

## CHAPTER 3 - ETHICS

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### **3.01 Authority.**

Marquette County (hereinafter the “*County*”) enacts this Chapter pursuant to the authority set forth in § 19.59, Wis. Stats.

### **3.02 Declaration of Purpose and Policy.**

The purpose of this Chapter is to establish ethical standards of conduct for all County officials by identifying those actions that are not compatible with the best interests of the County. The County Board believes that a Code of Ethics for the guidance of County officials in serving the County will help officials avoid conflicts between personal interests and public responsibilities, will improve standards of public service and will promote and strengthen the faith and confidence of the people of the County and their officials. To this end, the policy of the County is that:

- A.** Officials are independent, impartial and responsible to the people;
- B.** Government decisions and policy are promulgated in the best interests of the people, community and government;
- C.** County offices should not be used for personal gain or political advantage; and
- D.** County business is conducted so as to reinforce the public’s confidence in the integrity of the County government.

### 3.03 Definitions.

**A. Anything of Value** includes any money, property, favor, service, subscription, payment, advance, forbearance, loan or promise of future employment. “*Anything of Value*” does not include door prizes, compensation and expenses paid by the County, fees and expenses which are permitted by Wisconsin Statutes, political contributions which are reported under Chapter 11, Wis. Stats., or hospitality extended for a purpose unrelated to County business by a person other than an organization.

**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 twenty-five dollars (\$25.00) on a one (1) time basis, but not more than fifty dollars (\$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 Chapter.

**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. Financial Interest** means any interest which yields, directly or indirectly, a monetary or other material benefit to the Official, or to any person employing or retaining services of the Official.

**G. Immediate Family** means an Official’s spouse, children, stepchildren, parents, grandparents, stepparents, or other legal relation who contributes more than one-half (1/2) support to the Official, or receives that level of support from the Official, or lives in the Official’s residence.

**H. Official** includes all County elected officials and appointed members of policymaking Boards, Boards Committees and Commissions.

**I. 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.

**J. 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.

**K. Significant Fiduciary Relationship** means owning or controlling, directly or indirectly: (a) at least ten percent (10%) of the outstanding stock or stock of any business corporation having a cost or market value of at least five thousand dollars (\$5,000.00); or (b) an interest of at least ten percent (10%) or five thousand dollars (\$5,000.00) of any organization.

### **3.04 Responsibility of Public Office.**

Officials hold their positions for the benefit of the 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 as well as all Chapters, resolutions and policies of the County. They are further bound to observe in their official acts the highest standards of morality and to discharge faithfully the duties of their office regardless of personal considerations. The public interest must be their primary concern.

### **3.05 Fair and Equal Treatment.**

**A. Use of Public Property.** An Official shall not use or permit the use of County services or County-owned vehicles, equipment and materials for non-governmental purposes or for personal convenience or for profit. Notwithstanding the foregoing, the County Board may approve the use of the County services and County-owned vehicles and equipment for limited purposes in connection with the set-up and operation of the County Fair.

**B. Obligations to Citizens.** An Official shall not grant any special consideration, treatment or advantage to any citizen beyond that which is available to every other citizen.

### **3.06 Conflicts of Interest.**

**A. Financial and Personal Interest Prohibited.** No Official shall engage in any business or transaction or shall act in regard to financial or personal interest, direct or indirect, which: (1) is incompatible with the discharge of his or her duties; (2) would tend to impair their independence of judgment or action in the performance of their official duties; or (3) is contrary to the provisions of this Chapter.

**B. No Financial Gain or Anything of Value.** Except as otherwise provided or approved by the County Board, no Official 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.

This paragraph does not prohibit a County elected official from using the title or prestige of his/her office to obtain campaign contributions that are permitted by and reported as required by Chapter 11, Wis. Stats.

**C. Incompatible Employment.** An Official 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 their official duties or which may impair their independence of judgment or action in the performance of their official duties unless as otherwise permitted by law or unless disclosure is made as hereafter provided. Any authorized outside employment must not conflict with the Official's ability to do their job with the County and must not otherwise violate any provision of this Chapter.

**D. Use or Disclosure of Confidential Information.** An Official shall not, without lawful authority, knowingly disclose or permit the disclosure of Confidential Information to any person not lawfully authorized to receive such privileged information, or use Confidential Information to advance their personal financial interest or the financial interest of any other person.

