

February 1, 2012

Miscellaneous Resolution #12018

BY: Human Resources Committee, John Scott, Chairperson

RE: Board of Commissioners - Oakland County Ethics Policy

TO: Oakland County Board of Commissioners

Chairperson, Ladies and Gentlemen:

WHEREAS the people of the state of Michigan demand all public officials adhere to high ethical standards and mandated in Article XI, §1 of the Michigan Constitution that all officers, legislative, executive and judicial, before entering upon the duties of their respective offices, take and subscribe the following oath or affirmation: I do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of this State, and that I will faithfully discharge the duties of the office of _____ according to the best of my ability; and

WHEREAS Oakland County government has long acknowledged that our citizens are entitled to complete confidence in the integrity of their government and have required that those who administer and deliver public services adhere to high standards of conduct in keeping with the fiduciary responsibility inherent in public service positions; and

WHEREAS Michigan statutory law expressly demands that all public officers and employees conduct themselves ethically in accordance with law; and

WHEREAS the Michigan legislature has adopted a series of laws specifically regulating public servant conduct relating to conflicts of interest, incompatible public offices, contracts of public servants with public entities, setting standards of conduct for public employees, governing political activities by public employees, the Michigan Election Law, the Campaign Finance Act, the Conflicts of Interest by County Commissioners Act and the Appointments or Employment of Members of County Board by Other County Officers or Bodies Act; and

WHEREAS the Michigan legislature also adopted dozens of criminal statutes that regulate and punish public officials and employees for unethical conduct amounting to bribery, corruption, perjury, extortion, larceny, embezzlement, false pretenses, racketeering, conspiracy, forgery, uttering and publishing, and 16 other acts specifically set forth in Chapter IXX of the Penal Code that are criminal if done by public officers or employees; and

WHEREAS penalties for ethical lapses that violate these laws range from 90 days in jail to 4, 10 and 20 year felony prison sentences, include life imprisonment for some racketeering convictions and also provide for fines and loss of employment; and

WHEREAS on October 11, 1990, the Oakland County augmented these extensive state constitutional and regulatory provisions by adopting MR #90244 setting forth Standards of Conduct for Oakland County Officers and Employees; and

WHEREAS MCL 45.556(b) grants Oakland County legal authority to enact an ethics policy as long as the policy relates to county affairs, does not contravene the general laws of the state and does not interfere with the local affairs of a township, city, or village within the limits of the county; and

WHEREAS the Oakland County Board of Commissioners and elected officials desire to again affirm their commitment to ethical conduct in the execution of their public duties by adopting a restated ethics policy; and

Human Resources Committee Vote:

Motion to approve carried on a roll call vote with Hatchett and Greimel absent

WHEREAS Miscellaneous Resolution #11002 authorized the creation of an Ethics Ad Hoc Committee to review the Oakland County Merit Rules, as they pertain to ethics and report their findings; and

WHEREAS the Ethics Ad Hoc Committee has met with representatives from the county administration to formulate an updated Ethics Policy to replace the current *Standard of Conduct Policy* for county officials, employees, appointees and volunteers; and

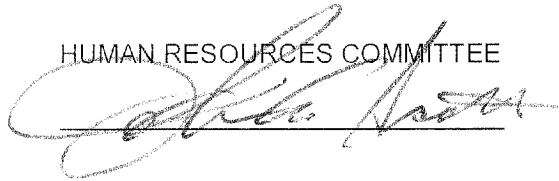
WHEREAS enactment of the attached Oakland County Ethics Policy as recommended by the Ethics Ad Hoc Committee will affirm that Oakland County Government remains committed to the ethical administration of county functions.

NOW THEREFORE BE IT RESOLVED that the Oakland County Board of Commissioners adopts the attached Oakland County Ethics Policy to update and replace the current Standards of Conduct For Oakland County Officers and Employees; and

BE IT FURTHER RESOLVED that the Oakland County Ethics Policy shall become effective when the requisite notice and other procedural requirements required under law are met and that said policy shall be distributed to all current employees, elected officials, officers, appointees and volunteers and shall also be distributed to new hires at the time of their hiring.

Chairperson, on behalf of the Human Resources Committee, I move the adoption of the foregoing resolution.

HUMAN RESOURCES COMMITTEE

A handwritten signature in dark ink, appearing to be "John Brown", is written over a horizontal line. The signature is fluid and cursive.

OAKLAND COUNTY ETHICS POLICY

CHAPTER ONE - PURPOSE AND DEFINITIONS

Section 1 - 1. PURPOSE. The purpose of this policy is to set forth Standards of Conduct for the officers and employees of Oakland County Government ("County"). The policy also provides references to certain state statutes that regulate the conduct of officers and employees of local government. The policy provides for the establishment of an Ethics Subcommittee of the Board of Commissioners to hear complaints against officers and employees of the County and, when the Ethics Subcommittee believes there is clear and convincing evidence to believe that the respondent has violated Chapter Two of this policy, to refer those complaints for a disciplinary hearing by the appointing authority and/or for action by the appropriate law enforcement authority or take other action permitted by this policy. The policy provides for penalties for violations of this policy.

