

**SECTION II – ETHICS RULES
(FORMERLY POLICY #26)**

TIOGA COUNTY ETHICS LAW
LOCAL LAW NO. 5 OF THE YEAR 1990 AS AMENDED

Sec.

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I. PURPOSE

The purpose of this law is to create the Tioga County Ethics and Disclosure Law in compliance with Article 18 of the New York State General Municipal Law. The citizenry of Tioga County are entitled to the expectation of exemplary ethical behavior from their county officers, employees and appointed officials, and this law is intended to create the minimum standards which constitute that behavior. This legislation recognizes that varying degrees of professional and governmental responsibility warrant equitable requirements of disclosure in pursuit of official integrity, which must be balanced against individual constitutional rights. Any particulars not determined in this law shall be construed within the provisions of General Municipal Law Article 18.

II. DEFINITIONS

Unless otherwise indicated, the following terms shall be defined such for the purpose of the Tioga County Ethics Law:

- A. "AGENCY" means any of the divisions of County government, referred to in subdivision (d) of this section except the Legislature.
- B. "APPROPRIATE BODY" pursuant to Article 18 of General Municipal Law means the Board of Ethics of the County of Tioga.
- C. "CHILD" means any son, daughter, step-son or step-daughter of a county officer, employee or appointed official if such child is under 18 or is a dependent of the officer, employee or appointed official as defined in the Internal Revenue Code Section 152(a)(1) and (2) and any amendments thereto.
- D. "COUNTY" means the County of Tioga or any department, board, executive division, institution, office, branch, bureau, commission, agency, Legislature or other division or part thereof.
- E. "INTEREST" means a direct or indirect pecuniary or material benefit accruing to a county officer, employee or appointed official, his or her spouse, or child whether as the result of a contract with the County or otherwise. For the purpose of this chapter, a county officer, employee

or appointed official shall be deemed to have an interest in the contract of

1. his/her spouse and children, except a contract of employment with the County;
 2. a firm, partnership or association of which such officer, employee or appointed official or his/her spouse or child is a member or employee;
 3. a corporation of which such officer, employee or appointed official, or his/her spouse or child is an officer or director; and
 4. the outstanding capital stock of a corporation which is owned by an officer, employee or appointed official, or his/her spouse or child.
- F. "LEGISLATION" means a matter which appears upon the calendar or agenda of the County Legislature of Tioga County or upon a committee thereof upon which any official action has been taken and shall include adopted acts, local laws, ordinances or resolutions.
- G. "OFFICER" OR "EMPLOYEE" means any officer or employee of the County of Tioga and any elected officials, appointed officials and heads of any office, branch, division, council, commission, board or bureau of the County of Tioga whether paid or unpaid.
- H. "COUNTY ELECTED OFFICIAL" means the County Executive, a County Legislator, the County Clerk, the District Attorney, the County Coroner, the County Treasurer or Comptroller, the Sheriff and candidates for said elected offices.
- I. "APPOINTED OFFICIAL" means any individual who is appointed by the County Executive or Chair of the County Legislature to any agency, institution, department, office, branch, division, council, commission, board or bureau, whether unpaid or paid.
- J. "RELATIVE" means a spouse or child of a county officer, employee or appointed official.
- K. "REPORTING OFFICER, EMPLOYEE OR APPOINTED OFFICIAL" means an officer, employee or appointed official or a candidate for County elected office who is required to complete and file an annual statement of financial disclosure pursuant to this Local Law.
- L. "SPOUSE" means the husband or wife of an officer employee or appointed official subject to the provisions of this Local Law unless legally separated from such officer, employee or appointed official.
- M. "JURISDICTION" shall mean having authority, capacity, power or right to act with regard to the management and administration of policy and supervision of personnel of the county agency (as defined above at II(a) in which he/she is an officer, employee or appointed official (as defined above at II(g)).
- N. "REPORTING CATEGORY" for the purpose of completing the financial disclosure reports pursuant to Article IV, Section 3 and 4 of this Law, means the category of interest, income, value or worth of said reported items. No exact dollar amounts are to be included in

the completion of the statements of financial disclosure; rather all amounts are to be indicated using the following categories:

- A. \$0 - \$5,000
 - B. \$5,001 - \$10,000
 - C. \$10,001 - \$25,000
 - D. \$25,001 - \$50,000
 - E. \$50,001 - \$100,000
 - F. OVER \$100,001
- O. "CHIEF ELECTED OFFICIAL" means, for the purposes of interpreting this Local Law only, the County Executive, the Chair of the County Legislative board or his or her designee.

III. CODE OF ETHICS

A. PROHIBITED ACTIVITIES

It is the policy of the County Legislature that all officers and employees must avoid conflicts or potential conflicts of interest. A conflict or a potential conflict exists whenever an officer or employee or their relatives as defined above in II(j) has an interest, direct or indirect, which conflicts with their duty to the County or which could adversely affect an individual's judgment in the discharge of his or her responsibilities. No officer or employee shall:

1. Take action or participate in any manner whatsoever in his or her official capacity in the discussion, negotiation or the awarding of any contract or in any business or professional dealings with the County of Tioga or any agency thereof in which the official or employee has or will have an interest, direct or indirect, in such contract or professional dealings.
2. Engage in, solicit, negotiate for or promise to accept private employment or render services for his or her personal benefit when such employment or service creates a conflict or impairs the proper discharge of his or her official duties.
3. Solicit, directly or indirectly, any gifts or receive or accept any gift having the value of Seventy-five (\$75.00) Dollars, or more, whether in the form of money, services, loan, travel, entertainment, hospitality, thing or promise, or in any other form, under circumstances in which it could be reasonably inferred that the gift was intended to influence him or her, or could reasonably be expected to influence him or her in the performance of his or her official duties or was intended as a reward for any official action on his or her part.
4. Disclose confidential financial information acquired in the course of his or her official duties or use such information to further his or her personal interest.
5. Take action on a matter before the County or any instrumentality thereof when, to his or her knowledge, the performance of that action would provide a pecuniary or material benefit to himself or herself.
6. No County employee may simultaneously hold the position of Commissioner of Elections or Deputy Commissioner of Elections and County Chair/Chairperson or Vice-Chairs/Chairpersons of a political party.

