

GWINNETT COUNTY
BOARD OF COMMISSIONERS
LAWRENCEVILLE, GEORGIA

ORDINANCE ENTITLED: Code of Ethics Ordinance

READING AND ADOPTION: APRIL 20, 2021

At the regular meeting of the Gwinnett County Board of Commissioners held in the Gwinnett Justice and Administration Center, Auditorium, 75 Langley Drive, Lawrenceville, Georgia.

Name	Present	Vote
Nicole L. Hendrickson, Chairwoman	Aye	Aye
Kirkland Carden, District 1	Aye	Aye
Ben Ku, District 2	Aye	Aye
Jasper Watkins, District 3	Aye	Aye
Marlene M. Fosque, District 4	Aye	Aye

On motion of Commissioner Ku, which carried 5-0, the Gwinnett County Board of Commissioners hereby amends the Code of Ordinances of Gwinnett County by deleting Article II of Chapter 54, Sections 54-23 through 54-43, entitled "Code of Ethics" in their entirety and replacing it with a new Article II of Chapter 54, Sections 54-23 through 54-43, entitled "Code of Ethics.

WHEREAS, the Board of Commissioners is committed to the principle that the proper operation of democratic government requires that public officials and employees be independent, impartial, and responsible to the people; and

WHEREAS, the Board of Commissioners is further committed to the principle that government decisions and policy be made through proper channels of the governmental structure and be transparent to the public; and

WHEREAS, the Board of Commissioners is further committed to the principle that public office should not be used for personal gain and that public officials and employees should be free from the appearance of impropriety; and

WHEREAS, a Gwinnett County Code of Ethics Ordinance was first adopted in 1993; and

WHEREAS, the current Gwinnett County Code of Ethics Ordinance was adopted in 2011 and subsequently amended in 2017; and

WHEREAS, the Board of Commissioners recognizes that to support and uphold the above-stated principles, the Code of Ethics Ordinance should continue to be further refined and improved; and

WHEREAS, the Board of Commissioners desires to further refine and improve the Code of Ethics Ordinance by better identifying and defining those persons and entities who may initiate an ethics complaint, as well as by better identifying and defining those standards of conduct upon which an ethics complaint can be based; and

WHEREAS, the Board of Commissioners, based on input received from County staff and the ethics board, also desires to further refine and improve the Code of Ethics Ordinance by making changes to the procedures used when an ethics complaint is initiated and processed; and

WHEREAS, the Board of Commissioners finds that the adoption of a new and revised Code of Ethics Ordinance will serve the purposes of further refining and improving the Code of Ethics Ordinance, which will in turn further strengthen the public's confidence in the integrity of county government.

NOW, THEREFORE, BE IT ORDAINED that the Gwinnett County Board of Commissioners hereby repeals Article II of Chapter 54, Sections 54-23 through 54-43, entitled "Code of Ethics" and all amendments thereto and replaces it with a new Article II of Chapter 54, Sections 54-23 through 54-43, entitled "Code of Ethics", which is attached hereto as Exhibit A and incorporated herein by this reference.

NOW, THEREFORE, BE IT RESOLVED that this ordinance shall be effective upon adoption.

BE IT FURTHER RESOLVED that all ordinances, regulations, or parts of the same in conflict with this Resolution are hereby rescinded to the extent of said conflict.

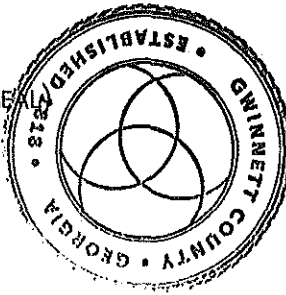
Ordinance Number: E02021
GCID: 2021-0555

GWINNETT COUNTY BOARD OF COMMISSIONERS

BY: Nicole L. Hendrickson
NICOLE L. HENDRICKSON, CHAIRWOMAN

ATTEST:

BY: Diane Kemp
DIANE KEMP, COUNTY CLERK



APPROVED AS TO FORM:

BY: Michael P. Ludwiczak
MICHAEL P. LUDWICZAK, COUNTY ATTORNEY

ATTACHMENT "A"

CODE OF ORDINANCES OF GWINNETT COUNTY CHAPTER 54 - HUMAN RESOURCES

ARTICLE II. - CODE OF ETHICS

Sec. 54-23. - Purpose.

The proper operation of democratic government requires that the public officials and employees be independent, impartial and responsible to the people; that the government decisions and policy be made through proper channels of the governmental structure; that public office not be used for personal gain; that the public officials and employees be free from the appearance of impropriety; and that the county residents, county employees, and businesses that have a physical presence in the county or transact business with the county have confidence in the integrity of its government. In recognition of these goals, a code of ethics for all county officials and employees is adopted. The purpose of this policy is to establish ethical standards of conduct for all such officials and employees by setting forth those acts or actions that are incompatible with the best interests of the county, by directing disclosure by such officials and employees of private financial or other interests in matters affecting the county and by directing disclosure of their business relationships.

