

Proposed Local Law No. 9 Of 2016

County Of Ulster

A Local Law Regarding Campaign Finance Reform in Ulster County

BE IT ENACTED, by the Legislature of the County of Ulster, as follows:

SECTION 1. TITLE

This Local Law shall be known by and may be cited as the Ulster County Campaign Finance Accountability Act.

SECTION 2. LEGISLATIVE FINDINGS

The Ulster County Legislature hereby finds and declares that large political contributions from those seeking or currently performing business with the County may raise concerns on the part of taxpayers and residents as to their trust in government contracts. It has become increasingly more common for some individuals or entities to make substantial political contributions to those holding, or seeking to hold, elective County office who are ultimately responsible for awarding contracts for County business. It is important for, and incumbent upon, Elected Officials to foster public confidence in governmental operations by preventing any actual, or even any perception of, corruption. For those reasons, and in furtherance of enhancing the public's trust and confidence in government, this Chapter is enacted.

SECTION 3. DEFINITIONS

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

(A) "County" means the County of Ulster, State of New York.

(B) "County Elected Official" means the County Executive, a County Legislator, the County Comptroller, the County Clerk, the District Attorney or the County Sheriff.

(C) "Candidate" means an individual who seeks to be nominated or elected to the office of County Executive, County Legislature, the County Comptroller, the County Clerk, the District Attorney or the County Sheriff, whether they ultimately appear on the ballot or not. An individual shall be deemed to be a candidate if:

(i) He or she has taken action to qualify for nomination or election;

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- (ii) Monies were raised or expended by the individual or any person to whom the individual has given consent to do so, in order to bring about such nomination or election to the above named offices. The candidacy occurs when the contributions or expenditures in question are made, whether in the year in which the nomination or election is sought or in any future year.

(D) "Election" means all general, special and primary elections, but shall not include elections provided for pursuant to the education law, special district elections, fire district elections or library district elections.

(E) "Political committee" means any corporation aiding or promoting and any committee, political club or combination of one or more persons operating or co-operating to aid or take part in the election or defeat of a candidate for public office or to aid or take part in the election or defeat of a candidate for nomination at a primary election or convention, including all proceedings prior to such primary election, or of a candidate for any party position voted for at a primary election, or to aid or defeat the nomination by petition of an independent candidate for public office; but nothing in this article shall apply to any committee or organization for the discussion or advancement of political questions or principles without connection with any vote or to a national committee organized for the election of presidential or vice-presidential candidates; provided, however, that a person or corporation making a contribution or contributions to a candidate or a political committee which has filed pursuant to section 14-118 of the New York State Election Law shall not, by that fact alone, be deemed to be a political committee as herein defined.

(F) "Contract" means any claim, account or demand against or agreement with the County, express or implied, and shall include the designation of a depository of public funds and the designation of a newspaper, including but not limited to an official newspaper, for the publication of any notice, resolution, ordinance, local law or other proceeding where such publication is required or authorized by law.

For purposes of this local law, the term "Contract" excludes Project Labor Agreements and exempt contracts set forth in Section 8 herein.

(G) "Contractual Services" means any work to be performed or goods to be delivered by a business entity under mutual agreement to the County.

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(H) "Business Entity" means any individual, partnership, corporation, professional corporation, limited liability company, organization, or association in the performance of any work contracted through the County. The definition of a business entity includes all principals who own 10% or more of the equity in the corporation or business trust, partners, officers in the aggregate, as well as any subsidiaries directly controlled by the Business Entity. The term Business Entity does not include a political subdivision of the State of New York (i.e., municipalities), school districts, state and/or federal governments.

(I) "Campaign contribution" means any gift, subscription, outstanding loan (to the extent provided for in section 14-114 of the New York State Election Law), advance, or deposit of money or any "in-kind contributions" as defined herein, made in connection with the nomination for election, or election, of any candidate or incumbent. The term "campaign contribution" shall not include:

- i) the value of services provided without compensation by individuals who volunteer a portion or all of their time on behalf of a candidate or political committee;

- ii) the use of real or personal property and the cost of invitations, food and beverages voluntarily provided by an individual to a candidate or political committee on the individual's residential premises for candidate-related activities to the extent such services do not exceed five hundred dollars (\$500) in value; and

- iii) the travel expenses of any individual who on his own behalf volunteers his personal services to any candidate or political committee to the extent such expenses are unreimbursed and do not exceed five hundred dollars (\$500) in value.

