

ORDINANCE NO. 2014 - ____

**AN ORDINANCE TO ENACT AN ETHICS ORDINANCE
FOR THE ROCHESTER PUBLIC LIBRARY DISTRICT
AND THE REPEAL OF ETHICS ORDINANCE 2004-5**

WHEREAS, Section 70-5 of the State Officials and Employees Ethics Act (5 ILCS 430/70-5), as enacted by Public Act 93-615 effective November 19, 2003, required the library district to adopt an ordinance that regulates, in a manner no less restrictive than Section 5-15 and Article 10 of that Act, the political activities of, and the solicitation and acceptance of gifts by, the trustees and employees of the library district; and

WHEREAS, Section 70-10 of the State Officials and Employees Ethics Act provides that the library district may provide in the ordinance required by Section 70-5 for penalties similar to those provided in that Act for similar conduct; and

WHEREAS, on April 1, 2004, the Board of Library Trustees of the Rochester Public Library District enacted Ethics Ordinance 2004-5 based upon a model ordinance prepared by the Office of the Illinois Attorney General; and

WHEREAS, since April 1, 2004, the State Officials and Employees Ethics Act has been amended by Public Act 93-685, effective July 8, 2004, Public Act 95-331, effective August 21, 2007, Public Act 95-947, effective August 29, 2008, Public Act 95-880, effective August 19, 2008, Public Act 96-6, effective April 3, 2009, Public Act 96-31, effective June 30, 2009, Public Act 96-555, effective August 18, 2009, Public Act 96-1528, effective July 1, 2011, and Public Act 96-1533, effective March 4, 2011; and

WHEREAS, the Board of Library Trustees now seeks to enact an Ethics Ordinance that updates and streamlines existing Ethics Ordinance 2004-5;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF LIBRARY TRUSTEES of the ROCHESTER PUBLIC LIBRARY DISTRICT, Rochester, Illinois, AS FOLLOWS:

SECTION 1. The Code of Ordinances of Rochester Public Library District is hereby amended by the addition of the following provisions:

SECTION 430/5-15. PROHIBITED POLITICAL ACTIVITIES

(a) A library employee shall not intentionally perform any prohibited political activity during any compensated time (other than vacation, personal, or compensatory time off). A library trustee or employee shall not intentionally misappropriate any library district property or resources by engaging in any prohibited political activity for the benefit of any campaign for elective office or any political organization.

(b) At no time shall any library trustee or employee intentionally misappropriate the services of any library employee by requiring that library employee to perform any prohibited political activity (i) as part of that employee's library duties, (ii) as a condition of library employment, or (iii) during any time off that is compensated by the library (such as vacation, personal, or compensatory time off).

(c) A library employee shall not be required at any time to participate in any prohibited political activity in consideration for that library employee being awarded any additional compensation or employee benefit, in the form of a salary adjustment, bonus, compensatory time off, continued employment, or otherwise.

(d) A library employee shall not be awarded any additional compensation or employee benefit, in the form of a salary adjustment, bonus, compensatory time off, continued employment, or otherwise, in consideration for the library employee's participation in any prohibited political activity.

(e) Nothing in this Ordinance prohibits activities that are otherwise appropriate for a library employee to engage in as a part of his or her official library employment duties or activities that are undertaken by a library employee on a voluntary basis as permitted by law.

(f) 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 library 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 10-10. Except as otherwise provided in this Ordinance, no library trustee or employee shall intentionally solicit or accept any gift from any prohibited source or in violation of any federal or State statute, rule, or regulation. This ban applies to and includes the spouse of and immediate family living with the library trustee or employee. No prohibited source shall intentionally offer or make a gift that violates this Ordinance.

Section 10-15. The restriction in Section 10-10 does not apply 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 library trustee or employee pays the market value.

(3) Any (i) contribution that is lawfully made under the Election Code or under the State Officials and Employees Ethics Act 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 library district 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 fiance or fiancée.

