

Ordinance NO. 20-001

CONFLICTS OF INTEREST AND ETHICS ORDINANCE

for the Southern Illinois Economic Development Authority

WHEREAS, the Illinois General Assembly has enacted the State Officials and Employees Ethics Act (Public Act 93-615, effective November 19, 2003, as amended by Public Act 93-617, effective December 9, 2003), which is a comprehensive revision of State statutes regulating ethical conduct, political activities and the solicitation and acceptance of gifts by State officials and employees; and

WHEREAS, the Act requires all units of local government and school districts, within six months after the effective date of Public Act 93-615, to adopt ordinances or resolutions regulating the political activities of, and the solicitation and acceptance of gifts by, the officers and employees of such units "in a manner no less restrictive" than the provisions of the Act; and

WHEREAS, it is the clear intention of the Act to require units of local government and school districts to implement regulations that are at least as restrictive as those contained in the Act, and to impose penalties for violations of those regulations that are equivalent to those imposed by the Act, notwithstanding that such penalties may exceed the general authority granted to units of local government to penalize ordinance violations; and

WHEREAS, it is the clear intention of the Act to provide units of local government with all authority necessary to implement its requirements on the local level regardless of any general limitations on the power to define and punish ordinance violations that might otherwise be applicable; and

WHEREAS, because the Act provides for the imposition of significant penalties for violations of said local regulations, it is necessary to adopt the required regulations by Ordinance rather than by Resolution;

WHEREAS, all prior existing procedures or policies of the **Southern Illinois Economic Development Authority (the "Authority")** shall be superseded by this Ordinance; and

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF DIRECTORS OF THE AUTHORITY, AS FOLLOWS:

Section 1. The Ethics Policy, included as Exhibit A to this Ordinance, is hereby adopted.

Section 2. This ordinance shall be in full force and effect on the date of its passage.

PRESENTED, PASSED, AND APPROVED by the Board of Directors of the Authority this 5th day of November 2020.

SOUTHERN ILLINOIS ECONOMIC DEVELOPMENT AUTHORITY

Chairman

Secretary

SOUTHERN ILLINOIS ECONOMIC DEVELOPMENT AUTHORITY

CONFLICTS OF INTEREST AND ETHICS POLICY

ARTICLE 1

DEFINITIONS

Section 1. Definitions For purposes of this ordinance, the following terms shall be given these definitions:

"Board of Directors" means the members of the Southern Illinois Economic Development Authority (the "Authority").

"Campaign for elective office" means any activity in furtherance of an effort to influence the selection, nomination, election, or appointment of any individual to any federal, State, or local public office or office in a political organization, or the selection, nomination, or election of Presidential or Vice-Presidential electors, but does not include activities (i) relating to the support or opposition of any executive, legislative, or administrative action, (ii) relating to collective bargaining, or (iii) that are otherwise in furtherance of the person's official duties.

"Candidate" means a person who has filed nominating papers or petitions for nomination or election to an elected office, or who has been appointed to fill a vacancy in nomination, and who remains eligible for placement on the ballot at a regular election, as defined in section 1-3 of the Election Code (10 ILCS 5/1-3).

"Collective bargaining" has the same meaning as that term is defined in Section 3 of the Illinois Public Labor Relations Act (5 ILCS 315/3).

"Compensated time" means, with respect to an employee, any time worked by or credited to the employee that counts toward any minimum work time requirement imposed as a condition of his or her employment, but for purposes of this Ordinance, does not include any designated holidays, vacation periods, personal time, compensatory time off or any period when the employee is on a leave of absence. With respect to officers or employees whose hours are not fixed, "compensated time" includes any period of time when the officer is on premises under the control of the employer and any other time when the officer or employee is executing his or her official duties, regardless of location.

"Compensatory time off" means authorized time off earned by or awarded to an employee to compensate in whole or in part for time worked in excess of the minimum work time required of that employee as a condition of his or her employment.

"Contribution" has the same meaning as that term is defined in section 9-1.4 of the Election Code (10 ILCS 5/9-1.4).

"Employee" means a person employed by the Authority, whether on a full-time or part-time basis or pursuant to a contract, whose duties are subject to the direction and control of an employer with regard to the material details of how the work is to be performed but does not include an independent contractor.

"Employer" means the Authority.

"Executive Director" means the Executive Director of the Authority.

"Gift" means any gratuity, discount, entertainment, hospitality, loan, forbearance, or other tangible or intangible item having monetary value including, but not limited to, cash, food and drink, and honoraria for speaking engagements related to or attributable to government employment or the official position of an officer or employee.

"Independent Contractor" means a person or entity contracted to perform work or provide services to the Authority as a nonemployee.