**E. Receipt of Gifts and Gratuities Prohibited.** An Official shall not solicit or accept from any person or organization, directly or indirectly, anything of value without full payment, if it could reasonably be expected to influence their vote, governmental actions or judgments, or if it could reasonably be considered as compensation or a reward for any governmental action or inaction. It is not a conflict of interest for an Official to receive an unsolicited item of insignificant value or anything that is given to them independent of their position as an Official. This provision does not prohibit an Official from engaging in outside employment in accordance with this Chapter.

**F. Nepotism.** An Official shall not hire, promote or directly supervise any member of his or her immediate family.

**G. Contracts.** No Official shall, in a private capacity, negotiate, bid for, enter into, make or perform a Contract in which the Official, immediate family member of the Official, or any business or organization with which an Official or immediate family member is associated, has a direct or indirect financial interest, if the Official is authorized or required by law to participate in the Official's capacity as such Official in the making of that Contract or to perform in regard to that Contract some official function requiring the exercise of discretion on the Official's part. If the Official will not be involved with the Contract in an official capacity, the Contract may be allowed only if awarded through a process of public notice and competitive bidding in conformity with all applicable laws. This provision is intended to comply with, and in no way contradicts or invalidates the guidelines in § 946.13, Wis. Stats.

**H. Financial Interest in Legislation.** A member of the County Board, who has a financial interest in any proposed action before the County Board, shall fully disclose the nature and extent of such interest to the County Board Chair prior to the initial discussion of such action and shall refrain from participating in the discussion of, and voting on, such action. A member of the County Board shall request to be excused by the Board or Commission Chair for the duration of any deliberations concerning such action in which the member has a financial interest. Any other Official 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 fully disclose the nature and extent of such interest to the County Board.

**I. Business Interest.** An Official shall not engage in any business, transaction or act in regard to any financial interest, direct or indirect, which:

1. is incompatible with the proper discharge of their official duties for the benefit of the public;
2. is contrary to the provisions of this Code; or
3. may impair their independence of judgment or action in the performance of their official duties.

**J. Unfair Persuasion.** No Official may use or attempt to use his or her public position to influence or gain unlawful benefits, advantages or privileges for himself or herself or others.

**K. Issuance of Permits.** No Official empowered to issue a discretionary permit pursuant to either state or local laws or regulations shall issue any such permit to himself or herself or to any member of that Official's immediate family without first revealing in writing the request for such permit to that person's immediate supervisor or to the County Board that regulates the subject of such permit and obtaining written permission from the person's immediate supervisor or the County Board to issue the same.

### **3.07 Public Records and Property.**

Pursuant to §§ 19.21-19.39, Wis. Stats., each and every Official is the legal custodian of and shall safely keep and preserve all property and things received from the Official's predecessor or other persons and required by law to be filed, deposited, or kept in the Official's Office, or which are in the lawful possession or control of the Official or the Official's Deputies. All persons are entitled to the greatest possible information regarding the affairs of government and the official acts of those Officials who represent them.

### **3.08 Political Activity.**

Officials may engage in political activity provided that such activity does not interfere with the performance of their duties and does not involve the use of County equipment or property. Officials are specifically prohibited from directly or indirectly coercing any person to withhold or contribute monetary or other types of assistance to any political candidate, party or purpose.

### **3.09 Wisconsin Statutes Incorporated.**

The following Sections of the Wisconsin Statutes are hereby incorporated by reference and made a part of the Chapter:

- A. Chapter 11.00 Campaign Financing;
- B. Section 19.21 Custody and Delivery of Official Property and Records;
- C. Section 19.59 Code of Ethics for Local Government Officials and Candidates; and

**D. Section 946.13 Private Interest in Public Contract Prohibited.**

Officials shall comply with the Sections of Wisconsin Statutes incorporated in this Code and failure to do so shall constitute a violation of the Code of Ethics.

**3.10 Ethics Board.**

This Chapter hereby creates an Ethics Board.

**A. Membership.**

1. The Ethics Board will consist of: (i) the members of the Executive and Finance Committee; (ii) a past County Board Supervisor (who is not currently serving on the County Board), and (iii) a constitutional officer of the County who shall be assigned to the committee on a rotating schedule.
2. The past County Board Supervisor shall be appointed by the County Board Chair when committee appointments are made at the beginning of the term and shall serve for the same term as the other members of the Ethics Board.
3. The Constitutional Officers shall serve as members of the Board for one (1) year calendar terms in the following order:
  - 2014 – County Clerk
  - 2015 – Treasurer
  - 2016 – Sheriff
  - 2017 – Register of Deeds
  - 2018 – Clerk of Court
  - 2019 – Coroner

And the rotation shall repeat continuously in that order starting with the County Clerk in 2020. In the event a Constitutional Officer decides not to participate on the Ethics Board, the next sequential Officer shall serve for his or her term. In the event a Constitutional Officer recuses him or herself from a particular matter before the Board, the next listed Officer shall be an alternate for that particular matter, with the recusing Officer hearing all other matters before the Board during his or her term.

