

## **111. Definitions**

Unless otherwise stated or unless the context otherwise requires, when used in this code, the definitions are as follows:

A. To "appear" or "appear before" means to communicate in any form, including, without limitation, personally, through another person, by letter, or by telephone. This definition also applies to the noun form, "appearance."

B. "Consultant" means an independent contractor or professional person or entity engaged by the county or advising a county official, and in a position to influence a county decision or action, or have access to confidential information.

C. "Customer or client" in 100(A-5) means:

(1) any person or entity to which a person or entity has supplied goods or services during the previous twenty-four months, having, in the aggregate, a value greater than \$1,000, or;

(2) any person or entity to which an official or employee's outside employer or business has supplied goods or services during the previous twenty-four months, having, in the aggregate, a value greater than \$1,000, but only if the official or employee knows or has reason to know the outside employer or business supplied the goods or services.

D. "Domestic partner" is an adult, unrelated by blood, with which an unmarried or separated official or employee has an exclusive committed relationship, maintains a mutual residence, and shares basic living expenses.

E. "Financial benefit" includes any money, service, license, permit, contract, authorization, loan, travel, entertainment, hospitality, gratuity, or any promise of any of these, or anything else of value. This term does not include campaign contributions authorized by law. A "financial interest" is a relationship to something such that a direct or indirect financial benefit has been, will be, or might be received as a result of it.

F. A "gift" is a financial benefit received or given without equivalent compensation. However, a financial benefit received or given on terms available to the general public is not a gift.

G. "Household" includes anyone whose primary residence is in the official or employee's home, including non-relatives who are not rent payers or servants.

H. An "interest in a contract" is a relationship to a contract such that a direct or indirect financial or other material benefit has been, will be, or might be received as a result of that contract. The official or employee does not need to be a party to the contract to have an interest in it. Indirect benefit includes a benefit to the official's family or outside business or employer.

I. "Ministerial act" means an action performed in a prescribed manner without the exercise of judgment or discretion as to the propriety of the act. An example of a ministerial act is the granting of a marriage license by a county clerk and/or his or her designee.

J. "Official or employee" means any official or employee of the county, whether paid or unpaid, and includes all members of an office, board, body, advisory board, council, commission, agency, department, district, administration, division, bureau, committee, or subcommittee of the county.

"Official or employee" does not include:

- (1) A judge, justice, or official or employee of the court system;
- (2) A volunteer fire fighter or civil defense volunteer, except a fire chief or assistant fire chief; or;
- (3) A member of an advisory board if, but only if, the advisory board has no authority to implement its recommendations or to act on behalf of the county or to restrict the authority of the county to act.

K. "Outside employer or business" includes:

- (1) any substantial business activity other than service to the county;
- (2) any entity, other than the county, of which the official or employee is a member, official, director, or employee, and from which he or she receives compensation for services rendered or goods sold or produced;
- (3) any entity located in the county or which does business with the county, in which the official or employee has an ownership interest, except a public corporation in which the official or employee's ownership interest is the lesser of (i) stock valued at less than \$50,000 or (ii) five percent of the outstanding stock; and
- (4) any entity to which the official or employee owes, or by which the official or employee is owed, more than \$10,000, either in the form of a note, a bond, a loan, or any other financial instrument.

For purposes of this definition, "compensation" does not include reimbursement for reasonable and necessary expenses, including travel expenses.

L. "Personal benefit" includes benefits other than those that are directly financially advantageous. These include financial benefits to relatives, business associates, and others listed in 100(A), as well as non-financial benefits to these people and to oneself, including such things as reputation and the success of one's career. A "personal interest" means a relationship to something such that a personal benefit has been, will be, or might be obtained by certain action or inaction with respect to it.

M. "Relative" means, as to an official or employee, his or her spouse, child, step-child, brother, sister, parent or step-parent, niece, nephew, uncle, aunt, grandparent, grandchild of either himself

or herself or his or her spouse or any person claimed as a dependent on the official or employee's latest individual state income tax return.

N. "Subordinate" means another official or employee over whose activities an official or employee has direction, supervision or control.

O. "Confidential information" means information obtained in the course of holding public office or employment, or as a contractor to the county, which is not available to members of the public and which the official or employee is not authorized to disclose, except to designated individuals or bodies, including written and non-written information. When such information is also available through channels open to the public, officials and employees are not prohibited from disclosing the availability of those channels.

P. "Personally worked" means the official actually worked on the matter, not that he or she supervised a department that worked on the matter.

### **201. Duties of County Manager or his/her designee**

The County Manager or his/her designee must maintain on file for public inspection and, with respect to disclosure statements, index in alphabetical order by the last name of the relevant official, employee, candidate, or applicant the following documents:

- A. A copy of the code of ethics and amendments thereto;
- B. A statement that the county has established an Ethics Board, and its composition;
- C. A copy of the form of annual statement of financial disclosure;
- D. A list of the names and offices, or positions, of all officials and employees required to file annual disclosure statements;
- E. Copies of all transactional, applicant, and annual disclosure statements filed pursuant to this code.

