



# Ethics Policy Checklist

**2015-1 Version**

## Member Communities

Counties: LaPorte and Porter. Cities: Crown Point, East Chicago, Gary, Hobart and Whiting. Towns: Chesterton, Dyer, Hebron, Highland, Lowell, Munster, Ogden Dunes and Schererville

BRINGING ETHICS AWARENESS AND TRAINING TO OUR COMMUNITIES

---

Visit us online at [www.sharedethics.com](http://www.sharedethics.com)



## TABLE OF CONTENTS

1. Purpose.....	1
2. Defined Terms .....	1
3. Activities to Address.....	2
A. Conflicts of Interest.....	2
B. Gifts.....	2
C. Use of Public Property .....	3
D. Favoritism .....	4
E. Confidentiality .....	4
F. Duty of Transparency .....	5
G. Official Influence .....	5
H. Political Activity .....	6
I. Employment Issues.....	6
J. Meeting Decorum/Civility.....	7
4. Enforcement.....	8
A. Procedure .....	8
B. Penalties .....	9
5. Policy Management .....	10
6. Questions/Inquiries .....	10

KD\_6976888\_1.DOCX

BRINGING ETHICS AWARENESS AND TRAINING TO OUR COMMUNITIES

Visit us online at [www.sharedethics.com](http://www.sharedethics.com)



## Ethics Policy Checklist

NOTE: The following is the initial effort by the Shared Ethics Advisory Commission to assist member communities in developing comprehensive ethics policies. This is a work in process and will be updated from time to time as more input is obtained. **The following bullet points are meant as a guide to our members rather than a model policy.** Different communities may choose to develop their own specific solutions best suited to their circumstances. While no one size fits all, the Commission believes that local ethics policies should at least address these issues:

1. **PURPOSE:** General statement expressing philosophy.

- *Recommendation:* Member community policies should in some way reference the core values of the Code of Shared Ethics and Values, -- Honesty/Integrity; Respect/Civility; Accountability/Responsibility; Fairness/Justice.

2. **DEFINED TERMS:**

- *Covered Individuals:* are those to whom the policy applies. They include elected officials, employees (manager, supervisor, frontline, part-time, full-time, contract), appointed members of Board and Commission members, town attorney, consulting engineers, etc.
- *Relative:* Each member community should determine how far this term should apply. "Relatives" may include spouse, children (employee's/spouse's children), business associates. Some communities may decide to expand coverage to more remote relationships such as brothers/sisters (natural or step), grandparents, cousins, stepchildren, divorced spouse, engaged couple, personal friendships. Goal: Define what degree of relationship is included in policy wherever this term is used.
- *Community:* Town, City, or County. This generic term is used throughout this checklist for convenience.
- *State Statutes:* More precise definitions for "covered individuals" may be found in the Indiana Nepotism statute (36-1-20.2) and Contracting with the Unit (36-1-21).



3. ACTIVITIES TO ADDRESS: Define what's prohibited and what's required.

A. Conflicts of Interest: Conflicts arise when a covered individual has some direct or indirect monetary advantage associated with an action within his/her area of responsibility.

- Nature of Conflict
  - Transactions involving purchase of goods or services, awarding of contracts and directing other policy matters of value (such as zoning, condemnation, etc.) where covered individuals or relatives have a financial, business, personal or special interest beyond that possessed by the public generally.
- Possible Response – policy should address what covered individual should do when a conflict of interest situation exists:
  - Disclose and Vote
  - Disclose and abstain from voting.
  - Disclose and not participate in vote or discussions.
- Possible exemptions: Covered individual is employed by a regulated public utility or a media outlet that publishes legal notice or transaction is of a de minimus amount. (\$500?)

B. Gifts: Covered individuals should not be permitted to receive compensation or any manner of benefit from any individual or business that is or may be for soliciting, negotiating or advocating for others before the legislative body or any other department or board or agency of the community. Gifts may be permitted. However, it should be recognized that items received as gifts may create an appearance of a special relationship and should be carefully considered before acceptance.

- Solicited gifts (where covered individual **asks for** something) are never acceptable, not even if they are of nominal value. Soliciting a gift should be considered a serious violation of policy.
- Unsolicited gifts (offered but not asked for) should never to be accepted if offered in exchange for a favorable decision or to influence an outcome. However, unsolicited

BRINGING ETHICS AWARENESS AND TRAINING TO OUR COMMUNITIES

---

Visit us online at [www.sharedethics.com](http://www.sharedethics.com)



gifts/entertainment/meals may be acceptable in certain circumstances. Possible circumstances:

- De minimus amount. Policy could state a figure (\$25/\$50, etc.) as an absolute limit **or** the predetermined figure could trigger the filing of a disclosure form.
- Novelty/advertising item including items with giver's logo or identification (pens, key chains, paper note pads, etc.) of de minimus value.
- Entertainment, such as general receptions or other forms of general entertainment subject to the de minimus value rule.
- Gifts among family members or long time personal friends, especially for birthday and holidays.
- Plaques and Mementos of reasonable value presented by non-profits or others in recognition of meritorious service or for presentations.
- Reporting of gifts – policy should cover what needs to be reported:
  - All gifts of whatever nature or all but de minimus.
  - All gifts, no matter the value, if the giver has **asked for** an action not available to the general public.