(J) "In-kind contributions" are those as reported on the New York State Board of Elections Campaign Financial Disclosure statements and shall include:

- (i) Goods and services offered free of charge;
- (ii) Goods and services offered at less than the usual and normal charge;
- (iii) Payments by a third party for goods and services rendered to a candidate or political committee.

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The value of a particular in-kind gift is determined as follows:

Goods: (such as equipment supplies, facilities and mailing lists) are valued at their normal purchase or rental price.

Services: (such as advertising, printing or consulting) are valued at the prevailing commercial rate at the time the services are rendered (i.e., the amount that was paid or would have been paid for the services.)

Discounts: are valued at the amount discounted (i.e., the difference between the usual and normal charge and the amount paid.)

SECTION 4. CAMPAIGN CONTRIBUTION ACCEPTANCE AND LIMITS

(A) A business entity seeking to provide contractual services to the County shall not make a campaign contribution that exceeds \$250 in any calendar year to a county Elected Official, candidate, or the political committee of such county Elected Official or candidate if the business entity's contract must be approved and/or executed by such county Elected Official or candidate. In the event such business entity does not make annual contributions, then the aggregate amount of the campaign contribution shall not exceed \$500 if the county Elected Official's or candidate's term of office is two years or \$1000 if the county Elected Official's or candidate's term of office is four years.

(B) A County Elected Official or candidate shall discourage monetary or in-kind campaign contributions from any employee whose employment is, or will be, directly determined by the Elected Official or candidate responsible for said employment.

SECTION 5. EXEMPTIONS

(A) The contribution limitations specified in this Local Law do not apply to business entities when:

- (i) (a) such contract is between the County and Early Intervention and/or pre-school special education providers that are not subject to the Request for Proposal Process under the Ulster County Procurement

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Policy and that the County is required to enter into pursuant to state Law;

- (b) such Contract is between the County and individuals, including parents, legal guardians and/or their designees for transporting children to Early Intervention and/or pre-school special education services.
- (ii) the contract is awarded to a contractor of another unit of government such as the United States of America, New York State, another County, a Town, City, or Village, or group of such other units of government, which is passing through funds of such other units of government or acting on behalf of such other unit of government; and
- (iii) contracts awarded as emergency contracts when the public exigency requires the immediate emergency services as determined by General Municipal Law, Executive Order or Resolution in accordance with Ulster County Procurement Policy Section IV (D), Emergency Procurements.

(B) The contribution limitations specified in this Local Law do not apply to Ulster County employees subject to collective bargaining agreements.

SECTION 6. CONTRIBUTION STATEMENT BY BUSINESS ENTITY

Prior to the awarding of a Contract, the Ulster County Director of Purchasing, or his or her designee, shall receive a sworn statement, in a form approved by the Ulster County Attorney and Legislative Counsel, from the business entity under penalty of perjury that the entity has not made a campaign contribution in violation of Section 4 of this local law during the four (4) years preceding such sworn statement. Such sworn statement shall include that the business entity has not made or solicited contributions through intermediaries, third parties, or immediate relatives for the purpose of concealing the source of the contribution during that same four (4) year time period.

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SECTION 7. CAMPAIGN CONTRIBUTIONS MADE PRIOR TO EFFECTIVE DATE

No contribution or money or any other thing of value, including in-kind contributions, made by a business entity shall be deemed a violation of this section, or be disqualified thereby, if that contribution was made by the business entity prior to the effective date of this local law. The disclosure requirements shall not apply to contracts awarded subsequent to the effective date if the solicitation and/or renewal process was initiated prior to the effective date of this local law.

SECTION 8. ULSTER COUNTY CONTRACTS LISTING AND VERIFICATION AGAINST

(A) Prior to the awarding of a contract, the Director of Purchasing or his or her designee shall search the New York State Board of Elections Campaign Finance Contribution and Expenditure Database for the past four (4) calendar years to determine whether the business entity has contributed to the campaign of a County Elected Official or candidate in an amount in excess of the campaign contribution limits set forth in Section 4 of this local law. In the event it is found that such business entity has exceeded the threshold campaign contribution limits, the Director of Purchasing shall notify the County Elected Official or candidate to whom the contribution was made that he or she has accepted a contribution in excess of the campaign contribution limits as provided for in this local law with a copy of the notification sent to the business entity. The Elected Official or candidate will have thirty (30) calendar days to cure the defect by returning the excess contributions immediately. Proof of receipt of the return of such excess contributions must be submitted to the Director of Purchasing. Failure to provide such proof shall result in penalties as authorized in Section 9 (D) of this local law.

(B) The Director of Purchasing shall, as soon as practical, but no later than January 31 and July 31 of each year, update the listing of contracts with the County of Ulster available for public viewing at <http://ulstercountyny.gov/programs-initiatives/county-contracts>, ensuring that every business entity awarded a contract is represented.

