

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

ORDINANCE NO. 2010-64

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA, PERTAINING TO A CODE OF ETHICS FOR BROWARD COUNTY EMPLOYEES; CREATING SECTIONS 26-71 THROUGH 26-73 OF CHAPTER 26, ARTICLE V, OF THE BROWARD COUNTY CODE OF ORDINANCES; AMENDING SECTION 26-68; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

(Sponsored by the Board of County Commissioners)

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA:

Section 1. Section 26-71 of the Broward County Code of Ordinances is hereby created to read as follows:

Sec. 26-71. Title.

Section 26-71 through 26-73, Broward County Code of Ordinances, may be cited as the "Broward County Employee Code of Ethics Act."

Section 2. Section 26-71.5 of the Broward County Code of Ordinances is hereby created to read as follows:

Sec. 26-71.5. Applicability; construction.

(a) This Act shall be supplemental to other code provisions in this Article that govern the conduct of Broward County employees; provided, however, the provisions of this Act shall prevail in the event of any inconsistency with such other provisions existing prior to the effective date of this Ordinance.

1 (b) The provisions of this Act shall be liberally construed to further the general
2 policies, values, and standards for public service and ethical conduct declared in
3 Sections 26-67 and 26-72.

4 Section 3. Section 26-72 of the Broward County Code of Ordinances is hereby
5 created to read as follows:

6 **Sec. 26-72. Statement of policy.**

7 In addition to the values and standards declared in Section 26-67, the Board
8 finds and declares it is the responsibility of County employees to act in a manner that
9 promotes public trust and confidence in government with complete transparency and
10 honesty in their services, and to avoid even the appearance or perception of
11 impropriety. To this end, the Code of Ethics for the Broward County Commission, as
12 codified in Section 1-19, Broward County Code, is applied to County employees as
13 provided in this Act.

14 Section 4. Section 26-72.5 of the Broward County Code of Ordinances is
15 hereby created to read as follows:

16 **Sec. 26-72.5. Definitions.**

17 Except as stated in (a) through (c) below, the definitions contained or referenced
18 in Section 1-19, Broward County Code, apply to the same words or terms appearing in
19 this Act.

20 (a) "County employee" means any person who is a part-time or full-time
21 employee of any department, office, division, agency, or governmental unit of Broward
22 County. The term includes all such employees under the authority of the County
23 Administrator, the County Attorney, and the County Auditor. The term further includes
24 the executive director and other administrative, professional, legal, expert, or clerical

1 personnel that are employed by the Charter Review Commission, the Broward County
2 Planning Council, the Broward County Board of Rules and Appeals, or the Management
3 and Efficiency Study Committee, as authorized in Articles VI, VIII, IX, and X of the
4 Broward County Charter.

5 (b) "Gift" shall be as defined in Subsection 112.312(12), Florida Statutes.

6 (c) "Immediate family member" means a parent, spouse, child, sibling, or
7 registered domestic partner of a County employee.

8 Section 5. Section 26-73 of the Broward County Code of Ordinances is hereby
9 created to read as follows:

10 **Sec. 26-73. Code of Ethics.**

11 (a) Solicitation or Acceptance of Gifts.

12 (1) County employees shall not solicit or accept any gift, regardless of value,
13 in their official capacity as employees, nor shall they solicit or accept any
14 gift in either an official or personal capacity that may be reasonably
15 perceived to be given to encourage or discourage them from taking any
16 action in connection with their County employment.

17 (2) Notwithstanding the prohibition contained in paragraph (1), the County
18 Administrator (or his or her designee) may, by administrative order,
19 authorize the acceptance of meals, refreshments, and other gifts by
20 designated County employees as specified below. The County
21 Administrator shall publish a list of designated County employees who,
22 incident to attending functions or traveling in their official capacities, may
23 be offered meals, refreshments, or other gifts. Except where prohibited
24 under state or federal law, these designated employees may accept such

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in
underscored type are additions.

1 meals, refreshments, or other gifts in compliance with conditions the
2 County Administrator may establish by administrative order, including the
3 following:

4 a. Employees may accept meals, refreshments or other gifts upon
5 determining that their non-acceptance would be detrimental to the
6 interests of the County;

7 b. All gifts of a non-perishable nature that are received shall be
8 deemed accepted by employees on behalf of the County, and the
9 County Administrator (or his or her designee) shall determine how
10 to use the gift for a public purpose or otherwise how to dispose of
11 the gift; and

12 c. Employees shall, within thirty (30) days after receipt, inform the
13 County Administrator, or her or his designee, in writing, of the
14 nature of the gift and the name of the donor.

