

ETHICS POLICIES

Adopted May 23, 1995

Amended September 21, 1999

PREAMBLE TO THE ETHICS POLICY

Holders of public office should strive to:

1. Put loyalty to the highest moral principles and to put country above loyalty to government persons, party, or department.
2. Uphold the Constitution, laws, and legal regulations of the United States, the State of Michigan, Ingham County, and of all governments therein and never be a party to their evasion.
3. Seek to find and employ more efficient and economical ways of getting tasks accomplished.
4. Never discriminate unfairly by the dispensing of special favors or privileges to anyone, whether for remuneration or not; and never accept for him or herself or his or her family, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of his or her governmental duties.
5. Engage in no business with the government, either directly or indirectly, which is inconsistent with the conscientious performance of their governmental duties.
6. Never use any information coming to him or her confidentially in the performance of governmental duties as a means for making private profit.
7. Expose corruption wherever discovered.
8. Uphold these principles, ever conscious that public office is a public trust.

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RESOLUTION ADOPTING ETHICS POLICIES FOR THE BOARD OF COMMISSIONERS

Introduced by the Administrative Services/Personnel and Finance Committees:

WHEREAS, Ingham County government has compiled an admirable record of efficiency, honesty and openness, and

WHEREAS, the Board of Commissioners wishes to protect and extend that proven record, and

WHEREAS, from time to time circumstances arise which may bring a Commissioner's public duties into conflict with a private role, and

WHEREAS, such conflicts may arise from circumstances which are innocent, unexpected, complicated, or ambiguous, and

WHEREAS, state law is of very limited usefulness in resolving many situations that arise, and

WHEREAS, members of the Board, as well as County staff, would often benefit from clearer rules and the existence of a neutral mechanism for resolving controversy, and

WHEREAS, public confidence would be well served by adopting such changes and safeguarding Ingham County's reputation.

THEREFORE BE IT RESOLVED, it is the policy of Ingham County to encourage persons with sincere concerns about ethical matters to come forward, even if upon examination, those concerns turn out not to be substantiated. It is therefore the policy of Ingham County to provide all possible protection against reprisal to such persons.

BE IT FURTHER RESOLVED, the Board of Commissioners hereby adopts the attached Ethics Policy Handbook as the official policy of Ingham County.

BE IT FURTHER RESOLVED, the County Clerk is directed to reproduce the Handbook in an inexpensive format and to provide single copies free of charge to each Commissioner, to each person who files as a candidate for election to the office of County Commissioner, and to any other person who requests a copy.

BE IT FURTHER RESOLVED, the Board of Commissioners requests each of the other County elected officials to consider these policies, consider how they might be applied and to ask them to try to follow them to the greatest practical extent in administering the offices to which the public as elected them.

ADMINISTRATIVE SERVICES/PERSONNEL

Yeas: McDonald, Foster, Smiley, Mowen, Pratt,
Schafer, Johnson

Nays: None

Absent: None

Approved 04/18/95

FINANCE

Yeas: Goulet, Grebner, McDonald,
Czarnecki, Gallagher

Nays: None

Absent: None

Approved 05/17/95

INTRODUCTION

This manual is intended to provide guidance in resolving the ethical problems which arise out of conflicts between County Commissioners' public roles on the one hand, and such private roles as business owner, family member, or political candidate on the other.

These policies are derived from observation of the real problems which have arisen in Ingham County government during three decades, combined with a focus on the practical steps which might have helped to prevent or minimize those problems if they had been in effect. It does not borrow heavily on rules that have been proposed or adopted elsewhere. It does not generally attempt to direct the conduct of elected officials other than the County Commissioners, except indirectly by shaping general County policy on hiring or purchases, or by setting an example worthy of emulation.

The most difficult problems in ethics seem to arise primarily where a person's public and private roles come into contact and potential conflict. County Commissioners are on one hand chosen in a formal election process to be abstract instruments of public policy, exercising governmental power in the pursuit of the public welfare. But of course, they remain *people* with families, careers, and financial needs. Most times one role or the other is in clear command, but there are crucial moments where it is necessary to shift between public and private roles—when for an instant neither the elected official nor any onlooker could say for certain which role predominates. The essential problem of governmental ethics is finding and implementing strategies for dealing with the problems that arise at that boundary.

This manual was not drawn up in an atmosphere of crisis. Ingham County has generally been well run and ethical problems have generally been kept under good control through a combination of informal institutional arrangements and good will among the participants. Even without much in the way of written policy, the Board has avoided such common problems as nepotism in hiring, favoritism in the award of contracts, and misapplication of public funds. The motivation for this manual is to ensure the continuation of that record, and to create procedures that reinforce the existing protections.

Anyone—including Commissioners, employees, and members of the public—who suspects that unethical behavior is occurring is encouraged to express their concerns to appropriate authorities. Before any formal process has begun, the only guide is common sense. Depending upon the circumstances, it may be proper to bring the concerns to one or more of the following:

- The Commissioner or County employee whose conduct is questioned
- An appropriate department head
- The Director of Human Resources
- The County Controller
- The Chairperson of an appropriate Board committee

- The ranking Commissioner of the minority party
- The Chairperson of the Board of Commissioners

If the person believes the situation is serious enough to warrant formal action, or any initial contacts have not resulted in a satisfactory resolution, a written complaint should be addressed to the Chairperson of the Board of Commissioners, which will in turn trigger the formal process.

It is the policy of Ingham County to encourage individuals who have sincere concerns about possible ethical problems to come forward with those concerns, even if they should eventually turn out to be unfounded.

Individuals have the right to report their concerns to such official or officials they believe are appropriate, without regard to chain of command. It may be appropriate under some circumstances to complain anonymously, although it should be understood that anonymity tends to detract from a complaint's credibility.