Section 1 - 2. SCOPE. This policy is intended to regulate the conduct of County officers, officials, employees, appointees and volunteers in matters that relate to County affairs. It is not intended to and may not, by law, contravene the general laws of this state or interfere with the local affairs of a township, city, or village within the limits of the County.

It is recognized that certain officials, e.g., judges, while elected or appointed at the County level and/or funded by County taxpayers are not County employees, but are employees of state government. Their conduct as state officials or employees is not subject to this policy.

It is also recognized that some officials and employees are "co-employees" over whom the Board of Commissioners has limited jurisdiction. These officials share common characteristics: their selection and appointment are, by specific statute, placed in the hands of elected officials of either the County or state government, they serve at the pleasure of those officials, and their duties and responsibilities are expressly provided for by law. (*See, e.g.,* MCL 45.558[e], County Department Heads; MCL 49.31, MCL 49.32, Assistant Prosecuting Attorneys and Chief Assistant Prosecuting Attorney; MCL 50.63, MCL 50.131, Chief Deputy Clerk; MCL 51.71, Under Sheriff, MCL 48.37, Deputy Treasurer; MCL 660.833(1) and MCL 600.833(2), Probate Register and Deputy Probate Registers, Fifty-Second District Court Magistrates etc. This list is not exhaustive as there are certain other deputy appointees, appointed by state or County-wide officials pursuant to law and whose job performance is not subject exclusively to Board of Commissioner control.) The ethical conduct of many of these officials and employees is covered by certain, specific codes that may supersede Board of Commissioner regulation. *See, e.g.,* the Michigan Rules of Professional Conduct and the Code of Judicial Conduct.

In addition, rules of ethical conduct promulgated by various other appointing authorities have been imposed on certain appointees. (*See, e.g.,* the Sheriff's Code of Conduct, the County Executive's Code of Ethics, the Prosecutor's Code of Ethics, the Oakland County Clerk/Register of Deeds Ethics Policy, etc.). To the extent this Board policy is pre-empted by a standard imposed upon an appointee, deputy or employee pursuant to a constitutional or statutory prerogative granted that other appointing authority, this Board policy does not apply. Stated differently, this policy does not apply in cases where state constitutional or statutory law mandates otherwise.

Section 1 - 2. Definitions.

A. "Employee" means a person employed by the County, whether on a full-time or part-time basis. "Employee" also means a person appointed by a competent authority, including the Board of

Commissioners, by an elected County official acting pursuant to lawful authority in making an appointment, or pursuant to statute, resolution, ordinance or policy, to any position, whether paid or volunteer, wherein the person performs a function or duty on behalf of the County in the public interest.

B. "Gift" means any gratuity, commission, discount, entertainment, hospitality, loan, forbearance, preference, advantage, priority, employment or other tangible or intangible item having monetary value including, but not limited to, cash, food and drink, travel, lodging, and honoraria for speaking engagements related to or attributable to government employment or the official position of an officer or employee.

C. "Government contract" means a contract in which the County acquires goods or services, or both, from another person or entity, but the term does not include a contract pursuant to which a person serves as an employee or appointed officer of the County.

D. "Governmental decision" means a determination, action, vote, or disposition upon a motion, proposal, recommendation, resolution, ordinance, policy, or measure on which a vote by the members of a legislative or governing body of a public entity is required and by which a public entity formulates or effectuates public policy.

E. "Immediate family" means a person and a person's father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, half-sister, and including the father, mother, grandfather, or grandmother of an individual's spouse or fiancé. It shall also include a former spouse, an individual with whom he or she has a dating relationship, an individual with whom he or she has had a child in common, or a resident of the same household.

F. "Officer or Official" means a person who holds office, by election or appointment within the County regardless of whether the officer is compensated for service in his or her official capacity.

G. "Official action" means a decision, recommendation, approval, disapproval or other action or failure to act which involves the use of discretionary authority.

H. "Prohibited source" means any person or entity who:

(1) is seeking official action (i) by an officer or (ii) by an employee, or by someone who reports to or supervises that officer or employee;

(2) does business or seeks to do business (i) with an officer or (ii) with an employee, or with someone who reports to or supervises that officer or employee;

(3) conducts activities regulated (i) by an officer or (ii) by an employee, or by someone who reports to or supervises that officer or employee; or

(4) has interests that may be substantially affected by the performance or nonperformance of the official duties of the officer or employee.

