

(5) the particular exemption would not be contrary to the purposes of this article.

211. Training and Education

The Ethics Board will:

A. Within one year after its passage, make this code, and explanations of its provisions including information on how to fill out all forms and statements, available to all officials and employees, candidates and consultants, and to county residents and to all persons doing business or interested in doing business with the county, and

B. Will develop educational materials and a required educational program for the officials and employees of the county, and those who do business with the county, regarding the provisions of this code. The educational program must begin within eighteen months after this code goes into effect. In addition, the Ethics Board will hold an annual workshop for new and old officials and employees to discuss this code, its values and goals, its enforcement, and the ways in which it has affected their work and the working of the county government.

212. Annual Reports; Review of Ethics Laws

A. The Ethics Board must prepare and submit an annual report to the Board of Commissioners, summarizing the activities, decisions, and advisory opinions of the Commission. The report may also recommend changes to the text or administration of this code. The report must be submitted not later than October 31 of each year, covering to the year ended August 31, and must be filed with the County clerk and/or his or her designee or his/her designee and made available on the county website.

B. The Ethics Board will periodically (no less than every five years) review this code, the enforcement of the code, and the Commission's rules, regulations, and administrative procedures to determine whether they promote integrity, public confidence, and participation in county government, and whether they set forth clear and enforceable, common-sense standards of conduct. After at least one public hearing, it may recommend to the legislative body amendments to this code.

213. Filing a Complaint; Investigations

A. Upon receipt of a sworn complaint on a form prepared by the Ethics Board pursuant to section 208(B), which any person or entity may file, the Ethics Board will first determine if it, in fact, alleges an action or inaction that, if the allegations are true, might constitute a violation of this code, and that at least one person or entity accused of a violation is covered by this code. If the Ethics Board determines that no such action or inaction has been alleged or that no one accused is covered by this code, then it will dismiss the complaint with notice to the complainant. The Ethics Board must make this determination within fifteen days of receipt of a sworn complaint.

B. A complaint must be filed within three years after the alleged violation occurred or was discovered, whichever is later. Complaints may be filed against officials and employees who no longer hold office or are no longer employed.

C. The Ethics Board may, on its own initiative, determine that a violation of this code may exist and prepare a complaint of its own. The Ethics Board may also amend a complaint that has been filed with it by adding further allegations, by deleting allegations that would not constitute a violation of this code, or by deleting allegations against persons or entities not covered by this code.

D. The Ethics Board must send notification of the accepted complaint, as amended, to the respondent against whom the complaint was filed, not later than seven days after making the determination in subsection (A) or the preparation of a complaint pursuant to subsection (C). A copy of the complaint, and of any amendments, must accompany such notice. The Ethics Board must also send notification to the complainant in writing of its receipt and acceptance of the complaint, and of any amendments. Here and elsewhere, "complainant" and "respondent" might consist of more than one person or entity.

E. Settlement Agreements:

(1) At any time after a complaint has been filed, the Ethics Board may seek and enter into a settlement agreement with the respondent. The settlement agreement will, to the extent relevant, include the nature of the complaint, findings of fact, conclusions of law, the Commission's reasons for entering into the agreement, an admission of violation by the respondent, a promise by respondent not to do certain actions, the imposition of penalties permitted by this code, remedial action to be taken, oral or written statements to be made, and a waiver of the right to a hearing and to appeal.

(2) In determining whether a matter is appropriate for settlement, the Ethics Board should consider the following factors, as well as other factors it considers relevant:

(a) the severity of the alleged conduct;

(b) the respondent's apparent level of knowledge and willfulness regarding the alleged conduct;

(c) whether the alleged conduct appears to be an isolated event or part of a pattern of conduct;

(d) whether the alleged conduct appears to indicate violations of criminal laws;

(e) the complexity of issues or evidence, and the likely scope of an investigation and hearings;

- (f) the involvement of other agencies in the investigation of the respondent's conduct;
- (g) the existence of Ethics Board precedent concerning the alleged conduct;
- (h) the age of the facts alleged in the complaint;
- (i) the resources and priorities of the Ethics Board; and
- (j) whether the respondent self-reported the alleged conduct or sought an advisory opinion regarding it.