*Replaced "Personnel Committee" with "Executive and Finance Committee" in 3.10(A)(1) when Executive and Finance Committee assumed duties of Personnel Committee. Resolution No. 27-2015, dated April 21, 2015; passed March 17, 2015; published April 30, 2015; effective May 1, 2015.*

**B. Powers and Duties.** The Ethics Board shall be responsible for investigating complaints and conducting fact finding hearings pursuant to Section 3.11 below.

**C. Assistance of Counsel.** The Corporation Counsel shall furnish the Ethics Board whatever legal assistance is necessary to carry out its functions. The Corporation Counsel may retain outside counsel to provide this assistance as necessary.

**3.11 Complaints, Notice, Response and Initial Hearing.**

**A. Content of Complaints.** All complaints shall be made in writing. The complaint

shall state the specific provision(s) of the County Ethics Chapter or Wisconsin Statutes believed to have been violated and shall include sufficient information to support the allegations. The complaint shall also include all of the following: (a) the name, address and telephone number of the complainant; (b) the name, address and position of the individual who is the subject named in the complaint; (c) the facts constituting the alleged ethics violation(s) set forth clearly and in detail; (d) if complainant(s) believes that any board member has a conflict of interest or bias, it shall be stated in the complaint. Complaints that do not meet the minimum requirements set forth above shall be dismissed without prejudice. All written complaints shall be submitted to the office of the County Clerk. The County Clerk shall forward the complaint to the Chair of the Ethics Board and this Chapter is alleged to have occurred.

**B. Notice, Response and Setting of Initial Hearing.** The Ethics Board shall send notice, including a copy of the complaint to the respondent and complainant within seven (7) business days of receipt of the complaint by the Ethics Board Chair. The notice shall be sent via certified mail or by personal service. The notice shall inform the respondent that he or she may file a written statement of his or her position with the board within ten (10) business days of the date the notice was sent. The Ethics Board shall set a time for an initial meeting on the complaint that is within fifteen (15) business days following the ten (10) business day deadline for response by the respondent. The initial meeting shall be set prior to the notice being sent out so that the notice will include the date, time and place of the initial meeting of the board regarding the complaint. An agenda shall be filed and posted prior to the initial hearing. The Corporation Counsel shall send a copy of the response(s) received from the respondent(s) to the Ethics Board and the complainant(s) at least five (5) business days prior to the initial hearing.

**C. Initial Hearing.** The Ethics Board shall convene within fifteen (15) business days following the ten (10) business day response period for the respondent to determine if it has jurisdiction over the subject matter of the complaint and to determine if there is a basis for the complaint. The complainant shall be present. If the complainant does not personally appear, the Ethics Board may dismiss the complaint without prejudice. If the Board determines that there is no basis for the complaint, the Board may immediately dismiss the complaint with prejudice and without hearing.

If the Ethics Board determines that the verified complaint alleges facts that provide a reasonable basis to constitute a violation of the Code of Ethics or that an investigation of a possible violation is warranted, it may make an investigation with respect to any alleged violation after notifying the respondent in writing. Such notice shall state the nature and purpose of the investigation, the actions or activities to be investigated and the respondent's due process rights. The Ethics Board may, in its sole discretion, extend the deadlines for taking action on a verified complaint or request. Failure of the Ethics Board to take action within the time frames set forth in this subparagraph shall not preclude the Ethics Board from pursuing a complaint.

*3.10(A)(1) amended and enacted by Resolution No. 27-2015, dated April 21, 2015; passed March 17, 2015; published April 30, 2015; effective May 1, 2015.*

### **3.12 Investigations and Enforcement.**

Pursuant to any investigation or hearing conducted under this Chapter, the Ethics Board has the authority to:

**A.** Require any person to submit in writing such reports and answers to questions relevant to the proceedings conducted under this article as it may prescribe, such submission to be made within such period and under oath or otherwise as it may determine.