CHAPTER TWO - STANDARDS OF CONDUCT

Section 2 - 1. Gift Ban. Except as permitted by this policy, no official, officer or employee of the County shall intentionally or knowingly solicit or accept any gift from any prohibited source or that is otherwise prohibited by law, ordinance or policy. Note that MCL 750.125(2) specifically provides that an agent or employee shall not request or accept a commission, gift, or gratuity, or a promise of a commission, gift or gratuity, for the agent, employee, or another person or the doing of an act or offer of an act beneficial to the agent, employee or another person according to an agreement or understanding between the agent or employee and any other person that the agent or employee shall act in a particular manner in relation to his or her principal's or employer's business.

Section 2 - 2. Exceptions. Unless application of state or federal law otherwise applies, Section 2 - 1 is not applicable to the following:

(1) Opportunities, benefits, and services that are available on the same conditions as for the general public or for all County employees.

(2) Anything for which the officer or employee pays the fair market value.

(3) Any contribution that is lawfully made under the campaign finance laws of the State of Michigan and that is reported in a campaign finance statement.

(4) Acceptance or donations of complimentary tickets to political events not requiring the performance of an official act or public duty and absent any agreement or understanding that an elected official, appointee or employee shall act in a particular manner in relation to his or her public office or employment.

(5) A gift from a relative, meaning those people related to the individual as father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, half-sister, and including the father, mother, grandfather, or grandmother of an individual's spouse or fiancé.

(6) Anything provided by an individual on the basis of a personal friendship unless the recipient has reason to believe that, under the circumstances, the gift was provided because of the official position or employment of the recipient and not because of the personal friendship. In determining whether a gift is provided on the basis of personal friendship, the recipient shall consider the circumstances under which the gift was offered, such as: (i) the history of the relationship between the individual giving the gift and the recipient of the gift, including any - previous exchange of gifts between those individuals; (ii) whether to the actual knowledge of the recipient the individual who gave the gift personally paid for the gift or sought a tax deduction or business reimbursement for the gift; and (iii) whether to the actual knowledge of the recipient the individual who gave the gift also at the same time gave the same or similar gifts to other officers or employees.

(7) Food or refreshments not exceeding \$25.00 per person in value on a single calendar day; provided that the food or refreshments are (i) consumed on the premises from which they were

purchased or prepared, or (ii) catered. For the purposes of this Section, "catered" means food or refreshments that are served ready to consume which are delivered by any means.

(8) Food, refreshments, lodging, transportation, and other benefits resulting from outside business or employment activities (or outside activities that are not connected to the official duties of an officer or employee), if the benefits have not been offered or enhanced because of the official position or employment of the officer or employee, and are customarily provided to others in similar circumstances.

(9) Intra-governmental and inter-governmental gifts. For the purpose of this policy, "intra-governmental gift" means any gift given to an officer or employee from another officer or employee of the County, and "inter-governmental gift" means any gift given to an officer or employee by an officer or employee of another governmental entity.

(10) Bequests, inheritances, and other transfers at death.

(11) Any item or items from any one prohibited source during any calendar year having a cumulative total value of less than \$100.00 as long as the offer or receipt of any item of any value does not violate MCL 750.125 or other law.

Each of the exceptions listed in this Section is mutually exclusive and independent of every other.

Section 2 - 3. Disposition of gifts. An officer or employee does not violate this policy if he or she promptly takes reasonable action to return a gift from a prohibited source. Offers of, or solicitations for, gifts under circumstances that may amount to a violation of state or federal law shall be promptly reported to the appointing or supervisory authorities, to an appropriate law enforcement agency, and to the Ethics Subcommittee.

Section 2 - 4. Confidential Information. A public officer or employee shall not divulge to an unauthorized person, confidential information acquired in the course of employment in advance of the time prescribed for its authorized release to the public by the appropriate Oakland County authority.

See: Freedom of Information Act (FOIA), 1976 PA 442, MCL 15.231 *et seq.* Suppression of or refusal to provide public records of the County is governed by the FOIA, the Records Retention Schedule of the local unit as approved by the State Archivist, MCL 750.491 (Public records; removal, mutilation or destruction; penalty) and 1963 Const. Art. 9, §23.

Section 2 - 5. Personal Opinion. An employee, other than an officer or elected official, shall not represent his or her personal opinion as that of the County.

Section 2 - 6. Public Resources. Employees, officers and/or elected officials shall use personnel resources, property, and funds under their care and control judiciously and solely in accordance with prescribed constitutional, statutory, and regulatory procedures and not for personal gain or benefit.