(3) Any settlement agreement approved by at least three members of the Ethics Board will be a public record. However, all meetings held and documents relating to the settlement negotiations will be kept confidential, unless the parties agree otherwise.

(4) If a settlement agreement is breached by the respondent, the Ethics Board may rescind the agreement and reinstitute the proceeding. However, no information obtained from the respondent in reaching the settlement, which is not otherwise discoverable, may be used in the proceeding.

F. If a sworn complaint is accepted or prepared pursuant to subsections 1 or 3, the Ethics Board must conduct an investigation. From this point on, the complainant may not withdraw his or her complaint, although he or she may request that the Ethics Board either make a finding of no probable cause or no violation, or suggest a settlement with the respondent. In conducting such an investigation, the Ethics Board may administer oaths or affirmations, subpoena witnesses, compel their attendance, and require the production of any books or records it deems relevant and material. The Police Department and all county agencies, bodies, officials, and employees are required to respond fully and truthfully to all inquiries and cooperate with all requests of the Ethics Board or its agents relating to an investigation. It is a violation of this code for any official or employee to deny access to information requested by the Ethics Board in the course of an investigation or a public hearing, except to the extent that such denial is required by federal, state, or local law.

G. The goal of the investigation is to determine whether there is probable cause to believe that a violation of this code has occurred. "Probable cause" means that there are reasonable grounds that a violation has occurred.

H. The respondent may file with the Ethics Board a response to the complaint within thirty days after his or her receipt of the complaint. The response, if any, must be sent to the complainant by the Ethics Board within five days after its filing, and, within fifteen days after receipt, the complainant may file with the Ethics Board a response to the respondent's response, which the Ethics Board must send to the respondent within five days after its filing.

I. During the investigation period, the Ethics Board may amend a complaint to include other violations which it reasonably suspects to have occurred. It must send a copy of any such amendment to the respondent and complainant within seven days after the amendment has been made.

J. The investigation will be confidential unless the respondent requests that it be public or unless the respondent makes public the fact of or any information concerning the proceeding. The respondent has the right to appear and be heard, and the complainant has the right to attend any such hearing and be heard.

K. If the Ethics Board determines that there is no probable cause to believe that a violation of this code occurred, it will dismiss the complaint and send notification of this dismissal to the complainant and respondent. If it determines that there is probable cause, it will send notification of this finding to the complainant and respondent. In its letter of dismissal or notification of finding, which must be sent within five days after the vote on probable cause, the Ethics Board must set forth a brief summary of the facts and the reasons for dismissal or a finding of probable cause.

L. Nothing in this section may be construed to permit the Ethics Board to conduct an investigation of itself or of any of its members or staff. If the Ethics Board receives a complaint alleging that the Board or any of its members or staff has violated any provision of this code, or any other law, the Board must promptly transmit to the Board of Commissioners a copy of the complaint.

M. If a complaint is made under this section with the knowledge that it is without foundation in fact, the respondent has a cause of action against the complainant for double the amount of damages caused by the complaint. If the respondent prevails in such an action, the court may award the respondent the costs of the action and reasonable attorney's fees.

214. Public Hearing Process.

A. After a finding of probable cause, the Ethics Board must hold one or more public hearings, and the first public hearing must commence within thirty days after the finding of probable cause. The goal of these public hearings is to determine whether or not a violation of the Code of Ethics has occurred. The hearings will be held with reasonable promptness, with the last hearing to be held not more than one-hundred-and-eighty days after the finding of probable cause.

B. Any person who is, in the opinion of the Ethics Board, adversely affected by comments made during a hearing, may testify in response at a hearing, directly or through a representative.

C. The Ethics Board may refer the matter to an authority or person or body authorized by law to impose disciplinary action pursuant to applicable law or collective bargaining agreement or, if it determines there are possible criminal violations, to the appropriate prosecutor.

D. Extension of time.

Under extraordinary circumstances, extensions of time to any of the time limitations specified in this section may be granted by the Ethics Board upon a vote of four sitting members. However, in no event may the total modified time period, i.e., the original time period plus the extension(s), exceed double the time period prescribed by this code.