IV. DISCLOSURE OF INTEREST

- A. Any officer who has, will have or intends to acquire a direct or indirect interest in any matter being considered by the Legislature of the County of Tioga or by any other official, board, agency, officer or employee of the County of Tioga who participates in the discussion before or who gives an opinion or gives advice to any board, agency or individual considering the same, shall publicly disclose on the official record the nature and the extent of such interest.
- B. Any officer or employee of the County of Tioga who has knowledge of any matter being considered by the board, agency, officer or employee of the County of Tioga in which matter he or she has or will have or intends to acquire any direct or indirect interest, shall be required immediately to disclose, in writing, his or her interest to such board, agency, officer or employee, and the nature and the extent thereof, to the degree that such disclosure give substantial notice of any potential conflict of interest.
- C. The list of positions required to provide a financial disclosure shall be known as Schedule A and will be posted on the **County's Intranet under "Employee Handbook – EH Forms"**. Said list may be amended from time to time by the "Chief Elected Official" in accordance with Article 18 of the New York State General Municipal Law to reflect current County staffing positions.
- D. Financial disclosure shall be accomplished by the completion of a form substantially similar to that of the **form located on the County's Intranet "Employee Handbook-EH Forms"**, which is incorporated by substance by reference herein. Financial disclosure shall be required of all those officers and employees as stated in Article IV(C) above. This statement shall be completed and returned to the Ethics Board on or before May 15 of the year for which the employment is in effect. The financial disclosure form may be inspected by the public in accordance with applicable provisions of law, provided that all categories of value or amount shall be deleted from public inspection.
- E. Any person who is subject to the filing requirements of this Local Law from more than one county may satisfy the requirements by filing only one annual statement of financial disclosure, and filing with the other(s) a notice that such filing has been made, inclusive of the date and place of the filing.
- F. Any person who is subject to the reporting requirements of this Local Law and who has or shall timely file with the Internal Revenue Service an application for automatic extension of time in which to file his/her individual income tax return for the immediately preceding calendar or fiscal year which would extend filing with the IRS beyond May 15 of that year shall be required to submit notice of said application on or before March 31 of the year in which the employment is in effect. Such person shall file a disclosure form, absent only the portions stated within the application for automatic extension, on or before May 15 of the year for which the employment is in effect, and a supplementary statement for any item as so noted on the annual statement of financial disclosure, without liability under Article VIII of this Local Law, if said supplementary statement is filed within fifteen (15) days of the expiration of the automatic extension.

- G. Any person who is required to file an annual statement of financial disclosure may request, prior to May 1 of the year for which the employment is in effect, an extension of filing for an additional specific period of time. Such request shall be made in writing to the Board of Ethics, with approval based upon substantiation of justifiable cause or undue hardship. The Board of Ethics may grant or deny the request, by vote of the membership, and extensions shall be for the specific period of additional time requested.
- H. Any person required to file an annual statement of financial disclosure who becomes so required, or experiences a change in reporting levels after March 15, of the year for which the employment is in effect, shall file the appropriate annual statement within thirty (30) days.

V. ANNUAL CODE OF ETHICS REVIEW

Every official and employee is required to attest on an annual basis that he or she has reviewed the Code of Ethics of the County of Tioga, to be made on or before March 31 of the year for which the employment is in effect. Said attestation is to be filed with the Tioga County Board of Ethics.

VI. ETHICS BOARD

A. ESTABLISHMENT

The Legislature of the County of Tioga, pursuant to Article 18 of the New York State General Municipal Law, hereby establishes the Tioga County Board of Ethics, responsible for ensuring full compliance with this code of ethics and disclosure. The Ethics Board shall consist of seven members, two of whom shall be nominated by the Tioga County Legislature Majority Leader. Two shall be nominated by the Minority Leader of that body except that in the event there is no Minority Leader, then the two otherwise nominated by the Minority Leader shall be nominated by the Majority Leader. Three shall be nominated by the chief Elected Official of Tioga County. No more than two shall be of the same enrolled party affiliation. A majority of the members shall not be officers or employees of the county or municipalities wholly or partially located in the county. At least one member shall be an elected or appointed officer or employee of a municipality located within the county, or an appointed officer or employee of the county, except that no more than one member shall presently be a county officer or employee, and none shall presently hold elected office. All shall be approved by majority vote of the Legislature. Failure to gain approval or in the instance of the creation of a vacancy, such succeeding member shall be determined by the entity through which the original member was selected.

Any action of the Board requires four affirmative votes.

B. MEMBERSHIP

The members of the Ethics Board shall serve staggered 3 year terms, provided that the first appointments to the Ethics Board shall be as follows: one member, appointed by the Chief Elected Official, for a one year term; one member appointed by the Chief Elected Official, one member appointed by the Majority Leader of the Tioga County Legislature and one appointed by the Minority Leader of the Tioga County Legislature, each for a two year term; one member,

appointed by the Chief Elected Official, one member appointed by the Majority Leader of the Tioga County Legislature and one appointed by the Minority Leader of the Tioga County Legislature; each for a three year term. Members of the Ethics Board who have served two full three-year terms may not be reappointed to the Ethics Board for at least one year after the expiration of their last term.

