

CODE OF ETHICS FOR MENOMINEE COUNTY/TOWN OFFICIALS AND EMPLOYEES



NOTE: The County adopted the Code of Ethics on July 21, 2016, and the Town adopted the same ordinance on September 22, 2016. Two amendments were also passed after the ordinances' original adoption. This document reflects language contained in the original ordinances, as well as the two amendments that were passed. This document was created for ease of reference by our readers. Legislative history: County Ordinance No. 66 adopted on 07/21/2016 and amended on 10/20/2016 and 12/19/2019; Town Ordinance No. 70 adopted on 09/22/2016 and amended on 10/20/2016 and 12/19/2019. Certified copies of the original ordinances and amendments can be obtained from the County Clerk's Office.

- 1. Declaration of Policy.** To ensure that the public can have complete confidence in the integrity of Menominee County/Town Government, each elected official, appointed official, and employee shall respect and adhere to the fundamental principles of ethical service. The proper operation of county government demands that:
 - 1.01 Elected and appointed officials, and employees be independent, impartial and responsible to the people;
 - 1.02 Decisions be made in the proper channels of the governmental structure;
 - 1.03 County/Town offices should not be used for personal gain; and
 - 1.04 County/Town business should be conducted in such a way so as to re-enforce the public's confidence in its integrity.

In recognition of these fundamental principles, there is hereby created this Code of Ethics.

- 2. Authority.** This Code of Ethics is adopted pursuant to the authority granted to the County and Town Board of Supervisors under Wisconsin Statutes §19.59(1m).
- 3. Definitions.** As used in this ordinance, the following words or terms shall have the following meanings:
 - 3.01 "Board" means the Ethics Inquiry Board.
 - 3.02 "Code of Ethics" or "Ethics Code" means this ordinance or the provisions contained in Wisconsin Statutes §19.59.
 - 3.03 "Employee" means an employee of the County or Town of Menominee, regardless of their classification under the Fair Labor Standards Act.
 - 3.04 "Official" means an elected or appointed official of the County or Town of Menominee, whether paid or unpaid.
- 4. Applicability.** This code governs all officials, including members of boards, committees, commissions, department heads, and other county/town employees.
- 5. Responsibility of Public Office/Service.** Officials and employees are agents of public purpose and hold office to serve the public interest. They are bound to uphold the Constitution of the United States, the Constitution of the State of Wisconsin, and to carry out efficiently and impartially all laws of the United States, the State of Wisconsin, and the ordinances of Menominee County/Town. Further, they are bound to observe in their official

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acts, the standards of ethics set forth in this code and to faithfully discharge the duties of their office. The public interest must be their primary concern.

- 6. Codes of Ethics for Local Government Officials, Employees and Candidates.** No official or employee shall engage in any act which violates Wis. Stats. §19.59.
- 7. Use of Information Gained in Course of Official Duties.** No official or employee may intentionally use or disclose information gained in the course of, or by reason of, his or her official position or activities in any way that could result in the receipt of anything of value for herself or himself, for a member of his or her immediate family, or for any other person or legal entity.
- 8. Illegal Meeting.** Officials shall be mindful of their obligation under the open meetings laws of the State of Wisconsin (see Wis. Stats. §19.81-§19.89) and avoid having any illegal meetings.
- 9. Impermissible Use of Public Office.** No official or employee shall use or attempt to use his or her public office or employment to influence or gain unlawful: benefits, advantages or privileges, personally or for others. The use of county or town equipment and property including, but not limited to, vehicles, cameras, projectors, audio systems, copy machines, fax machines, telephones and uniforms is prohibited for use for both partisan and nonpartisan political activity. Use of county or town property which is available and accessible to the general public is not considered a violation of this ordinance.
- 10. Representation by Elected Official Before County Entities**
 - 10.01 No official or employee shall represent private interests in any action or proceeding against the county/town.
 - 10.02 No official or employee shall accept employment as an expert witness in any proceeding adverse to the county/town's interests.
 - 10.03 Nothing in this section shall be construed to prohibit an official or employee from representing himself or herself before any county/town entity, including the one of which he or she is a member or an employee.
- 11. Certain Uses of Public Property Prohibited.** An official or employee shall not use, or knowingly permit the use, of county/town services or county or town-owned vehicles, equipment, materials for unauthorized nongovernmental purposes, or for unauthorized personal convenience, or for profit.
- 12. Special Treatment Prohibited.** An official or employee shall not grant any special consideration, treatment, or advantage to any citizen beyond that which is available to every other citizen. This section does not affect the duty of County/Town supervisors to diligently represent their constituency.
- 13. Disclosure of Certain Financial Interests.** An official or employee who has a financial interest in a matter pending before the body of which he or she is a member shall disclose the nature of the interest. The disclosure shall be made on the record before the body or, if there is no formal record, in writing to the body. The official or employee shall not participate in any vote in which he or she or an immediate family member has a substantial interest.
- 14. Disclosure of Service on Boards, Commissions, and Committees of Other Governments.** No official or employee shall serve on a board, commission, or committee

