

**Model Ethics Policy**  
**Prepared by the**  
**Illinois Community College Trustees Association**  
**March 26, 2004**

Although the Illinois Community College Trustees Association does not provide legal advice to the colleges, we are often consulted when boards have the task of writing policies for their colleges. Attached is a model policy. You might wish to consider it as you respond to your board's obligation to adopt an ethics policy before May 19, 2004.

On March 15, 2004, Attorney General Madigan posted a "model ordinance" for local governments on her website. You can find the Attorney General's model ordinance at:  
[http://www.ag.state.il.us/government/ethics\\_ordinance.html](http://www.ag.state.il.us/government/ethics_ordinance.html)

In fashioning the attached model policy, we started with the Attorney General's model. Here are some points to keep in mind.

1. ICCTA sought an opportunity to provide input and counsel to the Attorney General while the "model ordinance" was being developed. We were not afforded that opportunity.
2. Our model policy stays as close to the Attorney General's recommendation as possible while still protecting the interests of community colleges and their students.
3. In the opinion of ICCTA staff the Attorney General's model ordinance has several serious deficiencies. These deficiencies would be remedied in our model policy. Here is a list of our concerns about the Attorney General's model ordinance.
  - a. It is called an "ordinance" rather than a policy. Unlike cities (for whom the Attorney General's model seems to be designed), community college boards do not usually enact "ordinances." Instead they adopt "policies."
  - b. The Attorney General's model lacks key definitions that are important for a community college. Is a part-time faculty member covered? How about a volunteer? The Attorney General's model is silent on these categories.
  - c. The Attorney General's model provides for levying of penalties. This would have the effect of creating a virtual court system within the community colleges. The court system would bear the expense of complicated legal proceedings. In America, those facing jail time penalties must be afforded an expensive "due process." Colleges are currently feeling legislative pressure to reduce their overhead or administrative expenses. Adoption of the Attorney General's model ordinance in its entirety would result in significant increases in administrative expenses and a consequent loss of support in the General Assembly. (Legislators don't always remember that much of the college's administrative cost is driven by unfunded legislative mandates.
  - d. Appointments of the Ethics Officer and the Ethics Commission should not be made without the ratification of the board of trustees.
  - e. Appointment of a commission would provide a check and balance on the Ethics Officer's opinions. Nevertheless, the Commission would be expensive. (See concerns about administrative expense, above.) In the end, ICCTA staff believe that appointment of a commission should be an

option for boards. It is important that boards know that the law does NOT require appointment of a local ethics commission.

None of these criticisms of the Attorney General's model ordinance should be construed as legal advice. Boards should consult their local attorney and make their own decision after weighing all the factors. ICCTA has always emphasized the importance of legal and ethical action at every level of Illinois public community colleges.

Our staff stands ready to answer your questions about the new ethics law. SEND US YOUR SCENARIOS AND WE WILL SHOW YOU HOW THEY ARE COVERED BY THIS MODEL POLICY.

We are confident that your board will be able to adopt a policy that allows you to comply with the law's requirements without creating financial hardship for your college and its taxpayers.

For additional information, please contact ICCTA at 1-800-454-2282.

**Illinois Community College Trustees Association**  
**401 E. Capitol Avenue, Suite 200**  
**Springfield, IL 62701-1711**  
**1-800-454-2282 (phone)**  
**217-528-8662 (fax)**  
[iccta@communitycolleges.org](mailto:iccta@communitycolleges.org) (e-mail)  
[www.communitycolleges.org](http://www.communitycolleges.org) (web site)

**ETHICS RESOLUTION  
FOR  
AN ILLINOIS PUBLIC COMMUNITY COLLEGE DISTRICT**

**PREAMBLE**

**WHEREAS**, the Illinois General Assembly has enacted the State Officials and Employees Ethics Act (Public Act 93-615, effective November 19, 2003, as amended by Public Act 93-617, effective December 9, 2003, codified at 5 ILCS 430/1-1 and following), which is a comprehensive revision of State statutes regulating ethical conduct, political activities and the solicitation and acceptance of gifts by State officials and employees; and

**WHEREAS**, the Act requires all units of local government and school districts, within six months after the effective date of Public Act 93-615, to adopt ordinances or resolutions regulating the political activities of, and the solicitation and acceptance of gifts by, the officers and employees of such units "in a manner no less restrictive" than the provisions of the Act; and

**WHEREAS**, it is the clear intention of the Act to require units of local government and community college districts to implement regulations that are at least as restrictive as those contained in the Act, and to impose penalties for violations of those regulations that are equivalent to those imposed by the Act, notwithstanding that such penalties may exceed the general authority granted to units of local government, school districts, and community college districts to penalize violations; and

**WHEREAS**, this Resolution has been adopted in order to and shall be construed in a manner so as to comply with the requirements of the Act.

