

Section 2-106: Ethics Administration

1. This Ordinance shall be administered by the Kane County Department of Human Resources in conjunction with the Ethics Commission and the Ethics Advisor, as hereafter provided.
2. Any records, disclosure statements or other documents (collectively, "Records") filed or required to be filed pursuant to this Ordinance, shall be kept and maintained by the officer, employee, department or office specified in this Ordinance. Copies of all records shall be filed with the Department of Human Resources by the officer, employee, department or office responsible for the original documents.

Section 2-106-1 Ethics Commission

1. There is hereby created a commission to be known as the Ethics Commission of Kane County ("Ethics Commission"). The Ethics Commission shall be comprised of five members appointed by the chairman of the Kane County board with the advice and consent of the Kane County Board. No person shall be appointed as a member of the ethics commission who is related, either by blood or by marriage up to the degree of first cousin, to any elected officer of the County of Kane. No more than three members of the Ethics Commission shall belong to the same political party at the time such appointments are made. Party affiliation shall be determined by affidavit of the person appointed.
2. At the first meeting of the Ethics Commission, the initial appointees shall draw lots to determine their initial terms. Three commissioners shall serve 2- year terms and the remaining two commissioners shall serve a one-year term. Thereafter, all commissioners shall be appointed to 2-year terms. Commissioners may be reappointed to serve subsequent terms.
3. At the first meeting of the Ethics Commission, the commissioners shall choose a chairperson from their number. Meetings shall be held at the call of the chairperson or any 3 commissioners. A quorum shall consist three commissioners, and official action by the commission shall require the affirmative vote of three members.
4. The chairman of the Kane County Board, with the advice and consent of the Kane County Board, may remove a commissioner in case of incompetency, neglect of duty or malfeasance in officer after service on the commissioner by certified mail, return receipt requested, of a copy of the written charges against the commissioner and after providing an opportunity to be heard in person or by counsel upon not less than 10 days' notice. Vacancies shall be filled in the same manner as original appointments.
5. The Ethics Commission shall have the following powers and duties:
 - a. To promulgate procedures and rules governing the performance of its duties and the exercise of its powers.

- b. Upon receipt of a signed, notarized, written complaint, to investigate, conduct hearings and deliberations, issue written recommendations for disciplinary actions, impose fines in accordance with Section 2-106-8 of this Ordinance and refer violations of Section 2-104 or Section 2-104 of this Ordinance to the Kane County State's Attorney's Office. The Ethics Commission shall, however, act only upon receipt of a written complaint alleging a violation of this Ordinance and not on its own prerogative.
- c. To receive information from the public pertaining to its investigation and to require additional information and documents from person who may have violated the provisions of this Ordinance.
- d. To compel the attendance of witnesses and to compel the production of books and papers pertinent to an investigation. It is the obligation of all officers and employees, subject to this ordinance, of Kane County to cooperate with the Ethics Commission during the course of its investigations. Failure or refusal to cooperate with requests by the Ethics Commission shall constitute grounds for discipline or discharge.

The powers and duties of the Ethics Commission are limited to matters clearly within the purview of this ordinance.

Section 2-106-2: Ethics Advisor

1. The Chairman of the Kane County Board, with the advice and consent of the County Board, shall appoint an Ethics Advisor for a term of three (3) years. Applications for the Ethics Advisor appointment may be solicited by way of a request for qualifications. The Human Services Committee shall initially review all timely responses to the request for qualifications and shall forward all written responses of the applicants to the Chairman of the Kane County Board together with the committee's evaluation of each application. The Chairman of the Kane County Board may, in his/her sole discretion, interview potential candidates prior to recommending the appointment of a particular candidate to the full County Board. The Ethics Advisor may be compensated as an independent contractor, as determined by the County Board.
2. Minimum qualifications for the office of Ethics Advisor may include, but shall not be limited to, the following:
 - (a) Has not been convicted of any felony under the laws of the State of Illinois, another state or the United States; and
 - (b) Has a juris doctorate or master's degree in public administration; and
 - (c) Has five (5) or more years of cumulative service (i) with a federal, state or local law

enforcement agency, with investigatory experience; (ii) as a federal, state, or local prosecutor or public defender; (iii) as a senior manager, executive, or official of a federal, state or local agency; (iv) as a state or federal judge; (v) as an elected officer of a unit of local government; (vi) as a law professor; (vii) as an ethics professor; (viii) as an attorney in private practice; (ix) as a member of the clergy; or (x) with a combination of any subsection listed in this subparagraph (c); and

(d) Has strong oral and written communication skills; and

(e) Has the ability to interpret, explain and apply laws and regulations; and

(f) Has a high level of integrity and ability to maintain confidentiality.