It is the policy of the Ingham County Board of Commissioners that any individual who complains about a possible ethics problem is responsible only for the sincerity of the complaint, and is to be protected from discipline or other adverse employment outcome, to the extent the complaint was sincerely based at the time it was made.

SECTION I. STATE LAW

Wherever Michigan law speaks to a subject, Commissioners are expected to obey both its letter and its spirit. Unfortunately, Michigan law does not adequately address many obvious problems. Conduct which is not illegal under Michigan law may still be seriously unethical.

In addition to failing to provide adequate controls in state law, Michigan has also failed to delegate adequate authority to the counties. The legal tools at the disposal of the County Board of Commissioners for implementing and enforcing ethical standards are disturbingly weak. Only if the members work cooperatively among themselves and with staff is it possible for the Board to implement adequate safeguards and standards.

For example, under certain narrow circumstances, state law requires that a Commissioner abstain from voting on a matter such as the award of a contract to a firm owned by the Commissioner. But even in that extreme situation, there is nothing in the law to prevent a Commissioner from using his or her position to encourage County staff to recommend approval of the contract, nor does the law generally prohibit the Commissioner from lobbying other Commissioners to favor it over competing firms. The Board is free to award the contract to the Commissioner, simply by passing his or her abstention.

Further, a Commissioner's power is much broader than the mere power to vote on resolutions which come before the body. The informal aspects of an elected official's power to make powerful suggestions to staff, to trade favors with other political bodies, and so on, are simply ignored by state law. Nor does state law deal with the reality that a Commissioner's personal interests are much broader than his or her own place of employment or personal ownership of a business.

No state law stops a Commissioner from attempting to steer special benefits to friends, relatives, or political supporters, and in such cases—not even disclosure of the interest or abstention from voting is generally required.

Several principles suggest themselves:

First, state law should be viewed as a minimum and a starting point, and not as the ultimate standard of conduct.

Second, whenever the situation before the Board involves a substantial conflict with the values that motivated the state law, the provisions in the law should be obeyed in a very generous spirit. In such cases, wherever the law's reach or requirements may seem unclear, every doubt should be resolved in favor of greater disclosure and broader abstention.

It is the responsibility of each Commissioner to plainly point out when and where their own financial interests (or those of their friends, family, or political supporters) are entangled, or are likely to become entangled, with the duties of their office or with matters which come before the Board. The disclosure should be made in as public a manner as seems appropriate, being briefly repeated in each forum at which the matter arises. And the formal principle of abstention from voting should be extended to include the avoidance of even implicit pressure on staff or other Commissioners regarding the matter.

But the responsibility can not stop with the individual Commissioner whose interests may be involved. Experience has shown that even where disclosure is made, effective notice may not have been made to the public or even other Commissioners. In order to be effective, the Commissioner involved needs to make clear that a disclosure is being made which should be included in the minutes. The disclosure should be given the prominence of its own paragraph in the minutes, and should be written so that it would make sense if read alone. The person taking minutes should ask--either during the meeting, or subsequently—for any clarification needed to make the record intelligible, being sensitive to the fact that what seems clear to Commissioners and staff during the conduct of a meeting may not be clear months later to a member of the public. The Chairperson presiding at the meeting has a duty to see that the disclosure is properly noted and that the minutes when adopted are indeed correct and clear.

Finally, minutes which contain a disclosure of a Commissioner's interest should be brought to the attention of Board staff so a copy can be separately indexed and filed for easy retrieval, both by topic and by Commissioner's name. The Board office should maintain a complete file of such disclosures for ten years, or as long as the Commissioner involved remains on the Board, whichever is longer.

If a Commissioner wishes to disclose an involvement which has not yet arisen in the course of the Commission's business, or wishes to provide additional information about a matter which has, a proper format is to write a letter to the Board of Commissioners, to be received under Communications at a regular meeting, and then to be filed and indexed by the Board office.

A third principle is that whenever the proper course is unclear, deference should be paid to anyone who views a Commissioner's involvement as suspect or who wants broader disclosure, even if those views may appear to be advanced by persons with partisan or personal motives.

If an ethics policy is to be useful, it is unavoidable that its application will result in a general bias against firms and individuals who innocently happen to be involved in some way with a Commissioner. While this bias may appear to be unfair in the context of a specific case, it is a necessary cost if there is to be effective protection against the graver danger that a Commissioner might obtain private advantage from his or her office, or that public perception of such abuse could undermine confidence in County government. It is the policy of Ingham County that the risk of unfairness to Commissioners and those involved with them is worth bearing in order to preserve the efficiency, honesty, and good name of County government.

Several State Laws speak to Board activities. The Open Meetings Act (MCL 15.261 et seq.) requires, with some expectations, that meetings of the Board of Commissioners be open to the public. The Freedom of Information Act (MCL 15.231 et seq.) requires that most public records of the County be made available for inspection and copying by members of the public. State Law also limits soliciting and voting on contracts with the County where a Commissioner has a specified interest in the contract. (See MCL 46.30, MCL 15.321, et seq.) Employees who report suspected violations of federal, state or local laws, regulations, ordinances, or rules, are protected from retaliation by the Whistle-Blowers' Protection Act (MCL 15.361, et seq.).

SECTION II. PURCHASING

Wherever a Commissioner has a tangible and substantial financial interest in a matter to be considered by the County, it is the responsibility of that Commissioner to take strong steps to separate their personal from their public role. Such steps are required not merely where a Commissioner's individual financial interests are at stake, but must also be understood to include the financial interests of family members, close friends, political supporters, co-workers, and business associates. Avoiding entanglement requires far more than merely avoiding participation in the formal process by which a matter is dealt with by the County; it speaks also to fully and promptly disclosing the nature of the interest, to avoiding even the appearance of placing pressure on staff or other Commissioners, and to avoid any other involvement in the decision-making process which might advance a favored party's prospects in any way.

