

A LOCAL LAW TO AMEND ADMINISTRATIVE CODE § A8A-4. INVESTIGATION OF ALLEGED VIOLATIONS; ADVISORY OPINION

Explanation: This Amendment to Administrative Code §A8A-4. Investigations of Alleged Violations; Advisory Opinions shall be for the purpose of Amending the Ethics Code.

Legislative Intent: The Sullivan County Legislature, after consideration, declares that it is necessary to amend Administrative Code §A8A-4. Said amendments to the Administrative Code are detailed in a redline version of the current Local Law attached hereto and made a part hereof. All other language not amended by the redline changes remain unchanged and in full force and effect.

Effective: This Local Law shall become effective as of the date of filing with the Secretary of State.

§ A8A-4. Investigation of alleged violations; advisory opinions.

Complaints. Upon receipt of a sworn complaint of a person alleging a violation of this article, or upon the Board of Ethics determining on its own initiative that a violation of this article may exist, if the complaint is against an elected County official, it shall be referred to outside, Independent Counsel for investigation and determination, all other complaints shall be referred to the Board of Ethics and the Board of Ethics shall have the power and duty to undertake an investigation to determine whether a violation has occurred by and/or against a non-elected County official or employee of the County. Independent Counsel shall be bound by the same time frames provided below for the Board of Ethics.

- A. In the event a proceeding is commenced by sworn complaint, the Board shall, within 60 business days, review the allegations and supporting documentation and determine whether or not a violation of this article has been alleged and/or if the complaint falls within the prohibitions of this article. The 60 business days may be extended by agreement between the Board of Ethics and the complainant. To the extent circumstances require an expedited review of a complaint, the Board shall endeavor to provide its initial determination to the complainant within a reasonable, expedited time frame. The Board shall render its initial determination by majority vote. In the event the Board determines that the complaint does not allege a violation of this article, the complaint shall be dismissed and simple notice of the complaint and of its dismissal, without further detail, shall be mailed to the complainant. The complaint and the determination shall be sealed and not available to any person not a member of the Board of Ethics. The complaint and Ethics Board determination is confidential and shall not be shared by the complainant with any person not a member of the Board of Ethics.
- B. In the event a member of the Board of Ethics raises the possibility of a violation by a non-elected County official, the Board shall first determine, by majority vote, whether the alleged conduct, if undertaken, would constitute a violation of this article. In the event the Board determines that the conduct would not constitute a violation of this article, it shall render a written determination. The complaint, preliminary investigation and determination shall be sealed and not available to any person not a member of the Board of Ethics.
- C. Upon the review set forth in Subsection A above, in the event the Board determines that any element of the complaint, if true, would constitute a violation of this article, it shall provide written notification to the subject of the complaint within five business days. The notification shall identify the complainant, describe the alleged violation and provide 15 business days in which the subject of the complaint may submit a sworn, written response setting forth information and/or documentation sufficient to address the alleged violation. The Board's notification shall also inform the subject of the complaint of its rules regarding the conduct of adjudicatory proceedings, appeals, and the due process procedural mechanisms available to such individual.
 - (1) In the event the Board of Ethics determines at any stage of the proceeding that the proof presented does not demonstrate that a violation has occurred, or that there is no violation or that any potential conflict of interest or violation has been rectified, it shall, within 15 business days, provide written notice to the subject of the complaint

and the complainant. The foregoing notice of determination shall be confidential, except the subject of the complaint may, in defense of any claim made against him/her, disclose the determination of the Board.

- (2) Upon review of the complaint and of any information or documentation provided by the subject of the complaint, a further investigation to determine whether reasonable cause exists to believe a violation has occurred shall be commenced and completed within 30 days, unless circumstances require a shorter or longer period of time. In the event the Board requires more than 30 days to complete its investigation, it shall provide notice of same to the complainant and the subject of the complaint.
- (3) In the event the Board determines there is reasonable cause to believe a violation has occurred, it shall provide written notice of reasonable cause to the subject of the complaint and to the complainant. In the case of a **non-elected** County official or employee, the Board shall also provide written notice to the appointing authority for such person, ~~and, in the case of a County elected official, written notice to the Chair of the County Legislature. In the event of a conflict with the Chair, then notice shall be given to the Vice Chair.~~ Such determination of reasonable cause shall not be disclosed or made public unless required by Public Officers Law or for use in a disciplinary proceeding or a proceeding under this article involving the subject of the complaint or another County official.
- (4) ~~In the event Independent Counsel determines there is reasonable cause to believe a violation has occurred by and/or against an elected County official, it shall provide written notice of reasonable cause to the subject of the complaint and to the complainant. In the case of an elected County official, Independent Counsel shall also provide written notice to the Chair of the County Legislature. In the event of a conflict with the Chair, then notice shall be given to the Vice Chair. Such determination of reasonable cause shall not be disclosed or made public unless required by Public Officers Law or for use in a disciplinary proceeding or a proceeding under this article involving the subject of the complaint or another elected County official or non-elected County official.~~
- (5) Once reasonable cause has been established, the Board of Ethics shall schedule a formal hearing, to be held within 60 days, at which the subject of the complaint is entitled to legal representation of his or her own choosing and at his or her own expense. Testimony shall be taken under oath and the proceeding shall be recorded. The Board shall issue a decision containing specific findings within 30 days of the completion of the hearing. A copy of the decision shall be served by certified mail on the subject of the complaint or his or her legal representative, the complainant, and the Clerk of the Legislature. The decision of the Board of Ethics shall not be confidential.