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of another government, including tribal government, unless he or she has disclosed the following details of such service to the county/town board:

14.01 Name of governing body, board, commission, or committee;

14.02 Its jurisdictional boundaries and purpose;

14.03 Position held on the board, commission, or committee (e.g., officer position, general membership, etc.);

14.04 Any committee or subcommittees held on that board, commission, or committee, and the special jurisdiction or purpose of that committee or subcommittee;

14.05 Term of service; and

14.06 Any changes in such service.

15. Attendance; Office Hours. At a minimum, officials are expected to maintain and hold regular office hours in an amount equivalent to the basis upon which their total annual compensation has been budgeted, with the exception of such reasonable leave as may be taken from time-to-time. In addition, all elective and appointed county officials are required to keep their offices open during the usual business hours, as provided for in Wis. Stats. 59.20(3). A violation of this section may also constitute a violation of Wis. Stats. 19.59(1)(a), in that it may constitute using one's position or office to obtain financial gain or anything of substantial value for the private benefit of himself or herself.

16. Nepotism

16.01 "Related person" shall mean mother, father, husband, wife, children (including adopted, foster, and step), brother, sister, grandchildren, grandparents, current son-in-law, current daughter-in-law, current grandparent in-law, and first cousins.

16.02 Department heads are prohibited from hiring a person related to them for county/town employment.

16.03 No person shall be employed, promoted, or transferred to any department, division, or work unit when, as a result, the employee would be directly supervising or receiving direct supervision from a related person.

17. Outside Conduct and Behavior. The professional conduct and behavior of officials in the workplace, as well as their personal conduct and behavior, reflects upon the County and Town as a whole. As such, officials are expected to treat others with respect and dignity and to conduct themselves with honesty and integrity at all times.

18. Closed Session; Confidentiality. No official or employee shall divulge any information that is the subject of, and is disclosed in, a closed session portion of a meeting. Officials and employees who are unable to attend a closed session portion of a meeting and have a bona fide need-to-know may receive a confidential briefing from the Chairperson who presided over the closed session, unless the board, committee, or commission shall authorize another person to provide such confidential briefing.

19. Investigations and Enforcement

- 19.01 Ethics Inquiry Board¹. There is hereby created an Ethics Inquiry Board to consist of three members and one alternate appointed by the County Board to hear complaints presented pursuant to this ordinance. The EIB is not responsible for hearing complaints presented against members of the Menominee County/Town Board of Supervisors, which complaints shall instead be heard by those supervisors not the subject of the complaint.
- 19.02 Advisory Opinions
- A. Any official or department head may apply in writing to the County Corporation Counsel for an advisory opinion and shall be guided by any opinion rendered. The applicant shall present his or her interpretation of the facts at issue and of the applicability of provisions of this Code before the advisory opinion is rendered. All requests for opinion and opinions rendered shall be in writing.
 - B. Records of the Corporation Counsel's opinions, opinion requests and investigations of violations shall be closed to public inspection, as required by Chapter 19 of Wisconsin Statutes. However, such records may be made public with the consent of the applicant.
- 19.03 Complaints². The Corporation Counsel shall accept from any person a verified written complaint which states the name of the officer or employee alleged to have committed a violation of this Code and sets forth the material facts involved in the allegation. The Corporation Counsel shall forward a copy of the complaint to the accused officer or employee and the Board within ten (10) business days.
- 19.04 Burden of Proof. The burden of proving a violation alleged in the complaint shall be on the complainant. Violations shall be proved by evidence that is clear, satisfactory and convincing.
- 19.05 Preliminary Investigations. Following the receipt of a verified complaint, the Board may make preliminary investigations with respect to alleged violation of this Code. A preliminary investigation shall not be initiated unless the accused officer or employee is notified in writing. The notice shall state the exact nature and purpose of the investigation, the individual's specific action or activities to be investigated, and a statement of such person's due process rights. If the Board finds probable cause to believe the allegations contained in the complaint, the complaint shall be scheduled for a hearing.
- 19.06 Time Limitations³. The Board may investigate any complaint properly filed with it. However, no action may be taken on any complaint which is filed more than thirty (30) calendar days after a violation of the Ethics Code is alleged to have occurred.

