

York County Code of Ethics

CODE OF ETHICS

Sec. 1 Declaration of Policy. The proper operation of County government requires that County Officers and County Officials and their appointees be fair, impartial and responsive to the needs of the people and each other in the performance of their respective functions and duties; that decisions and policy be made in proper channels of the County's governmental structure; that public office not be used for personal gain; and that County Employees, County Officers and County Officials and County appointees maintain a standard of conduct that will inspire public confidence in the integrity of the County's government. In recognition of these goals, a Code of Ethics is hereby established for all County Employees, County Officers, County Officials, and all County Boards, Committees now existing or hereafter created pursuant to the authority granted by Title 30-A, Section 101(6-A).

Sec. 2 Definitions.

2.1 Committee and Board: All statutory and non-statutory Committees and Boards now existing or hereafter created by the County Commissioners, state legislature or County Official by any statute, order or resolve.

2.1.1 County Officer: "County Officers" means the commissioners, treasurer, sheriff, register of deeds and register of probate of a county.

2.1.2 County Official: "County Official" means an elected or appointed member of a county government.

2.1.3 Committee or Board Member: Any person elected or appointed to membership on a County Committee or Board.

2.2 County Employee: Any individual working for, on a permanent, casual or temporary basis, and drawing an hourly wage or salary from the County of York. The term "County Employee" shall not include outside consultants or professional personnel providing services to the County as independent contractors under a written professional services contract or other similar engagement.

2.3 Immediate Family: Spouse, and the following when living in the household of a County Employee, County Officer, County Official, Committee or Board Member: children, parents, brothers and sisters.

2.4 Financial Interest: A person has a financial interest if the person has, directly or indirectly, through business, investments, or family:

- a. An ownership or investment interest in any entity with which the County has a transaction, contract, monetary grant or award.
- b. A compensation arrangement with the County or with any entity or individual with which the County has a transaction, contract, monetary grant or award.
- c. A potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which the County is negotiating or has under consideration a transaction, contract, monetary grant or award.

2.5 Special Interest: A direct or indirect interest having value peculiar to a certain individual or group, whether economic or otherwise, which value may accrue to such individual or group as a result of the passage or denial of any order, ordinance or resolution or the approval or disapproval thereof, by the County Commissioners, Committee or Board which interest is not shared by the general public.

2.6 County Commissioner: For purposes of this Code references to the County Commissioner shall be construed to be the County Commissioner's of the County of York and any of the committees, boards or subcommittees thereof.

Sec. 3 Standards of Conduct: The purpose of this Code is to establish ethical standards of conduct for all County Employees, Officials, Officers, Committee and Board Members by setting forth those acts or actions deemed to be in conflict or incompatible, or to create the appearance of conflict or incompatibility, with the best interests of the County of York.

3.1 Statutory Standards. There are certain provisions of the general statutes of the State of Maine which should, while not set forth herein, be considered an integral part of this Code. Accordingly, the provisions of the following sections of the general statutes of the State of Maine, as may be amended, are hereby incorporated by reference and made a part of this Code of Ethics, and shall apply to all County Employees, Officials, Officers, Committee and Board Members of the County of York whenever applicable.

30-A MRSA § 2605 Conflicts of Interest

3.1.1 Conflict: If there is a conflict between the Code and any statutory provision, the higher standard specified by the Statute or Code shall prevail.

3.2 Contracts, Purchases and Employment.

(A) No County Employee, Officer, Official, Board Member or Committee Member shall participate directly by way of deliberation, approval or disapproval, or recommendation, in the purchase of goods and services for the County, and the award of any contracts with the County, except as permitted under the laws of the State of Maine, where to his knowledge there is a financial interest, or special interest other than that possessed by the public generally, in such purchase or award, held by:

- (i) that individual or a member of his or her immediate family;
- (ii) a business in which that individual or a member of his or her immediate family serves as an officer, director, trustee, partner or employee in a supervisory or management position; or
- (iii) any other person or business with whom that individual or a member of his or her immediate family are in business, or are negotiating or have an arrangement concerning future employment.

(B) No County Commissioner, Officer, Official, Board Member or Committee Member shall participate by means of deliberation, approval or disapproval, or recommendation, in the decision to hire, promote, discipline, lay off or to take any other personnel action in respect to any applicant for County employment or County employee, where said applicant or employee is:

- (i) a member of the Committee, Board Member, or Committee Member's immediate family; or
- (ii) a person with whom either the Commissioner, Board Member, Committee Member or a member of his or her immediate family is in business.