(1). The Ethics Board must give written notice of any extension(s) of time to the respondent and the complainant.

(2). Exceptions:

(a) No extensions may be given for time periods required for notification.

(b) No extensions may be given for the time limitation for ruling on actions, unless otherwise specified in this code.

E. Rules and Procedure for Public Hearings.

(1) Public hearings will be conducted under the Ethics Board's rules and regulations, subject to any applicable provisions of law. The rules and regulations will include the following: oral evidence will be taken under oath; documentary evidence may be received in the form of copies or excerpts, if the original is not readily available and, upon request, parties and the Ethics Board will be given the opportunity to compare the copy to the original; the state's administrative rules of evidence, rather than strict rules of judicial evidence, will be followed, to allow a liberal introduction of testimony and documentary evidence; and the complainant and respondent have the right:

(a) To be represented by counsel.

(b) To present oral or written documentary evidence which is not irrelevant, immaterial, or unduly repetitious.

(c) To examine and cross-examine witnesses required for a full and true disclosure of the facts.

F. The Ethics Board may subpoena, and its members may question verbally or in writing, witnesses to testify and may compel production of documents and other effects as evidence.

G. At all hearings relating to a complaint, a court stenographer will record the proceedings.

H. Upon the request of either the complainant, the respondent, or any member of the Ethics Board, the Ethics Board will cause the hearings to be tape-recorded or filmed, and a transcript to be made. If this is requested by either a respondent or complainant, the requesting party will bear the costs.

I. With respect to the public hearing process, the Ethics Board will follow the requirements of the Georgia Open Records Act and the Georgia Open Meetings Act.

215. Finding of Violation; Penalties; Injunctive Relief

A. Disciplinary Action

Within thirty days after the last hearing, the Ethics Board will determine whether to dismiss the complaint or, upon a finding of a violation of this code, to take appropriate

disciplinary action pursuant to 107 of this code, or to recommend disciplinary action to the legislative body in circumstances where such action is required by 107(B) or by this section.

B. Finding a Violation

A finding of a violation of this code requires the affirmative vote of three members of the Ethics Board that there is clear and convincing evidence that the respondent has violated this code. Any member not present at all public hearings and deliberations regarding the complaint at issue may not vote. The written final decision must specify the code sections violated and provide a factual explanation supporting each violation or, if no violation is found, findings of fact and the reasons for dismissal. When determining the appropriate penalty, the following should be considered: the severity of the respondent's offense; the position and responsibilities of the respondent; the presence or absence of any intention on the part of the respondent to conceal, deceive, or mislead; whether the violation was deliberate, negligent, or inadvertent; and whether the incident was isolated or part of a pattern. The Ethics Board must file its memorandum of decision with the County Manager or his/her designee, and send it to the complainant and respondent, within ten days after its vote.

C. Reprimand or Civil Fine

The Ethics Board, on behalf of the county, may reprimand any person or entity it finds has violated this code, or it may impose on such person or entity a civil fine as provided in subsections B and C of 107 of this code.

D. Damages

The Ethics Board, on behalf of the county, may initiate an action in the court of appropriate jurisdiction to obtain damages, as provided in subsection D of 107 of this code.

E. Civil Forfeiture

The Ethics Board, on behalf of the county, may initiate an action or special proceeding, as appropriate, in the court of appropriate jurisdiction to obtain civil forfeiture, as provided in subsection E of 107 of this code.

G. Injunctive Relief

The Ethics Board, on behalf of the county, may order a violator to cease and desist the violation if the violation is still ongoing, or it may initiate an action or special proceeding, as appropriate, in the court of appropriate jurisdiction for injunctive relief to enjoin a violation of this code or to compel compliance with this code. The Ethics Board may also order a violator of a disclosure requirement to file an unfiled disclosure statement or to add information to a filed disclosure statement.

H. Suspension and Removal from Office

The Ethics Board may recommend, to the appropriate authority, the removal of a respondent from office, or employ other sanctions or remedies authorized by law not listed in this section or in section 107.

I. Prosecutions

The Ethics Board may refer possible criminal violations to the appropriate prosecutor. Nothing contained in this code may be construed to restrict the authority of any prosecutor to prosecute any violation of this code or of any other law.