3. The Ethics Advisor shall perform the following duties pursuant to this Ordinance:

(a) Provide guidance to the officers and employees of Kane County concerning the interpretation and compliance with the provisions of this ordinance.

(b) Prepare and conduct ethics training in conjunction with the State's Attorney's Office and request the assistance of the Kane County Human Resources Department to keep attendance records of all employees receiving ethics training.

(c) Prepare and disseminate, with the assistance of the Kane County Department of Human Resources, informational and training materials relating to this Ordinance.

(d) Receive all inquiries concerning this Ordinance not otherwise directed to the Ethics Commission.

(d) Report apparent violations of this ordinance to the Ethics Commission.

(e) Forward any written complaints directly to the Ethics Commission for resolution.

(f) Notify the elected official or department head or County Board of the ultimate disposition of any investigations undertaken by the ethics commission so that appropriate disciplinary action, if appropriate may be taken.

(g) Prepare written opinions on any interpretation of the Ordinance and records of any informal or unwritten opinions in order to maintain consistency of interpretation and promote compliance.

(h) Maintain records of all written or verbal guidance on interpretation and application of this Ordinance (redacted so as to preserve the privacy of the persons making the inquiry) and make such records available to officers, employees and the general public in order to maintain consistency of interpretation and promote compliance.

(i) Perform such other duties as may be assigned by the County Board.

4. The following activities are prohibited by the Ethics Advisor during his/her term of office:
 - (a) May not become a candidate for any elective office.
 - (b) May not hold any other appointed public office, except for appointments on governmental advisory boards or study commissions.
 - (c) May not otherwise currently be employed by Kane County or any of its employing units, or by any of its elected officers.
5. The Kane County Board Chairman may remove the Ethics Advisor, with or without cause, by notice to the Ethics Advisor, by USPS certified mail, return receipt requested, and shall immediately notify the County Board of such action. The County Board may overrule the removal of the Ethics Advisor at its next regularly scheduled meeting by a majority vote of the members then holding office.

Section 2-106-3 State's Attorney's

The State's Attorney's Office shall perform the following duties with regard to this ordinance:

- (a) File a legal complaint in the Circuit Court of the Sixteenth Judicial Circuit alleging a violation of this Ordinance as warranted by the facts or exercise such discretion to resolve complaints without resorting to the filing of a legal complaint. Except as otherwise provided in this ordinance, all legal complaints filed in Circuit Court by the State's Attorney's Office shall be prosecuted as a quasi-criminal ordinance violation. Except as otherwise provided in this ordinance, the prosecution shall be under and conform to the rules of civil procedure. Except as otherwise provided in this ordinance, the standard of proof for establishing a violation shall be proof by a preponderance of the evidence.
- (b) The State's Attorney's Office shall perform such other duties as may be requested by the County Board when deemed appropriate by the State's Attorney's Office in the exercise of professional judgment.

Section 2-106-4: Inquiries

All inquiries concerning interpretation of this Ordinance shall be in writing and submitted to the Ethics Advisor and all responses shall be in writing. The Ethics Advisor may issue informal oral opinions and guidance provided that a record of the inquiry and the response is kept and maintained as provided in Section 2-106-2 hereof.

Section 2-106-5: Complaints of Wrongdoing

1. Complaints concerning violations of this Ordinance shall be signed, notarized, and submitted in writing to the Ethics Commission. Complaints shall describe in detail the act or acts complained of and provide a list of witnesses to the act or acts. The Complaint shall contain the home address and personal telephone number of the individual submitting an allegation.
2. Within three (3) business days after the receipt of the complaint, The Ethics Commission shall send by certified mail, return receipt requested, a notice to the respondent that a complaint has been filed against him or her and a copy of the complaint. The Ethics Commission shall send by certified mail, return receipt requested, a confirmation of the receipt of the complaint to the Complainant within three (3) business days after receipt by the Ethics Commission. The notices to the respondent and the complainant shall also advise them of the date, time, and place of the meeting to determine the sufficiency of the complaint and to establish whether probable cause exists to proceed.
3. The Complaint must be filed within thirty (30) days following knowledge of the alleged violation, but in no event, more than one (1) year after the actions giving rise to the alleged violation except where there is reasonable cause to believe that fraudulent concealment has occurred. To constitute fraudulent concealment there must be an affirmative act or representation calculated to prevent discovery of the fact that a violation has occurred.
4. The Ethics Commission shall endeavor to keep the identity of an individual (the "complainant") submitting a complaint confidential unless:
 - (a) Public legal proceedings have been initiated regarding the Complaint, or
 - (b) The complainant consents to disclosure, or
 - (c) The interests of fairness or due process require disclosure, or
 - (d) Disclosure is otherwise required by law or court order.

