

Q. Complicity with or Knowledge of Others' Violations

No one may, directly or indirectly, induce, encourage, or aid anyone to violate any provision of this code. If an official or employee suspects that someone has violated this code, he or she is required to report it to the relevant individual, either the employee's supervisor, the board on which the official sits or before which the official or employee is appearing or will soon appear, or the Ethics Board if the violation is past or if it is not immediately relevant to a decision, to discussion, or to actions or transactions. Anyone who reports a violation in good faith will be protected by the provisions of section 110 of this code.

R. Falsely Impugning Reputation

An official or employee may not falsely impugn the reputation of a county resident. If an official or employee believes his or her accusation to be true, and then learns that it was false, even in part, he or she should apologize in the same forum the accusations were made. A failure to so apologize within a reasonable period of time after learning of the falseness of the accusations will create the presumption that the conduct was fully intentional.

S. Meeting Attendance

All members of boards and commissions are expected to attend and be prepared for meetings. It is a violation of this code to miss or come unprepared to more than a third of a board or commission's meetings in a twelve-month time period.

T. Honesty in Applications for Positions

No person seeking to become an official or employee, consultant or contractor may make any false statement, submit any false document, or knowingly withhold information about wrongdoing in connection with employment by or service for the county.

**101. Transactional Disclosure.**

A. Whenever an official or employee has reason to believe that he or she should recuse himself or herself under section 100(C) of this code, he or she must:

- (1) immediately refrain from participating further in the matter, formally or informally;
- (2) promptly inform the appropriate individual or body, pursuant to subsection 3 below, that he or she has a conflict; and
- (3) promptly file with the county clerk and/or his or her designee a signed statement disclosing the reasons for recusal or, if a member of a board or commission, state this information on the public record of that board or commission.

B. Whenever someone suggests or requests (privately or publicly) that an official or employee recuse

himself or herself under section 100(C) of this code, and he or she chooses not to do so, he or she must promptly file with the county clerk and/or his or her designee or his/her designee a signed statement disclosing the reasons for refusing to recuse himself or herself or, if a member of a board or commission and if the suggestion was made publicly at a meeting of that board of commission, state this information upon the public record of that board or commission.

C. An official or employee is required to inform the appropriate individual or body pursuant to section 100 (B), as follows:

- (1) If a member of a board, commission, committee, or authority, inform the chair of the entire body at a public or executive session; if the chair, inform the secretary;
- (2) If not on such a body and appointed by the county manager/director of administration/mayor, inform the county manager/director of administration/mayor;
- (3) If an employee of the Board of Education, inform the Superintendent of Schools;
- (4) If the Superintendent of Schools, inform the chair of the Board of Education;
- (5) If a municipal official, inform the mayor;
- (6) If a consultant, inform the chair or head of the board, department, or agency that hired the consultant.

D. An official or employee with an interest in a contract must disclose this interest prior to the first of any of the following events:

- (1) The solicitation of the contract.
- (2) The bidding of a contract.
- (3) The negotiation of a contract.
- (4) The approval of the contract.

E. An official or employee need not file a disclosure statement pursuant to this section if he or she, with respect to the same matter, has, with respect to an interest in a contract with the county, filed a disclosure statement pursuant to this code.

## **102. Exclusions from the Code of Ethics and from Transactional Disclosure.**

A. The provisions of section 100 and section 101 of this code do not require recusal or transactional disclosure as a result of:

- (1) An action specifically authorized by statute, rule, or regulation of the State of Georgia or of the United States.
- (2) A ministerial act.
- (3) Gifts:
  - (a) received by the official or employee from his or her parent, spouse or domestic partner, child or step-child, or sibling or step-sibling;
  - (b) received by the official or employee, his or her spouse or domestic partner, child or step-child, parent, and member of his or her household, from a person or entity (any person who works for or is otherwise related to an entity is considered as having given on behalf of that entity), having an aggregate value of \$100.00 or less during any twelve-month period; or
  - (c) accepted on behalf of the county and transferred to the county pursuant to 100(D).
  - (d) Gifts or financial benefits having a value of \$100.00 or less that are received by a County official or employee for the solemnization of a marriage officiated by that official or employee at a place other than his or her normal public place of business and at a time other than his or her normal work hours.
- (4) Public awards from charitable organizations having a value of \$100.00 or less.

### **103. Annual Disclosure.**

#### **A. Officials, Employees, and Others Who Are Required to File.**

Those holding the following job titles or positions are required to file a signed annual disclosure statement:

- (1) Elected officials;
- (2) Department heads and those authorized to act on their behalf (e.g., first deputies);
- (3) Officials and employees who hold policymaking positions, including, but not limited to, members of county boards, such as ethics boards, finance boards, planning and zoning boards, boards of zoning, buildings, and assessment appeals boards, wetlands and conservation boards, economic development boards, parks and recreation boards; water and sewerage authorities, development authorities, etc.

