

RESOLUTION NO. 2012-03

**RESOLUTION ESTABLISHING NEPOTISM POLICIES
FOR EMPLOYMENT AND CONTRACTING MATTERS**

WHEREAS, pursuant to I.C. § 36-1-20.2-9(a) (as added by Section 7 of P.L. 135-2012, which section is effective July 1, 2012), LaPorte County is required to adopt a policy regarding the employment of relatives by the County, which policy includes certain minimum requirements set forth in I.C. § 36-1-20.2; and

WHEREAS, pursuant to I.C. § 36-1-21-4(a) (as added by Section 8 of P.L. 135-2012, which section is effective July 1, 2012), LaPorte County is required to adopt a policy regarding contracts between the County and relatives (or business entities wholly or partially owned by relatives) of elected officials of the County, which policy includes certain minimum requirements set forth in I.C. § 36-1-21; and

WHEREAS, the Board of Commissioners of LaPorte County, Indiana (the "Board") as a legislative body of LaPorte County, Indiana (the "County"), now desires to adopt a policy applicable to any department, office, or elected official of the County in order to ensure compliance by the County with I.C. § 36-1-20.2-9(a) and I.C. § 36-1-21-4(a) upon the effective date of such provisions,

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of LaPorte County, Indiana, as a legislative body of LaPorte County, Indiana, that:

1. The Board adopts the policy attached to this Resolution as Exhibit "A", which is incorporated into and made a part of the same by virtue of this reference, as the official policy of the County regarding the employment of relatives by the County.

2. The Board adopts the policy attached to this Resolution as Exhibit "B", which is incorporated into and made a part of the same by virtue of this reference, as the official policy of the County regarding contracts between (i) any department, office, or elected official of the County, and (ii) relatives (or businesses wholly or partially owned by relatives) of elected officials of the County.

3. The members of the Board of Commissioners, the County Council, the Auditor of the County, the legal counsel of the County, and other appropriate officers of the County are authorized to take all such actions and execute all such instruments as are necessary or desirable to effectuate this ~~Ordinance~~ ^{Resolution} and the implementation of such policies.

4. This Resolution shall be in full force and effect from and after the 1st day of July, 2012.

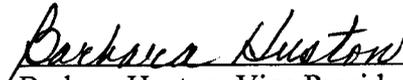
July

DULY ADOPTED on this 26th day of ~~July~~ 2012, by the Board of Commissioners of LaPorte County, Indiana.

BOARD OF COMMISSIONERS OF
LAPORTE COUNTY, INDIANA



Ken Layton, President

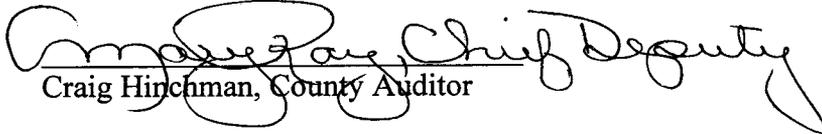


Barbara Huston, Vice President



Willie Milsap, Member

ATTEST:



Craig Hinchman, County Auditor

Exhibit "A"

NEPOTISM

In accordance with House Enrolled Act 1005 ("HEA" 1005) individuals who are relatives may not be employed by a unit in a position that results in one relative being in the direct line of supervision of the other relative.

Direct line of supervision means an elected officer or employee who is in a position to affect the terms and conditions of another individual's employment, including making decisions about work assignments, compensation, grievances, advancement, or performance evaluation. The term does not include the responsibilities of the executive, legislative body, or fiscal body of a unit, as provided by law, to make decisions regarding salary ordinances, budgets, or personnel policies of the unit.

Employed means an individual who is employed by a unit on a full-time, part-time, temporary, intermittent, or hourly basis. The term does not include an individual who holds only an elected office. The term includes an individual who is a party to an employment contract with the unit.

Member of the sheriff's office means the sheriff or an officer appointed to the office.

Relative means any of the following:

1. Spouse;
2. Parent or stepparent;
3. Child or stepchild
4. Brother, sister, stepbrother, or stepsister
5. Niece or nephew
6. Aunt or uncle
7. Daughter-in-law or son-in-law

An adopted child of an individual is treated as a natural child of the individual. The terms "brother" and "sister" include a brother or sister by the half blood.

With regard to an individual who:

1. is employed by a unit on the date the individual's relative begins serving a term of an elected office of the unit; and
 2. is not exempt from the application of this policy,
- the individual may remain employed by a unit and maintain the individual's position or rank even if the individual's employment would violate the prohibition against one relative being in the direct line of supervision of the other relative.

The individual described above may not:

1. be promoted to a position or
2. be promoted to a position that is not within the merit ranks, in the case of an individual who is a member of a merit sheriff's office

if the new position would violate the prohibition against one relative being in the direct line of supervision of the other relative.

A sheriff's spouse may be employed as prison matron for the county under IC 36-8-10-5 and the spouse may be in the sheriff's direct line of supervision.

An individual"

1. who served as coroner;
2. who is currently ineligible to serve as coroner under Article 6, Section 2(b) of the Constitution of the State of Indiana;
3. who, as coroner, received certification under IC 36-2-14-22.3; and
4. whose successor in the office of coroner is a relative of the individual;

may be hired in the position of deputy coroner and be in the coroner's direct line of supervision.