C. REMOVAL

In addition to penalties defined specifically for violation of the Tioga County Ethics Law and other pertinent section of local, state and federal law, members of the Ethics Board may be removed for cause by the County Executive or Chair with the concurrence of two-thirds of the County Legislature. Prior to removal, the Ethics Board members shall be given written notice of the grounds for removal and an opportunity to reply.

D. POWERS AND DUTIES

1. The Board of Ethics shall possess all powers and duties authorized by Section 808 of the General Municipal Law and such powers and duties as set forth in Section 813 of the General Municipal Law as are necessary to perform the functions and duties of said Board.
2. The Board of Ethics shall be the repository for completed annual statements of financial disclosure, pursuant to Section 808(5) of the General Municipal Law and Article IV herein and such written instruments, affidavits and disclosures as required under this Local Law.
3. The Board of Ethics shall possess, exercise and enjoy all the rights powers and privileges necessary and proper to the enforcement of the Code of Ethics and completion and filing by reporting officers, employees and appointed officials of the County of annual statements of financial disclosure required by this act.
4. The Board of Ethics shall promulgate rules and regulations in furtherance of its powers and duties enumerated herein. Said rules and regulations shall include rules governing the conduct of adjudicatory proceedings and appeals relating to the assessment of the civil penalties herein authorized. In addition to any other powers and duties specifically provided by law, the Board shall have the power and duty to:
 - a. Administer and enforce the provisions of this Local Law.
 - b. Conduct any investigation necessary to carry out the provisions of this Local Law. Pursuant to this power and duty, the Board may administer oaths or affirmations, subpoena witnesses, compel their attendance and require the production of any books or records which it may deem relevant or material.
5. The Board of Ethics shall render advisory opinions in writing regarding specific matters pertaining to filings and reporting categories, to officers, employees and appointed officials of the County with respect to this Local Law and Article Eighteen of the General Municipal Law. Such opinions shall be rendered only upon written

request by the officer, employee or appointed official concerning only the subject of the inquiry as it pertains to the requesting individual's own filing requirements.

6. Such opinions shall not be made public or disclosed unless required by the Freedom of Information Law (Public Officers Law Article 6) or required for use in a disciplinary proceeding or proceeding under Article VII of this Local Law involving the officer, employee or appointed official who requested the advisory opinion. Whenever a request for access to an advisory opinion herein is received, the officer, employee or appointed official who requested the opinion shall be notified of the request within forty-eight (48) hours of the receipt of the request. Under no circumstances shall the "Reporting Categories" be disclosed to the public, as stated in New York State General Municipal Law Section 813 (18)(a)(1).
7. The Chief Elected Official shall designate the County Attorney or such other attorney admitted to practice in the State of New York to serve as counsel to the Board of Ethics.
8. The Ethics Board shall be empowered to request support staff assistance from the County Legislature or the Chief Elected Official in furtherance of its duties and responsibilities.

VII. APPEAL OF DESIGNATION OF POLICY MAKING POSITION

Appeal may be taken by the filing of a written petition in opposition to such designation within thirty (30) days from the date that the designation was filed with the Tioga County Board of Ethics. Upon receipt of the petition, the Board of Ethics shall make a determination upon the merits of the application within thirty (30) days.

VIII. PENALTIES

A reporting individual who knowingly and willfully fails to file an annual statement of financial disclosure or who knowingly and willfully with intent to deceive makes a false statement or give information which such individual knows to be false on such statement of financial disclosure filed pursuant to this Section shall be assessed a civil penalty in an amount not to exceed Ten Thousand Dollars. Assessment of a civil penalty hereunder shall be made by the Tioga County Board of Ethics. For a violation of this Section, other than for conduct which constitutes a violation of subdivision twelve of Section seventy-three of the Public Officers Law, the Tioga County Board of ethics may, in lieu of a civil penalty, refer a violation to the appropriate prosecutor and upon such conviction, but only after such referral, such violation shall be punishable as a Class A misdemeanor. A civil penalty for false filing may not be imposed hereunder in the event a category of "value" or "amount" reported hereunder is incorrect unless such reported information is falsely understated. Upon an appropriate determination and vote, the Tioga County Ethics Board may file a written recommendation with the Chief Elected Official or other disciplinary body, establishing grounds for removal for cause, in accordance with other

provision of the Tioga County Laws pertaining to officers, officials and employees and rules governing conduct. Notwithstanding any other provision of law to the contrary, no other penalty, civil or criminal may be imposed for a failure to file, or for a false filing, of such statement, except that the appointing authority may impose disciplinary action as otherwise provided by law. The Tioga County Board of Ethics shall adopt rules governing the conduct of adjudicatory proceedings and appeals relating to the assessment of the civil penalties herein authorized. Such rules shall provide for due process procedural mechanisms substantially similar to those set forth in Article Three of the State Administrative Procedure Act but such mechanisms need not be identical in terms or scope. Assessment of a civil penalty shall be final unless modified, suspended or vacated within thirty days of impositions and upon becoming final shall be subject to review at the instance of the affected reporting individual in a proceeding commenced against the Tioga County Board of Ethics pursuant to Article seventy-eight of the Civil Practice Law and Rules.

IX. ANNUAL STATEMENT OF FINANCIAL DISCLOSURE

The Tioga County Legislature hereby designates **the form located on the County's Intranet "Employee Handbook-EH Forms"**, as the official annual statement of financial disclosure for the purposes of fulfilling the requirements of Article IV, Section C and D respectively, of the Tioga County Ethics and Disclosure Law.