(4) Officials whose job descriptions or whose actual duties involve:

(a) The negotiation, authorization, or approval of contracts, leases, franchises, revocable consents, concessions, variances, special permits, or licenses;

(b) The purchase, sale, rental, or lease of real property, personal property, or services, or a contract for any of these;

(c) The obtaining of grants of money or loans; or

(d) The adoption or repeal of any rule or regulation having the force and effect of law;

(e) candidates for elected office;

**B. Time and Place for Filing**

This section is to be implemented in conjunction with elections department and/or state election law.

(1) Annual disclosure statements (for the calendar year) are to be filed with the Ethics Board:

(a) Within one-hundred-and-twenty days after the effective date of this section;

(b) Within thirty days after taking one of the job titles or positions listed in subsection 1 of this section; and

(c) No later than May 15 of each year thereafter.

(2) For candidates for elected office:

(a) With the filing of the certificate of candidacy or declaration of intent.

(b) No later than May 15 of each year thereafter. If an annual disclosure statement is overdue and is not filed within 20 days after the candidate receives from the Ethics Board written notice of the failure to file, the candidate is considered to have withdrawn his or her candidacy.

(3) Changes in Disclosed Information

Within thirty days after a change in the information contained in his or her most recently filed annual disclosure statement, an official, employee, or candidate must file a signed amendment to the statement (as in subsection 2), indicating the change.

(4) Contents of Annual Disclosure Statement

The annual disclosure statement will include:

- (a) The location of any real property in the county, or within one mile of the boundary of the county, in which the person disclosing, or his or her relative, has a financial interest, and the type of financial interest.
- (b) With respect to each outside employer or business of the person disclosing:
  - (i) Its name (if any);
  - (ii) The nature of its business;
  - (iii) If it is an entity, the type of entity;
  - (iv) The disclosing person's relationship to it, such as sole proprietor, owner, partner, official, director, member, employee, bondholder, or shareholder.
- (c) With respect to each outside employer or business of the disclosing person's spouse or domestic partner, the information required by paragraph (b) of this subsection.
- (d) The names and addresses of all relatives employed by the county as employees, contractors, or consultants, including relatives who work for or are subcontractors of contractors, consultants, or subcontractors.
- (5) Failure to disclose the information required by Section 103, B4 (4d) with respect to a disclosing person's spouse or other relative does not constitute a violation of that subsection if the person disclosing made a good faith effort to obtain the information and if he or she also sets forth those efforts in his or her disclosure statement.
- (6) Any person who is subject to the disclosure provisions of this and the following subsection is required to obtain and preserve, for a period of three (3) years following the date of the relevant disclosure statement, all accounts, bills, receipts, and other documents necessary to complete and substantiate such disclosure statement. These documents will be made available for inspection upon request by the Ethics Board or its agent after reasonable notice.
- (7) The County Manager or his/her designee must certify to the Ethics Board, not later than May 15 of each year, a list of all business entities doing business with the county, currently bidding for business with the county, or that have done business with the county over the prior three years. This list will be made available to the public at no cost.

(8) Failure to file the annual disclosure on or before the date specified shall constitute a violation of this code and shall be subject to the penalties as set forth in section 107.

#### **104. Disclosure by Applicants**

A. When a person requests that the county, or a county official or employee, take or refrain from taking any action (other than a ministerial act) that may result in a financial benefit to either any official or employee or to one of the other persons listed in section 100(A) of this code, the person requesting must disclose the name of any such person or persons, to the extent of his or her knowledge at the time of the request.

B. If the request is made in writing, the disclosure must accompany the request. If the request is oral and made at the meeting of a public body, the disclosure must be set forth in the public record of the body. If the request is oral and not made at the meeting of a public body, the disclosure must be set forth in writing and filed with the county clerk and/or his or her designee, who will send a copy to the Ethics Board within 30 days.

#### **105. Advisory Opinions**

A. Upon the written request of any official or employee, including former officials and employees whose position was terminated within three years as well as people who intend to soon become an official or employee, the Ethics Board must render, within ten days after the date of its next regular meeting, 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 earlier response is required, an informal verbal or e-mail opinion will be provided by the Ethics Officer. For more information about advisory opinions, see Section 209 of this code.

B. Any person or entity may request informal advice from the Ethics Officer about any situation, including hypothetical situations, but such advice is not binding and there are no time requirements.