¹ Amendment of Dec. 19, 2019: Revised purpose of the EIB by narrowing its scope of review to actions involving non-County/Town board members. All future actions involving offenses made by County/Town board members are now heard by the County/Town Board of Supervisors.

² Amendment of Oct. 20, 2016: Clarified that the ten-day timeline for Corporation Counsel to forward copies of the complaint is business days and not calendar days.

³ Amendment of Dec. 19, 2019: Revised filing deadline from 10 working days to 30 calendar days. As originally adopted on July 21, 2016, the filing deadline was 90 calendar days. The amendment of October 20, 2016 reduced the deadline down to 10 working days.

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19.061 Discovery; witnesses and documents; pre-hearing statements; no mediation⁴. There shall be no formal pre-hearing discovery. The Employee and the County shall exchange a list of witnesses they intend to call at the hearing and any documents and exhibits they intend to introduce at the hearing no less than five (5) working days before the hearing. The parties shall provide a copy of the witness list, documents and exhibits to the chairperson of the Ethics Inquiry Board. No witness, exhibit or document which was not identified or exchanged by a party may be introduced at the hearing without a written finding by the chairperson of the Ethics Inquiry Board that there was good cause for the failure of the party to identify a witness or exhibit or produce a document prior to the deadline. Each party may file a pre-hearing statement with the Ethics Inquiry Board of no more than two (2) type written single space pages outlining the party's position related to the grievance. Any prehearing statement shall be submitted to the Ethics Inquiry Board no less than five (5) working days prior to the hearing. No member of the Ethics Inquiry Board may serve as a mediator nor make any attempt to mediate the dispute. That submission under this section shall be filed with the Menominee County clerk on behalf of the Ethics Inquiry Board.

19.062 Sequestration of Witnesses⁵: Witnesses shall be sequestered during the presentation of evidence unless waived by agreement of the parties.

19.07 Board Hearing; Findings and Recommendation

- A. The Board shall be responsible for investigating a complaint and conducting a fact finding hearing in any case where the Board has found that probable cause exists for believing the allegations of a complaint following completion of a preliminary investigation.
- B. The Board shall keep a record of the hearing. The Board shall have the power to compel the attendance of witnesses and to issue subpoenas as granted to other boards and commissions under Section 885.01 Wisconsin Statutes.
- C. Within ten (10) work days of the conclusion of the hearing, the Board shall file its written findings and recommendations signed by all participating Board members, together with findings of fact and conclusions of law, concerning the propriety of the conduct of the public official. If the Board determines that no violation of the Code of Ethics has occurred, it shall dismiss the complaint, and if requested to do so by the accused, issue a public statement.
- D. No recommendation of the Board becomes effective until twenty (20) work days after it is issued, or while an application for rehearing or rehearing before the Board is pending, or the Board has announced its final determination on rehearing.

19.08 Enforcement and Penalties. If the Board finds that clear, satisfactory and convincing evidence exists for believing the allegations of the complaint, the Ethics Inquiry Board shall refer its findings and recommendation to the County Board, or in the case of an employee, to the Administrative Coordinator. The County/Town Board's authority shall be limited to consideration of the recommendations of the Ethics

⁴ Amendment of Dec. 19, 2019: Added §19.061 in its entirety.

⁵ Amendment of Dec. 19, 2019: Added §19.062 in its entirety.

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Inquiry Board and enforcing the remedies provided in this ordinance⁶. No member of the County/Town Board who is the subject of an ethics complaint may be present during the full board's consideration of the complaint.⁷ The Board may make the following recommendations:

- A. Recommend that the County Board order the officer or employee to:
 1. conform his or her conduct to the ethics code; and/or
 2. pay a forfeiture of not less than \$100.00 nor more than \$500.00, such to be paid in a lump sum payment, through installments, or through payroll deductions, with a period not to exceed six months; and/or
 3. recommend that the official or employee be censured, suspended, removed from office, be issued a private reprimand, public reprimand, and in the case of an employee, may also recommend suspension without pay, discharge, or other appropriate disciplinary action.
- B. The Board may also refer the matter to the District Attorney to commence enforcement pursuant to the procedures and remedies of Wis. Stats. §19.59.

20. EFFECTIVE DATE. This ordinance shall become effective immediately upon passage the appointment of the three Board of Ethics members, and one alternate, by the Menominee County/Town Board of Supervisors.

⁶ Amendment of Dec. 19, 2019: Added sentence clarifying the County/Town Board's authority and scope of review of EIB recommendations.

⁷ Amendment of Dec. 19, 2019: Added sentence that Board members subject to an ethics complaint cannot be present during the full Board's consideration of the complaint.