(C) Except as authorized under the County's published Personnel Rules and Regulations, no County Employee shall participate by way of deliberation, approval or disapproval, or recommendation, in the decision to hire, promote, discipline, lay off or to take any other personnel action in respect to any applicant for County employment or County Employee, where said applicant or employee is:

- (i) a member of the County Employee's immediate family; or
- (ii) a person with whom either the County Employee or a of his or her immediate family is in business.

Action by a County Employee shall be deemed authorized under this subsection when such action is permitted under the County's published Personnel Rules and Regulations, or when the County Commissioner has waived those rules so as to allow creation of a supervisory relationship that would otherwise violate the published rules.

3.3 Disclosure of Confidential Information. No County Employee, Officer, Official, Board Member or Committee Member shall, without proper legal authorization, disclose confidential information concerning the property, government or affairs of the County; nor shall he or she use such information to advance his or her financial or private interest or the financial or private interest of others. For purposes of this subsection, the term, "confidential information" shall mean any information, oral or written, which comes to the attention of, or is available to, such County Employee, Commissioner, Board Member or Committee Member only because of his or her position with the County, and is not a

matter of public record. Information received and discussed during an executive session of the Commissioner's or any County Board or Committee called pursuant to 1 MRSA §§ 405 et seq. shall be considered within the constraints of this section, and shall not be disclosed to any third party unless permitted by affirmative vote of such body.

3.4 Gifts and Favors. No County Employee, Commissioner, Officer, Official, Board Member or Committee Member shall accept any gift, favor or thing of value, whether in the form of service, loan, thing or promise, from any person or business which to his or her knowledge is interested directly or indirectly in any manner whatsoever in business dealings with the County; nor shall any County Employee, Commissioner, Officer, Official, Board Member or Committee Member: (1) accept any gift, favor or thing of value that tends to influence that individual in the discharge of his or her official duties; or (2) grant in the discharge of his or her official duties any improper favor, service or thing of value. Nothing herein shall prohibit the acceptance of gifts or favors by County Employees, Commissioner, Officer, Official, Board Members or Committee Members from members of their immediate families. In determining whether a violation of this subsection has occurred the Commissioners shall consider the monetary or pecuniary value of the gift, favor or thing received; any special economic value the gift, favor or thing received may have to the recipient; the circumstances under which the gift, favor or thing concerned was received; and whether a public disclosure of the receipt was made by the recipient at the time.

3.5 Use of County Property. No County Employee, Commissioner, Board Member or Committee Member shall use or permit the use of any County-owned property, including but not limited to, motor vehicles, equipment and buildings, for any private purposes. Nothing herein shall prohibit the use of County buildings and equipment at rates and/or on terms as may be established. Nothing herein shall prohibit the use of County equipment or motor vehicles by County Employees in accordance with written policies established by the Commissioner, Officer, or Official, nor shall this Code be deemed to prohibit private use of surplus County property legally disposed of by the County or its departments in compliance with established procedures.

3.6 Representing Third Party Interest Before County Agencies.

(A) No County Employee shall appear on behalf of any third party interest before any County agency, or represent a third party interest in any action, proceeding, or litigation in which the County or one of its agencies is a party. Nothing herein shall prohibit any County Employee from appearing as a witness when duly called by a party for the purpose of giving non-privileged testimony before any County agency, Board, Committee or in any such action, proceeding or litigation. Nothing herein shall prohibit any County Employee, on behalf of his or her personal interest, from appearing before any County agency, Board or Committee. "Personal interest" shall include, for this purpose, any interest of the County Employee concerned as a resident, landowner, or taxpayer affected by the matter under consideration.

(B) No County Commissioner, Officer, or Official shall either appear on behalf of any third party interest before any County agency, Board or Committee, or represent a third party interest in any action, proceeding, or litigation in which the County is a party. Nothing herein shall prohibit a Commissioner, Officer or Official, on behalf of a constituent in the course of his or her duties as a representative of the electorate or on behalf of his or her personal interest, from appearing before a County agency, Committee or Board.

(C) No Board or Committee Member shall appear on behalf of any third party interest before a County agency, Board or Committee of which he or she is a current member. Nothing herein shall prohibit a Board or Committee Member, on behalf of his or her personal interest, from appearing before any County agency including that of which he or she is a current member, but such Board Member or Committee Member shall not deliberate or vote on the item concerned.

3.7 Conflicts of Interest.

(A) Deliberation and Vote Prohibited. No County Commissioner, Officer, Official, Board Member or Committee Member shall, in such capacity, participate in the deliberation or vote, or otherwise take part in the decision-making process, on any agenda item before his or her collective body in which he or she or a member of his or her immediate family has a financial or special interest, other than an interest held by the public generally.