**NOW, THEREFORE, BE IT RESOLVED AND ORDAINED BY THE BOARD OF EDUCATION OF [NAME] COMMUNITY COLLEGE DISTRICT NO. \_\_\_\_\_ UNIT SCHOOL DISTRICT NO. \_\_\_\_\_, \_\_\_\_\_ COUNTIES, ILLINOIS, AS FOLLOWS:**

**SECTION 1:** The Policy Manual of the Board of Education is hereby amended by the addition of the following provisions in Board Policy Number \_\_\_\_\_:

**ARTICLE 1  
DEFINITIONS AND GENERAL PROVISIONS**

Section 1-1. For purposes of this Resolution, the following terms shall be given these definitions or, if different from time to time, then as defined by the State Officials and Employees Ethics Act (codified at 5 ILCS 430/1-1 and following):

“~~Board of Education~~” means the Board of Trustees of Public Community College No. ~~Education of Community Unit School District No. \_\_\_\_\_, \_\_\_\_\_~~ Counties, Illinois.

"Campaign for elective office" means any activity in furtherance of an effort to influence the selection, nomination, election, or appointment of any individual to any federal, State, or local public office or office in a political organization, or the selection, nomination, or election of Presidential or Vice-Presidential electors, but does not include activities (i) relating to the support or opposition of any executive, legislative, or administrative action, (ii) relating to collective bargaining, or (iii) that are otherwise in furtherance of the person's official duties.

"Candidate" means a person who has filed nominating papers or petitions for nomination or election to an elected office, or who has been appointed to fill a vacancy in nomination, and who remains eligible for placement on the ballot at a regular election, as defined in section 1-3 of the Election Code (10 ILCS 5/1-3).

"Collective bargaining" has the same meaning as contemplated by the Illinois Educational Labor Relations Act (115 ILCS 5/1 and following).

"Compensated time" means, with respect to an employee, any time worked by or credited to the employee that counts toward any minimum work time requirement imposed as a condition of his or her employment, but for purposes of this Resolution, does not include any designated holidays, vacation periods, personal time, compensatory time off or any period when the employee is on a leave of absence. With respect to officers or employees whose hours are not fixed, "compensated time" includes any period of time when the officer is on premises under the control of the employer and any other time when the officer or employee is executing his or her official duties, regardless of location.

"Compensatory time off" means authorized time off earned by or awarded to an employee to compensate in whole or in part for time worked in excess of the minimum work time required of that employee as a condition of his or her employment.

"Contribution" has the same meaning as that term is defined in section 9-1.4 of the Election Code (10 ILCS 5/9-1.4).

"Employee" means a person employed by the the Board of Trustees ~~Education~~, whether on a fulltime or part-time basis or pursuant to a contract, whose duties are subject to the direction and control of an employer with regard to the material details of how the work is to be performed, but does not include a volunteer or an independent contractor.

"Employer" means the Board of Trustees ~~Education of~~.

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

"Leave of absence" means any period during which an employee does not receive (i) compensation for employment, (ii) service credit towards pension benefits, and (iii) health insurance benefits paid for by the employer.

"Officer" means a person who holds, by election or appointment, an office created by statute or law, regardless of whether the officer is compensated for service in his or her official capacity. The term "officer" includes all members of the Board of Trustees Education.

"Political activity" means any activity in support of or in connection with any campaign for elective office or any political organization, but does not include activities (i) relating to the support or opposition of any executive, legislative, or administrative action, (ii) relating to collective bargaining, or (iii) that are otherwise in furtherance of the person's official duties.

"Political organization" means a party, committee, association, fund, or other organization (whether or not incorporated) that is required to file a statement of organization with the State Board of Elections or a county clerk under Section 9-3 of the Election Code (10 ILCS 5/9-3), as the case may be, but only with regard to those activities that require filing with the State Board of Elections or a county clerk.