**TIOGA COUNTY BOARD OF ETHICS
REGULATION FOR EXTENSION OF TIME FOR FILING
A FINANCIAL DISCLOSURE STATEMENT DUE TO
JUSTIFIABLE CAUSE OR UNDUE HARDSHIP OR
AUTOMATIC EXTENSION OF TIME TO FILE**

Sec.

- I. Definitions
- II. Basis for Extension
- III. Procedure
- IV. Board Action
- V. Automatic Extension

I. DEFINITIONS

- A. **"ANNUAL STATEMENT"** shall mean the annual statement of financial disclosure filed with the Board pursuant to Local Law No. 5 for the year 1990.
- B. **"BOARD"** shall mean the Board of Ethics for Tioga County, established pursuant to Local Law No. 5 for the year 1990.
- C. **"COVERED INDIVIDUAL"** shall mean an individual who is required to file an Annual Statement with the Board pursuant to Article IV, Section 4 of Local Law No. 5 for the year 1990.
- D. **"FILING DATE"** shall mean the date by which a covered individual must file his Annual Statement with the Board, as fixed by Article IV of Local Law No. 5 for the year 1990.
- E. **"MODIFIED FILING DATE"** shall have the meaning ascribed to it in Section III(B) of this regulation.

II. BASIS FOR EXTENSION

The filing date or modified filing date for a covered individual may be extended only upon a showing of:

- A. justifiable cause; or
- B. undue hardship

III. PROCEDURE

- A. The request for an extension shall be mailed to the Board in care of the Tioga County Attorney, 56 Main Street, Owego, NY 13827 by certified mail or shall be delivered by hand. Upon request, a receipt shall be issued for hand delivery. A request for an extension of the filing date must be postmarked or delivered to the Board, no later than fifteen (15) calendar days before the filing date.

- B. In the event an individual, through hiring, appointment, promotion, election or other designation becomes a covered individual either after the filing date or less than thirty (30) calendar days before the filing date, that individual shall file his or her Annual Statement with the Board within thirty (30) days after the event making him or her a covered individual (hereinafter referred to as the "modified filing date"). That individual may request an extension of the modified filing date. That request must be postmarked, or delivered to the Board during the thirty day period before the modified filing date.
- C. The request for an extension of the filing date or modified filing date must contain the following information:
 - 1. The name of the covered individual, home address and work address;
 - 2. The title of the position or job classification under which the individual is employed;
 - 3. Documentation of justifiable cause or undue hardship in the form of a written statement, with copies of any necessary supporting documents the covered individual wishes the Board to consider in granting or denying the request; and
 - 4. The specific period of time for which the covered individual wishes to be granted an extension, including a date certain upon which the covered individual intends to comply with the filing requirements, provided however that no extension under these rules and regulations shall extend for more than forty-five (45) days after the filing date for that individual. In the case of an individual who is hired, appointed, elected or otherwise designated as a covered individual, either after the filing date or less than thirty (30) days before that date, no regulations shall extend for more than forty-five (45) days after the modified filing date. In addition, in the case of candidates for local elected office, no extension shall extend beyond the tenth (10th) day before the general or primary election in which the individual is a candidate.

IV. BOARD ACTION

- A. Upon receipt of a timely request from a covered individual for an extension of the filing date or modified filing date, the Board shall review the material filed to determine whether there has been a showing of justifiable cause or undue hardship. Extensions shall not be granted upon a general statement that undue hardship or justifiable cause exists. The terms "*justifiable cause*" and "*undue hardship*" shall mean more than mere inconvenience to the covered individual.

- B. The Board may request additional information from the covered individual who submitted the request. The individual shall then submit the additional information to the Board within ten (10) business days after the Board's request, either by certified mail or by hand delivery to the Board. In the event the Board does not receive the additional information within ten (10) business days, the Board may make a determination on the basis of the information it has available.
- C. The Board shall notify the covered individual of its determination on the request for an extension of the filing date or modified filing date.
 - 1. If the request is approved, the Annual Statement shall be filed on the date indicated by the Board in its determination issued to the covered individual.
 - 2. If the request for an extension is denied, the covered individual must file the Annual Statement by the filing date or the modified filing date or on the date indicated by the Board in its determination.

V. AUTOMATIC EXTENSION

- A. In the event a covered individual has (i) timely filed with the Internal Revenue Service an application for automatic extension of time in which to file his or her individual income tax return for the immediately preceding calendar or fiscal year; and (ii) lacks sufficient information to complete his or her Annual Statement, that individual shall file with the Board on or before March 31, with respect to any item of the Annual Statement which he or she cannot complete, a written statement that the information is lacking from the Annual Statement but that it will be supplied in a supplementary statement of financial disclosure on or before the fifteenth (15th) day after the expiration of the period of the automatic extension of time to /file the income tax return.
- B. The written statement filed with the Board concerning an automatic extension of time to file must contain the following information:
 - 1. The name of the covered individual, home address and work address;
 - 2. The title of the position or job classification under which the individual is employed;
 - 3. A copy of the application for automatic extension to file an income tax return; and
 - 4. A description of the information which is lacking in the filed Annual Statement as a result of the application for an automatic extension to file an income tax return with the Internal Revenue Service.

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- C. An individual who is entitled to an automatic extension to file his or her income tax return with the Internal Revenue Service must still file his or her Annual Statement on or before the filing date or modified filing date. That Annual Statement must contain all of the information otherwise required by the Annual Statement.
- D. Failure to file the supplementary statement, or filing an incomplete or deficient supplementary statement, shall be deemed a failure to file an Annual Statement.

**TIOGA COUNTY BOARD OF ETHICS
REGULATION FOR PROCEDURE FOR REQUESTING AN
EXEMPTION FROM FILING A
FINANCIAL DISCLOSURE STATEMENT**

Sec.