J. Debarment

If the Ethics Board finds that a person or entity has intentionally or knowingly violated any provision of this code, that person or entity is prohibited from entering into any contract with the county for a period not to exceed three years, pursuant to section 108 of this code.

K. Limit on Ethics Board

Nothing in this section may be construed to permit the Ethics Board to take any action with respect to any alleged violation of this code, or of any other law, by the Board or by any of its members or full-time staff members without due process.

L. Penalties imposed by the Ethics Board are exclusive of, and not affected by, each other or any other penalties imposed pursuant to other laws or policies.

216. Judicial Review

Any person or entity aggrieved by a decision of the Ethics Board may seek judicial review and relief pursuant to laws of the State of Georgia.

217. Public Inspection of Records; Public Access to Meetings

A. Unless otherwise stated in this code, the records of the Ethics Board will be available for public inspection. Records available for public inspection include all disclosure statements, advisory opinions (with names and other necessary details omitted to protect anonymity, unless the requesting party states otherwise in writing), all requests for waivers and related papers and decisions, and all papers filed and all decisions made in an Ethics Board proceeding after a finding, formally or presumed, of probable cause.

B. After a finding, formally or presumed, of probable cause, all hearings before the Ethics Board concerning alleged misconduct will be open to the public. All meetings or parts of meetings, of the Ethics Board that are not directly related to an investigation or other consideration of complaints prior to a finding of probable cause will be open to the public.

218. Miscellaneous Provisions

A. No existing right or remedy may be lost, impaired, or affected by reason of this code.

B. Nothing in this code may be deemed to bar or prevent a present or former county official or employee from timely filing any claim, account, demand, or suit against the county on behalf of himself or herself or any member of his or her family arising out of personal injury or property damage or any lawful benefit authorized or permitted by law.

C. Any local, state, or federal law that requires a higher, greater, more exacting, or a more restrictive standard of conduct than is provided in this code prevails over the provisions of this code and continues in full force and effect with respect to those covered by this code.

219. Distribution and Posting

A. Within ninety days after the effective date of this section, and thereafter as appropriate, the Ethics Board will transmit to the County Manager or his/her designee, in a form suitable for posting, those provisions of this code which the Ethics Board deems necessary for posting. Within thirty days after receipt of those copies, the County Manager or his/her designee must cause the copies of these provisions to be posted conspicuously in every public building under the county's jurisdiction.

B. Within ninety days after the effective date of this section, and thereafter as appropriate, the Ethics Board will transmit to the County Manager or his/her designee, in a form suitable for distribution, a copy of this code. Within thirty days after receipt of this copy, the County Manager or his/her designee must cause the copies to be distributed to every official and employee, to every contractor with the county, and to all county consultants, and must make the code readily available to the public by placing a copy on the county website and copies in the county libraries and the office of the County clerk and/or his or her designee.

C. Every official or employee elected, appointed, or hired thereafter must be furnished a copy of this code within ten days after entering upon the duties of his or her position. Each official employee, present and future, must within thirty days of receipt sign a statement that he or she has read and understood the code's provisions, and must file that statement with the Ethics Board. In addition, such a statement should be signed and filed with the Ethics Board every year on January 31 or, if filing an annual disclosure statement, accompanying that statement.

D. Failure of the county to comply with the provisions of this section or failure of any official or employee to receive a copy of the provisions of this code shall have no effect on the duty of compliance with this code or on the enforcement of its provisions.

220. Liberal Construction of Code

The provisions of this Code are to be construed liberally, to the end that the public interest be fully protected, and they are to be construed in a manner consistent with all applicable federal and state laws and applicable provisions of the County Charter.

221. Severability

If any provision of this Code is held by any court, or by any federal or state agency of competent jurisdiction, to be invalid as conflicting with any federal, state, or County Charter provision, or is held by such court or agency to be modified in order to conform to the requirements of such provision, the conflicting provision of this Code is to be considered a separate, independent part of this Code, and such holding shall not affect the validity or enforceability of this Code as a whole or any part other than the part declared to be invalid.

222. Effective Date

This law will take effect immediately upon filing in the office of the Secretary of State of Georgia and in compliance with all applicable provisions of law.