Areas of concern extend far beyond the letting of contracts; they include any matter in which the Board has significant power or influence, including decisions by the Board or County staff regarding permits, contracts, bids, and grants, as well as similar decisions made by bodies to which the Board makes appointments, to which the Board appropriates funds, or whose budget the Board reviews. Although this policy is written mainly in terms of the purchase of goods and services by the Board of Commissioners, it should be understood also to apply where appropriate in these similar situations.

There are certain circumstances where Commissioners should be particularly scrupulous about involvement:

- Where the amount of money involved is greater;
- Where the Commissioner's relationship to the provider is closer;
- Where the provider is a small for-profit firm;
- Where the purchase would be unusual for the County rather than routine;
- Where the goods or services are to be obtained under an arrangement other than a formal bid process;
- Where it is clear that a specific individual or firm would be particularly benefited by an action;
- Where unusual or irregular steps are taken to facilitate the process;
- Where the involvement is controversial or would be controversial were it widely known.

At the very least, whenever a Commissioner realizes that a possibility of such an interest exists, the nature and details of the involvement should be disclosed and recorded in the minutes of a standing committee and/or the Board, as appropriate. Disclosure should be made even in situations which are unclear or arguable, because such disclosure may bring the situation to the attention of other decision makers and the public, whose concern or lack thereof can help determine whether the Commissioner needs to take further steps than mere disclosure. Where the potential conflict falls within the provisions of MCL 15.323, it is of course unlawful for the Commissioner to vote on the matter. If during the process of considering a matter, it is discovered that a Commissioner has possible interests which the Commissioner failed to voluntarily disclose, the fact that no disclosure was made strengthens the presumption that the Commissioner's involvement was improper.

Although Commissioners' involvement in the purchasing process may be a source of problems, the solution cannot be simply to ban all participation by Commissioners in purchasing. For one thing, Ingham County has no elected County Executive, and as a result the Board is forced to assume certain aspects of that role. Second, many Commissioners bring real and valuable expertise from their private lives to bear on public issues, which is often important to the decision-making process. Third, it is often impossible to keep public policy separate from the specifics of a purchase. For example, a public debate may be couched entirely in neutral terms of public policy, while the participants implicitly recognize that the outcome will be to purchase a particular product from an identifiable supplier. The ethical problem is not eliminated merely by making the dialog presented for public consumption more abstract.

Commissioners should be cautious in communicating with County staff regarding a pending purchase outside the setting of a public meeting. In particular they should consider whether a given communication might be interpreted as encouraging or pressuring staff regarding a decision which would tend to benefit a particular vendor, particularly one with whom the Commissioner has a relationship. It is safest to make communications regarding purchases during public meetings, where the Commissioner's personal interests—if any—can be formally noted. Even in the context of a public meeting, Commissioners should generally avoid involvement in any decision which implicates any substantial personal interest.

If a situation involving a very substantial and continuing conflict of interest is unavoidable—for example because of a Commissioner's place of employment or the nature of a professional practice—the Commissioner should consider avoiding service on a liaison committee where the conflict is particularly likely to arise.

Even when no personal interests are involved, Commissioners should not in general have direct personal involvement in the selection of vendors, extended personal contact with the County staff during their process of formulating purchase recommendations, or unnecessary access to detailed information regarding a pending purchase which is not generally available to the public. There may be greater latitude for Commissioner involvement under certain circumstances:

1. Although state law does not make a distinction, the danger of improper involvement is less where the potential supplier is another governmental agency or a non-profit corporation. However, a non-profit agency which devotes a large part of its income to the salaries of one or a few persons should be treated as if it were a private, professional firm.
2. Where the goods or services supplied by one vendor is likely to be of a very different quality than that provided by another (for example, most consultation services). In such cases, the nature and quality of service depends on the identity of the vendor, and the legitimate argument over what should be purchased may be inextricably tied to the question of from whom it should be obtained.
3. Where the reason for the Commissioner's involvement is a genuine concern over the possibility of misconduct by a County employee or elected official, or where it appears to the Commissioner that the County's best interests may be damaged by organizational problems or staff incompetence. In this case, Commissioner

involvement should be limited—to the extent possible—to drawing attention to the problems and perhaps blocking the purchase, rather than attempting to re-direct the purchase to another specific vendor.

4. Where the dollar amount involved is so small that no reasonable person would entertain a suspicion that the Commissioner's involvement might be motivated by the prospect of financial gain for a particular vendor.
5. Where the interests which would be benefited by a decision would be broad and diffuse, rather than narrowly targeted. For example, where the Commissioner's benefits would be no greater than that of thousands of other stockholders in a large corporation.

Although circumstances will vary in each case, a general model for the proper purchase of fungible, private sector goods and services can be laid out:

1. It is the responsibility of either department staff or purchasing staff to assemble information regarding vendors and the goods and services available from them.
2. Commissioner input is limited to providing general policy direction. Less commonly a Commissioner might supply factual information which is apparently unknown to the staff. However, if there is any appearance of a personal interest such communication should be made only during on-record statements at meetings of Board Committees, where it can be reflected in the minutes.
3. An appropriate staff person evaluates vendor proposals and is responsible for recommending a vendor.
4. County staff have a duty to be appropriately vigilant in the event of contact by a Commissioner or any other elected official which might tend to improperly advance the interest of a particular supplier. If the question of such pressure arises, the staff person should attempt to proceed with the recommendation without regard to it. If the staff person believes that an improper interest or contact may have been made, it should be reported to the Director of Purchasing and Properties, to the Controller, to the Chair of the appropriate standing Committee, or to the Chair of the Board, as appropriate under the circumstances. The staff person should make and preserve a written notation of the contact.

