



LEXSTAT O.C.G.A. § 45-10-2

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\*\*\* Current Through the 2009 Regular Session \*\*\*  
\*\*\* Annotations Current Through January 29, 2010 \*\*\*

TITLE 45. PUBLIC OFFICERS AND EMPLOYEES  
CHAPTER 10. CODES OF ETHICS AND CONFLICTS OF INTEREST  
ARTICLE 1. CODES OF ETHICS

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*O.C.G.A. § 45-10-2 (2010)*

§ 45-10-2. Secretary of State to print and distribute code of ethics

(a) The Secretary of State is authorized and directed to have the code of ethics for government service established in *Code Section 45-10-1* printed upon an appropriately designed card which would be suitable for framing and exhibiting to the public and employees of the state and all governments therein.

(b) The Secretary of State is authorized and directed to have such number of said code of ethics for government service printed as, in his discretion, will be sufficient for distribution to the various departments, boards, bureaus, and other agencies of the state and all governments therein.

(c) The Secretary of State is authorized and directed to furnish said printed code of ethics for government service to the various departments, boards, bureaus, and other agencies of the state and all governments therein without cost.

(d) The expenses incurred by the Secretary of State in carrying out this Code section shall be paid from the funds appropriated to or otherwise available to the legislative branch of government.

**HISTORY:** Ga. L. 1968, p. 1369.

Title Note  
Chapter Note



LEXSTAT O.C.G.A. § 45-10-3

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*O.C.G.A. § 45-10-3 (2010)*

§ 45-10-3. Code of ethics for members of boards, commissions, and authorities -- Establishment and text

Notwithstanding any provisions of law to the contrary, each member of all boards, commissions, and authorities created by general statute shall:

- (1) Uphold the Constitution, laws, and regulations of the United States, the State of Georgia, and all governments therein and never be a party to their evasion;
- (2) Never discriminate by the dispensing of special favors or privileges to anyone, whether or not for remuneration;
- (3) Not engage in any business with the government, either directly or indirectly, which is inconsistent with the conscientious performance of his governmental duties;
- (4) Never use any information coming to him confidentially in the performance of governmental duties as a means for making private profit;
- (5) Expose corruption wherever discovered;
- (6) Never solicit, accept, or agree to accept gifts, loans, gratuities, discounts, favors, hospitality, or services from any person, association, or corporation under circumstances from which it could reasonably be inferred that a major purpose of the donor is to influence the performance of the member's official duties;
- (7) Never accept any economic opportunity under circumstances where he knows or should know that there is a substantial possibility that the opportunity is being afforded him with intent to influence his conduct in the performance of his official duties;
- (8) Never engage in other conduct which is unbecoming to a member or which constitutes a breach of public trust; and
- (9) Never take any official action with regard to any matter under circumstances in which he knows or should know that he has a direct or indirect monetary interest in the subject matter of such matter or in the outcome of such official action.

**HISTORY:** Ga. L. 1976, p. 344, § 1.

## O.C.G.A. § 45-10-3

**NOTES: LAW REVIEWS.** --For article "Conflicts of Interests of Public Officers and Employees," see *13 Ga. St. B.J. 64 (1976)*. For article, "The Status of Administrative Agencies under the Georgia Constitution," *40 Ga. L. Rev. 1109 (2006)*.

**JUDICIAL DECISIONS**

**EVIDENCE IS RELEVANT REGARDING VIOLATION OF ETHICAL DUTIES.** --Testimony regarding the chief tax assessor's intoxication and conduct while attending certain county-financed activities, his conduct regarding certain female personnel who were employed in his office, and his attempted display of a jar of dog testicles to a female employee, was relevant at a hearing conducted by the board of county commissions to matters reasonably included within the scope of notice for his discharge hearing because the contested evidence had some relevancy to establish whether defendant had violated a duty imposed on him by law, and whether he violated certain ethical duties prescribed by law. *Parsons v. Chatham County Bd. of Comm'rs, 204 Ga. App. 130, 418 S.E.2d 459 (1992)*, overruled in part on other grounds, *Swafford v. Dade County Bd. of Comm'rs, 266 Ga. 646, 469 S.E.2d 666 (1996)*.

CITED in *Morton v. Gardner, 242 Ga. 852, 252 S.E.2d 413 (1979)*.