### **202. Maintenance of Disclosure Statements**

- A. The County Manager or his/her designee must transmit promptly to the Ethics Board copies of each transactional and applicant disclosure statement filed pursuant to sections 101, 103, and 104 of this code.
- B. The Ethics Board must index and maintain on file for at least seven years all disclosure statements filed with it pursuant to sections 101, 103, and 104 of this code.

### **203. Ethics Board: Establishment; Qualifications of Members; Appointment of Members; Term of Office**

- A. Number of Board Members

There is hereby established an Ethics Board consisting of five members. All members must be residents of Henry County.

B. County Service Limitations

No member of the Ethics Board may be, or have been within the three years prior to appointment, an appointed official or employee of the county. Nor may a member of the Ethics Board hold office in a political party or be employed or act as a lobbyist. An Ethics Board member may make campaign contributions but may not participate in any election campaign.

C. Date of Appointment Regulation

Within sixty days after the effective date of this code, and no later than December 31 each applicable year thereafter, the Board of Commissioners will appoint one (1) member to the Ethics Board. The county Republican and Democratic parties will each appoint two (2) members to the Ethics Board

D. Term of office of Ethics Board

Members will serve for four years and running from January 1 through December 31, except that, of the regular members first appointed, one member will serve until December 31 of the year in which the Board is established, two regular members will serve until the second December 31, and two regular members will serve until the third December 31.

E. Term Limitations

An Ethics Board member will serve until his or her successor has been appointed, in the same manner as the original appointments. Consecutive service on the Ethics Board may not exceed two full terms, except that a member appointed to complete an existing term may thereafter serve two terms as a regular member.

F. Board Member Education/Training

Within first year of term, all Board members are required to complete no less than 10 hours of ethics training sponsored by an appropriate municipal/county/state agency and/or professional association, if available.

G. Compensation

Members of the Ethics Board may receive reasonable compensation, as determined by the Board of Commissioners and shall be reimbursed for reasonable expenses incurred in the performance of their official duties.

#### H. Unexcused Absence from Meetings

The unexcused absence of any member from three consecutive meetings, unless the Ethics Board has excused the absence for good and sufficient reason, shall constitute a resignation.

#### **204. Ethics Board: Vacancies.**

When a vacancy occurs in the membership of the Ethics Board, the vacancy will, within sixty days, be filled for the unexpired portion of the term in the same manner as regular appointments. Any person appointed to fill a vacancy on the Ethics Board must meet the qualifications and limitations set forth in section 203 of this code.

#### **205. Ethics Board: Removal of Members.**

An Ethics Board member may be removed from office by at least a three-fourths majority of the legislative body, after written notice, including a clear statement of the grounds for removal, and opportunity for reply, at least thirty days before voting on removal. The only grounds for removal are failure to meet the qualifications or limitations set forth in section 203 of this code, substantial neglect of duty, gross misconduct in office, inability to discharge the powers or duties of office, and violation of this code.

#### **206. Ethics Board: Meetings.**

At its first meeting each calendar year, the Ethics Board will elect a chair and a vice-chair from among its regular members. A majority of the regular members is required for the Board to take any action. The Ethics Board shall meet no less than is required to conduct the business of the board, which in no event shall be less than once each calendar quarter. All meetings of the Ethics Board shall be held at the Henry County Administration Building. The chair may call a meeting of the Board.

#### **207. Ethics Board: Jurisdiction, Powers, and Duties.**

A. The Ethics Board may only act with respect to current and former officials and employees, consultants, applicants, candidates, and persons and entities that do business with the county, give gifts to officials and employees or their relatives, or are otherwise covered by the provisions of this code.

B. The termination of an official's or employee's term of office or employment with the county does not affect the jurisdiction of the Ethics Board with respect to the requirements imposed on him or her by this code.

C. Unless otherwise stated, the Ethics Board must send all official correspondence by registered or certified mail, or by personal service.

D. Unless otherwise stated, all Ethics Board decisions or determinations must be made by the affirmative vote of three sitting members.

E. The Ethics Board has the following powers and duties:

- (1) To prescribe and promulgate rules and regulations governing its own internal organization and procedures in a manner consistent with this code;
- (2) To appoint hearing officials, legal counsel, an executive director, if necessary, and such other staff as are necessary to carry out its duties under this code, and to delegate authority to the executive director, if any, to act in the name of the Board between meetings of the Board, provided that the delegation is in writing and the specific powers to be delegated are enumerated, and further provided that the Board may not delegate the power to render a formal advisory opinion, determine a violation, impose a penalty, seek any remedy not otherwise delegated in this code to the legislative body, or refer a matter to a prosecutor. An executive director must meet the qualifications of an Ethics Board member as specified in section 203 of this code;
- (3) To prepare and provide forms for complaints and for annual, applicant, and transactional disclosure statements, pursuant to section 208;
- (4) To review, index, and maintain on file disclosure statements filed with the Board, pursuant to sections 202 and 208 of this code;
- (5) To render, index, and maintain on file advisory opinions pursuant to section 209;
- (6) To review, index, maintain on file, and dispose of sworn complaints per state and/or federal law, and to make notifications and conduct investigations pursuant to section 213;
- (7) To conduct hearings, apply and recommend disciplinary action, assess penalties, make referrals, and initiate appropriate actions and proceedings pursuant to sections 214 and 215(A),
- (8) To dispose of waiver requests pursuant to section 210 per state per state and/or federal law;
- (9) To provide training and education to officials, employees, and those doing business with the county pursuant to section 211;
- (10) To prepare an annual report and recommend changes to this code pursuant to section 212;
- (11) To provide for public inspection of certain records pursuant to section 217; and
- (12) To make this code and explanations of it available for reproduction and distribution pursuant to section 219.