(B) Disclosure of Conflict. Any County Commissioner, Officer, Official, Board Member or Committee Member who believes that he or she or a member of his or her immediate family has a financial or special interest, other than an interest held by the public generally, in any agenda item before his or her collective body, shall disclose the nature and extent of such interest and the County Manager or his designee shall make a record of such disclosure.

Such disclosure shall be made no later than the date of the first meeting of the County Commissioners, Board or Committee thereof, at which the agenda item concerned is to be taken up for consideration, recommendation, discussion or vote and at which the County Commissioner, Board Member or Committee Member is present. Additionally, any County Commissioner, Officer, Official, Board Member or Committee Member who believes that any fellow County Commissioner, Officer, Official, Board Member or Committee Member, or a member of such fellow Member's immediate family has a financial or special interest, other than an interest held by the public generally, in any agenda item before his or her collective body, shall disclose the nature and extent of such interest, and the County Manager or his designee shall make a record of such disclosure.

(C) Determination of Conflict. Once the issue of conflict has been raised relative to an individual Member, and disclosure has been made as provided above, such individuals fellow Members shall review the facts as disclosed to them, and shall vote on whether or not such individual has a financial or special interest with respect to the agenda item concerned. All conflict of interest questions relating to a particular agenda item shall be

resolved prior to any consideration of the item concerned, and each Commissioner, Committee Board Member present shall be entitled to vote on all conflict of interest questions except those questions pertaining to that individual Commissioner, Committee Member or Board Member's alleged conflict of interest.

All votes of conflict of interest questions shall be recorded. A majority vote shall determine the question; but a vote by Committee may later be reviewed, modified or reversed by the County Commissioners upon the County Commissioner's consideration of the same agenda item. The action taken by a Committee where a member with a financial or special interest participates in the negotiation or award of a contract or participates in the vote on a question before the Committee is voidable as provided in Section 3.11(C).

Upon determination that a conflict of interest in fact exists, the County Commissioner, Officer, Official, Board Member or Committee Member concerned shall be excused from participating in discussion, deliberation or vote on the relevant agenda item.

(D) Avoidance of Appearance of Conflict. To avoid the appearance of a violation of this section, once any individual County Commissioner, Officer, Official, Board Member or Committee Member is determined to have a conflict of interest in respect to any agenda item, and once all conflict of interest questions relating to the agenda item concerned have been determined as provided in Section 3.7(C) above, said individual shall immediately remove himself or herself from the meeting room or to the area of the room occupied by the general public. He or she shall not return to his or her regular seat as a member of the body until deliberation and action on the item is completed. Nothing herein shall require an individual Commissioner, or Board Member or Committee Member to remove himself or herself for any item contained on a "Consent Agenda", on which there is no deliberation, the individual's conflict has been determined by the other members, and the right to abstain from voting on the item has been granted.

(E) Personal Interest. Nothing herein shall be construed to prohibit any County Commissioner, Officer, Official, Board Member or Committee Member from representing his own personal interest by appearing before his or her collective body on any such agenda item.

3.8 Disclosure Statement. Within fifteen (15) days after each County election every Commissioner shall file a completed disclosure form with the County Manager. Within thirty (30) days after his or her appointment or election, every Board Member and every Committee Member shall file a completed disclosure form with the County Manager. Such forms shall be under oath and shall contain the following information to the best of the disclosing party's knowledge and belief:

3.8.1 The name of each person or entity, whether incorporated or not, doing business with the County in an amount in excess of \$1,000 during the preceding calendar year from which such disclosing party or member of his immediate family has received money or other thing of value in an amount in excess of

\$1,000 during the preceding calendar year, including, but not limited to, campaign contributions where applicable.

3.8.2 The name of each entity, whether incorporated or not, doing business with the County in an amount in excess of \$1,000 for preceding calendar year in which such disclosing party or member of his immediate family has a financial interest in an amount in excess of \$1,000, including, but not limited to, the ownership of shares of stock.

3.8.3 The name of each nonprofit and/or for profit entity, whether incorporated or not, for which such disclosing party or member of his immediate family holds a position of officer or member of any board. For each such entity, such disclosing party shall provide the following information:

- (i) a brief description of the purpose of each board and/or office;
- (ii) a short summary of such disclosing party's or family member's duties relative to any such board and/or office;
- (iii) the term of service on each such board and/or office; and
- (iv) whether or not such disclosing party or family member receives compensation for service on such board and/or office and the extent to which such compensation exceeds \$100 in the aggregate annually.