To the extent the staff feels unable to weigh or make balanced judgments regarding a vendor or proposal, because of perceived pressure from a Commissioner or other elected official, the staff member's supervisor should become involved in the decision, and any vendor or proposal favored by such pressure should be disfavored in any comparison which involves weighing or judgment.

5. When a purchase recommendation is presented for adoption, the Board and its Committees should limit their review of the recommendation to ensuring that proper procedures were followed, and to ensuring that the purchase advances the general best interest of the County. Except in extraordinary circumstances, the Board and its Committees should limit their actions to accepting the recommendation placed before it, or rejecting it with a statement of reasons.
6. Where the Board or any of its Committees reject a purchase recommendation, the staff should reconsider the recommendation and bring forth a new one, if appropriate, taking into account the reasons for rejection, but continuing to discount any improper pressure. If there does not appear to be any sound public policy reason to make a changed recommendation, staff should adhere to the original recommendation. At the same time, it remains the duty of the Board, and not of staff, to weigh the relevance and legitimacy of public policy concerns.
7. Even where no improper contact or pressure exists, if staff is aware that a Commissioner may have a substantial personal financial interest in a provider, inquiry should be made to determine the reality and extent of such interest. If it appears the Commissioner does indeed have a substantial interest at stake, staff should resolve all matters involving judgment against the presumed interest of the Commissioner. It may be necessary to pass the decision to a higher staff level in order to guard against influence, even where the commissioner has taken no active part and has correctly followed these policies. This rule does not apply to large corporations of which the Commissioner is an employee or stockholder without substantial authority or sales responsibility.

SECTION III. PERSONNEL

Because of the complex and untidy structure prescribed by Michigan law for County government, Commissioners necessarily assume a number of overlapping, and somewhat inconsistent roles in personnel matters. In Ingham County, Commissioners are directly and intimately involved in decisions to create, eliminate, reclassify, or reorganize positions. Under many of the County's labor agreements, they hear grievances which reach a certain stage of appeal. The Commission approves compensation for non-union employees. But the Commission has no direct role in the vast majority of hiring, promotion, or discipline decisions.

By state law, or County practice, the Board is directly involved in hiring approximately seven people: the staff which works directly for the Board, the Controller, and the Director of the Health Department, the Director of Animal Control, and the Director of Equalization. In practice, even these positions are generally filled upon recommendation by other staff members. It is a measure of the high ethical standards maintained by the Board that even these direct employees of the Board have not become associated with any particular member or group of Commissioners, and that the positions have not become politicized. It is crucial that this tradition continue.

The potential for ethical problems centers on three areas. First is the danger that Commissioners might move toward a more active role in hiring, which might threaten to convert certain County jobs, which are currently non-political, into political patronage. Second is the danger that one or more Commissioners might become closely aligned with the employee unions, and would cease to function effectively in their quasi-adversarial management role. Third is the potential for improperly close reciprocal links between a Commissioner and a particular employee.

The Board of Commissioners serves in different legal roles in regard to various groups of employees of the County, and those differing relationships are reflected in differing potential problems.

1. Board staff and the Controller are directly selected by the Board. Among this handful of employees, involvement by the Board in hiring is unavoidable, and the danger of patronage hiring, nepotism, or improperly close relationships is the greatest. Fortunately, the number of jobs involved is relatively small. To date, the Board has successfully resisted any temptation to politicize these positions.
2. The general staff of the County are hired by department heads with assistance of the Human Resources Department. These positions, which include the majority of County employees are fairly well shielded from Board involvement, as long as existing policies and procedures are respected.
3. The employees of elected officials, including judges and county-wide partisan offices. These elected offices have substantial independent legal power over the hiring of their respective employees. On one hand, the independent authority of each elected official serves to protect those jobs against direct influence by members of the Board of Commissioners. On the other hand, it has proven difficult for the

Board to impose its own standards upon hiring by the elected officials. As a result, it has become traditional for a number of positions which fall under the hiring authority of the judges or other county-wide elected officials to be treated as political appointments.

In dealing with the employees of other elected officials, the Board largely depends on the good will of the respective officials. To the extent the Board's policies are followed, the principle motivations have been the Board's control over the departments' budgets, the elected officials' reliance on the Human Resources department for personnel services, and the reluctance to transgress Board policy where it might result in adverse publicity or create institutional tensions.

Each of the County-wide partisan offices carries with it the position of Chief Deputy, upon whom the elected official depends for the successful operation of their office. By tradition, such positions have often been filled by strong political supporters of the elected official.

Also by tradition, elected judges have enjoyed considerable latitude in hiring their immediate personal staffs. Any attempt to establish a County-wide policy must either exempt such positions, or be calculated to deal with complex and perhaps intractable political conflict.

4. Even more distant from the Board's control are the employees of independent bodies whose members are appointed by the Board of Commissioners, such as the Capital Area District Library or the Road Commission. In the absence of unusual circumstances, County Commissioners have little influence or involvement with such employees.
5. Least under direct Commissioner control of all are the elected officials themselves, who are in one sense County employees, but whose careers are unavoidably political and whose tenure is controlled directly by the voters.