Section 2-106-6: Investigations and Hearings

1. Upon receipt of a written Complaint, upon not less than 48 hours' public notice, the Ethics Commission shall meet to review the sufficiency of the complaint and, if the complaint is deemed sufficient to allege a violation of this Ordinance, to determine whether there is probable cause, based on the evidence presented by the complainant, to proceed. The meeting may be closed to the public to the extent authorized by the Open Meetings Act. The Ethics Commission shall issue notice to the complainant and the respondent of the Ethics Commission's ruling on the sufficiency of the complaint and, if necessary, on probable cause to proceed within seven (7) business days after receiving the complaint unless good cause exists to extend the time period.

2. If a complaint is deemed sufficient to allege a violation of this Ordinance and there is a determination of probable cause, then the Ethics Commission's notice to the parties shall include a hearing date scheduled within four (4) weeks after the complaint's receipt. Alternatively, the Ethics Commission may elect to notify, in writing, the State's Attorney to prosecute such actions and request that the complaint be adjudicated judicially. If the complaint is deemed not sufficient to allege a violation or if there is no determination of probable cause, then the Ethics Commission shall send by certified mail, return receipt requested, a notice to the parties of the decision to dismiss the complaint, and that notice shall be made public.

3. The Ethics Commission shall have the discretion to determine the appropriate means of investigation as permitted by law and to request information relating to an investigation consistent with Section 2-106-1.

4. An investigation may not be initiated more than one (1) year after the most recent act of alleged violation or a series of alleged violations except where there is reasonable cause to believe that fraudulent concealment has occurred. To constitute fraudulent concealment there must be an affirmative act or representation calculated to prevent discovery of the fact that a violation has occurred.

5. On the scheduled date and upon at least 48 hours' public notice of the meeting incompliance with the Open Meetings Act, the Ethics Commission shall conduct a hearing on the complaint and shall allow both parties the opportunity to present testimony and evidence. The hearing may be closed to the public only if authorized by the Open Meetings Act.

6. Within 30 days after the hearing or any recessed hearing is concluded, the Ethics Commission shall either:

(a) Dismiss the complaint; or

(b) Recommend disciplinary action to the alleged violator and the chairman of the Kane County Board or other officer having authority to discipline the officer or employee, or impose a fine upon the violator, or both.

The particular findings in the case, any recommendation for discipline, and any fine imposed shall be a matter of public information.

7. If the hearing was closed to the public, the respondent may file a written demand for a public hearing on the complaint within seven (7) business days after the issuance of the recommendation for discipline or imposition of a fine, or both. The filing of the demand shall stay the enforcement of the recommendation or fine. Within fourteen (14) days after receiving the demand, the Ethics Commission shall conduct a public hearing on the complaint upon at least 48 hours' public notice of the hearing and allow both parties the opportunity to present testimony and evidence. Within seven (7) days thereafter, the Ethics Commission shall public issue a final recommendation to the alleged violator and the chairman of the Kane County Board

or other officer having authority to discipline the officer or employee, or impose a fine upon the violator, or both.

8. It is the obligation of all officers and employees subject to this ordinance to cooperate with the ethics commission during the investigation. Failure or refusal to cooperate may constitute grounds for discipline or discharge of an employee. Any party may represent himself or herself or be represented by legal counsel of his or her own choice and own expense,

Section 2-106-7: Reports

At least twice per fiscal year, the Ethics Advisor with the assistance of the Kane County Department of Human Resources and the ethics commission shall compile and deliver to the Chairman of the County Board and to the Kane County Human Services Committee a report consisting of: The number of inquiries received concerning interpretation of this Ordinance and the State ethics laws.

1. The number of filed Complaints.
2. The number of Complaints deemed to sufficiently allege a violation of this Ordinance.
3. The number of Complaints deemed to be insufficient.
4. The number of Complaints found to be supported by substantial evidence.
5. The number of Complaints found not to be supported by substantial evidence.
6. The number of Complaints filed in Circuit Court.
7. The number of Complaints settled prior to Court ruling.
8. The disposition of each Complaint.
9. The status of pending Complaints.
10. The number of officers and employees receiving ethics training.

Section 2-106-8: Penalties

Any employee, officer or agent of the County who intentionally violates any provision of this Ordinance shall be subject to disciplinary actions, as well as such fines and penalties as are prescribed in the Kane County Code or other applicable laws. Any employee, officer or agent of the County who willfully and intentionally files a Complaint for the purpose of influencing the State's Attorney's Office or Ethics Commission to initiate an investigation and without regard for the truth of the matters set forth in the Complaint, shall be subject to discipline, up to and including termination.