It is important that county officials and employees govern their behavior in a manner that honors the important positions of trust they hold. Such positions of trust are accompanied by higher expectations for behavior, and holders of these positions should strive to conduct themselves in a manner that meets the intent, as well as the specific provisions, laid out in this Code of Ethics. County officials and employees should put loyalty to the highest moral principles and to the county above loyalty to persons, party, or a county government department. As representatives of county government, they should willingly avoid behavior that reflects badly on the county or that is a breach of public trust. County officials and employees should ensure decisions and actions are made in the best interest of the county and strive to avoid even the appearance of impropriety. Their use of public resources should be governed by the understanding that they are trustees only of these resources, with a duty to use them prudently and efficiently to benefit the taxpayers and larger community. Each county official or employee should diligently give to the performance of his duties earnest effort and best thought.

Sec. 54-24. - Ethical standards for government service.

All county commissioners, county officials and county employees should use acting in the best interest of the county as the guiding principle for their decisions and behavior. To that end, they should

- (1) Uphold the Constitution, laws, regulations and ordinances of the United States, the state and the county therein and never be a party to their evasion.

- (2) Demonstrate a commitment to integrity, transparency and full disclosure by abiding by State and local laws that govern public meetings and records.
- (3) Never discriminate unfairly by the dispensing of special favors or privileges to anyone, whether for remuneration or not.
- (4) Never accept or solicit, personally or for family, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of his governmental duties.
- (5) Make no private promise of any kind binding upon the duties of office.
- (6) Engage in no business with the government, either directly or indirectly, that is inconsistent with the conscientious performance of governmental duties.
- (7) Fully cooperate with all authorities to investigate and eradicate corrupt practices.
- (8) Never take any official action in which he has a direct or indirect monetary interest except as otherwise provided by state or county law.
- (9) Never use or disclose confidential information concerning potential or pending actions of the county to secure a financial or personal advantage for oneself or others.
- (10) Attend and encourage continuing educational training about the county code of ethics.

Sec. 54-25. - Interpretation; severability.

- (a) This article shall be construed to effectuate its purposes and policies and to supplement such other existing laws and ordinances as may relate to the conduct of county officials or employees; provided, however, that any such construction must be consistent with fair notice and other principles of due process.
- (b) The provisions of this article are severable, and if any of its provisions shall be held invalid by a court of law, the decision of the court shall not affect or impair any of the remaining provisions.

Sec. 54-26. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Business entity means any business, proprietorship, firm, partnership, person in a representative or a fiduciary capacity, association, venture, trust, or corporation.

Business relationship means a verbal or written agreement between parties designed to result in an enterprise of profit to one or more of the parties. A business relationship shall not include a transaction undertaken by an employee on behalf of an employer or a lawful campaign contribution.

Complaint examination officer means a person admitted to the state bar of suitable legal experience who shall screen all complaints to ensure they meet the technical requirements of this article and who shall perform all other duties as set forth herein and appurtenant thereto. A Complaint Examination Officer shall serve a term of two years.

Confidential information means any information which, by law or practice, is not available to the public.

County official or *official* means the individual members of the county board of commissioners, county administrator, county attorney and his assistants, and any county employee exempt from merit system regulations who has been appointed to the position by either the county administrator or the board of commissioners acting independently or jointly and any member of any other county board or authority.

Employee includes all those persons employed on a regular or part-time basis by the county, including, but not limited to, those covered by merit system regulations, as well as those persons whose services are retained under the terms of a contractual agreement with the county.

Immediate family means an official or employee and the spouse of an official or employee, their parents, children, brothers and sisters related by blood, marriage or adoption.

Interest means direct or indirect pecuniary or material benefit accruing to a county official or employee as a result of a contract or transaction which is or may be the subject of an official act or action by or with the county except for such contracts or transactions which, by their terms and by the substance of their provisions, confer the opportunity and right to realize the accrual of similar benefits to all other persons and/or property similarly situated. An interest shall not include a remote interest.

Legislative action means any legislative, appointive, administrative, discretionary or official action requiring an affirmative vote by a quorum of the county board of commissioners.

Official act or action means any legislative, administrative, appointive or discretionary act of any official or employee of the county or any agency, board, committee, authority or commission thereof.

Person means a natural person unless otherwise stated.

Person, natural or corporate means a natural person or a corporation, a partnership, a trust, an association, a joint venture, a limited liability company, a joint stock company, or any other entity of any kind recognized by the State of Georgia as having its own legal existence.

