York State General Municipal Law or the Broome County Charter and Code that discloses all gifts given, if any, by the bidding professional business entity to any Broome County Government officer or employee.
- C. Reporting violations. The professional business entity shall have a continuing duty to report any violations of Article III of Chapter 53 of the Broome County Charter and Code that may occur during the negotiation or duration of a contract.

§ 53-27. Contributions and gifts made prior to effective date.

No contribution of money or any other thing of value, including in-kind contributions and gifts made by a professional business entity, shall be deemed a violation of this article; nor shall any contract or agreement be disqualified thereby if that contribution or gift was given by the professional business entity prior to the effective date of Article III of Chapter 53 of the Broome County Charter and Code.

§ 53-28. Return of excess contributions.

A professional business entity, candidate for elected County office, officeholder, County party committee or political action committee (PAC) may cure a violation of Article III of Chapter 53 of the Broome County Charter and Code if, within 60 days after the prohibited

contribution is made known, the responsible party notifies the Board of Ethics in writing and seeks and receives reimbursement of the contribution.

§ 53-29. Inspection of signed statements.

Any contract or agreement that requires formal bidding under the New York State General Municipal Law or the Broome County Charter and Code shall have the contribution signed statement and the gift signed statement attached for inspection to ascertain whether any professional business entity subject to the reporting requirements of Article III of Chapter 53 of the Broome County Charter and Code has filed a deficient statement or has filed a statement which reveals a possible violation of Article III of Chapter 53 of the Broome County Charter and Code. All statements that disclose gift giving will be forwarded by the Purchasing Agent to the Board of Acquisition and Contract (B.A.C.) as well as Board of Ethics for their review.

§ 53-30. Violations.

The Board of Ethics shall have the power to receive and review all complaints alleging a violation of Article III of Chapter 53 of the Broome County Charter and Code in the following manner:

- A. If a reporting professional business entity has filed a statement which reveals a possible violation of Article III of Chapter 53 of the Broome County Charter and Code, or the Board of Ethics receives a sworn complaint alleging such a violation, or if the Board of Ethics determines on its own initiative to investigate a possible violation, the Board of Ethics shall notify the reporting entity in writing, describing the possible or alleged violation and providing the entity with a fifteen-day period in which to submit a written response setting forth information relating to the activities cited as possible or alleged violations of law. If the Board of Ethics thereafter makes a determination that further inquiry is justified, it shall give the reporting entity an opportunity to be heard. The Board of Ethics shall also inform the reporting entity of its rules regarding the conduct of adjudicatory proceedings and appeals and the due process procedural mechanisms available to such entity. If the Board of Ethics determines at any stage of the proceeding that there is no violation or that any potential conflict-of-interest violation has been rectified, it shall so advise the reporting entity and the complainant, if any. All of the foregoing proceedings shall be confidential.
- B. If the Board of Ethics determines that a violation has occurred, it shall prepare a notice of violation to the reporting entity and direct the office of the Clerk of the Legislature to deliver the notice to the complainant, if any, to the County Executive and the County Legislature and the County Attorney.

§ 53-31. Penalties for offenses.

Any professional business entity that violates §§ 53-25 through 53-28 of Article III of Chapter 53 of the Broome County Charter and Code shall be disqualified from eligibility for future County of Broome contracts for a period of two calendar years from the date of the violation.