- I. Definitions
- II. Procedures
- III. Board Action

I. DEFINITIONS

- A. **"ANNUAL STATEMENT"** shall mean the annual statement of financial disclosure filed with the Board pursuant to Local Law No. 5 for the year 1990.
- B. **"APPOINTING AUTHORITY"** shall mean that individual or body which has the authority by law, rule or regulation to appoint a person to a position, or that individual or body to whom that authority may be properly delegated by law, rule or regulation.
- C. **"BOARD"** shall mean the Board of Ethics for Tioga County, established under Local Law No. 5 for the year 1990.
- D. **"EXEMPTIONS"** shall mean a waiver of the requirement that an individual file an Annual Statement.
- E. **"LOCAL AGENCY"** shall mean any agency, department, division, board, commission or bureau of Tioga County.
- F. **"EMPLOYEE"** shall mean any officer or employee of Tioga County who is neither
 - 1. a local elected official; nor
 - 2. a local officer or employee.

For purposes of this definition, the terms "local elected official" and "local officer or employee" shall have the meanings ascribed to those terms by subdivisions (2) and (3), respectively, of General Municipal Law Section 810.

- G. **"TITLE"** shall mean the name of the position or job in which an employee serves.
- H. **"JOB CLASSIFICATION"** shall mean a series of titles which may be included under one classification standard or may be part of a promotional series which may be considered together for purposes of these regulations.

- I. **“EMPLOYEE ORGANIZATION”** shall mean an employee organization which is recognized or certified pursuant to Civil Service Law Section 204 to represent public employees of a public employer.
- J. **“DISQUALIFYING DUTIES”** shall mean duties performed by an employee involving the negotiation, authorization or approval of those matters listed in General Municipal Law Section 813(9)(k)(i) -(iv).

II. PROCEDURES

- A. A request for an exemption may be made either by an individual employee or by an employee organization or local agency acting on behalf of employees who share the same title or job classification. The request shall be filed with the Board by April
- B. The request for an extension shall be mailed to the Board in care of the County Attorney, 56 Main Street, Owego, NY 13827, by certified mail, or shall be delivered by hand. Upon request, a receipt shall be issued for a hand delivery.
- C. The request for exemption shall include the following information:
 - 1. If the request is made on an individual basis, the name and home and business address of the employee; if the request is made on behalf of employees sharing the same title or job classification, the name of the employee organization or local agency making the request and the name and address of the individual authorized to make the request for that employee organization or local agency;
 - 2. The title or job classification of the position for which the exemption is sought;
 - 3. If the request is being made by a local agency or employee organization, a list of all local agencies where the title or job classification is located;
 - 4. A copy of the job description or specification for the title or job classification for which the exemption is requested;
 - 5. A statement accompanied by supporting documentation, that the title or job classification does not involve the performance of disqualifying duties.
- D. The request for exemption must be signed by the employee requesting the exemption or by the authorized representative of the employee organization or local agency making the request on behalf of employees with the same title or job classification.
- E.
 - 1. An individual or employee organization which files a request for exemption must also file a copy of the request with the appointing authority of the local agency or agencies where the title of job classification is located.

2. Within seven (7) working days the appointing authority may file a written objection to the request with the Board based solely on the ground that the duties of the title or job classification do not permit an exemption to be granted. The appointing authority shall also send forthwith a copy of the objection to the individual or employee organization, as appropriate.
3. The individual or employee organization, as appropriate, may within seven (7) working days file a written response to the objection of the appointing authority with the Board. The written response shall also be filed with the appointing authority.
4. If no filing under paragraph (II) or (III) of this section occurs within the time limits provided, the Board may act upon the request for exemption based on the material available to it.

III. BOARD ACTION

- A. Upon receipt of a request for an exemption, the Board shall review the material filed to determine whether the duties of the title or job classification include any disqualifying duties. If no further information is required, the Board shall render its decision on the request.
- B. If the Board determines that additional information is necessary before making a determination, it may request that assistance of any employee or official of Tioga County, and that employee or official shall furnish that assistance in a timely manner.
- C.
 1. Upon a determination that the title or job classification does not involve the performance of disqualifying duties, the Board shall, if it determines it is in the public interest, grant the exemption on an individual, title or job classification basis, as requested.
 2. Upon a determination that the title or job classification does involve the performance of disqualifying duties, the Board shall deny the request for an exemption.
 3. Where the Board determines that it is in the public interest to request that an individual file an Annual Statement, even though the duties may not exclude an exemption, the Board may require the employee who serves in the title or job classification to file a modified form of the financial disclosure statement, which shall contain only that information which the Board determines is appropriate and necessary for that title or job classification.
- D. The Board shall give written notification of its determination to the requesting employee or employee organization or local agency, as

appropriate. Any determination, other than a determination to grant the request, shall contain written findings of fact in support of the determination.

- E. A request for an exemption does not extend the deadline for filing the Annual Statement. The party requesting the exemption may, under compelling circumstances, apply to the Board for an extension to submit an Annual Statement until the exemption requested is acted upon by the Board. Only in special circumstances, as determined by the Board, will an extension for submission of an Annual Statement be granted because of a pending exemption request.
- F. Once an exemption is granted, all employees covered by the exemption shall not be required to submit Annual Statements for subsequent years unless:
 - 1. The employee is appointed or promoted to a new title or job classification for which filing is required;
 - 2. The duties of the title or job classification change to include disqualifying duties; or
 - 3. The Board, upon review of its determination to grant the exemption, determines that exemption is no longer allowable under the law or this regulation or is no longer in the public interest. However, no such determination shall be made without giving the original parties to the request an opportunity to submit written objections. In addition, any such determination shall be in writing and supported by written findings of fact.