Section 2 - 7. Personal Profit. A public officer or employee or his or her Immediate Family shall not engage in a business transaction in which the public officer or employee or his or her Immediate Family may profit from his or her official position or authority or benefit financially from

confidential information which the public officer or employee has obtained or may obtain by reason of that position or authority. Instruction, teaching or training that is not done during regularly scheduled working hours, except for annual leave or vacation time, shall not be considered a business transaction pursuant to this subsection if the instructor does not have any direct dealing with or influence on the employing or contracting instruction facility associated with his or her course of employment with this County.

Section 2 - 8. Incompatibility and Conflicts of Interest. Except as otherwise provided in Const. 1963, statute, or in Section 2 - 10, an officer or employee shall not engage in or accept employment or render services for a private or public interest when that employment or service is incompatible or in conflict with the discharge of the officer or employee's official duties or when that employment may tend to impair his or her independence of judgment or action in the performance of official duties. The simultaneous holding of more than one public position under certain circumstances is contrary to the requirements of the Incompatible Public Offices Act, MCL 15.181 *et seq.* However, the simultaneous holding of certain public positions is specifically authorized by the Michigan Constitution of 1963 or state statute.

See: Incompatible Public Offices Act, 1978 PA 566, MCL 15.181 *et seq.*

See: Const. 1963, Article 7, Section 28. Local officials are specifically authorized to serve on the governing bodies of intergovernmental entities.

Section 2 - 9. Personal and financial interests. Except as provided in Section 2 - 10, an officer or employee shall not participate in the negotiation or execution of contracts, making of loans, granting of subsidies, fixing of rates, issuance of permits or certificates, or other regulation or supervision relating to a business entity, including making decisions in her or his official capacity that would steer or refer business to that business entity, in which the officer (with the exception of well or septic permits, which are obtained in the ordinary course of business) or employee or his or her Immediate Family has a financial or personal interest (other than as allowed by analogy in Section 2-10).

See: Conflict of Interest Act, 1968 PA 317, MCL 15.321 *et seq.* This Act governs the solicitation by and participation in government contracts by officers and employees of the County and preempts all local regulations of such conduct. However, the Conflict of Interest Act does not apply to contracts between the County and its officers and employees which are based on the County's powers to appoint officers and hire employees.

See: Standards of Conduct for Public Officers and Employees, 1973 PA 196, MCL 15.341 *et seq.* Section 2 of that act, MCL 15.342, sets forth the standards listed in sections 2 - 4 to 2 - 9 of this policy. However, Section 2 of that act applies only to employees, classified or unclassified, of the executive branch of the state government. It is the desire of the Oakland County Board of Commissioners to apply these same standards to County officers, employees, officials, appointees and volunteers in the execution of activities that relate to County affairs and to provide sanctions for violation of these standards.

Section 2 - 10. State Conflict of Interest Act, Validity of Contracts, and Voting on, Making, or Participating in Governmental Decisions.

(1) This policy shall not, and by law may not, in any manner vary or change the requirements of 1968 PA 317, as amended, being sections 15.321 to 15.330 of the Michigan Compiled Laws which governs the solicitation by and participation in government contracts by officers and employees of the County. 1968 PA 317, as amended, preempts all local regulation of such conduct.

(2) This policy is intended as a code of ethics for the County's officers, employees, appointees and volunteers. A contract in respect to which a public officer, employee, appointee or volunteer acts in violation of this policy, shall not be considered to be void or voidable unless the contract is a violation of a statute which specifically provides for that remedy.

(3) Subject to subsection (4), sections 2 – 8 and 2 – 9 shall not apply and an officer shall be permitted to vote on, make, or participate in making a governmental decision if all of the following occur:

(a) The requisite quorum necessary for official action on the governmental decision by the County's Board of Commissioners to which the officer has been elected or appointed is not available because the participation of the officer in the official action would otherwise violate sections 2 - 8 and 2 - 9.

(b) The officer is not paid for working more than 25 hours per week for the County.

(c) The officer promptly discloses any personal, contractual, financial, business, or employment interest he or she may have in the governmental decision, and the disclosure is made part of the public record of the official action on the governmental decision.

(4) If a governmental decision involves the awarding of a contract, Sections 2 - 8 and 2 - 9 shall not apply and a public officer shall be permitted to vote on, make, or participate in making the governmental decision if all of the following occur:

(a) All of the conditions of subsection (3) are fulfilled.

(b) The public officer will directly benefit from the contract in an amount less than \$250.00 or less than 5% of the public cost of the contract, whichever is less.

(c) The public officer files a sworn affidavit containing the information described in Subsection 4(b) with the County's Board of Commissioners.

(d) The affidavit required by subsection 4(c) is made a part of the public record of the official action on the governmental decision.

Section 2 - 11. Political Activities of Public Employees or Public Officers.