## **208. Lists, Complaint Forms, and Disclosure Statements.**

A. The Ethics Board will annually review the list of officials and employees required to file annual disclosure statements, to determine whether the lists are complete and accurate. Within ninety days after it has been formed, and by February 1 each year thereafter, the Ethics Board must:

- (1) cause to be filed with the County Manager or his/her designee a list of the names and offices, or positions, of all officials and employees and others required to file annual disclosure statements pursuant to 103 of this code; and
- (2) notify all such persons of their obligation to file an annual disclosure statement.

B. The Ethics Board will prepare forms for complaints and for annual, applicant, and transactional disclosure statements, and will make these forms available at the County clerk and/or his or her designee's office and on the county's website, for easy downloading.

C. By June 15 of each year, the Ethics Board must review all annual disclosure statements filed with it to determine whether any person required to file such a statement has failed to file it, has filed a deficient statement, or has filed a statement that reveals a possible or potential violation of this code.

D. The Ethics Board must review all transactional disclosure statements filed with it.

E. If the Board determines that an annual or transactional disclosure statement is deficient or reveals a possible or potential violation of this code, the Board will notify the person in writing of the deficiency or possible or potential violation, and of the penalties for failure to comply with this code.

## **209. Advisory Opinions.**

A. Upon the written request of any official or employee - including former officials and employees who served or were employed within the prior three years, and also including those who intend to soon become an official or employee - or candidate, consultant, or person or entity doing business with the county or intending to soon do business with the county, the Ethics Board must render, within ten days after the date of its next regular meeting or within 45 days of the request, whichever is later, a written advisory opinion with respect to the interpretation or application of this Code. Any other person or entity may similarly request an advisory opinion, but only with respect to whether his, her, or its own action might violate a provision of this code. If an official requires an earlier response, an informal verbal or e-mail opinion will be provided by the Ethics Officer. The Ethics Board may delegate its duties under this support to the Ethics Officer and/or Ethics Board staff.

B. The Ethics Board will designate one of its members or alternate members, or another individual selected by the votes of at least four sitting members, to be the Ethics Officer, for the purpose of quickly responding to questions regarding the requirements of this Code. The Ethics Officer's phone number and e-mail address will be made available on the Commission's website.

The Ethics Officer's informal opinions may be relied upon, in good faith, but will not be binding upon the Commission or upon the person making the request.

C. A written advisory opinion rendered by the Ethics Board, until and unless amended or revoked, is binding upon the Ethics Board in any subsequent proceeding concerning the person or entity that requested the opinion and acted in good faith, unless he, she, or it omitted or misstated a material fact in requesting the advisory opinion. The advisory opinion may also be relied upon by the person or entity, and may be introduced and used as a defense in any civil action brought by the Ethics Board or the county.

D. If the Ethics Board has reason to believe that an advisory opinion has not been complied with, it will take appropriate action to ensure compliance, including but not limited to the filing of a complaint pursuant to section 213(C).

E. Advisory opinions and requests for advisory opinions (with names and other necessary details omitted to protect anonymity, unless the requesting party states otherwise) will be indexed and maintained on file by the Ethics Board and will also be available on the county website. Relevant officials, employees, and businesses should be notified about advisory opinions that might affect their conduct.

F. Any person aggrieved by a written advisory opinion of the Ethics Board may seek judicial review and relief.

#### **210. Waivers.**

A. Upon written application and upon a showing of compelling need, as described in subsection (C), by the applicant, at an open session after public notice, the Ethics Board may in exceptional circumstances grant the applicant a waiver of subsections 1-10, 13-19, 21 of 100, 101(A)(1), 106, or 108 of this code.

B. Waivers must be in writing and must state the grounds upon which they are granted. Within ten days after granting a waiver, the Ethics Board must publish a notice setting forth the name of the person or entity requesting the waiver and a general description of the nature of the waiver in the official newspaper designated by the county for legal notices. All waiver applications, decisions, and other records and proceedings relating to waivers will be indexed and maintained on file by the Ethics Board.

C. Compelling need means one or more of the following factors are present:

- (1) the action would constitute an unreasonable invasion of privacy;
- (2) compliance would constitute a hardship;
- (3) the nature of the activities of the person, agency, board, or commission does not require compliance;
- (4) compliance would significantly reduce the availability of qualified people for public service;