ROMANTIC INVOLVEMENT BETWEEN COMMISSIONERS AND COUNTY EMPLOYEES

It is, of course, not unethical for a Commissioner to become romantically involved with a person who happens to be a County employee, but experience has shown such involvement inevitably leads to tensions and may cause morale and management difficulties, particularly if the job involved has significant contact with the Board. Where such involvement occurs, the Commissioner involved should recognize his or her responsibility for possible problems, and should be prepared to take strong steps to prevent either the reality or the perception that such involvement has affected any aspect of employment. Where a Commissioner becomes romantically involved with a County employee, the Commissioner should consider private disclosure to the Board Chair, to facilitate steps which may insulate the employee from the Commissioner's direct influence. Among the possible steps would be avoiding naming the Commissioner to Board Committees or Commissions where the involvement is likely to present a problem.

In any event, the Commissioner in such a circumstance should avoid any participation in any decision-making process or discussion which might appear to place another Commissioner or any County employee under pressure regarding the employee with whom the Commissioner is involved. One effective preventative step is the avoidance of initial hiring of persons with whom Commissioners are romantically involved. Where a person already on the payroll is known by a decision maker to be romantically involved with a Commissioner, whenever an employment issue arises involving such an employee who falls within an area of discretion, County policy should be to err on the side of acting against the presumed interest of the romantically involved Commissioner. Although this policy may appear unfair to the employee involved, it is adopted to advance the best overall interest of the public.

NEPOTISM

Nepotism, which may be narrowly defined as the hiring of immediate relatives of Commissioners, is severely damaging to employee morale and to the public's perceptions and is improper in the hiring of Board staff and general County employees. Every reasonable step should be taken to discourage such hiring, even by other elected officials or independent boards. The Human Resources Department, supported by the Administrative Services and Personnel Committee, constitutes the primary protection against such hiring.

More broadly, the same principles apply to hiring of friends of Commissioners, more distant relatives, business associates, former Commissioners, and political allies of Commissioners. Obviously, no single formal definition can correctly deal with every conceivable situation, so common sense and caution are necessary. Wherever the relationship between a Commissioner and another person is strong enough that it might potentially influence the hiring process, the hiring should be discouraged and all doubts resolved against such an applicant. The Commissioner with whom such relationship exists should strongly avoid any involvement in the hiring process, and if such person is hired, should further avoid any participation in subsequent issues involving the person's employment status, such as grievances or reclassification requests.

Regardless of whether any Commissioner has expressed any interest in a particular hiring or promotion, the Human Resources Department and all other County officials should exercise their discretion against the hiring of former Commissioners, relatives or romantic interests of current Commissioners whenever such relationships are known to the person making the decision.

The model for proper Human Resources procedure is spelled out in existing County procedures. In general, Commissioners should restrict their involvement in personnel matters to the roles which are formally assigned to them, and should avoid direct personal contact with job applicants, with departments which are considering a hiring decision, and with Human Resources Department staff other than the Director. If for some reason Commissioner involvement is necessary, it is best that it occur in the course of Committee where it can be reflected in the minutes.

Roughly seven positions are hired with direct Commission involvement. To date, none of those positions have been treated as political, and none of the employees are associated with any particular Commissioner. To safeguard this achievement, the Board has generally created neutral panels to screen and recommend applicants to fill these positions as they turn over.

Contracts are negotiated through County staff with the various bargaining and employee units and Commissioner input should be limited to providing direction to appropriate staff. Any deviation from this pattern should require advanced formal authorization by the Administrative Services and Personnel Committee. Commissioners who are personally involved for unavoidable reasons with the bargaining agents for an employee bargaining unit should ask not to serve on the Administrative Services and Personnel Committee.

As the formal employer of many County employees, Commissioners have a formal role in dealing with employment grievances. As members of a quasi-judicial body, Commissioners must avoid discussion of the content of employee grievances outside the appropriate forum, until the grievances have been decided.

Under certain circumstances, a Commissioner may find it necessary to step outside these formal roles, in order to seek additional information, to pursue changes to policy, or because the Commissioner distrusts the validity of the information provided through formal channels. However, Commissioners should be alert to the possibility that these reasons may be used as a subterfuge for improper interference in the hiring, promotion, or discipline processes. A Commissioner who decides to act outside these formal channels must understand that his or her involvement is likely to be viewed unsympathetically if the matter becomes controversial.

OTHER DEALINGS BETWEEN COMMISSIONERS AND EMPLOYEES

Because the Board of Commissioners possesses significant powers with respect to County employees, a question may arise asking whether a Commissioner has used such influence to obtain a personal benefit. As in other areas of potential conflict, it is impossible to design rules that are both simple and broadly appropriate. At one end of the spectrum, friendships between Commissioners and staff are inevitable—and generally beneficial—and may result in shared activities and the exchange of minor favors. At the

opposite end, if a County employee were assigned to run personal errands for a Commissioner, or to work without compensation at a Commissioner's home or business, the Commissioner's conduct may violate criminal law or be deemed improper.

The primary burden is upon Commissioners to be careful not to place employees in positions where they face confusion between a Commissioner's public and private roles. In particular, Commissioners should avoid unnecessary involvement in business dealings with County staff, unless the sums of money involved are clearly nominal and are in the ordinary course of business for both parties. Commissioners should refrain from asking for or accepting personal gifts, loans, or favors from employees in any circumstances which might appear to exploit their positions. Whether dealings between a Commissioner and an employee are improper may hinge on considerations such as these:

- Where a Commissioner benefits personally, rather than being merely assisted in the performance of public duties. (E.g.: typing a college term paper versus dropping off extra copies of a proposed Board resolution at the Commissioner's house.)

- Where an employee performs a non-public service unwillingly, or because he or she believes it is a requirement of his or her job.

- Any suggestion that the benefit is provided in return for the Commissioner's action affecting the employee as a County employee, or affecting the employee's department, suggests impropriety.

- If the expense or inconvenience to the employee is greater than what would be considered a casual favor. (Painting a Commissioner's house should raise eyebrows. Saving a daily newspaper for a week while a Commissioner is on vacation, by itself, should not.)