"Leave of absence" means any period during which an employee does not receive (i) compensation for employment, (ii) service credit towards pension benefits, and (iii) health insurance benefits paid for by the employer.

"Officer" means a person who holds, by election or appointment, an office created by statute or ordinance, regardless of whether the officer is compensated for service in his or her official capacity.

"Political activity" means any activity in support of or in connection with any campaign for elective office or any political organization, but does not include activities (1) relating to the support or opposition of any executive, legislative, or administrative action, (2) relating to collective bargaining, or (3) that are otherwise in furtherance of the person's official duties.

"Political organization" means a party, committee, association, fund, or other organization (whether or not incorporated) that is required to file a statement of organization with the State Board of Elections or a county clerk under Section 9-3 of the Election Code (10 ILCS 5/9-3), but only with regard to those activities that require filing with the State Board of Elections or a county clerk.

"Prohibited political activity" means:

(1) Preparing for, organizing, or participating in any political meeting, political rally, political demonstration, or other political event.

(2) Soliciting contributions, including but not limited to the purchase of, selling, distributing, or receiving payment for tickets for any political fundraiser, political meeting, or other political event.

(3) Soliciting, planning the solicitation of, or preparing any document or report regarding anything of value intended as a campaign contribution.

(4) Planning, conducting, or participating in a public opinion poll in connection with a campaign for elective office or on behalf of a political organization for political purposes or for or against any referendum question.

(5) Surveying or gathering information from potential or actual voters in an election to determine probable vote outcome in connection with a campaign for elective office or on behalf of a political organization for political purposes or for or against any referendum question.

(6) Assisting at the polls on election day on behalf of any political organization or candidate for elective office or for or against any referendum question.

(7) Soliciting votes on behalf of a candidate for elective office or a political organization or for or against any referendum question or helping in an effort to get voters to the polls.

(8) Initiating for circulation, preparing, circulating, reviewing, or filing any petition on behalf of a candidate for elective office or for or against any referendum question.

(9) Making contributions on behalf of any candidate for elective office in that capacity or in connection with a campaign for elective office.

(10) Preparing or reviewing responses to candidate questionnaires.

(11) Distributing, preparing for distribution, or mailing campaign literature, campaign signs, or other campaign material on behalf of any candidate for elective office or for or against any referendum question.

(12) Campaigning for any elective office or for or against any referendum question.

(13) Managing or working on a campaign for elective office or for or against any referendum question.

(14) Serving as a delegate, alternate, or proxy to a political party convention.

(15) Participating in any recount or challenge to the outcome of any election.

"Prohibited source" means any person or entity who: (1) is seeking official action (i) by an officer or (ii) by an employee, or by the officer or another employee directing that employee; (2) does business or seeks to do business (i) with the officer or (ii) with an employee, or with the officer or another employee directing that employee; (3) conducts activities regulated (i) by the officer or (ii) by an employee, or by the officer or another employee directing that employee; or (4) has interests that may be substantially affected by the performance or non-performance of the official duties of the officer or employee.

ARTICLE 2 PROHIBITED

POLITICAL ACTIVITIES

Section 1. Prohibited political activities. (a) No officer or employee shall intentionally perform any prohibited political activity during any compensated time, as defined herein. No officer or employee shall intentionally use any property or resources of the Authority in connection with any prohibited political activity. (b) At no time shall any officer or employee intentionally require any other officer or employee to perform any prohibited political activity (i) as part of that officer or employee's duties, (ii) as a condition of employment, or (iii) during any compensated time off (such as holidays, vacation or personal time off). (c) No officer or employee shall be required at any time to participate in any prohibited political activity in consideration for that officer or employee being awarded additional compensation or any benefit, whether in the form of a salary adjustment, bonus, compensatory time off, continued employment or otherwise, nor shall any officer or employee be awarded additional compensation or any benefit in consideration for his or her participation in any prohibited political activity. (d) Nothing in this Section prohibits activities that are permissible for an officer or employee to engage in as part of his or her official duties, or activities that are undertaken by an officer or employee on a voluntary basis which are not prohibited by this Ordinance. (e) No person either (i) in a position that is subject to recognized merit principles of public employment or (ii) in a position the salary for which is paid in whole or in part by federal funds and that is subject to the Federal Standards for a Merit System of Personnel Administration applicable to grant-in-aid programs, shall be denied or deprived of employment or tenure solely because he or she is a member or an officer of a political committee, of a political party, or of a political organization or club.

ARTICLE 3 GIFT

BAN

Section 1. Gift ban. Except as permitted by this Article, no officer or employee, and no spouse of or immediate family member living with any officer or employee (collectively referred to herein as "recipients"), shall intentionally solicit or accept any gift from any prohibited source, as defined herein, or which is otherwise prohibited by law or ordinance. No prohibited source shall intentionally offer or make a gift that violates this Section.