"Prohibited political activity" means:

(1) Preparing for, organizing, or participating in any political meeting, political rally, political demonstration, or other political event.

(2) Soliciting contributions, including but not limited to the purchase of, selling, distributing, or receiving payment for tickets for any political fundraiser, political meeting, or other political event.

(3) Soliciting, planning the solicitation of, or preparing any document or report regarding anything of value intended as a campaign contribution.

(4) Planning, conducting, or participating in a public opinion poll in connection with a campaign for elective office or on behalf of a political organization for political purposes or for or against any referendum question.

(5) Surveying or gathering information from potential or actual voters in an election to determine probable vote outcome in connection with a campaign for elective office or on behalf of a political organization for political purposes or for or against any referendum question.

(6) Assisting at the polls on election day on behalf of any political organization or candidate for elective office or for or against any referendum question.

(7) Soliciting votes on behalf of a candidate for elective office or a political organization or for or against any referendum question or helping in an effort to get voters to the polls.

(8) Initiating for circulation, preparing, circulating, reviewing, or filing any petition on behalf of a candidate for elective office or for or against any referendum question.

(9) Making contributions on behalf of any candidate for elective office in that capacity or in connection with a campaign for elective office.

(10) Preparing or reviewing responses to candidate questionnaires.

(11) Distributing, preparing for distribution, or mailing campaign literature, campaign signs, or other campaign material on behalf of any candidate for elective office or for or against any referendum question.

(12) Campaigning for any elective office or for or against any referendum question.

(13) Managing or working on a campaign for elective office or for or against any referendum question.

(14) Serving as a delegate, alternate, or proxy to a political party convention.

(15) Participating in any recount or challenge to the outcome of any election.

"Prohibited source" means any person or entity who:

(1) is seeking official action (i) by an officer or (ii) by an employee, or by the officer or another employee directing that employee;

(2) does business or seeks to do business (i) with the officer or (ii) with an employee, or with the officer or another employee directing that employee;

(3) conducts activities regulated (i) by the officer or (ii) by an employee, or by the officer or another employee directing that employee; or

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

Section 1-2. Construction. This Resolution shall be construed in a manner consistent with the provisions of the State Officials and Employees Ethics Act (codified at 5 ILCS 430/1-1 and following). This Resolution is intended to impose the same but not greater restrictions than the Act.

## **ARTICLE 5 PROHIBITED POLITICAL ACTIVITIES**

Section 5-1. Prohibited political activities.

(a) No officer or employee shall intentionally perform any prohibited political activity during any compensated time, as defined herein. No officer or employee shall intentionally use any property or resources of the Board of Trustees ~~Education~~ in connection with any prohibited political activity.

(b) At no time shall any officer or employee intentionally require any other officer or employee to perform any prohibited political activity (i) as part of that officer or employee's duties, (ii) as a condition of employment, or (iii) during any compensated time off (such as holidays, vacation or personal time off).

(c) No officer or employee shall be required at any time to participate in any prohibited political activity in consideration for that officer or employee being awarded additional compensation or any benefit, whether in the form of a salary adjustment, bonus, compensatory time off, continued employment or otherwise, nor shall any officer or employee be awarded additional compensation or any benefit in consideration for his or her participation in any prohibited political activity.

(d) Nothing in this Section prohibits activities that are permissible for an officer or employee to engage in as part of his or her official duties, or activities that are undertaken by an officer or employee on a voluntary basis which are not prohibited by this Resolution.

(e) No person either (i) in a position that is subject to recognized merit principles of public employment or (ii) in a position the salary for which is paid in whole or in part by federal funds and that is subject to the Federal Standards for a Merit System of Personnel Administration applicable to grant-in-aid programs, shall be denied or deprived of employment or tenure solely because he or she is a member or an officer of a political committee, of a political party, or of a political organization or club.

## **ARTICLE 10 GIFT BAN**

Section 10-1. Gift ban. Except as permitted by this Article, no officer or employee, and no spouse of or immediate family member living with any officer or employee (collectively referred to herein as "recipients"), shall intentionally solicit or accept any gift from any prohibited source, as defined herein, or which is otherwise prohibited by law. No prohibited source shall intentionally offer or make a gift that violates this Section.

Section 10-2. Exceptions. Section 10-1 is not applicable to the following:

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

(2) Anything for which the officer or employee, or his or her spouse or immediate family member, pays the fair market value.