**TIOGA COUNTY BOARD OF ETHICS
REGULATION FOR ADJUDICATORY PROCEEDINGS**

Sec.

- I. Intent and Purpose
- II. Definitions
- III. Notice of Hearing or Proceeding (Form)
- IV. Time and Place of Hearing or Proceeding
- V. Evidence and Proof
- VI. Representation
- VII. Oaths
- VIII. Adjournments
- IX. Time Limits
- X. Decision after Hearing or Proceeding
- XI. Conduct of Hearings
- XII. Hearing Officer
- XIII. Powers and Duties of Hearing Officer
- XIV. Fines, Penalties
- XV. Record of Hearing or Proceeding
- XVI. Privacy / Confidentiality

I. INTENT AND PURPOSE

The Board of Ethics of Tioga County has statutory authority to adopt rules and regulations governing the conduct of adjudicatory proceedings and appeals relating to the assessment of the civil penalties authorized by General Municipal Law Section 812(6), as added by the Ethics in Government Act, and the conduct of hearings held under Article VI, Section 4 of Local Law No. 5 for the year 1990. In adjudicatory proceedings undertaken pursuant to these regulations, it is the intention and purpose of the Board of Ethics to afford all parties due process protection and fair and just resolution of all matters. The purpose of the Ethics in Government Act is to restore public trust and confidence in government. Effective enforcement, including adjudication, will help to accomplish that purpose.

II. DEFINITIONS

- A. **"BOARD"** shall mean the Board of Ethics established pursuant to Article VI, Section 1 of Local Law No. 5 for the year 1990.
- B. **"ETHICS IN GOVERNMENT ACT"** shall mean Chapter 813 of the Laws of 1987, as amended.

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- C. **"ANNUAL STATEMENT"** shall mean the annual statement of financial disclosure which is required to be filed with the Board pursuant to Local Law No. 5 of the year 1990.
- D. **"HEARING OFFICER"** shall mean the presiding officer in adjudicatory hearings or proceedings conducted pursuant to these regulations.

III. NOTICE OF HEARING OR PROCEEDING (FORM)

- A. Where the Board elects to go forward with a proceeding to determine whether a civil penalty should be assessed pursuant to General Municipal Law Section 812(6) and Local Law No. 5 for the year 1990, or to take such other action as may be authorized by law, the Board shall serve a written notice, by certified mail or other appropriate method of service authorized under the Civil Practice Law and Rules, to the parties and their representatives of record at least twenty (20) calendar days prior to the date of any hearing or proceeding under these rules. The Notice of Hearing or Proceeding shall contain the following:
1. A statement of the time and place of the hearing or proceeding;
 2. A statement of the nature of the hearing or proceeding;
 3. Reference to the particular statutes and rules relevant to the hearing or proceeding;
 4. A short, plain language statement of the violations asserted; and
 5. A statement for hearing impaired parties and participants concerning the provision of deaf interpretation services without charge.
- B. A copy of these rules shall accompany each Notice of Hearing or Proceeding which is sent pursuant to these regulations.
- C. The Notice of Hearing or Proceeding shall contain information concerning circumstances under which an adjournment may be granted and the result of failure to appear for a scheduled hearing or proceeding.
- D. The Notice of Hearing or Proceeding shall inform the parties and their representatives of the right of each party to be represented, to testify, to produce witnesses, to present documentary evidence and to examine opposing witnesses and evidence.

IV. TIME AND PLACE OF HEARING OR PROCEEDING

- A. The time and place of the hearing or proceeding shall be contained in the Notice of Hearing or Proceeding.
- B. The time and place of the hearing or proceeding shall not be changed unless a party formally requests a change pursuant to the adjournment request procedure contained in Section 8.
- C. The time and place of the hearing or proceeding shall, as far as practicable, take into account the convenience of the parties and the availability of witnesses.

V. EVIDENCE AND PROOF

- A. The formal rules of evidence do not apply to adjudicatory hearings or proceedings conducted pursuant to these rules. However, the rules of privilege recognized by law shall be given effect. Objections to evidentiary offers may be made and shall be a part of the record. Subject to these rules, any party may, for the purpose of expediting the hearing or proceeding and when the interests of the parties will not be substantially prejudiced thereby, submit all or part of the evidence in written form.
- B. The hearing officer may exclude irrelevant or unduly repetitive evidence or cross-examination from any hearing or proceeding.
- C. The burden of proof shall be on the party who initiated the hearing or proceeding, unless otherwise provided by statute.
- D. No decision or determination by the hearing officer or the Board shall be made except on consideration of the record as a whole, or such portions thereof as may be cited by any part to the hearing or proceeding and as supported by and in accordance with substantial evidence.
- E. Each party shall have the right of cross-examination.
- F. Official notice may be taken of all facts of which judicial notice may be taken and of other facts within the specialized knowledge of the Board. When official notice is taken, every party shall be given notice thereof and shall, on timely request, be afforded an opportunity prior to decision to dispute the fact or its materiality.
- G. All findings of fact shall be based exclusively on the evidence in the record and on matters officially noticed.

VI. REPRESENTATION

Any person compelled to appear in person, or who voluntarily appeared in any hearing or proceeding conducted according to these rules, shall be accorded the right to be accompanied, represented and advised by counsel. Nothing herein shall be construed either to grant or to deny to any person who is not a lawyer the right to appear for or represent others in any hearing or proceeding herein.

VII. OATHS

- A. All oaths required by these rules may be taken before any person authorized to administer oaths within the State of New York.
- B. Oaths shall be administered to all witnesses who testify or appear in any hearing or proceeding conducted pursuant to these rules.