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SECTION 9. PENALTIES, PAYMENT, AND COLLECTION THEREOF.

(A) Complaints of suspected violations of this Local Law in relation to campaign contributions received from a business entity shall be reported to the Ulster County Director of Purchasing, who will investigate the suspected violation within ten (10) days of receipt of the complaint.

(i) In the event it is found that such County Elected Official or candidate, or the County Elected Official's or candidate's political committee has accepted a campaign contribution in excess of the campaign contribution limits set forth in Section 4 from a business entity, the Director of Purchasing shall notify the County Elected Official, or candidate, in writing within thirty (30) days from the date of receipt of the complaint, with a copy sent to the business entity stated in the complaint, that there has been a violation of the campaign contribution limits as provided for in this local law.

(ii) The County Elected Official or candidate will have thirty (30) calendar days from the date of the Director of Purchasing's notification to respond to the complaint or correct the violation by immediately returning to the business entity the funds that exceed the contributions limits set forth in Section 4 of this local law.

(iii) If the County Elected Official or candidate agrees with the allegations of the complaint and returns the funds that exceed the campaign contribution limits, the proof thereof shall be submitted within thirty (30) days to the Director of Purchasing.

(iv) If the County Elected Official or candidate does not agree with the allegations of the complaint their reasons therefor shall be set forth in writing and sent to the Director of Purchasing. The Director of Purchasing shall forward the original complaint along with the County Elected Official's or candidate's reasons for disagreement to the Ulster County Board of Ethics, with a copy of the transmission sent to the Clerk of the Legislature.

(i) As authorized by Ulster County Charter §44-8, the Board of Ethics will investigate the complaint in a manner consistent with the powers and duties

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granted by said section to determine if there has been a violation of the campaign contribution limits as provided for in this law. Such determinations shall be final.

(ii) In the event it is determined that such County Elected Official or candidate, or the or the County Elected Official's or candidate's political committee has violated this local law, the Board of Ethics will notify the County Elected Official or candidate, in writing, of the violation along with notification that the funds that exceed the contributions limits set forth in Section 4 of this local law shall be returned within thirty (30) days of receipt of the Board's determination, with proof thereof submitted to the Board of Ethics.

(B) Complaints of suspected violations of this Local Law in relation to campaign contributions believed to have been encouraged or coerced from an employee whose employment is, or will be, directly determined by the Elected Official or candidate responsible for said employment shall be reported directly to the Ulster County Board of Ethics.

(i) As authorized by Ulster County Charter §44-8, the Board of Ethics will investigate the complaint in a manner consistent with the powers and duties granted by said section to determine if there has been a violation of this law. Such determinations shall be final.

(ii) In the event it is determined that such County Elected Official or candidate, or the or the County Elected Official's or candidate's political committee has violated this local law the Board of Ethics will notify the County Elected Official or candidate, in writing that there has been a violation of Section 4 (B) of this local law.

(iii) The County Elected Official or candidate, or the County Elected Official's or candidate's political committee will have thirty (30) calendar days from the date of the Board of Ethics' notification to correct the violation by immediately returning to the employee the funds received, or compensating said employee for any in-kind contribution in an amount commensurate with Section 3 (F) of this local law, with proof thereof submitted to the Board of Ethics.

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(iv) An employee and/or individual who files a complaint with the Board of Ethics under the provisions of this local law shall be extended the same protections from retaliation as outlined in the Ulster County Government Compliance Program Procedures.

(D) Failure to comply with the provisions of this local law could result in:

(i) the business entity being precluded from doing business with the County

(ii) a civil penalty being assessed to the County Elected Official or candidate in the following amount:

\$0 for the first offence

\$500 for each individual occurrence thereafter

Civil penalties shall be made payable to the Ulster County Commissioner of Finance and deposited into the general fund.

(E) Civil Action. The County Attorney is authorized to commence a separate civil action to collect any fine authorized under this Chapter.

SECTION 10. INCORPORATION BY REFERENCE

The regulatory and penalty provisions of this local law shall be incorporated by reference into the Ulster County Procurement Policy and all Ulster County Contracts as defined in Section 3 (C) of this local law.

SECTION 11. SEVERABILITY

If any word, phrase, clause, sentence, paragraph, section or part of this article shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the word, phrase, clause, sentence, paragraph, section of part thereof directly involved in the controversy in which such judgment shall have been rendered.

SECTION 12. EFFECTIVE DATE.

This local law shall take effect December 31, 2017.