C. Use of Public Property: In surveys conducted by the Shared Ethics Advisory Commission, a high number of member community employees have expressed concern about the misuse of public property.

- Improper use: No covered individual should be permitted to use or permit any other individual (including relatives) to use public property (including motor vehicles, equipment, materials, supplies or facilities) for a personal or private purpose.
- Exceptions:
  - Asset is available for general public use pursuant to a standard procedure uniformly and fairly applied.



# Shared Ethics

ADVISORY COMMISSION

- The asset has been declared surplus property by the appropriate authority and its disposition is consistent with policies uniformly and fairly adopted.
- Use is consistent with written policies or employment contracts.
- If employees are issued take home vehicles, define proper use and if personal use is permitted, require documentation of that use.
- Define proper use of electronic devices issued to community employees.

D. *Favoritism*: This is another issue where concern is frequently expressed in the Commission's employee surveys.

- Employment/Supervisor Issues – promotion and disciplinary practices should be clearly set out somewhere in personnel policies. In addition, they should be at least cross referenced in the ethics policy with emphasis on promotions based on merit and consistent with established policies, all applied uniformly without regard to sex, race, color, religion, national origin, genetic information or sexual orientation, and also compliant with the Americans with Disabilities Act.
- Contracting for goods and services – at least cross reference to bidding practices or purchasing policies contained in policies elsewhere set out in greater detail.
- Services Rendered – Public employees will deliver services to the public on a fair and equitable basis without special treatment being shown to anyone for any purpose or for any personal advantage to the covered individual or relatives.

E. *Confidentiality*

- Duty – Covered individuals have a high duty not to disclose confidential information or use such information for their own benefit or for the benefit of others (including relatives).
- Confidential Information should be defined and would at least include contracts and transactions deemed confidential, personnel matters, discussions and documents covered by the attorney-client privilege and all other matters that the covered individual knows or has reason to believe are of a confidential nature.

BRINGING ETHICS AWARENESS AND TRAINING TO OUR COMMUNITIES

---

Visit us online at [www.sharedethics.com](http://www.sharedethics.com)

# Shared Ethics

ADVISORY COMMISSION

- Exceptions – (1) Proper legal authorization is attained or (2) confidential information already released to the public.

F. Duty of Transparency – at least these issues should be addressed:

- Meetings subject to the “Open Door” law should be announced to the media and public within the legally prescribed time limits.
- Meeting Agenda should be posted timely and in the appropriate place as prescribed by law.
- Covered individuals should not participate in conversations either in person or by electronic means in which decisions are made that are subject to the “Open Door” law.
- Public meeting minutes should be prepared promptly to adequately inform the public.
- Records should be readily available for inspection and/or duplication as allowed by law.
- Executive sessions should be strictly limited to those instances allowable by law (e.g., personnel issues, law suits, property purchases, etc.)
- Consider posting minutes, contracts, policies, etc. on the community’s website.

G. Official Influence

- Covered individuals should not appear on behalf of private interests before any board, commission, legislative body or other subdivision of the community presenting themselves or another person or entity’s private interest.
- Covered individuals should not otherwise assist others in transactions with their community when it would reasonably appear to improperly favor that party unless assistance is of a nature routinely offered to all citizens.
- Non-elected covered individuals should not express political preferences or engage in activities or express support for candidates on community time.

BRINGING ETHICS AWARENESS AND TRAINING TO OUR COMMUNITIES

Visit us online at [www.sharedethics.com](http://www.sharedethics.com)

# Shared Ethics

ADVISORY COMMISSION

- Covered individuals shall not represent others in litigation against the community except when representing themselves as a private citizen.
- Covered individuals shall not become financially interested in matters pending before any subdivision of their community over which they may have official or unofficial ability to influence the outcome:

## H. Political Activity

- Incorporate or cross reference to state and federal restrictions.
- Emphasize basic principles:
  - No campaigning activities on public property or public time.
  - No fund raising activities on public property or public time.
  - No public property or materials should be used for political activities except when general public can use public facilities (e.g., parks) on the same basis, upon completing a standard application and paying standard fees.
  - Employees cannot be required to participate in campaign activities or contribute to a candidate's campaign.