For purposes of this subsection "compensation" shall include, but not be limited to, monetary compensation, gifts, gratuities, perks, fringe benefits, services, and any other thing of value.

3.8.4 Every County Commissioner, Officer, Official, Board Member or Committee Member shall amend his annual disclosure statement as may be required from time to time to ensure the continued accuracy thereof. Each such amendment shall be made within fifteen (15) days following the occurrence which requires the amendment.

3.8.5 The County Manager shall deliver a copy of each completed disclosure statement to every fellow member of the Commissioner, Board or Committee of each disclosing party within thirty (30) days after the expiration of the filing period.

3.8.6 For purposes of this Code, a list prepared by the Finance Director of those persons or entities doing business with the County in an amount in excess of \$1,000 for the preceding year shall be determinative for purposes of reporting under this section. Income from, and financial investments in, policies of insurance, and deposits in accounts from commercial or savings banks, savings and loan associations, or credit unions and the ownership of less than 5% of the

outstanding shares of stock in a publicly held corporation shall not be considered to be a financial interest within the meaning of this section.

3.9 Political Activities. No County Employee, Commissioner, Board Member or Committee Member shall participate in any political activity which would be in conflict or incompatible with the performance of his or her official functions and duties for the County. In conjunction therewith:

3.9.1 No County Employee, Commissioner, Officer, Official, Board Member or Committee Member may use his or her official authority or position for the purposes of influencing or interfering with or affecting the results of any election, nor shall he or she solicit funds or contributions or accept or receive funds or contributions from County Employees for political purposes. No County Commissioner, Officer, Official, Board Member or Committee Member may distribute pamphlets or handbills while he or she is performing official functions and duties with the County. Nothing herein shall be construed to prohibit an individual from participating in the political process in their private capacity as candidates for elected office or as private citizens.

3.10 Prohibition Against Contingent Fees.

It shall be a violation of this Code for a person to be retained, or to retain a person, to solicit or secure a County contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business.

3.11 Recovery of Value Transferred or Received in Breach of Ethical Standards, Other Penalties.

(A) General Provisions. The value of anything transferred or received in breach of the ethical standards of this Code by a County Commissioner, Officer, Official, Board Member or Committee Member or other person may be recovered from member concerned and from the other person concerned.

(B) Recovery of Kickbacks by the County. Upon a showing that a subcontractor made a kickback to a prime contractor or a higher tier subcontractor in connection with the award of a subcontract or modification or change order, it shall be conclusively presumed that the amount thereof was included in the price of the subcontract, modification, or change order and ultimately borne by the County and such amount shall be recoverable hereunder from the recipient. In addition, that amount may also be recovered from the subcontractor making such kickbacks. Recovery from one offending party shall not preclude recovery from other offending parties.

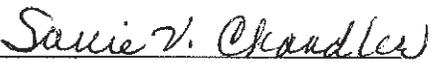
(C) Actions Voidable. In the absence of actual fraud, which makes an action void, the participation of a County Employee, Officer, Official, Board Member or Committee Member in the negotiation or award of a contract or the vote on a question before the

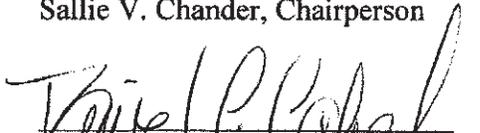
Committee, makes the action voidable if the County Employee Officer, Official Board Member or Committee Member fails to disclose a financial or special interest as required by Section 3.7 and 3.8.

Sec. 3.12 Penalties. In addition to any other penalties or remedies as may be provided by law, violation of this Code shall constitute cause for censure, after notice and hearing conducted by the County Commissioners. A majority of the County Commissioners shall conduct such proceedings. A violation of this Code by a County Employee shall also constitute proper grounds for dismissal or other disciplinary action as provided in the County's published Personnel Rules and Regulations.

Sec. 5 Separability. If any section, subsection, sentence, clause or phrase of this Code is for any reason held to be invalid or unconstitutional, such validity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this Code.

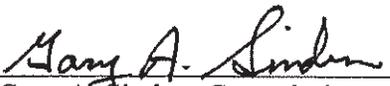
Adopted by the York County Commissioners on September 13, 2012.


Sallie V. Chander, Chairperson


Daniel C. Cabral, Vice-Chairperson


David E. Bowles, Commissioner


Richard R. Dutremble, Commissioner


Gary A. Sinden, Commissioner

Eliot Charter Commission Communication Input/Output Process