(3) Any (i) contribution that is lawfully made under the Election Code or (ii) activities associated with a fundraising event in support of a political organization or candidate.

(4) Educational materials and missions.

(5) Travel expenses for a meeting to discuss business.

(6) 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 the individual's spouse and the individual's fiancé or fiancée.

(7) 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 or his or her spouse or immediate family member 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, or their spouses or immediate family members.

(8) Food or refreshments provided as a “contribution” under the definition of the term offered above, not exceeding \$75 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 purchased ready to consume which are delivered by any means.

(9) 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.

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

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

(12) Any item or items from any one prohibited source during any calendar year having a cumulative total value of less than \$100. Each of the exceptions listed in this Section is mutually exclusive and independent of every other.

(13) Any item or items provided by the college in support of the employee's, officer's or member's discharge of official duties.

Section 10-3. Disposition of gifts. An officer or employee, his or her spouse or an immediate family member living with the officer or employee, does not violate this Resolution if the recipient promptly takes reasonable action to return a gift from a prohibited source to its source or gives the gift or an amount equal to its value to an appropriate charity that is exempt from income taxation under Section 501 (c)(3) of the Internal Revenue Code of 1986, as now or hereafter amended, renumbered, or succeeded.

## **ARTICLE 15 ETHICS ADVISOR**

Section 15-1. The Chief Executive Officer, with the advice and consent of the Board of Trustees, may designate an Ethics Advisor for the School District. If no other designation is made, the regularly retained attorney of the Board of Education will serve as the Ethics Advisor.

Section 15-2. The Ethics Advisor shall provide guidance to the officers and employees of the Board of Education concerning the interpretation of and compliance

with the provisions of this Resolution and State ethics laws. The Ethics Advisor shall perform such other duties as may be delegated by the Board of Education.

## **ARTICLE 20 ETHICS COMMISSION**

Section 20-1. An Ethics Commission may be appointed by the Board of Education to review opinions issued by the Ethics Advisor, to consider ethics complaints, and to undertake other responsibilities deemed appropriate. If appointed, the Ethics Commission shall consist of three (3) members. No person shall be appointed as a member of the Commission who is related, either by blood or by marriage up to the degree of first cousin, to any member of the Board of Trustees ~~Education~~. The Ethics Commission may be appointed to serve on an ongoing basis or on an ad hoc basis.

Section 20-2. Where appointed to serve on an ongoing basis, at the first meeting of the Ethics Commission, the initial appointees shall draw lots to determine their initial terms. Two commissioners shall serve 2-year terms, and the third commissioner shall serve a one-year term. Thereafter, all commissioners shall be appointed to 2-year terms. Commissioners may be reappointed to serve subsequent terms. At the first meeting of the Commission, the commissioners shall choose a chairperson from their number. Meetings shall be held at the call of the chairperson or any 2 commissioners. A quorum shall consist two commissioners, and official action by the commission shall require the affirmative vote of two members.

Section 20-3. The Board of Trustees

~~Education~~ may remove a commissioner in case of incompetency, neglect of duty or malfeasance in office after service on the commissioner by certified mail, return receipt requested, of a copy of the written charges against the commissioner and after providing an opportunity to be heard in person or by counsel upon not less than 10 days' notice. Vacancies shall be filled in the same manner as original appointments.

Section 20-4. The Commission 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.

(2) Upon receipt of a signed, notarized, written complaint, to investigate, conduct hearings and deliberations, issue recommendations for disciplinary actions or reprimand. The Commission shall, however, act only upon the receipt of a written complaint alleging a violation of this Resolution and not upon its own prerogative.

(3) To receive information from the public pertaining to its investigations and to require additional information and documents from persons who may have violated the provisions of this Resolution.

(4) To compel the attendance of witnesses and to compel the production of books and papers pertinent to an investigation. It is the obligation of all officers and employees of the Board of Education to cooperate with the Commission during the course of its investigations. Failure or refusal to cooperate with requests by the Commission shall constitute grounds for discipline or discharge.

(5) The powers and duties of the Commission are limited to matters clearly within the purview of this Resolution.

#### Section 20-5.

(a) Complaints alleging a violation of this Resolution shall be filed with the Ethics Commission.