**B.** Administer oaths and to require by subpoena issued by it pursuant to § 885.01, Wis. Stats., the attendance and testimony of witnesses and the production of any documentary evidence relating to the investigation or hearing being conducted.

**C.** Order testimony to be taken by deposition before any individual who is designated by it and has the power to administer oaths, and, in such instances, to compel testimony and the production of evidence in the same manner as authorized by Subsection (B) above.

**D.** Pay witnesses the same fees and mileage as are paid in like circumstances by the courts in Wisconsin.

**E.** Request and obtain from the Department of Revenue copies of state income tax returns and access to other appropriate information under § 71.78(4), Wis. Stats., regarding all persons who are the subject of such investigation.

**F.** Retain outside counsel and other experts as needed in connection with any of the Ethics Board's responsibilities hereunder after solicitation of recommendations from the office of Corporation Counsel and upon such contract for services approved for content and form by the Corporation Counsel.

### **3.13 Hearing Upon Finding of Probable Cause.**

**A.** If, after investigation, the Ethics Board finds that probable cause exists for believing the allegation(s) in the complaint, the Ethics Board shall, not less than thirty (30) business days after such finding is made, schedule a hearing date. The Ethics Board shall give the complainant and the accused at least thirty (30) business days' notice of the hearing date. The Ethics Board may appoint Corporation Counsel and/or outside counsel to act as prosecutor of the complaint.

**B.** Pursuant to § 19.85, Wis. Stats., the hearing shall be closed to the public unless the accused requests that it be opened.

**C.** All evidence, including certified copies of records and documents which the Board considers, shall be fully offered and made part of the record of the case. The evidence presented shall be limited to the scope of the charges made in the complaint. The Ethics Board shall not be bound by the rules of evidence for trial, but it shall admit all evidence having reasonable probative value provided that it relates to the scope of the charge(s) made in the complaint and shall exclude

immaterial, irrelevant or unduly repetitious testimony.

**D.** Every party shall be offered, during all stages of any investigation or proceeding conducted under this Chapter, reasonable opportunity to rebut or offer countervailing evidence.

**E.** The parties and/or their representatives shall provide each other with an opportunity to examine all documents and records to be used at a hearing under this Section at least ten (10) business days prior to the scheduled hearing.

**F.** The parties may make a brief opening statement to acquaint the Board with the nature of the complaint.

**G.** During the hearing, the parties shall have the opportunity to present witnesses, confront and cross-examine adverse witnesses and establish all pertinent facts.

**H.** The voting members of the Ethics Board may direct questions to any party or witness.

**I.** The burden of proving violations alleged in the complaint shall be on the complainant. Violations shall be proven by clear, convincing and satisfactory evidence.

**J.** All proceedings held before the Ethics Board shall be recorded either by a certified court reporter or an electronic recording device.

**K.** The Ethics Board shall have the power to compel attendance of witnesses and to issue subpoenas under § 885.01, Wis. Stats.

**L.** Unless otherwise precluded by law, informal disposition of any case may be made by stipulation, agreed settlement, consent order or default.

### **3.14 Deliberations and Decision by Ethics Board.**

Upon completion of the hearing, the Ethics Board shall adjourn to closed session for deliberations. Any person not a member of the Board, including County Board Supervisors, shall be excluded from the deliberations of the Ethics Board, notwithstanding any rule to the contrary that may be set forth in the County Board Rules. Corporation Counsel shall further be excluded from deliberations if Corporation Counsel prosecuted the complaint on behalf of the complainant. Within the ten (10) workdays of the conclusion of the hearing, the Ethics Board shall complete and serve the parties its written findings of fact, recommendations and orders signed by all participating Ethics Board members, together with findings of fact and conclusions of law, concerning the propriety of the conduct of the Official. The recommendations made by the Ethics Board may include a recommendation of the action and/or discipline that the Ethics Board believes that the Official by the Official's governing, appointing or hiring authority should consider taking against the accused including, without limitation, censure, suspension, removal of an Official from office or employment.

If the Ethics Board determines that no violation of this Chapter has occurred, it shall dismiss the complaint, and notify all parties involved including the accused, and if requested to do so by the accused, issue a public statement. If the Ethics Board finds that clear, satisfactory and convincing evidence of an ethics violation exists, the Ethics Board shall take any action and make any recommendations and/or orders that it deems appropriate in accordance with this paragraph and Section 3.15 below. The official or body to whom the decision of the Ethics Board is referred shall be guided by the recommendations of the Ethics Board but shall not be obligated to follow them.