Section 2. Exceptions. Section 1 is not applicable to the following:

- (1) Opportunities, benefits, and services that are available on the same conditions as for the general public.
- (2) Anything for which the officer or employee, or his or her spouse or immediate family member, pays the fair market value.
- (3) Any (i) contribution that is lawfully made under the Election Code or (ii) activities associated with a fundraising event in support of a political organization or candidate.
- (4) Educational materials and missions.
- (5) Travel expenses for a meeting to discuss business.
- (6) A gift from a relative, meaning those people related to the individual as father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, and including the father, mother, grandfather, or grandmother of the individual's spouse and the individual's fiancé or fiancée.
- (7) Anything provided by an individual on the basis of a personal friendship unless the recipient has reason to believe that, under the circumstances, the gift was provided because of the official position or employment of the recipient or his or her spouse or immediate family member and not because of the personal friendship. In determining whether a gift is provided on the basis of personal friendship, the recipient shall consider the circumstances under which the gift was offered, such as: (i) the history of the relationship between the individual giving the gift and the recipient of the gift, including any previous exchange of gifts between those individuals; whether to the actual knowledge of the recipient the individual who gave the gift personally paid for the gift or sought a tax deduction or business reimbursement for the gift; and (iii) whether to the actual knowledge of the recipient the individual who gave the gift also at the same time gave the same or similar gifts to other officers or employees, or their spouses or immediate family members.
- (8) Food or refreshments not exceeding \$75 per person in value on a single calendar day; provided that the food or refreshments are (i) consumed on the premises from which they were purchased or prepared or (ii) catered. For the purposes of this

Section, "catered" means food or refreshments that are purchased ready to consume which are delivered by any means.

(9) Food, refreshments, lodging, transportation, and other benefits resulting from outside business or employment activities (or outside activities that are not connected to the official duties of an officer or employee), if the benefits have not been offered or enhanced because of the official position or employment of the officer or employee, and are customarily provided to others in similar circumstances.

(10) Intra-governmental and inter-governmental gifts. For the purpose of this Act, "intra- governmental gift" means any gift given to an officer or employee from another officer or employee, and "inter-governmental gift" means any gift given to an officer or employee by an officer or employee of another governmental entity.

(11) Bequests, inheritances, and other transfers at death.

(12) Any item or items from any one prohibited source during any calendar year having a cumulative total value of less than \$100.

(13) Each of the exceptions listed in this Section is mutually exclusive and independent of every other.

Section 3. Disposition of gifts. An officer or employee, his or her spouse or an immediate family member living with the officer or employee, does not violate this Ordinance if the recipient promptly takes reasonable action to return a gift from a prohibited source to its source or gives the gift or an amount equal to its value to an appropriate charity that is exempt from income taxation under Section 501 (c)(3) of the Internal Revenue Code of 1986, as now or hereafter amended, renumbered, or succeeded.

ARTICLE 4 ETHICS

OFFICER

Section 1. Ethics Officer. The Executive Director shall be the Ethics Officer for the Authority. The duties of the Ethics Officer may be delegated to an employee of the Authority.

Section 2. Duties of Ethics Officer. The Ethics Officer shall provide guidance to the Board members, officers and employees of the Authority concerning the interpretation of and compliance with the provisions of this Ordinance and State ethics laws. The Ethics Officer shall perform such other duties as may be delegated by the Authority.

ARTICLE 5 ETHICS

COMMITTEE

Section 1. Creation. There is hereby created a committee to be known as the Ethics Committee of the Authority. The Committee shall be comprised of the Chairman and two members of the Board of Directors appointed by the Chairman.

Section 2. Meetings. The meetings of the Ethics Committee shall be held at the call of the Chairman. A quorum shall consist two members, and official action by the Committee shall require the affirmative vote of two members.

Section 3. Removal of Members. The Chairman may remove a committee member in case of incompetency, neglect of duty or malfeasance in office after service on the Ethics Committee by certified mail, return receipt requested, of a copy of the written charges against the committee member 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.

Section 4. Committee Powers. The Committee shall have the following powers and duties: (1) To promulgate procedures and rules governing the performance of its duties and the exercise of its powers, (2) Upon receipt of a signed, notarized, written complaint, to investigate, conduct hearings and deliberations, issue recommendations for disciplinary actions, impose fines in accordance with Section 25-1(c) of this Ordinance and refer violations of Article 5 or Article 10 of this Ordinance to the appropriate attorney for prosecution. The Committee shall, however, act only upon the receipt of a written complaint alleging a violation of this Ordinance and not upon its own prerogative. (3) To receive information from the public pertaining to its investigations and to require additional information and documents from persons who may have violated the provisions of this ordinance. (4) 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 of the Authority to cooperate with the Committee during the course of its investigations. Failure or refusal to cooperate with requests by the Committee shall constitute grounds for discipline or discharge. (5) The powers and duties of the Committee are limited to matters clearly within the purview of this Ordinance.