(b) The Commission shall send by certified mail, return receipt requested, a notice to the respondent that a complaint has been filed against him or her and a copy of the complaint. The Commission shall also send by certified mail, return receipt requested, a confirmation of the receipt of the complaint to the complainant. The notices to the respondent and the complainant shall also advise them of the date, time, and place of the meeting to determine the sufficiency of the complaint and to establish whether probable cause exists to proceed.

(c) Upon not less than 48 hours' public notice, the Commission shall meet to review the sufficiency of the complaint and, if the complaint is deemed sufficient to allege a violation of this Resolution, to determine whether there is cause, based on the evidence presented by the complainant, to proceed. The meeting may be closed to the public to the extent required by the Open Meetings Act. The Commission shall issue notice to the complainant and the respondent of the Commission's ruling on the sufficiency of the complaint and, if necessary, on cause to proceed within ten business days after such meeting. If the complaint is deemed sufficient to allege a violation of Article 10 of this Resolution and there is a determination of cause, then the Commission's notice to the parties shall include a hearing date scheduled within four weeks thereafter.

(d) On the scheduled date and upon at least 48 hours' public notice of the meeting, the Commission shall conduct a hearing on the complaint and shall allow both parties the opportunity to present testimony and evidence. The hearing may be closed to the public only if authorized by the Open Meetings Act.

(e) Within 30 days after the date the hearing or any recessed hearing is concluded, the Commission shall either (i) dismiss the complaint or (ii) issue a recommendation for discipline or reprimand to the alleged violator and to the Board of Trustees., The particular findings in the case, any recommendation for discipline, and any fine imposed shall be a matter of public information.

~~(h) The Commission may fine any person who intentionally violates any provision of Article 10 of this Resolution in an amount of not less than \$1,001 and not more than \$5,000. The Commission may fine any person who knowingly files a frivolous complaint alleging a violation of this Resolution in an amount of not less than \$1,001 and not more than \$5,000. The Commission may recommend any appropriate discipline up to and including discharge.~~

~~(f) A complaint alleging the violation of this Resolution must be filed within one year after the alleged violation.~~

## **ARTICLE 25 PENALTIES**

### ~~Section 25-1. Penalties.~~

~~(a) A person who intentionally violates any provision of Article 5 of this Resolution may be punished by a term of incarceration in a penal institution other than a penitentiary for a period of not more than 364 days, and may be fined in an amount not to exceed \$2,500.~~

~~(b) A person who intentionally violates any provision of Article 10 of this Resolution is subject to a fine in an amount of not less than \$1,001 and not more than \$5,000.~~

~~(c) Any person who intentionally makes a false report alleging a violation of any provision of this Resolution to the local enforcement authorities, the State's Attorney or any other law enforcement official may be punished by a term of incarceration in a penal institution other than a penitentiary for a period of not more than 364 days, and may be fined in an amount not to exceed \$2,500.~~

~~(d) A violation of Article 5 of this Resolution shall be prosecuted as a criminal offense by an attorney for the Board of Trustees by filing in the circuit court an information, or sworn complaint, charging such offense. The prosecution shall be under and conform to the rules of criminal procedure. Conviction shall require the establishment of the guilt of the defendant beyond a reasonable doubt. A violation of Article 10 of this Resolution may be prosecuted as a quasi-criminal offense by an attorney for the Board of Trustees, or, if an Ethics Commission has been created, by the Commission through the designated administrative procedure.~~

~~(e) In addition to any other penalty that may be applicable, whether criminal or civil,~~

## **ARTICLE 25 BOARD ACTION ON RECOMMENDATION OF COMMISSION**

Section 25-1. Officers. Upon receipt of a recommendation from the Ethics Commission, the Board of Education may issue a reprimand to a board member or officer who intentionally violates any provision of Article 5 or Article 10 of this Resolution.

Section 25-2. Employees. Upon receipt of a recommendation from the Ethics Commission, the Board of Education may initiate a disciplinary or discharge action against an employee who intentionally violates any provision of Article 5 or Article 10 of this Resolution in accordance with the applicable procedures.

**SECTION 2:** This Resolution shall be in effect upon its approval by the Board of Trustees.

APPROVED: \_\_\_\_\_, 2004.

BOARD OF EDUCATION OF  
COMMUNITY UNIT SCHOOL DISTRICT  
NO. \_\_\_\_\_, COUNTIES OF \_\_\_\_\_,  
ILLINOIS

BY: \_\_\_\_\_  
President

BY: \_\_\_\_\_  
Secretary