(1) Employees of local units of government running for office, political campaigning by employees, and limitations on officers and employees seeking support from other employees for those campaigning for public office and for or against ballot proposals are regulated by the Political Activities by Public Employees Act, MCL 15.401 *et seq* and by Merit Rule 19, which Merit Rule is applicable to Merit Rule Employee only. Complaints may be filed with the appropriate governmental agency. Violation of the provisions of that Act by employees and appointed officers are subject to appropriate disciplinary action, up to and including termination by the appointing authority. Violations of MCL 15.404 *et seq.* are hereby deemed to also be violations of this policy and are subject to the sanctions listed herein.

(2) Michigan Campaign Finance Act, MCL 169.201 *et seq.* Complaints regarding compliance with that Act may be filed with the Michigan Department of State.

See: Political Activities by Public Employees Act, 1976 PA 169, MCL 15.401 *et seq.*

See: Michigan Campaign Finance Act, MCL 169.201 *et seq.*

Section 2 - 12. Anti-nepotism.

The employment of relatives is governed by the provisions of Merit Rule 18, "Employment of Relatives." Rule 18 as it exists on December 9, 2010, is attached hereto as "Attachment 1" and is incorporated herein and shall apply through this policy to all employees (not just to Merit Rule employees) to the extent authorized by law. Changes to Rule 18 adopted by the Oakland County Board of Commissioners after the effective date of this policy shall be affirmatively adopted by the Board of Commissioners as an amendment to this policy before any modification is incorporated herein, and the Ethics Subcommittee shall have no authority for a violation of such amendments to Rule 18 unless and until they are adopted by the Board of Commissioners. Merit Rule 18, and subsequent amendments thereto shall only be applied prospectively.

Section 2 - 13. Equal Opportunity Employment.

All of the County's officials and employees shall comply with the County's Equal Employment Opportunity Policy. All officials, employees and contractors are expected to conduct themselves in a manner that will ensure compliance with County policies and promote a work environment free from illegal discrimination or harassment. To abuse the dignity of anyone through racial, sexual, or ethnic slurs, or other objectionable remarks or conduct not otherwise protected under the Constitution and laws of Michigan or the United States is a violation of County policy.

Section 2 - 14. Representation Before Governmental Body.

An official or employee of the County shall not represent any other person in any matter that person has before the County when the officer or employee appoints, has budgetary authority, oversight or control over, or otherwise supervises the office, department, board, commission, officer or employee responsible for handling the matter. This section does not prohibit attorney officers, officials and employees from practicing before any court or tribunal unless they are prohibited from doing so by the Michigan Rules of Professional Conduct and/or the code of Judicial Conduct. Attorney officers, officials and employees are reminded that they are bound by the Michigan Rules of Professional Conduct and/or the Code of Judicial Conduct and that violations of those rules are also considered violations of this policy.

Section 2 - 15. Transactional Disclosure.

Whenever an officer or employee is required to recuse himself or herself under Chapter Two of this policy, he or she:

- (a) Shall immediately refrain from participating further in the matter, and

(b) Shall promptly inform his or her superior, if any, or in the case of a Board of Commissioner Member or Commission appointee or employee, then the Board of Commissioners, and

(c) Shall promptly file with the Ethics Subcommittee and Clerk of the County, a signed Affidavit of Disclosure disclosing the reason for recusal. The Clerk shall send copies of the Affidavit of Disclosure to all of the members of the Oakland County Board of Commissioners and to the elected official responsible for the employee's supervision, oversight or control. The Affidavit shall also be attached to the minutes of the Board of Commissioners next meeting.

Section 2 - 16. Disclosure Statement.

- A. Within 30 days of the adoption of this policy (or, in the case of any election or appointment of a person to the following positions for the first time subsequent to the adoption of this policy, within 30 days of that person taking office in that position) the following elected and appointed officers and employees shall file a disclosure statement: all members of the Oakland County Board of Commissioners, the Oakland County Executive and his/her Deputy Executive(s), the Oakland County Prosecutor and his/her chief Assistant Prosecutor(s), the Oakland County Clerk and Register of Deeds and his/her Deputy Clerk(s), the Oakland County Treasurer and his/her Deputy Treasurer(s), the Oakland County Sheriff and his/her Undersheriff, the Oakland County Water Resources Commissioner and his/her Deputy(s), the Commissioners governing the Road Commission for Oakland County, the members of the Oakland County Parks and Recreation Commission, all directors and deputy directors of the County's administrative departments, and all employees who regularly exercise significant discretion over the solicitation, negotiation, approval, awarding, amendment, performance, or renewal of contracts with the County and/or with any of the County's subdivisions or departments.
- B. The disclosure statement shall disclose the following financial interest of the officer or employee or his or her immediate family in any company, business, or entity that has contracted with the County and/or with any of the County's subdivisions or departments or which has sought commercial licensure or approvals from the County in the two calendar years prior to the filing of the statement. The disclosure statement shall include a summary listing each business transaction with the County and/or with any of the County's subdivisions or departments involving a financial interest described in this section of the County's officer or employee and/or the immediate family of the officer or employee during the two prior calendar years:
- 1) Any interest as a partner, owner, member, employee, or contractor in or for a co-partnership, limited liability company, or other unincorporated business entity;
 - 2) Any interest as a beneficiary or trustee in a trust;
 - 3) Any interest as a director, officer, employee or contractor in or for a corporation; and
 - 4) Legal or beneficial ownership of 5% or more of the total outstanding stock of a corporation.