- Where a private business relationship between a Commissioner and a County employee involves substantial sums of money, is linked to County operations, appears to be disadvantageous to the employee, or provides profit to the Commissioner without requiring a proportionate risk, effort, or investment.

- There is greater risk of improper involvement when the County employee is one whose job is directly controlled by the Board, without an intermediate buffer of an elected official or other department head.

It should be kept in mind that the object of these guidelines is not to isolate Commissioners from staff, but to ensure that a Commissioner resists any temptation to use his or her public position to obtain personal benefit of a material nature.

SECTION IV. POLITICAL CONTRIBUTIONS FROM COUNTY EMPLOYEES AND UNIONS

In a political community, friendship, business relationships, public policy, government business, and politics tend to become hopelessly intertwined. Certain types of overlapping interests are particularly prone to problems.

The conduct of political campaigns is directly regulated by state law, and is afforded great protection by the First Amendment. As a result there is very little restriction of political fund raising, aside from requirements limiting the amount donated and requiring disclosure of the identity of contributors. Under Michigan law, the County can do little more than propose voluntary standards and urge their observance by incumbent Commissioners and candidates.

In general, Commissioners should never accept any contribution to the Commissioner's campaign which appears to be made with the hope or expectation that the contribution will result in action specifically benefiting the contributor. For example, while it would generally be ethical to accept a contribution from a labor union which seeks County policies which are more favorable to organized labor, it would be unethical if the Commissioner knew or suspected it was made in the hope of influencing the County to settle a particular labor contract on more favorable terms. In practice, such a distinction is difficult to apply, and state law is very lenient in its tolerance of questionable contributions.

The problems that have arisen in Ingham County have involved only a small number of contributions, and could be avoided if Commissioners, as well as non-incumbent candidates, adhere to a few simple rules:

1. Commissioners should never solicit or accept campaign contributions from Board staff, from County employees for whom the Board serves as the sole employer or from employees of departments whose directors or governing board members are appointed by the Board of Commissioners.
2. Organized solicitation on County property of campaign contributions from County employees or the public is improper.
3. Commissioners should be sensitive to problems caused by accepting contributions from union locals which represent County employees. Although County employees, acting individually and through their bargaining units, have a right to contribute money to candidates for Commissioner, and to base their support on a Commissioner's views on personnel matters, the acceptance of such a contribution by a Commissioner raises difficult problems.
4. A Commissioner who has accepted a contribution from a labor organization which represents or includes County employees should disclose that fact when appropriate to a matter under discussion in a Committee on which the Commissioner sits, or when such matters are discussed by the Board. The disclosure should be noted in the minutes of the meeting and indexed by Board staff.

5. All contributions which are sought by a local union which represents County employees, or are made or solicited by the officers of such a union, should be treated as if they were made by the local union.
6. Any Commissioner who receives endorsement or financial contribution from a labor organization which represents or includes County employees should be particularly sensitive to preserve the distinction between the Commissioner's political role and the Board of Commissioners' management role, and to avoid improperly mixing the two.

As of January, 1999, various groups of County employees are represented by local affiliates of the Ingham County Employees Association, the Fraternal Order of Police, the Office and Professional Employee International Union, the United Auto Workers, the Affiliated Federal State County and Municipal Employees, and the Police Officers Association of Michigan.

SECTION V. POLITICAL CONTRIBUTIONS FROM BUSINESSES WITH INTERESTS IN COUNTY DECISIONS

Contributions from potential vendors result in problems which are closely analogous to those posed by contributions received from labor unions. Contributions which are motivated by support for general County policies, such as a business owner's desire for a lower millage rate, are proper even if motivated by self-interest. A similar contribution, motivated by hope of a tax break on a specific business, or desire to be selected as a vendor for a County program, should be rejected and returned. While the line is difficult to draw in practice, some important considerations are these:

1. No contribution should be solicited, accepted, or retained if the recipient believes it was made in expectation or hope that it would influence the award of County business, or will specially benefit the donor.
2. A Commissioner who has accepted a contribution from a business interest within the past two years should disclose that fact when appropriate to a matter under discussion in a committee on which the Commissioner sits, or when discussed by the Board. The disclosure should be noted in the minutes of the meeting, and indexed by the Board staff.
3. A contribution made by, or solicited by, an owner, officer, representative, or manager of a given business should be treated as if it were made by the business itself.

SECTION VI.

GIFTS OTHER THAN POLITICAL CONTRIBUTIONS

Even with all the problems of political fund raising, the fact that a gift to a public official is made in the form of a contribution to a campaign makes the gift comparatively easy to deal with because there are formal systems for regulating and reporting such gifts, and because they play a fairly well-defined role in our system of government. A gift to a candidate or official which is NOT a political campaign contribution is generally far more troublesome to deal with.

If we were to start with the premise that the simplest rule is best, that it is ALWAYS wrong for a Commissioner to accept ANY gift from ANYONE interested in County actions, we re-discover that the fabric of everyday life is woven of tiny kindnesses and accommodations. A few illustrative situations: Would it be wrong for a Commissioner with a stalled car to accept a jump-start from someone who is seeking a County contract? A ride to the service station? A loan (repaid the next day, we will imagine) of \$60 when he discovers he has lost his wallet?

Continuing in the same vein, but outside the setting of a hypothetical emergency, what about the gift of today's issue of the local paper, in previously-read condition? May a Commissioner act on a suggestion by a County employee that a used boat is for sale by a mutual friend and that he should offer \$500 less than the asking price? May a Commissioner apply for a loan at a bank, knowing that one reason her business is welcome at the bank is that a lawyer who deals with the County is on the bank's board and speaks highly of her? May a Commissioner attend a minor league baseball game at the expense of the City of Lansing, and sit in the City's box? While there, may the Commissioner eat a hotdog? Is she obligated to reimburse the City? Could the propriety depend upon whether she in fact dislikes baseball and hotdogs, and is only there because she hopes for a chance to lobby the City on behalf of the County?