**OPINIONS OF THE ATTORNEY GENERAL**

**ACT CONTAINING ADVERSE MATTERS CONSTITUTIONALLY DEFECTIVE.** --Ga. Const. 1976, Art. III, Sec. VII, Para. IV (see *Ga. Const. 1983, Art. III, Sec. V, Para. III*), was designed for the prevention of surreptitious legislation, and the prevention of "omnibus" bills containing many adverse matters; although it is not required that the title of an act contain an exact synopsis of the law itself, it is required that the matter following the enacting clause be definitely related to what is expressed in the title, and have a natural connection to the main object of the legislation; therefore, the courts could rule the Act comprised of *O.C.G.A. §§ 45-10-3 through 45-10-5*, which Act imposes a general code of ethics on members of the Board of Human Resources and purports to take away the rule making authority of all boards, commissions, and authorities of state government, constitutionally defective (but other interpretations may militate against such construction). 1976 Op. Att'y Gen. No. 76-43.I.

**NECESSITY TO AVOID APPEARANCE OF IMPROPRIETY.** --Even though *O.C.G.A. § 45-10-25* potentially could authorize an attorney member of the State Ethics Commission to transact business with the commission, *Ga. Const. Art. I, Sec. II, Par. 1*, and *O.C.G.A. § 45-10-3* counsel against such a transaction as it could give rise to an appearance of impropriety if not an actual conflict of interest. 2002 Op. Att'y Gen. No. 2002-4.

**COMMISSION MEMBER CANNOT ENGAGE IN BUSINESS WITH COMMISSION.** --An attorney member of the State Ethics Commission is prohibited from engaging in any business transaction with the commission, and other members of his or her law firm would be prohibited from engaging in any business transaction with the commission if the member or a member of his or her family owns a substantial interest as defined by statute. 2002 Op. Att'y Gen. No. 2002-4.

**CONTRACTING WITH HOSPITAL AUTHORITY.** --A conflict of interest exists when any member of a hospital authority, whether the member be a physician, attorney, architect, or member of any other profession, contracts with the authority to render professional services to the authority for or on behalf of the authority on a fee basis or for a stated stipend. 1983 Op. Att'y Gen. No. U83-5.

**CONTRACTS OF MEMBERS OF BOARD OF OFFENDER REHABILITATION.** --No conflict of interest would occur by brothers of a member of the Board of Offender Rehabilitation bidding upon and receiving contracts to sell meat to Central State Hospital or any other state agency where each brother's business is completely separate and distinct from the board member's, and that the board member holds no interest in the brothers' businesses. 1984 Op. Att'y Gen. No. 84-18.

A conflict of interest would arise if a member of the Board of Offender Rehabilitation sought to contract with the Department of Human Resources for the supply of meat where a portion of that meat would be used under the contract between the Department of Human Resources and the Department of Offender Rehabilitation for supplying meals to the Department of Offender Rehabilitation's staff and inmates. 1984 Op. Att'y Gen. No. 84-18.

## O.C.G.A. § 45-10-3

STATE TRANSPORTATION BOARD MEMBER. --No conflict of interest exists under current state law if the firm of a member of the State Transportation Board performs work for another governmental entity unless the work is directly or indirectly for the benefit of the Georgia Department of Transportation. 1991 Op. Att'y Gen. No. U91-13.

BUSINESS ACQUIRING PROPERTY FROM STATE DEPARTMENT. --There is no conflict of interest or violation of the applicable Code of Ethics for a member of the Board of Natural Resources to transact business with a corporation which has acquired from the state of Georgia real property previously within the custody and control of the Department of Natural Resources. 1988 Op. Att'y Gen. No. 88-4.

THE STATE ETHICS COMMISSION acting as a body, or through an individual member of the commission, has no express or implied statutory authority to rule on a motion to recuse one of its members; rather, the member against whom the recusal motion is filed must determine, in light of *O.C.G.A. § 45-10-3*, whether he or she should voluntarily abstain. 1989 Op. Att'y Gen. 89-9.

## RESEARCH REFERENCES

AM. JUR. 2D. --63C *Am. Jur. 2d, Public Officers and Employees, § 252 et seq.*

C.J.S. --67 C.J.S., *Officers and Public Employees, § 51.*

ALR. --Refusal of public officer to answer frankly questions asked him during an investigation as ground for removal or discipline, 77 ALR 616.

Failure of public officer or employee to pay creditors on claims not related to his office or position as ground or justification for his removal or suspension, 127 ALR 495.

What constitutes such discriminatory prosecution or enforcement of laws as to provide valid defense in state criminal proceedings, 95 ALR3d 280.

Validity, construction, and effect of state statutes restricting political activities of public officers or employees, 51 ALR4th 702.

Title Note

Chapter Note