- C. If at any time a financial interest described in Subsection 2-16 (B) arises, (or the facts contained in the disclosure statement otherwise change), the officer or employee shall promptly file an amended disclosure statement within thirty (30) days.

CHAPTER THREE – ETHICS SUBCOMMITTEE

Section 3 - 1. There is hereby created a subcommittee of the Human Resources Committee or successor committee of the Board of Commissioners to be known as the Ethics Subcommittee. The Ethics Subcommittee shall be comprised of four members, two Republicans and two Democrats, appointed by the County's Board of Commissioners by at least a two-thirds (2/3) vote of all County Commissioners then serving. The County's Board of Commissioners shall select the four members from among those commissioners serving. No person shall be appointed or may continue to serve as a member of the Ethics Subcommittee who is or has been related, either by blood or by marriage up to the degree of first cousin, or has a child in common with, or who resides or has resided in the same household or who has or had a dating relationship with, any elected official, officer or employee of the County. No more than two members of the Ethics Subcommittee shall belong to the same political party at the time such appointments are made or at any time thereafter. Party affiliation shall be determined by party declaration at the time of election or, in the case of a member who declares a change in party affiliation, as of the time of that declaration. No member shall be appointed or may continue to serve as a member of the Ethics Subcommittee after the end of their term of office as an Oakland County Board of Commissioner.

Section 3 - 2. All members of the Ethics Subcommittee shall be appointed to two-year terms, (except for the initial appointees whose terms shall expire on December 31, 2012) coinciding with the ordinary term of County Commissioners, by the County's Board of Commissioners as described in Section 3-1. Ethics Subcommittee members may be reappointed to serve subsequent terms.

At the first meeting of the Ethics Subcommittee and thereafter, at the discretion of the Ethics Subcommittee, the members shall choose a chairperson from their number. Meetings shall be held at the call of the chairperson or any three Ethics Subcommittee members. A quorum shall consist of three members, and official action by the Ethics Subcommittee shall require the affirmative vote of three Ethics Subcommittee members.

The business of the Ethics Subcommittee, including its hearings, shall be conducted at a public meeting held in compliance with the Open Meetings Act, 1976 PA 267, MCL 15.261 *et seq.*

Section 3 - 3. Removal and Vacancies.

The Oakland County Board of Commissioners may remove, by at least a two-thirds (2/3) vote of all County Commissioners serving, an Ethics Subcommittee member in case of conflict of interest, incompetence, neglect of duty or malfeasance in office. Removal may occur only after service on the Ethics Subcommittee member by certified mail (return receipt requested) of a copy of the written charges against the Ethics Subcommittee member and after providing an opportunity to the Ethics Subcommittee member to be heard in person or by counsel upon not less than 10 days' notice.

Mid-term vacancies shall be filled for the balance of the term in the same manner as original appointments.

An interested party may move for the disqualification of a committee member for any of the grounds as set forth in Michigan Court Rule 2.003(C)(1) governing the disqualification of judges. The Ethics Subcommittee shall establish the procedure to be followed, using MCR 2.003(D) as a model. The initial decision on disqualification shall be made by the challenged member and is subject to appeal to the remaining Ethics Subcommittee members. The decision of the Ethics Subcommittee may be appealed to the full Board of Commissioners who shall consider the matter *de novo*. The full Board of Commissioners' decision shall be made by majority vote, and its decision shall be final.

If a committee member is disqualified, or otherwise cannot serve, the Board of Commissioners may, by a two-thirds vote of all commissioners serving, appoint a temporary replacement who is of the same party as the committee member who is disqualified or cannot serve.

Section 3 - 4. The Ethics Subcommittee shall have the following powers and duties:

(1) To promulgate procedures and rules governing the performance of its duties and the exercise of its powers, but it may not expand its powers beyond those stated in this Section 3-4.

(2) To promote and participate in ethics training workshops conducted by the County's Department of Human Resources for the County's officers and employees to help ensure that officers and employees are familiar with this policy and understand what conduct it prohibits. Workshops shall be conducted regularly as resources permit.