(7) Anything provided by an individual on the basis of a personal friendship unless the library trustee or employee has reason to believe that, under the circumstances, the gift was provided because of the official position or employment of the library trustee or employee and not because of the personal friendship. In determining whether a gift is provided on the basis of personal friendship, the library trustee or employee 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 library trustee or employee 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 library trustee or employee the individual who gave the gift also at the same time gave the same or similar gifts to other library trustees or employees.

(8) Food or refreshments 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 Ordinance, "catered" means food or refreshments that are purchased ready to eat and delivered by any means.

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

(10) Intra-governmental and inter-governmental gifts. For the purpose of this Ordinance, "intra-governmental gift" means any gift given to a library trustee or employee from another library trustee or employee; and "inter-governmental gift" means any gift given to a library

trustee or employee by a member, officer, or employee of a State agency, of a federal agency, or of any 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 one another.

Section 10-30. Gift ban; disposition of gifts. A library trustee or employee does not violate this Ordinance if the library trustee or employee promptly takes reasonable action to return the prohibited gift 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.

For purposes of this Ordinance, "prohibited source" means any person or entity who:

(1) is seeking official action (i) by a library trustee or (ii) in the case of an employee, by the employee or other employee directing the employee;

(2) does business or seeks to do business (i) with a library trustee or (ii) in the case of an employee, with the employee or other employee directing the employee;

(3) conducts activities regulated (i) by a library trustee or (ii) in the case of an employee, by the employee or other employee directing the employee;

(4) has interests that may be substantially affected by the performance or non-performance of the official duties of a library trustee or employee;

(5) is registered or required to be registered with the Secretary of State under the Lobbyist Registration Act, except that an entity not otherwise a prohibited source does not become a prohibited source merely because a registered lobbyist is one of its members or serves on its board of directors; or

(6) is an agent of, a spouse of, or an immediate family member who is living with a "prohibited source."

ETHICS ADVISOR

The Library Board President, with the advice and consent of the Board of Library Trustees, shall designate an Ethics Advisor for the Rochester Public Library District. The duties of the Ethics Advisor may be delegated to an employee of the Rochester Public Library District unless the position has been created as an office by the Rochester Public Library District.

The Ethics Advisor shall provide guidance to the library trustees and employees concerning the interpretation of and compliance with the provisions of this Ordinance. The Ethics Advisor shall perform such other duties as may be delegated by the Library Board President.

LIBRARY DISTRICT ETHICS COMMISSION

There is hereby created a commission to be known as the Ethics Commission of Rochester Public Library District. The Commission shall be comprised of three members appointed by the Library Board President with the advice and consent of the Board of Library Trustees. 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 library trustee or employee.

Commissioners shall be appointed to 2 year terms. Commissioners may be reappointed to serve subsequent terms. 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 of two commissioners, and official action by the commission shall require the affirmative vote of two members.

A commissioner may be removed in case of incompetency, neglect of duty or malfeasance. Vacancies shall be filled in the same manner as original appointments.

The Commission shall have the following powers and duties:

To promulgate procedures and rules governing the performance of its duties and the exercise of its powers.

Upon receipt of a signed, notarized, written complaint, to investigate, conduct hearings and deliberations, and issue recommendations to the library district board for disciplinary actions, penalties, and referrals to the State's Attorney for prosecution.

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 Ordinance.

Failure or refusal to cooperate with requests by the Commission may constitute grounds for discipline or discharge

The powers and duties of the Commission are limited to matters clearly within the purview of this Ordinance.

A written complaint alleging a violation of this Ordinance shall be filed with the Ethics Commission. The Commission shall act only upon the receipt of a written complaint alleging a violation of this Ordinance and not upon its own prerogative.