Section 5. Complaints.

(a) Complaints alleging a violation of this Ordinance shall be filed with the Ethics Committee.

(b) Within 3 business days after the receipt of a complaint, the Committee 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 Committee shall send by certified mail, return receipt requested, a confirmation of the receipt of the complaint to the complainant within 3 business days after receipt by the Committee. 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.

(c) Upon not less than 48 hours' public notice, the Committee 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 Committee shall issue notice to the complainant and the respondent of the Committee's ruling on the sufficiency of the complaint and, if necessary, on probable cause to proceed within 7 business days after receiving the complaint. If the complaint is deemed sufficient to allege a violation of Article 10 of this Ordinance and there is a determination of probable cause, then the Committee's notice to the parties shall include a hearing date scheduled within 4 weeks after the complaint's receipt. Alternatively, the Committee may elect to notify in writing the attorney designated by the corporate authorities 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 Committee 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. If the complaint is deemed sufficient to allege a violation of Article 5 of this Ordinance, then the Committee shall notify in writing the attorney designated by the corporate authorities to prosecute such actions and shall transmit to the attorney the complaint and all additional documents in the custody of the Committee concerning the alleged violation.

(d) On the scheduled date and upon at least 48 hours' public notice of the meeting, the Committee 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.

(e) Within 30 days after the date the hearing or any recessed hearing is concluded, the Committee shall either (i) dismiss the complaint or (ii) issue a recommendation for discipline to the alleged violator and to the Board of Directors, 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.

(f) If the hearing was closed to the public, the respondent may file a written demand for a public hearing on the complaint within 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 14 days after receiving the demand, the Committee 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 7 days thereafter, the Committee shall

publicly issue a final recommendation to the alleged violator and to the Board of Directors or impose a fine upon the violator, or both.

(g) If a complaint is filed during the 60 days preceding the date of any election at which the respondent is a candidate, the Committee shall render its decision as required under subsection (e) within 7 days after the complaint is filed, and during the 7 days preceding that election, the Committee shall render such decision before the date of that election, if possible.

(h) The Committee may fine any person who intentionally violates any provision of Article 3 of this Ordinance in an amount of not less than \$1,001 and not more than \$5,000. The Committee may fine any person who knowingly files a frivolous complaint alleging a violation of this Ordinance in an amount of not less than \$1,001 and not more than \$5,000. The Committee may recommend any appropriate discipline up to and including discharge.

(i) A complaint alleging the violation of this Act must be filed within one year after the alleged violation.

ARTICLE 6 DISCLOSURE AND TRANSPERENCY

Section 1. Disclosure.

(a) The Executive Director or any independent contractor shall disclose to the Board of Directors of the Authority any existing contractual relationship or compensation for services to the Executive Director or independent contractor from any company or entity seeking bond financing, enterprise zone benefits or other services or benefits from the Authority.

ARTICLE 7

PENALTIES

Section 1. Penalties.

(b) A person who intentionally violates any provision of Article 2 - Prohibited Political Activities of this Ordinance may be punished by a term of incarceration in a penal institution other than a penitentiary for a period of not more than 364 days, and may be fined in an amount not to exceed \$2,500.

(c) A person who intentionally violates any provision of Article 3 - Gift Ban of this Ordinance is subject to a fine in an amount of not less than \$1,001 and not more than \$5,000.

(d) Any person who intentionally makes a false report alleging a violation of any provision of this Ordinance to the local enforcement authorities, the State's Attorney or any other law enforcement official may be punished by a term of incarceration in a penal institution other than a penitentiary for a period of not more than 364 days, and may be fined in an amount not to exceed \$2,500.

(e) A violation of Article 3 - Gift Ban of this Ordinance shall be prosecuted as a criminal offense by an attorney for the Authority by filing in the circuit court an information, or sworn complaint, charging such offense. The prosecution shall be under and conform to the rules of criminal procedure. Conviction shall require the establishment of the guilt of the defendant beyond a reasonable doubt. A violation of Article 3 - Gift Ban of this Ordinance may be prosecuted as a quasi- criminal offense by an attorney for the Authority, or, by the Ethics Committee through the designated administrative procedure.

(f) In addition to any other penalty that may be applicable, whether criminal or civil, an officer or employee who intentionally violates any provision of Article 2 - Prohibited Political Activities or Article 3 - Gift Ban is subject to discipline or discharge.

ADOPTED: November 5, 2020