15 (3) Notwithstanding the prohibition contained in paragraph (1), employees
16 may accept unsolicited perishable gifts delivered to them at their County
17 office provided they:

18 a. Promptly notify the donor in writing of the County's no-gift
19 policy; and

20 b. Keep the perishable items in a common area of the County office
21 where the items may be consumed by any County employee or
22 member of the public visiting the office.

23 (4) Notwithstanding the prohibition contained in paragraph (1), County
24 employees who attend a conference, or visit any non-County office or

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in underscored type are additions.

1 premises, may accept beverages and snack items customarily made
2 available to other attendees or visitors.

3 (b) Disclosure of contacts; Lobbying by County employees.

4 (1) County employees should avoid even the appearance of impropriety in
5 their interaction and dealings with lobbyists registered under the Broward
6 County Lobbyist Registration Act, and in their interaction and dealings with
7 County vendors and prospective vendors.

8 (2) To promote full and complete transparency, lobbyists, County vendors,
9 and prospective vendors who intend to meet or otherwise communicate
10 with a County employee, either at such employee's office or elsewhere on
11 County government premises, for the purpose of influencing a decision to
12 be made by the Board, a decision to be made by any decision-making
13 body under the jurisdiction of the Board, or a final procurement decision to
14 be made by a County employee, must complete a contact log as provided
15 under Section 1-267, Broward County Code. This contact log shall be
16 completed for each individual County employee with whom the lobbyist,
17 County vendor, or prospective vendor intends to meet or communicate.
18 The contact log shall be legibly completed contemporaneously with the
19 meeting, and shall be available for public inspection in a database
20 designated by the County Administrator, which database shall be
21 searchable by internet.

22 (3) To further promote full and complete transparency, a County employee
23 shall disclose any meeting outside of his or her County office, any
24 telephonic discussion, or any electronic communication with a registered

1 lobbyist, county vendor, or prospective vendor during or in which meeting,
2 discussion, or other communication the lobbyist, county vendor, or
3 prospective vendor seeks to influence a decision to be made by the
4 Board, a decision to be made by any decision-making body under the
5 jurisdiction of the Board, or a final procurement decision to be made by a
6 County employee.

7 a. The disclosure shall include the names of all persons participating
8 in or initiating the meeting, discussion, or communication; the
9 names of any principals or employers of those persons; the date,
10 time, and location of any meeting or discussion; and the specific
11 purpose and subject matter of the meeting, discussion, or
12 communication.

13 b. The disclosure shall be made within ten (10) business days after
14 the meeting, discussion, or communication, but must, in any event,
15 be made prior to any vote on a matter that was the subject of the
16 meeting, discussion, or communication.

17 c. The disclosure shall be made in a legible manner and filed for
18 public inspection in a database designated by the County
19 Administrator, which database shall be searchable by internet.

20 (4) The County Administrator has the authority to exempt from the
21 requirements of paragraphs (2) and (3) immediately above, and from the
22 contact log requirements of Section 1-267, Broward County Code, any
23 contacts:

24 a. That do not relate to a currently pending County procurement; and

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in underscored type are additions.

1 b. That the County Administrator determines, if disclosed, could put
2 the County at a competitive disadvantage in connection with
3 potential business opportunities.

4 (5) A County employee is prohibited from lobbying, on behalf of an outside
5 principal or employer for compensation, County Commissioners, members
6 of any County Selection/Evaluation committee, or the governmental unit in
7 which he or she is employed. For purposes of this paragraph, "lobbying"
8 means those activities as defined in Subsection 1-261(b), Broward County
9 Code. However, lobbying does not include providing information, advice,
10 or recommendations to any County Commissioner or member of a
11 Selection/Evaluation committee in furtherance of the employee's job
12 responsibilities, or communicating on behalf of a collective bargaining unit.
13 Except as stated in this paragraph, County employees may engage in
14 lobbying activities provided such activities would not be inconsistent with
15 their public duties or the provisions of Chapter 112, Florida Statutes.

16 (c) Outside Employment.

17 County employees may engage in other employment upon completing the County's
18 Outside Employment Request Form and obtaining the written approval of their division,
19 department, or office director (as applicable). For purposes of this subsection, "other
20 employment" means any compensated employment performed by a County employee
21 aside from his or her employment with the County, including any part-time employment,
22 self-employment, or consultant-related employment. A County employee may perform
23 uncompensated employment, or may serve as an uncompensated officer, director,
24 registered agent, or member of any for-profit or not-for-profit organization, provided the

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in
 underscored type are additions.