Within five business days after the receipt of a complaint, the Commission shall send by certified mail, return receipt requested, a notice to the library trustee or employee that a complaint has been filed against him or her and a copy of the complaint. The Commission shall send by certified mail, return receipt requested, a confirmation of the receipt of the complaint to the complainant within five business days after receipt by the commission. The notices to the library trustee or employee 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 cause exists to proceed. The meeting may be closed to the public to the extent authorized by the Open Meetings Act. The Commission shall issue notice to the complainant and the library trustee or employee of the Commission's ruling on the sufficiency of the complaint and, if necessary, on cause to proceed within seven business days after receiving the complaint.

PENALTIES

(a) A person is guilty of a Class A misdemeanor if that person intentionally violates any provision of Section 430/5-15.

(b) A person who intentionally violates any provision of Article 10 is guilty of a business offense and subject to a fine of at least \$1,001.00 and up to \$5,000.00.

(c) Any person who intentionally makes a false report alleging a violation of any provision of this Ordinance to the Ethics Commission, the State Police, a State's Attorney, the Attorney General, or any other law enforcement official is guilty of a Class A misdemeanor.

(d) The Ethics Commission may recommend an administrative fine of up to \$5,000.00 against any person who violates this Ordinance, who intentionally obstructs or interferes with an investigation conducted under this Ordinance, or who intentionally makes a false, frivolous, or bad faith allegation.

(e) In addition to any other penalty that may apply, whether criminal or civil, a library trustee or employee who intentionally violates any provision of Section 5-15 or Article 10 is subject to discipline or discharge by the appropriate ultimate jurisdictional authority.

SECTION 2. This Ordinance shall be in full force and effect from and after the date of its adoption by a favorable vote of the Board of Library Trustees present and voting.

SECTION 3. Ordinance 2004-5 is repealed in its entirety.

SECTION 4. The Secretary of the Board of Library Trustees is hereby directed to file a certified copy of this Ordinance with the Library District's records.

ADOPTED this _____ day of _____, 2013, pursuant to roll call vote as follows:

AYES: _____ NAYS: _____ ABSENT: _____ ABSTENTIONS: _____

APPROVED this _____ day of _____, 2013.

President, Board of Library Trustees
ROCHESTER PUBLIC LIBRARY DISTRICT

ATTEST:

Secretary, Board of Library Trustees
ROCHESTER PUBLIC LIBRARY DISTRICT

STATE OF ILLINOIS)
) ss.
COUNTY OF SANGAMON)

CERTIFICATE OF TRUE COPY

I, _____, Secretary of the Board of Library Trustees of the ROCHESTER PUBLIC LIBRARY DISTRICT, DO HEREBY CERTIFY that the foregoing Ordinance, entitled:

AN ORDINANCE TO ENACT AN ETHICS ORDINANCE FOR THE ROCHESTER PUBLIC LIBRARY DISTRICT AND THE REPEAL OF ETHICS ORDINANCE 2004-5

is a true and correct copy of the original thereof, duly prepared by the Board of Library Trustees, and that the original of said Ordinance is in my custody as such Secretary pursuant to law.

IN WITNESS WHEREOF, I have hereunto set my official signature as Secretary of said Board of Library Trustees this _____ day of _____, 2013.

Secretary
Board of Library Trustees
ROCHESTER PUBLIC LIBRARY DISTRICT

STATE OF ILLINOIS)
) ss.
COUNTY OF SANGAMON)

SECRETARY’S CERTIFICATE OF POSTING

I, _____, Secretary of the Board of Library Trustees of the ROCHESTER PUBLIC LIBRARY DISTRICT, DO HEREBY CERTIFY that a true and correct copy of

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was within _____ day(s) after preparation and certification duly posted on the _____ day of _____, 2013, at the Rochester Public Library District building located at No. 1 Community Drive, Rochester, Illinois.

IN WITNESS WHEREOF, I have hereunto set my official signature as Secretary of said Board of Library Trustees this _____ day of _____, 2013.

Secretary
Board of Library Trustees
ROCHESTER PUBLIC LIBRARY DISTRICT