(3) Upon receipt of a signed, notarized, written complaint against an official, officer, employee or volunteer over whom the Board of Commissioners has employment oversight or control alleging a violation of this policy, the Ethics Subcommittee shall make a preliminary inquiry and may, in its discretion and upon the affirmative vote of three (3) members, investigate, conduct hearings and deliberations, and issue referrals for disciplinary hearings. The Ethics Subcommittee may refer violations of Chapter Two of this Policy to the attention of the appropriate enforcement agency with a request for the filing of the appropriate criminal prosecution or civil infraction actions. The Ethics Subcommittee shall act only upon the receipt of a written complaint, signed by the complainant, alleging a violation of this policy occurring after this policy has been enacted and not upon its own initiative.

(4) To receive information from the public pertaining to its investigations and to seek additional information and documents from officers and employees of the County following procedures authorized by law.

(5) To request the attendance of witnesses and the production of books and papers pertinent to an investigation. MCL 45.556(j) sets forth the procedures that must be followed for investigation, hearings, compelling testimony, and securing records or relevant documents. It is the obligation of all officials, officers, employees and volunteers of the County to cooperate with the Ethics Subcommittee during the course of its investigations. Failure or refusal to cooperate with requests by the Ethics Subcommittee made in conformance with law may constitute grounds for discipline or discharge of appointed officers, employees or volunteers of the County in the manner authorized by law.

(6) The powers and duties of the Ethics Subcommittee are limited to matters clearly within the purview of this policy.

Section 3 - 5. Complaints; Time; Hearings

(a) Complaints alleging a violation of this policy shall be filed with the Clerk of the County. The Clerk or member of the Clerk's staff shall attend the Ethics Subcommittee meetings and act as clerk for the Ethics Subcommittee.

(b) Within three business days after the receipt by the Clerk of a complaint, the Clerk shall send by certified mail (return receipt requested) a notice to the respondent that a complaint has been filed against him or her together with a copy of the complaint. Within three business days after receipt by the Clerk of a complaint, the Clerk shall send by certified mail (return receipt requested) a notice of confirmation of receipt of the complaint together with a copy of the complaint to the complainant. The Clerk shall also concurrently send copies of the foregoing complaint and notices to the members of the Ethics Subcommittee.

(c) After the Ethics committee sets a hearing date for the complaint, the Clerk shall send notices of the hearing date by certified mail (return receipt requested) to the respondent and complainant at least 14 days before the date of the hearing.

(d) The Ethics Subcommittee shall within a reasonable time conduct a hearing to review the sufficiency of the complaint. If the complaint is deemed sufficient to allege a violation of Chapter Two of this policy in that the Ethics Subcommittee finds by a preponderance of the evidence that there is a reasonable basis to believe that the respondent may have violated Chapter Two of this policy, then the Clerk shall notify in writing the attorney designated by the Oakland County Board of Commissioners and shall transmit to the attorney the complaint and all additional documents in the custody of the Ethics Subcommittee concerning the alleged violation. The Clerk shall also provide these documents to the respondent.

If the complaint is deemed sufficient to allege a violation of Chapter Two of this policy, the Ethics Subcommittee may hold further hearings pursuant to its investigatory powers. The complainant and respondent may be represented by counsel at the hearing. The hearing may be conducted in one or more sessions at the discretion of the Ethics Subcommittee.

If the Ethics Subcommittee determines by clear and convincing evidence on the record that a violation of this policy has occurred, the Subcommittee may refer the matter to the Human Resources Committee of the Oakland County Board of Commissioners for further action. Clear and convincing evidence means that the evidence must do more than merely persuade you that the proposition is probably true. To be clear and convincing, the evidence must be strong enough to cause you to have a clear and firm belief that the proposition is true.

If the Human Resources Committee finds that the Ethics Subcommittee's findings are supported by clear and convincing evidence, the committee may, by a 2/3 vote of the members serving on the Human Resources Committee, refer the matter to the full Board of Commissioners for further action.

A 2/3 vote of all members serving on the full Board of Commissioners is necessary to either censure or reprimand an individual.

The Human Resources Committee and the full Board of Commissioners cannot discharge the Ethics Subcommittee from considering the matter as it could from other committees.

The Ethics Subcommittee, the Human Resources Committee or the Board of Commissioners may refer the complaint and all documents in their possession that may establish the existence of a violation of this policy or law to the appropriate enforcement authority along with a request to initiate civil or criminal enforcement actions.

(e) Sections 2b - 2e of the State Ethics Act, MCL 15.341 *et seq.*, set forth protections for officers and employees who act as whistleblowers regarding the conduct of the County's officers and employees. Additional whistleblower protections are set forth in the Whistleblowers' Protection Act, 1980 PA 469, MCL 15.361 *et seq.*

(f) Any person who files a complaint alleging a violation of this policy who knows or reasonably should have known that material information provided therein is not true or that information provided therein was made in reckless disregard for the truth is subject to a fine of up to \$500 and may be ordered to pay the costs reasonably incurred by the County in investigating the complaint and the reasonable costs incurred by the Respondent in responding to the complaint.