D. Dispositions. The Board shall state, in writing, the disposition of every sworn complaint it receives and of every investigation it conducts and shall set forth the reasons for the disposition. The report shall be made in accordance with § A8A-3F, subject to the confidentiality requirements set forth herein.

E. Advisory opinions.

- (1) An elected County official, a non-elected County official or employee or other government official may request an advisory opinion from the Board of Ethics prior to that elected County official, non-elected County official or employee or other government official engaging in any behavior which he or she reasonably believes may cause a violation of this article. The request for an advisory opinion shall be written and sworn to and shall contain sufficient facts to permit the Board to make its determination. An individual requesting the opinion is obligated to be forthcoming and cooperative throughout the process, in the absence of which no advisory opinion will be provided. The Board shall endeavor to provide written notice of its determination within 10 business days. The elected County official, non-elected County official or employee who requested the opinion shall be notified of the Board's determination within 48 hours of the determination.
 - (2) Advisory opinions shall be filed with the Clerk of the Legislature; however, the Board of Ethics shall first redact all names, identifying features, and any other information which would tend to identify the complainant and the subject of the request for the advisory opinion.
 - (3) In the event a complaint is subsequently filed against an elected County Official, a non-elected County official or employee or other government official in which a violation of this code is alleged based upon the facts which formed the basis of the request for the advisory opinion, it shall be a complete defense to the alleged violation that the elected County official, the non-elected County official or employee or other government official acted consistent with, and in reliance upon, said advisory opinion. An unredacted advisory opinion shall be available to the elected County official, the non-elected County official, or employee who sought or needs it to defend himself or herself.
- F. Complaints against the Board of Ethics. The Board of Ethics shall not conduct an investigation of itself or any of its members or staff. In the event the Board of Ethics receives a sworn complaint in which it is alleged that the Board or any of its members or staff has violated any provision of this article or any other law, it shall transmit a copy of the complaint to the Chair of the Legislature and the County Attorney within 48 hours of receipt of same. The Chair of the Legislature shall, within five business days, create a three-person subcommittee of legislators, at least one of whom is a member of a minority party, to address the complaint and provide the complainant with written notice of the subcommittee members. The subcommittee shall thereafter conduct whatever investigation or hearing necessary in the same manner and with the same authority as provided generally in this section. A copy of the subcommittee's decision shall be distributed to all members of the Legislature. Further action, if any, shall comply with the provisions of this article.
- G. False complaints. Any person who knowingly files a false complaint may be subject to disciplinary action, civil liability, or criminal prosecution.

**RESOLUTION NO. INTRODUCED BY THE EXECUTIVE COMMITTEE TO
ADOPT A PROPOSED LOCAL LAW ENTITLED “A LOCAL LAW TO AMEND THE
SULLIVAN COUNTY ADMINISTRATIVE CODE REGARDING § A8A-4.
INVESTIGATION OF ALLEGED ETHICS VIOLATIONS AND ADVISORY OPINIONS**

WHEREAS, proposed Local Law entitled “A Local Law to Amend the Sullivan County Administrative Code Regarding Investigation of Alleged Ethics Violations and Advisory Opinions” was presented to the Sullivan County Legislature at a meeting held on August 15, 2024 at the County Government Center, Monticello, New York, to consider said proposed Local Law; and

WHEREAS, notice of public hearing having been duly published and posted as required by law, and said public hearing having been held on August 15, 2024 and all persons appearing at said public hearing deeming to be heard.

NOW, THEREFORE, BE IT RESOLVED, that the Sullivan County Legislature does hereby enact and adopt the Local Law entitled “A Local Law to Amend the Sullivan County Administrative Code Regarding Investigation of Alleged Ethics Violations and Advisory Opinions” in accordance with the Municipal Home Rule Law of New York State, which Local Law is annexed hereto and made a part hereof.