Exclusions

An individual who is employed by a unit on July 1, 2012 is not subject to these policies unless the individual has a break in employment with the unit. Breaks in employment do not include the following:

1. The individual is absent from the workplace while on paid or unpaid leave, including vacation, sick, or family medical leave, or worker's compensation.
2. The individual's employment with the unit is terminated followed by immediate reemployment by the unit, without loss of payroll time.

This policy does not apply to performance of duties as a

1. Precinct election officer as defined in IC-3-5-2-40.1; or
2. Volunteer firefighter

This policy does not repeal or affect an employment contract with a unit that:

1. an individual is a party to and
2. is in effect on the date the individual's relative begins serving a term of an elected office of the unit.

EXHIBIT "B"

Policy Concerning Contracting with LaPorte County, Indiana

A. Key Definitions

For purposes of this Policy, "*elected official*" means any member of: (a) the Board of Commissioners of the County, or (b) the County Council.

For the purposes of this policy, "*relative*" means any of the following:

1. A spouse;
2. A parent or stepparent;
3. A child or stepchild, including adopted children;
4. A brother, sister, stepbrother, or stepsister, including brothers or sisters by the half-blood;
5. A niece or nephew;
6. An aunt or uncle; and/or
7. A daughter-in-law or son-in-law.

B. Anti-Nepotism Policy Regarding County Contracts

In order to comply with Indiana law and in order to avoid potential conflicts of interests, misunderstandings and appearances of favoritism, impropriety or bias, the County has adopted the following policy to establish certain minimum requirements regarding contracts between (i) any department, office, or elected official of LaPorte County, Indiana (the "County"), and (ii) "relatives" (or businesses wholly or partially owned by relatives) of "elected officials" of the County. Except as otherwise provided within this Policy, the County may enter into or renew a contract for the procurement of goods and services or a contract for public works with either: (i) an individual who is a relative of an elected official, or (ii) a business entity that is wholly or partially owned by a relative of an elected official only if the requirements of this policy are satisfied and such contract would not result in a violation of I.C. § 35-44-1-3 by the elected official.

C. Procedure to Comply

Notwithstanding any provisions of this Policy and I.C. § 36-1-21, the County may enter into or renew a contract with an individual or business entity described in the paragraph above only if the following conditions are met:

1. The elected official shall file with the Board of Commissioners of LaPorte County, Indiana (the "Board of Commissioners") a full disclosure statement, which must: (a) be in writing; (b) describe the contract or purchase to be made by the County; (c) describe the relationship that the elected official has to the individual or business entity with whom the County seeks to contract or from whom the County seeks to purchase; (d) be affirmed under penalty of perjury; (e) be submitted to the legislative body of the County and be accepted by the legislative body of the County in a public meeting of the legislative body prior to final action on the contract or purchase; and (f) be filed, not later than fifteen (15) days after final action on the contract or purchase, with (i) the State Board of Accounts, and (ii) the Clerk of the Circuit Court of the County.

2. The appropriate agency of the County shall file a certified statement with the Board of Commissioners: (a) that the contract amount or purchase price was the lowest amount or price bid or offered; or (b) setting forth the reasons why the vendor or contractor was selected.

3. The County satisfies any other contracting requirements under I.C. 5-22 (concerning the purchase of goods or services) or I.C. § 36-1-12 (concerning public works).

4. The elected official also complies with the disclosure provisions required by I.C. § 35-44-1-3, if applicable.

D. Annual Certification by Elected Officers

Each elected officer of the County shall annually certify in writing, subject to the penalties for perjury, that the officer has not violated this policy or I.C. § 36-1-21. Each officer shall submit the certification to the Board of Commissioners not later than December 31st of each year.

E. Interpretation of Policy

This policy is intended to implement the minimum requirements necessary to comply with I.C. § 36-1-21, as the same may be amended from time to time. If and to the extent this Policy is not in compliance with I.C. § 36-1-21, this Policy shall be deemed to include such terms not otherwise included within this Policy, and to exclude such terms not otherwise excluded, as are necessary to cause this Policy to implement the minimum requirements set forth in I.C. § 36-1-21. To the extent this Policy is inconsistent with any

provision of Indiana law, including, without limitation, I.C. § 36-1-21, such other provisions of Indiana law shall control. If any portion of this Policy is held or deemed to be, or is, invalid, illegal, inoperable, or unenforceable, the validity, legality, operability and enforceability of the remaining portions of this policy shall not be affected, and this Policy shall be construed as if it did not contain such invalid, illegal, inoperable or unenforceable portion.

F. Right to Review Application of Policy and Make Amendments

The County reserves the right to review the specific facts of any case where this Policy is implicated and make exceptions on a case-by-case basis consistent with the provisions of Indiana law, including, without limitation, the provisions of I.C. § 36-1-21. Furthermore, the County reserves the right to modify or amend the provisions of this Policy from time to time consistent with the provisions of the provisions of Indiana law, including, without limitation, the provisions of I.C. § 36-1-21.