1 employee, in writing, discloses his or her intent to do so to the employee's immediate
2 supervisor prior to such performance or service and provided, further, that the
3 supervisor determines that such performance or service would not be inconsistent with
4 the employee's public duties or the provisions of Chapter 112, Florida Statutes.
5 Notwithstanding the provisions of this paragraph, such disclosure and determination in
6 connection with the performance of uncompensated employment or service as an
7 uncompensated officer, director, registered agenda, or member shall not be required if:

8 (1) The for-profit or not-for-profit organization, for whom the County employee
9 will perform uncompensated employment or serve as an uncompensated
10 officer, director, agent, or member, is not a county vendor under contract
11 with Broward County, or a prospective vendor seeking to do business with
12 the County; or

13 (2) The for-profit or not-for-profit organization, for whom the County employee
14 will perform uncompensated employment or serve as an uncompensated
15 officer, director, agent, or member is not a recipient, directly or indirectly,
16 of any grants, loans, or other county funds that are made available
17 through an agency of Broward County, or an applicant for any such
18 grants, loans, or other county funds.

19 (d) Conflicts of Interest Regarding Immediate Family Members.

20 To avoid an actual or apparent conflict of interest, County employees shall not, in
21 any way, participate in or seek to influence any procurement or other County-related
22 matter in which:

23 (1) An immediate family member of the County employee is seeking or is
24 engaged in business with the County;

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in underscored type are additions.

1 (2) An entity owned in whole or in part (except ownership of a non-controlling
2 interest in a publicly-traded entity) by an immediate family member of the
3 County employee is seeking or is engaged in business with the County; or

4 (3) An entity represented by (as an attorney, lobbyist, officer, or director) an
5 immediate family member of the County employee is seeking or is
6 engaged in business with the County.

7 (e) Investigation of Violations; Inspector General.

8 The authority to investigate alleged violations of the Broward County Employee
9 Code of Ethics Act shall reside with the Office of Intergovernmental Affairs and
10 Professional Standards; provided that the authority of the Broward County Office of
11 Inspector General shall extend to alleged violations involving County employees in the
12 immediate Office of the County Administrator and members of the Office of
13 Intergovernmental Affairs and Professional Standards. The County Administrator may,
14 on a case-by-case basis, transfer jurisdiction to investigate other alleged violations of
15 this Act to the Office of Inspector General.

16 (f) In addition to any authority granted in this section, the County
17 Administrator may, by administrative order, prescribe additional standards and policies
18 for the purpose of implementing the provisions of this Act.

19 Section 6. Section 26-68 of the Broward County Code of Ordinances is hereby
20 amended to read as follows:

21 **Sec. 26-68. Solicitation or acceptance of gifts.**

22 (a) No public officer or employee as defined by Chapter 112, ~~pt. Part III, F.S.~~
23 Florida Statutes (§ Section 112.311, F.S. Florida Statutes, et seq.), shall solicit or
24 accept anything of value to the recipient, including a gift, loan, reward, promise of future

1 employment, favor, or service, based upon any understanding that the vote, official
2 action, or judgment of the public officer or employee would be influenced thereby. This
3 subsection shall also apply to all appointed members of the Broward County Board of
4 Rules and Appeals and those persons employed pursuant to subsection ~~H. C.~~ of section
5 ~~8.18 9.02, Charter of Broward County, Florida~~ of the Broward County Charter.

6 (b) ~~The county administrator may, by administrative order, set a maximum~~
7 ~~amount or value for any gift which a county employee, including those persons~~
8 ~~employed by the Broward County Board of Rules and Appeals pursuant to subsection~~
9 ~~H. of section 8.18, Charter of Broward County, Florida, may accept so long as such~~
10 ~~acceptance would not conflict with subsection (a) above.~~

11 Section 7. SEVERABILITY.

12 If any portion of this Ordinance is determined by any Court to be invalid, the
13 invalid portion shall be stricken, and such striking shall not affect the validity of the
14 remainder of this Ordinance. If any Court determines that this Ordinance, or any portion
15 hereof, cannot be legally applied to any individual(s), group(s), entity(ies), property(ies),
16 or circumstance(s), such determination shall not affect the applicability hereof to any
17 other individual, group, entity, property, or circumstance.

18 Section 8. INCLUSION IN CODE.

19 It is the intention of the Board of County Commissioners that the provisions of
20 this Ordinance shall become and be made a part of the Broward County Code; and that
21 the sections of this Ordinance may be renumbered or relettered and the word
22 "ordinance" may be changed to "section," "article," or such other appropriate word or
23 phrase in order to accomplish such intentions.

24

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in
underscored type are additions.

1 Section 9. EFFECTIVE DATE.

2 This ordinance shall become effective ~~as provided by law~~ 90 days after the date
3 filed with the Department of State or March 31, 2011, whichever occurs earlier.

4 ENACTED December 14, 2010

5 FILED WITH THE DEPARTMENT OF STATE December 21, 2010

6 EFFECTIVE March 21, 2011

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23 AJM/mm
12/15/10
24 Staff Code of Ethics Ord.doc
10-420

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in underscored type are additions.