### **3.15 Authority.**

**A. Supervisors.** If the person found to have violated this Chapter is an elected member of the Board of Supervisors, the Ethics Board may refer the matter and its recommendation(s) to the Board of Supervisors for whatever action the Board of Supervisors deems appropriate under law.

**B. Other Elected Officials.** If the person found to have violated this Chapter is an elected County official other than a member of the Board of Supervisors, the matter may be referred to the official or body with the authority to remove the official from office as provided under the Code or Wisconsin Statutes. If none is designated in the Code or Wisconsin Statutes, the matter shall be referred to the Board of Supervisors with the Ethics Board's recommendation. The Board of Supervisors shall then take whatever action the Board of Supervisors deems appropriate under law.

**C. Appointed Officials.** If the person found to have violated this Chapter is an appointed County official, the matter may be referred to the official or body with the authority to remove the official from office as provided under the Code or Wisconsin Statutes. If none is designated by the Code or Wisconsin Statutes, then the matter shall be referred to the Board of Supervisors with the Ethics Board's recommendation. The Board of Supervisors shall then take whatever action the Board of Supervisors deems appropriate under law.

### **3.16 Enforcement and Penalties.**

If, after investigation and hearing, the Ethics Board determines by clear, convincing and satisfactory evidence that a violation of this Chapter has occurred, the Ethics Board shall take one (1) or more of the following actions. If the authority of the Ethics Board, as set forth in Section 3.15, is to provide its recommendation to some other entity, its action shall be in the form of a recommendation. If the authority of the Ethics Board allows for direct action, it may take any of the actions that follow:

**A. Return/Restitution.** Order the return of County property or funds or gifts and/or restitution for the value of the gifts, property and funds procured, obtained or retained as a result of a violation of this Chapter. An order for return/restitution shall include a deadline for return or making restitution.

**B. Modify Behavior.** Order the accused to conform his/her conduct to this Chapter.

**C. Forfeiture.** Issue a forfeiture for violation of this Chapter in an amount not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000.00) for each offense along with a payment deadline. The amount of the fine shall be based upon the severity of the conduct and in consideration of past violations of this Chapter. Any forfeiture or other funds recovered under this Section shall be remitted to the County Treasurer. Any property ordered returned shall be returned to the County department or entity from which the property was taken, or to any other person or entity providing a gift.

**D. Corporation Counsel Action.** Recommend that Corporation Counsel institute a civil proceeding to recover any forfeiture, restitution or declaratory order incurred under this Chapter which has not been timely complied with by the subject of the order.

**E. Referral to the District Attorney.** Refer a matter to the District Attorney to commence enforcement and penalties as permitted by Wisconsin Statutes.

**F. Other Penalties.** The enumerated penalties and sanctions in this Chapter shall not be construed to limit the authority of the Ethics Board or County from imposing any additional penalties or sanctions. Any person found by the Ethics Board to have violated any portion of this Chapter shall be subject to private reprimand, public reprimand, denial of salary or merit increase, suspension without pay, removal from employment or office in accordance with the provisions of Wisconsin Statutes or other disciplinary actions pursuant to the recommendations of the Ethics Board and/or judgment of the official or body to whom the decision of the Ethics Board is referred under this Section. Any action taken by an Official that is deemed in violation of this Chapter may be deemed void by the County.

**G. Miscellaneous.** Any other recommendations or orders as may be necessary and appropriate to carry out the intent and purpose of this Chapter.

### **3.17 Appeal of Decision of the Ethics Board.**

The affected Official shall have a right of appeal of any final decision of the Ethics Board to the County Board after a decision is issued or pursuant to the County's grievance procedure or other collective bargaining agreement, if applicable. Such appeal must be made in writing within fifteen (15) days of the decision of the Ethics Board. The filing of an appeal shall stay any orders issued by the Ethics Board hereunder. The County Board shall affirm the factual and legal findings of the Ethics Board unless such factual and legal findings are clearly erroneous. Recommendations by the Ethics Board shall not be considered final decisions.

### **3.18 Action by Marquette County Board.**

In cases where the Ethics Board makes a recommendation to the County Board, the County Board shall review the findings and conclusions of the Ethics Board prior to taking any action. The County Board may also review any evidence presented to the Ethics Board. The County Board may, in its discretion, allow the presentation of additional evidence, pursuant to the procedures set forth in Section 3.13. The County Board may take any final action permitted by law.

11/21/14