VIII. ADJOURNMENTS

- A. Adjournment of any hearing or proceeding conducted pursuant to these rules shall be granted only for good cause.
- B. Written requests for adjournment shall be submitted to the hearing officer in the hearing or proceeding for which the adjournment is sought. The request must be accompanied by an affidavit which contains sufficient detail to allow the hearing officer to rule on the request.

IX. TIME LIMITS

- A. Under these rules adjudicatory proceedings shall be conducted in an expeditious manner with all due regard for the rights of the parties concerned. Every effort should be made by the parties to effectuate a speedy disposition of the case.
- B. Parties to any hearing or proceeding are required to file all papers, statements, proofs and other evidence with the hearing officer at a time to be designated by the officer. An extension of time for filing those items will be granted by the hearing officer only upon formal request.

X. DECISION AFTER HEARING OR PROCEEDING

- A. All final recommendations of the hearing officer, and all decisions and determinations of the Board, shall be in writing or stated in the record and shall include findings of fact, conclusions of law and reasons for the decision or determination and, when appropriate, shall direct that specific action be taken by the parties. The final decisions or determinations of the Board shall be binding upon the Board.
- B. A copy of all final decisions and determinations of the Board and recommendations of the hearing officer shall be made available to the parties to the hearing or proceeding, and shall be delivered or mailed forthwith to each party and to its representative of record.
- C. Except as required for the disposition of ex parte matters authorized by law, members or employees of the Board assigned to make a determination or decision, or to make findings of fact and conclusions of law in any hearing or proceeding shall not communicate directly or indirectly, in connection with any issue of fact, with any person or party, nor in connection with any issue of law, with any party or its representative, except upon notice and opportunity for all parties to participate. Any member or employee of the Board may communicate with other members or employees and may have the aid and advice of agency staff, other than staff which has been or is engaged in the investigative or prosecuting

functions in connection with the case under consideration or a factually related case.

- D. The Board shall maintain the final decision or determination in any hearing or proceeding in a file with an index by name of party and subject matter. The index and the notice of civil assessment, if any, shall not be made available for public inspection and copying except as provided in Section 16 of these rules. Each decision or determination shall be so filed and indexed within sixty (60) days after having been rendered.

XI. CONDUCT OF HEARINGS

The hearing officer, exercising discretion, may elect to conduct any hearing or proceeding under these rules *ex parte* after a showing that the party who is the subject of the hearing and its representative of record have been notified by certified mail of the pending hearing or proceeding or otherwise served with notice of the hearing. The party who is the subject of the hearing shall at no time be deprived of the opportunity to appear. However if a party has been served with two (2) written notices of a hearing and fails to appear after each notice, the hearing officer, upon proof of service, shall have the authority to proceed with the scheduled hearing. Proof of service shall consist of a signed certified mail receipt or affidavit.

XII. HEARING OFFICER

All hearings or proceedings under these rules shall be conducted by a hearing officer, designated by the Chair of the Board, who shall have the power and authority of presiding officers or hearing officers as defined by the State Administrative Procedure Act (SPA), any other pertinent statute or local law, ordinance or resolution and these regulations. The hearing officer shall be an individual who has in no way been involved with the action or proceeding in question.

XIII. POWERS AND DUTIES OF HEARING OFFICER

A hearing officer is authorized to do the following in any hearing or proceeding to which he or she is assigned:

- A. Administer oaths and affirmations;
- B. At the request of any party, sign and issue subpoenas in the name of the Board requiring the attendance and giving of testimony by witnesses and the production of books, papers, documents and other evidence. subpoenas shall be regulated by the Civil Practice Law and rules. Nothing herein contained shall affect the authority of

- an attorney for a party to issue such subpoenas under the provisions of the Civil Practice Law and Rules;
- C. Provide for the taking of testimony by deposition;
 - D. Regulate the course of the hearings, set the time and place for continued hearings and the time for filing of briefs and other documents;
 - E. Direct the parties to appear and confer to consider the simplification or settlement of the issues by consent of the parties; and
 - F. Prepare findings of fact and recommendations.

XIV. FINES AND PENALTIES

- A. At the close of the hearing or proceeding, the hearing officer shall make findings of fact and a recommendation as to the appropriate penalty or fine to be assessed or any other action to be taken. The proposed findings of fact and recommendation shall be transmitted to the Board for approval and simultaneously mailed or delivered to the parties to the proceeding. The parties shall have an opportunity to respond in writing, in the form of a brief, to the findings of fact and recommendation of the hearing officer, and such written response shall be directed to the Board for its consideration within fifteen (15) days after the submission of the hearing officer's recommendation to the Board. In their brief submitted in response to the findings of fact and recommendation of the hearing officer, the parties may not submit or discuss evidence which is not a part of the official record of the hearing or proceeding. The Board shall act on the finds of fact and recommendation as expeditiously as possible. The Board may affirm or reverse the findings of fact and recommendation of the hearing officer in whole or in part, or it may remand and/or dismiss the proceeding based upon the record produced at the hearing.
- B. The assessment of civil penalties under the applicable law and procedures shall not preclude the referral of an appropriate violation to a prosecutor for prosecution of criminal charges, except where the violation is imposed under General Municipal Law Section 812(6) for failure to file or a false filing of an Annual Statement.
- C. If the alleged violation has been established, and the Board determines in light of all the circumstances that the violation is not serious enough to warrant assessment of a civil penalty, or if the imposition of civil penalties is not otherwise authorized by law, the Board in its discretion may take such other action as appropriate, including but not limited to a written admonition or a recommendation that disciplinary action be taken or a referral to a prosecutor for prosecution of criminal charges. The Board may forward a copy of such admonition or recommendation for

disciplinary action to the individual's appointing authority, as appropriate.