#### **106. Void Contracts.**

Any contract, agreement, or other business transaction entered into by or with the county which results in or from a violation of any provision of sections 100 or 101 of this code is void, without further action taken, unless ratified by the county's legislative body in an open session held after applicable public notice. Such ratification does not affect the imposition of any penalties pursuant to this code or any other provision of law.

#### **107. Penalties for Violation of This Code.**

##### **A. Resignation, Compensatory Action, Apology**

Violation of any provision of this code should raise conscientious questions for the official or employee concerned as to whether resignation, compensatory action, or a

sincere apology is appropriate to promote the best interests of the county and to prevent the cost - in time, money, and emotion - of an investigation and hearings.

#### B. Disciplinary Action

Any person or entity that is found to have engaged in action or inaction that violates any provision of this code may be reprimanded, suspended, or removed by the Ethics Board, or the Ethics Board may seek or impose any of the sanctions or remedies listed below or in section 215 of this code.

#### C. Civil Fine

Any person or entity that violates any provision of this code may be subject to a civil fine of up to \$2,000.00 for each violation, payable to the county. A civil fine may be imposed in addition to any other penalty authorized by this code or by law, other than a civil forfeiture pursuant to subsection E of this section.

#### D. Damages

Any person or entity that violates any provision of this code is liable in damages to the county for any losses or increased costs incurred by the county as a result of the violation. Such damages may be imposed in addition to any other penalty authorized by this code or by law, other than a civil forfeiture pursuant to subsection E of this section.

#### E. Civil Forfeiture

Any person or entity that intentionally or knowingly violates any provision of this code is subject to a civil forfeiture to the county of a sum equal to three times the value of any financial benefit he, she, or it received as a result of the conduct that constituted the violation. A civil forfeiture may be imposed in addition to any other penalty authorized by this code or by law, other than a civil fine pursuant to subsection C or damages pursuant to subsection D of this section.

### **108. Debarment**

A. Any person or entity that intentionally or knowingly violates any provision of this code is prohibited from entering into any contract, other than an employment contract, with the county for a period not to exceed three years.

B. Nothing in this section may be construed to prohibit any person or entity from receiving a service or benefit, or from using a facility, which is generally available to the public.

C. Under this section, a corporation, partnership, or other entity is not vicariously liable for the actions of an employee. A corporation, partnership, or other entity is not debarred because of the actions of an employee unless the employee acted in the execution of company policy or custom. A store, region, division, or other unit of an entity is not debarred because of the actions of an employee of that unit unless the employee acted at the direction, or with the actual knowledge or approval, of the manager of the unit.

### **109. Injunctive Relief**

A. Any resident, official, or employee of the county may initiate an action or special proceeding, as appropriate, in a court of appropriate jurisdiction for injunctive relief to enjoin any person or entity from violating this code or to compel any person or entity to comply with the provisions of this code. In lieu of, or in addition to, injunctive relief, the action or special proceeding, as appropriate, may seek a declaratory judgment.

B. No action or special proceeding may be prosecuted or maintained pursuant to subsection A of this section, unless

(1) the plaintiff or petitioner has filed with the Ethics Board a sworn complaint alleging the violation,

(2) it is alleged in the complaint or petition filed with the court that at least six months have elapsed since the filing of the complaint with the Ethics Board, and that the Ethics Board has failed to issue a determination in the matter, and

(3) the action or special proceeding is filed within ten months after the alleged violation occurred.

### **110. Whistle-Blower Protection**

A. Neither the county nor any person, including officials and employees, may take or threaten to take, directly or indirectly, official or personal action, including but not limited to discharge, discipline, personal attack, harassment, intimidation, or change in job, salary, or responsibilities, against any official, employee, or other person (or against any member of their family) because that person, or a person acting on his or her behalf,

(1) reports, verbally or in writing, or files a complaint with the Ethics Board regarding an alleged violation of this code, or

(2) is requested by the Ethics Board to participate in an investigation, hearing, or inquiry, or is involved in a court action relating either to the alleged violation or to evidence presented or given as part of an Ethics Board investigation or hearing. The provisions of this section are not applicable when the complainant, witness, or reporter of a violation made accusations or other statements that were malicious and false. A violation of this section is a violation of this code.

B. Anyone who alleges a violation of subsection A may bring a civil action for appropriate injunctive relief, or actual damages, or both within ninety days after the occurrence of the alleged violation. A court may order reinstatement of the plaintiff to such a suit, or the payment of back wages, full reinstatement of fringe benefits and seniority rights, actual damages, or any combination of these remedies. A court may also award the plaintiff all or a portion of the costs of litigation, including reasonable attorney fees and witness fees. The initiation of such litigation is not a violation of the confidentiality provisions in 100(H) or 213(J).