

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:

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

~~(C)~~ (D) "Contract" for purposes of this local law means any agreement or contract, including any amendment or modification thereto with the County of Ulster as defined in this Section 3 (A) for:

- (i) the performance of any services or work;
- (ii) the sale or lease of any land or building except for real property acquired by the County via a tax sale or tax foreclosure procedure pursuant to Article 10 or Article 11 of the New York State Real Property Tax Law;
- (iii) a grant, loan or loan guarantee.

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

~~(D)~~ (E) "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.

~~(E)~~ (F) "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.)

(G) "In-kind contributions" 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;

(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.

SECTION 4. CAMPAIGN CONTRIBUTION ACCEPTANCE AND LIMITS

(A) A County Elected Official **or candidate**, or a campaign committee authorized by such individual, serving, **or seeking to serve**, a two year term of office shall not accept a monetary or in-kind campaign contribution from any business entity who contracts with the County of Ulster if that contract must be approved and/or executed by such individual, in an amount not to exceed \$250 per calendar year. In the event the business entity does not contribute annually to the individual or committee as described above, then the amount that a County elected official **or candidate** may accept shall not exceed \$500 in the aggregate during the two-year term of office.

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(B) A County Elected Official **or candidate**, or a campaign committee authorized by such individual, serving, **or seeking to serve**, a four year term of office shall not accept a monetary or in-kind campaign contribution from any business entity who contracts with the County of Ulster, if that contract must be approved and/or executed by such individual, in an amount not to exceed \$250 per calendar year. In the event the business entity does not contribute annually to the individual or committee as described above, then the amount that a County elected official **or candidate** may accept shall not exceed \$1,000 in the aggregate during the four-year term of office.

(C) 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. CONTRIBUTION STATEMENT BY BUSINESS ENTITY

Prior to the awarding of a Contract, the Ulster County Purchasing Director, 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.

SECTION 6. 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

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solicitation and/or renewal process was initiated prior to the effective date of this local law.

SECTION 7. 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.

SECTION 8. EXEMPTIONS

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

- ~~(i) such contract is awarded to the lowest bidder pursuant to New York State Law;~~
- ~~(ii)~~ (i) (a) such contract is between the County and Early Intervention and/or

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pre-school special education providers that are not subject to the Request for Proposal Process under the Ulster County Procurement 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.
- ~~(iii) procurement is authorized by NYS General Municipal Law ("GML") § 103(3) (goods and services through another New York county's contract), GML § 104 (goods and services through NYS Office of General Services contracts, and GML § 103(16) (certain goods and services through another government's contracts, "piggybacking")~~
- ~~(iv) such contract is awarded to Preferred Sources or as authorized in Section 162 of the State Finance Law, as amended from time to time;~~
- ~~(v) the Contract is with a sole or single source provider;~~
- ~~(vi) (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~~
- ~~(vii) (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 9. PENALTIES, PAYMENT, AND COLLECTION THEREOF.

(A) Complaints of suspected violations of this Local Law **in relation to contributions, whether money, in-kind or other, 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.

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~~(B)~~ (i) In the event it is found that such County Elected Official **or candidate**, or the campaign committee authorized by such individual, has accepted a monetary or in-kind 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 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.

~~(C)~~ (ii) The County Elected Official **or candidate**, or the campaign committee authorized by such individual, 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 threshold set forth in Section 4 of this local law.

(B) Complaints of suspected violations of this Local Law in relation to contributions, whether money, in-kind or other, 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 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.

(ii) In the event it is found that such County Elected Official or candidate, or the campaign committee authorized by such individual, has encouraged or coerced an employee whose employment is, or will be, directly determined by the elected official or candidate responsible for said employment, the Board of Ethics will notify the County Elected Official or candidate, in writing that there has been a violation of Section 4 (C) of this local law.

(iii) The County Elected Official or candidate, or the campaign committee authorized by such individual, will have thirty (30) calendar days from the date of the Board of Ethics' notification to respond to the complaint or correct the violation by immediately returning to the

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employee the funds received, or compensating said employee any in-kind contribution in an amount commensurate with Section 3 (F) of this local law.

(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) Proof of receipt of the returned funds or **just compensation** must be submitted to the **individual or entity with whom the original complaint was filed**. Failure to provide such proof shall 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

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thereof directly involved in the controversy in which such judgment shall have been rendered.

SECTION 12. EFFECTIVE DATE.

This local law shall take effect ~~immediately upon filing with the New York State Secretary of State~~ **December 31, 2016.**