XV. RECORD OF HEARING OR PROCEEDING

- A. The record in hearings or proceeding under these rules shall include:
 - 1. All notices, pleadings, motions and intermediate rulings;
 - 2. Evidence presented;
 - 3. A statement of matters officially notice, except matters so obvious that a statement of them would serve no useful purpose;
 - 4. Questions and offers of proof, objections thereto and rulings thereon;
 - 5. Proposed findings and exceptions, if any;
 - 6. Any findings of fact, conclusions of law or other recommendations made by the hearing officer; and
 - 7. Any decision, determination, opinion, order or report rendered.
- B. The Board shall make a complete record of all hearings and proceedings conducted before it. For this purpose unless otherwise required by statute, the Board may use whatever means it deems appropriate, including but not limited to the use of stenographic transcriptions or electronic recording devices. Within a reasonable time after the Board gives notice of its decision, determination, opinion or order, but before commencement of judicial review, any party to the hearing or proceeding may request the Board to prepare the record or any part thereof, together with any transcript of the hearing or proceeding or any part thereof. The Board shall then prepare the requested portions of the record and transcript within a reasonable time and furnish a copy to the requesting party. Except when any statute provides otherwise, the Board shall charge the reasonable cost of preparing and furnishing the requested portions of the record and transcript.

XVI. PRIVACY / CONFIDENTIALITY

- A. Notwithstanding the provisions of Article 6 of the Public Officers Law, the only records of the Board which shall be available for public inspection are:
 - 1. The information set forth in the Annual Statement, except the categories of value or amount, which shall remain confidential, and any other item of information deleted pursuant to Local Law No. 5 of the year 1990;
 - 2. Notices of delinquency sent under Local Law No. 5 of the year 1990;

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3. Notices of reasonable cause sent under Local Law No. 5 of the year 1990;
 4. Notices of civil assessment imposed under General Municipal Law Section 812(6).
- B. Notwithstanding the provisions of Article 7 of the Public Officers Law, no meeting or proceeding of the Board shall be open to the public, except as expressly provided otherwise by the Board.
- C. Information which would reveal confidential material protected by federal or state statute shall be deleted from any final decision, order, determination or declaration issued by the Board.

**TIOGA COUNTY BOARD OF ETHICS REGULATION FOR
PUBLIC INSPECTION OF ANNUAL STATEMENTS OF
FINANCIAL DISCLOSURE**

Sec.

- I. Definitions
- II. Scope
- III. Statements Access Officer
- IV. List of Statements
- V. Requests for Inspection
- VI. Inspection
- VII. Notice to Subjects of Request for Public Inspection

I. DEFINITIONS

- A. **"ANNUAL STATEMENT"** shall mean the annual statement of financial disclosure filed with the Board pursuant to Article IV of Local Law No. 5 of the year 1990.
- B. **"BOARD"** shall mean the Board of Ethics for Tioga County, established pursuant to Local Law No. 5 of the year 1990.

II. SCOPE

The Board shall make available for public inspection the information set forth in an Annual Statement, except that the categories of value or amount set forth in the Annual Statement and any other item pursuant to Article VI of Local Law No. 5 of the year 1990 shall remain confidential and not be available for public inspection.

III. STATEMENTS ACCESS OFFICER

The County Attorney is hereby designated as the Statements Access Officer. The Statements Access Officer shall:

- A. Coordinate the Board's response to requests for public inspection of Annual Statements;
- B. Provide information concerning the location of the Annual Statements, maintain the current list of Annual Statements provided for in Section 4 of this regulation and respond to all inquiries relating to the availability to the public of the Annual Statements;
- C. Receive and process requests for public inspection of Annual Statements in the manner provided in these regulations; and

- D. Designate one or more members of the staff of the Board, as necessary, to serve as Assistant Statements Access Officer, and such assistants shall have the same function and responsibilities as the Statements Access Officer, except for the power to designate other assistants.

IV. LIST OF STATEMENTS

The Statements Access Officer shall maintain and make available for public inspection a current list of those Annual Statements which are available for public inspection. The list shall be sufficiently detailed to permit the requester to identify the Annual Statement sought. The list shall be updated periodically, as required, to add any additional Annual Statements that have been filed.

V – REQUESTS FOR INSPECTION OR COPY OF ANNUAL STATEMENT

- A. Members of the public shall be permitted to inspect or obtain a copy of an Annual Statement by submitting in writing a request on a form provided by the Board for such purposes.
- B. The request shall be filed with the Statements Access officer at 56 Main Street, Suite 204, Owego, New York 13827 or such other address as the Board shall designate.
- C. (1) The Statements Access Officer shall respond to a request as soon as possible, but no later than five (5) business days after the day of the receipt of the request.
(2) If more than five (5) business days are required to fulfill a request, the Statements Access Officer shall issue an acknowledgment of the receipt of the request within five (5) business days after the request is received. The acknowledgement shall include an estimate of the date that the Annual Statement shall be available.
- D. A request shall contain the name of the individual whose Statement is sought; and
 - (1) The local agency/department by which the officer or employee is employed or with which he or she is affiliated; or
 - (2) The local elected office held; or
 - (3) The local political party office held; or
 - (4) The local elected office for which the individual is a candidate.
- E. The Statements Access Officer shall delete from public inspection the categories of value or amount contained in the Annual Statement and any other item of information required to be deleted from the Statement in accordance with state, federal, and local laws.
- F. No original Annual Statement shall be removed from the custody of the Board or the Statements Access Officer.

VI. – NOTICE OF SUBJECTS OF REQUEST FOR PUBLIC INSPECTION

Any person who wishes to know if he or she has been the subject of a request for inspection or copy may request from the Board notification of whether such a request has been filed.