The point of this dizzying series of queries is not that receipt of gifts by Commissioners is without problems, or that it should not be regulated, but to demonstrate that a simple ban on receiving any gift simply creates a new and equally difficult problem of defining what constitutes a "gift." We must also keep in mind that in Ingham County's present legal circumstances the Board has limited power to enforce ethical standards beyond those embodied in state law.

It seems impossible to find a definition of "gift" which illuminates more than it confuses. Under appropriate circumstances, gifts may include providing cash or other tangible items, extending credit, arranging permission or membership, forbearing a debt or obligation, providing information, serving as a character or business reference, obtaining admission to entertainment, providing professional advice, and many other things. The crucial question is not what was provided, but whether the transfer seems surprising and outside what we would expect of people acting within the ordinary routines of life. Do we find ourselves wondering whether the observed transfer only makes sense if paired with some sort of reciprocal use of governmental office? Do we find ourselves believing that the assistance would not have been granted if circumstances were identical except that the recipient did not hold public office?

Trying to apply a simple and sweeping definition of "improper gift" would mainly serve to create endless opportunities for politically motivated accusations and grand-standing. Not only would such a use

of the Ethics Policy be an unproductive use of public resources, it would make it difficult to take the Policy seriously under other circumstances.

The best we can hope to accomplish is to roughly describe a region of conduct which is clearly acceptable, another region which clearly is not, and then try to provide some principles to guide us in the large gray areas that lies between:

- These rules apply only to gifts made by a person with some sort of financial interest in the actions of County government. No problems arise from the receipt of gifts which are completely unrelated to the holding of public office.

- In the absence of unusual circumstances, for the purposes of this Policy, the value of a gift is the lesser of the cost to the donor and the benefit to the recipient. The measure of "cost" does not necessarily refer to the retail price, particularly where the donor is able to provide it without making a purchase, or where the recipient would not have been interested enough to purchase it for himself or herself.

- Any direct gift of more than \$100 value from a person with a financial interest in the actions of County government is generally improper, unless the specific circumstances offer a convincing alternative explanation.

- One exception would be where a superseding relationship provides a convincing explanation for the gift. Such superseding relationships include relations by blood or marriage, friendships which predate original election to the Board, close professional relationships, and similar ties which are understood generally to occasion gift-giving. (For example, a Commissioner accepts the gift of a car from the County Treasurer, whose compensation is set by the Board. But the Treasurer is his mother.)

- The propriety of a gift whose value lies between \$25 and \$100 depends upon the attendant circumstances. In the absence of any explanation, receipt of such a gift is improper.

- If a gift is received in connection with an event which makes it seem unexceptional, somewhat more latitude may be allowed. (For example, a wedding gift.)

- A Commissioner, as a member of an organization, or in connection with employment or a professional practice, may receive a gift, provided that the gift does not seem exceptional and does not appear to have been made to influence County actions.

- If a gift is made by a governmental or quasi-governmental body is a matter of public record, is part of a continuing practice and offered equally to similarly situated individuals, and falls within the body's ordinary course of business, it is unlikely to be improper.

- Any series of gifts received within a twelve-month period from the same or related sources should be treated as a single gift.

- The fact that a Commissioner requests or suggests a gift, or that the giver is reluctant, suggests impropriety.

- Any indication of attempt to conceal or disguise a gift is evidence that the gift was improper.
- Impropriety is suggested by resort to procedurally or financially irregular actions by a business or corporate body.
- If a gift of any significant value is provided in direct exchange for a County action, it is almost certainly improper. If a Commissioner believes or suspects that the person making the gift expects or hopes it will influence a County action, it should be refused or returned.
- If the person or organization making the gift has a clear private financial interest in a specific County action, greater suspicion is appropriate. The more broadly distributed the benefit of the County action, the less the risk of impropriety.
- Any significant gift which appears to have a direct tie to the date, amount, or other detail of a County action is almost certainly improper.
- It is not proper for a Commissioner to permit a private party with any substantial interest in County business to routinely and repeatedly pay for meals, travel, entertainment or lodging. It may be proper to receive a check of moderate size—for example, paying a single restaurant check—if it appears the motivation was primarily to entice a Commissioner to find time to hear the private party’s concerns, and the value is not so great as to suggest the Commissioner remains obligated. And of course there may be no impropriety if there is a superseding relationship between the Commissioner and the party.
- In the absence of unusual circumstances, the receipt of a gift of insignificant value—for the purposes of this Policy, less than \$25—is not improper.
- It is inadvisable to allow a private party with an interest in County business to pay for alcohol or sexually-oriented entertainment, regardless of the value involved.
- If a Commissioner receives a gift under circumstances which are ambiguous, the best course of action is to return it, perhaps explaining that the County has a stringent Ethics Policy. Another approach, particularly where it is impossible to return the gift, would be to disclose it along with any relevant circumstances, in a letter to the Board, where it will be listed as a communication, recorded in the minutes, and indexed and filed by Board staff.

SECTION VII. RESOLUTION OF DISPUTES

The focus of this policy is on preventing problems through institutional policies and procedures which guide Commissioners and staff. Where this focus on prevention fails, a mechanism is needed to provide an opportunity to resolve controversies and illuminate events which come to light.

This mechanism, as spelled out below, may be difficult to understand in the abstract, but hopefully it will prove easy to follow in the event it is needed to deal with the facts of a particular dispute.