(g) A complaint must be filed with the Clerk within one year of the date the violation is alleged to have occurred.

CHAPTER FOUR – SANCTIONS

Section 4 - 1. Sanctions provided herein shall not be construed to diminish or impair the rights of an officer or employee under any collective bargaining agreement, the Merit System or other employment regulation of the County, of the state or of federal law, nor the County's obligation to comply with such collective bargaining agreements or Merit System provisions.

Section 4 - 2. State statutes cited in this policy contain criminal penalties and civil remedies that, as provided in those statutes, may apply to the conduct regulated by those statutes.

Section 4 - 3. In addition to any other penalty, whether criminal or civil, an employee or officer who intentionally violates this policy may be subject to disciplinary action including censure, reprimand, removal, dismissal, or discharge by the appropriate authority.

CHAPTER 5 - FORMS

Section 5 – 1. The Oakland County Board of Commissioners shall prepare and distribute forms required under this policy including, but not limited to, Complaint Forms, Affidavit Forms, Annual Disclosure Forms and Transactional Disclosure Forms.

18. EMPLOYMENT OF RELATIVES

18.1 COVERAGE

18.1.1 All sections of this rule shall apply to all positions covered by the Merit System, regardless of whether the department head obtained his or her position through election, appointment or Merit System appointment.

18.2 DEFINITION OF RELATIVE

18.2.1 For the purpose of this rule, a "relative" shall be a person holding the following relationship to the employee, whether that relationship is natural, adoptive, step or foster in nature.

Spouse	Uncle
Child	Aunt
Parent	Niece
Brother	Nephew
Sister	Parent-in-law
Grandparent	Child-in-law
Grandchild	Brother-in-law
First Cousin	Sister-in-law

18.3 PROHIBITIONS ON EMPLOYMENT OF PERSONS WHO ARE RELATIVES AT THE TIME OF APPOINTMENT

18.3.1 No person shall be appointed in a department where the department head, assistant department head, head of the division where employed or immediate supervisor is a relative of the employee at the time of appointment. (As described in 18.2 above.)

18.4 PROHIBITIONS ON THE CONTINUED EMPLOYMENT OF EMPLOYEES WHO BECOME SPOUSES AFTER THEY ARE EMPLOYED

18.4.1 No person shall continue to be an employee in a department after he or she becomes the spouse of the department head, assistant department head, head of the division where employed or immediate supervisor.

18.5 PROHIBITIONS ON THE CONTINUED EMPLOYMENT OF EMPLOYEES WHO HAVE REGULAR MERIT SYSTEM STATUS AND WHO ARE RELATIVES OF PERSONS PROMOTED OR APPOINTED TO POSITIONS OF DEPARTMENT HEAD OR ASSISTANT DEPARTMENT HEAD OF THE EMPLOYEE'S DEPARTMENT

18.5.1 Such employees may continue to be employed in the same department except:

18.5.1.1 Spouses as covered under Section 18.4 of this rule.

18.5.1.2 If such a relationship occurs before the employee gains regular Merit System status, the employee should be transferred to another department or separated from the County service.

18.6 PROHIBITIONS ON THE CONTINUED EMPLOYMENT OF EMPLOYEES WHO ARE RELATIVES OF PERSONS PROMOTED OR APPOINTED TO POSITION OF HEAD OF THE DIVISION WHERE EMPLOYED OR IMMEDIATE SUPERVISOR

18.6.1 All lower ranking employees in the division or supervisory unit who are relatives of the division head or supervisor, shall be transferred to another division or supervisory unit of the same department where they will not be supervised by a relative; exceptions may be made by the Human Resources Committee of the Board of Commissioners in cases where there is an intermediate level of supervision between the division head or supervisor and the related employee.

Resolution #12018

February 1, 2012

The Chairperson referred the resolution to the Finance Committee. There were no objections.

Resolution #12018

March 7, 2012

Commissioner Jim Nash withdrew his motion to discharge MR #12018 – Board of Commissioners – Oakland County Ethics Policy from the Finance Committee, and gave notice that he plans to discharge the resolution at the next regular Board Meeting on March 22, 2012.

Moved by Nash supported by Covey to discharge the resolution from the Finance Committee.

Discussion followed.

AYES: Gershenson, Hatchett, Jackson, McGillivray, Nash, Quarles, Woodward, Zack, Covey, Dwyer. (10)

NAYS: Gosselin, Hoffman, Long, Matis, Middleton, Nuccio, Potts, Runestad, Scott, Taub, Weipert, Bosnic, Crawford. (13)

A sufficient majority having not voted in favor, the motion to discharge failed.