## I. Employment Issues

- Incorporate or cross reference to personnel policies regulating nepotism, and barring discrimination and inappropriate activities or speech, including social media and endorsement of people or products.
- Incorporate or cross reference to other policies requiring a fair day's work for a fair day's pay and barring ghost payrolling.
- Require notification to community when employee takes on outside employment while employed by the community.



# Shared Ethics

ADVISORY COMMISSION

- Activities barred to all employees:
  - Soliciting or accepting private employment in return for providing some service in the course of performing public duties.
  - Acting as agent, broker, employee or consultant for any private party having business dealings with the community.
  - Using knowledge gained in public employment to profit from a transaction planned by the community (e.g., purchasing property that the employee knows will appreciate in value because of some action to be taken).
  - Accepting personal discounts or favorable consideration because of position in community if such benefits are not available to general public.
  - Engaging for his or her own benefit in a business or transaction with the community. Is full disclosure always enough?
  - Engaging in any employment that might reflect negatively on the community's reputation.
  - Supervising or participating in any decision to hire, promote, discipline or discharge a relative.
- Consider requiring pre-notification of outside employment to provide the opportunity to check for "barred activities" or in the alternative define types of outside positions that would require pre-notification.

J. *Meeting Decorum/Civility*. The manner in which government reaches a decision can be as important as the actual decision. Meetings conducted in a fair, open and civil manner can enhance credibility and acceptance of the matter under consideration.

- Goal: Create an atmosphere where the community agency and the public can address the business at hand efficiently, fairly and transparently while adhering to commonly accepted concepts of courtesy and decorum.
- Factors to Consider (with respect to Community officials and general public):

BRINGING ETHICS AWARENESS AND TRAINING TO OUR COMMUNITIES

Visit us online at [www.sharedethics.com](http://www.sharedethics.com)

# Shared Ethics

ADVISORY COMMISSION

- Having one person speak at a time after being recognized by the presiding officer.
- Not permitting interruptions of speaker or disruptive side conversations.
- Limiting the amount of time allotted to each speaker.
- Limiting discussion to the topic while avoiding personal attacks or impugning motives.
- Baring loud, crude, or profane remarks or those offensive or prejudicial to individuals or groups in the community.
- Establishing rules governing the use of electronic devices during meetings.

## 4. ENFORCEMENT

### A. Procedure

- Address whether complaint should follow a chain of command and if so under what special circumstances the chain of command does not have to be followed (for example, complaint about supervisor **or** supervisor does not respond promptly).
- Either as backup to chain of command or as the initial complaint process:
  - Identify an official to receive complaints -- for example, Human Resources Director, Town Manager, Council President, other elected or appointed official.
  - Identify one or more backup persons in case the complaint is against the primary designated official or in case some other personal conflict exists.
- Set a reasonable time limit for filing a complaint after the occurrence of the subject activity (for example, 30 or 45 days).
- Consider posting on community website and/or including a blank complaint form in personnel manual.
- Hearings

# Shared Ethics

ADVISORY COMMISSION

- Official designated to receive complaint may be empowered to hold hearing or the hearing could be conducted by a committee created for that purpose.
- Consider establishing an appeals process, especially if a single individual makes the initial determination. (Possibilities: Committee of citizens, department heads, Council, etc.)
- Hearings can be formal or informal. Define circumstances where more formal procedures are appropriate considering the particular factual circumstances, the community's other policies and also legal requirements.
- Decision should be reached and communicated promptly. (30 to 45 days, for example)

## B. Penalties

- Employee
  - Ethics infractions should be dealt with consistent with state statutes and community's general enforcement policies and treated like any other policy infraction with progressive penalties depending on the seriousness of the infraction (e.g., from warning, to reprimand, to suspension, to discharge, to referral to law enforcement).
  - Define which official or body decides what action to take.
- Elected Official
  - Community legislative body should determine its own procedures appropriate to the circumstances of that community.



C. WHISTLEBLOWER PROTECTION

- An employee should not be discharged, threatened or otherwise be disadvantaged for filing a complaint in good faith based on reasonable cause.
- Where possible the anonymity of the complaining employee or citizen should be protected.

5. POLICY MANAGEMENT

- Every current and each new employee should receive and acknowledge receipt in writing of the community's ethics policy and, on a timely basis, any amendments thereto.
- Discussions of the policy's provisions should occur at staff meetings at least every second year.
- The policy should be posted on the community's website for the benefit of employees and the general public.

6. QUESTIONS/INQUIRIES

Please contact Calvin Bellamy at (219) 227-6109 or [cbellamy@kdlegal.com](mailto:cbellamy@kdlegal.com).

KD\_6302456\_4.docx