More than one path is provided for any given matter, in order to increase the chance that it will receive the attention it deserves—neither too little nor too much. Minor matters can be folded into the Board's normal routine, while major ones can be accorded center-stage treatment. It is designed to make it difficult to sweep genuine controversies under the rug, while at the same time trying not to offer a publicity windfall to individuals who hold isolated points of view.

Problems which arise are likely to fall into two broad categories, with some area of overlap. First, it is inevitable that situations will arise which these guidelines fail to anticipate, or where their application turns out to be ambiguous, or where a Commissioner might not realize that a particular policy applies to the specifics of his or her conduct. Exploring the issue will serve to remind everyone of County policy, and may point out a need to clarify or modify certain policies to make them easier to apply in the future.

In other cases, which are likely to be rare, a Commissioner may have acted in a way which clearly violates these policies, or which most reasonable people would find ethically troubling. To deal with such circumstances, a mechanism is needed which can establish the facts of the conduct, determine whether policies were violated, and mobilize appropriate institutional responses.

To begin the process, any person may complain in writing that one or more Commissioners or employees of the County of Ingham have acted unethically. If the Chairperson of the Board of Commissioners believes the complaint is credible and sets forth sufficient details to warrant prompt investigation, the Chairperson may appoint an ethics panel and refer the matter directly to them. In the event the complaint is against the Chairperson, then the Chairperson Pro Tem shall perform the duties referred to herein.

If the Chairperson elects to refer a complaint directly to an ethics panel, he or she shall appoint a chairperson and two additional members to that panel, subject to confirmation by the Board of Commissioners. Each member of the panel may be a member of the Board of Commissioners, an employee of the County, or any other suitable person. In naming members of the panel, the Chairperson shall take into account the nature of the complaint and the identity of the person or persons complained of, and shall attempt to select persons who are in a position to render independent, informed, and considered judgment.

In the event that a matter has, or appears likely to develop, partisan overtones, the panel shall be chosen so that it includes no more than one person who can be fairly associated with each of the two

major political parties. The Chairperson may ask the minority caucus and the majority caucus each to furnish a list of possible panel members.

If the Chairperson chooses not to refer a complaint directly to an ethics panel, it shall be referred to the Administrative Services/Personnel Committee. That Committee may take up the complaint itself and attempt to resolve it at the committee level, within the Committee's regular course of business. Or the Committee may recommend that the Board of Commissioners establish an ethics panel by resolution to take up the complaint. If such a resolution is adopted, the members of the panel shall be appointed in the same manner as if the Chairperson had referred the matter directly to an ethics panel.

If a complaint is referred to the Administrative Services/Personnel Committee and that Committee has not, within 45 days of its first meeting subsequent to the referral, recommended a resolution to the Board establishing an ethics panel, any member of the Board may bring such a resolution before the Board.

Members of an ethics panel shall serve without additional compensation for so long as it is necessary to consider a complaint and render recommendations, but in no event longer than a period of one year. After completing its consideration and its report, the panel will not be automatically dissolved, but may be called back into action by the Chairperson of the Board or the Chairperson of Administrative Services/Personnel if there are remaining questions related to the complaint for which they were established. If no such request is made within thirty days of the issuance of their report, the panel will be deemed to be dissolved.

An ethics panel shall consider the original complaint as well as such additional matters as are necessary to fully understand and resolve the complaint. They may act with the degree of formality which they deem appropriate under the circumstances, giving appropriate deference to the expressed procedural desires of the person or persons whose conduct is the subject of the complaint. In the absence of written authority from the Chairperson of the Board of Commissioners or a resolution by the Board, a panel shall not have the authority to expand the scope of a complaint to include persons not specified in the complaint, although the panel may communicate with and consider the views and conduct of such persons.

Ordinarily, a panel should contact the person who wrote the original complaint as well as the persons named or specified in it, setting up a meeting at which the complaint and any response to it may be aired. The panel may invite County staff or other persons to such a meeting, as appropriate.

Unless required by law, or requested by the person or persons whose conduct has been complained of, the meetings of the panel should not ordinarily be open to the public. In the absence of unusual circumstances, the person who wrote the complaint and the person or persons named in it should be invited to attend all meetings of the panel and permitted to fully express their views. Notices of the meeting should be posted appropriately and provided to all interested persons, and minutes should be kept.

The panel should fully consider the complaint, any response to the complaint, additional information which may be requested or supplied, and/or the expressed views of County staff, the County Corporation Counsel, or other persons.

Depending upon the circumstances, an ethics panel may appropriately take any of a number of alternatives in dealing with a complaint. By way of illustration, a panel might take one or more of these actions:

- Determine that the complaint was not well founded or that the actions complained in it were not unethical and therefore no correction is needed.
- Determine that, although these policies may have been infringed in a technical sense, that the matter complained of is immaterial, unavoidable, or insubstantial and determine that no corrective action by the panel is warranted.
- Mediate a resolution of a disagreement between the writer of the complaint and the person named in it.
- Accept an assurance from the person named in the complaint that such a situation will not arise again in the future.
- Suggest to County staff an improved way of dealing with a type of situation should it arise again.
- Recommend to the Administrative Services/Personnel Committee or the Board of Commissioners an amendment of Board rules, of the ethics policy, or of the other policies of the County to minimize the likelihood of future problems.
- Issue a letter publicly criticizing a person specified in the original complaint, stating that the panel has determined that the person complained of committed a clearly unethical act, and providing appropriate supporting detail.
- Recommend the adoption by the Board of Commissioners a resolution of censure.
- Contact appropriate prosecutorial agencies, citing information in the panel's possession, and inviting criminal investigation.

The panel shall communicate its findings, recommendations, and actions to the Board of Commissioners by letter.