Remote interest means any interest which is incidental to the contract or transaction and shall include:

- (1) A position as a non-salaried director, officer or employee of a nonprofit corporation or organization;
- (2) A holder of less than five percent of the total stock or total legal and beneficial ownership in a business entity;
- (3) A position of employment held by an immediate family member which is not a director, officer, manager or supervisor in a business entity;
- (4) A position of employment held by an immediate family member which does not directly exercise decision-making authority affecting the contract or transaction;
- (5) A position in a representative capacity such as a receiver, trustee or administrator;
- (6) Any position or interest determined to be remote or incidental to the contract or transaction by the ethics board.

For purposes of this article, a county official or employee shall be deemed to have an interest in the affairs of:

- (1) His immediate family;
- (2) Any person or business entity with whom a contractual relationship exists with the county official or employee;
- (3) Any business entity in which the county official or employee is an officer, director, or member having a financial interest in it; or
- (4) Any business entity as to which the stock, legal ownership, or beneficial ownership of a county official or employee is in excess of five percent of the total stock or total legal and beneficial ownership, or which is controlled or owned directly or indirectly by the county official or employee.

Reprimand means an expression of disapproval.

Sec. 54-27. – Standards Enforceable by Complaint.

The following Standards shall be enforceable by way of a complaint filed pursuant to Section 54-37(a) of this article:

- (a) *Interest in contract or transaction.* No county official or employee having the power or duty to perform an official act or action related to a contract or transaction which is or may be the subject of an official act or action of the county shall have:
 - (1) Or thereafter acquire an interest in such contract or transaction;
 - (2) An interest in any business entity representing, advising or appearing on behalf of, whether paid or unpaid, any person involved in such contract or transaction;
 - (3) Solicited or accepted present or future employment with a person or business entity involved in such contract or transaction; or
 - (4) Solicited, accepted, or granted a present or future gift, favor, service, or thing of value from or to a person involved in such contract or transaction, except as provided in Section 54-29.
- (b) *Pre-acquisition of interest.* No county official or employee shall acquire an interest in or be affected by a contract or transaction which is or may be the subject of an official act or action of the county at a time when the official or employee believes or has reason to believe that such contract or transaction will be directly or indirectly affected by an official act or action of the county.
- (c) *Disclosure of information.* To the extent permitted by law and the sections of this article, no official or employee shall disclose or use confidential information concerning any official action, property, purchase, bid, proposal or offer of the county to directly or indirectly advance or benefit his own financial or private interests or those of another. Improper disclosure of information includes the sharing of information in a manner that may place the county at a disadvantage in matters of litigation, as well as the disclosure of information obtained in executive session to those persons not authorized by the board of commissioners to participate in executive session or to receive such information.

- (d) *Incompatible service.* No county official or employee shall engage in or accept private employment or render service for any private entity, when such employment or service is incompatible with the proper discharge of his official duties or would tend to impair his independence of judgment or action in the performance of his official duties, unless otherwise permitted by law and unless disclosure is made as provided in this article.
- (e) *Appearance.* No county official or employee shall appear on behalf of any private person other than himself, his spouse or minor children, before any county agency, authority or board. However, a member of the board of commissioners may appear before such groups on behalf of his constituents in the course of his duties as a representative of the electorate or in the performance of public or civic obligations.
- (f) *Public property and resources.* No county official or employee shall request or permit the unauthorized use of county-owned vehicles, equipment, property, or other resources for personal convenience, benefit, or profit. Staff resources and time shall not be used to further individual goals or interests.
- (g) *Special treatment.* No county official or employee shall grant any special consideration, treatment or advantage to any citizen beyond that which is available to every other citizen in the same or similar circumstances.
- (h) *Later case interest.* No county official or employee shall, after the termination of service or employment with the county, accept remuneration of any kind for any appearance before any board, commission, committee, agency or authority of the county on behalf of any adverse party in relation to any case, proceeding, or application in which he personally participated during the period of his service or employment, which was under his active consideration during the period of his service or employment, or as to which he could have acquired knowledge or information during the period of his service or employment.
- (i) *Political recrimination.* No county official or employee, whether elected or appointed, shall promise an appointment or threaten the dismissal from any county position as a reward or punishment for any political activity.
- (j) *Withholding of information.* No county official or employee shall knowingly withhold any information which would impair the proper decision-making of any of the county's boards, authorities, agencies or commissions.
- (k) *Payment of debts.* All county officials and employees shall settle all accounts between them and the county, including the payment of taxes, in a timely fashion.
- (l) *Organizational integrity.* As the governing authority for the County, the Board of Commissioners has the responsibility for guiding the direction of the County through policy making, budget approval, and official actions which require approval by majority vote of the Board. County commissioners, when acting as individual members of a policy making Board, do not have the authority to set policy or to direct or order the daily administrative and operational actions of County staff, which are within the authority of the department directors and the County Administrator. For example, communication regarding the hiring, firing or disciplining of county staff and employees shall be restricted to discussion with the County Administrator and/or the County Attorney. Nothing in this paragraph is intended to hamper or prevent county commissioners from seeking information, advice, or assistance from department directors and staff in performing their duties as commissioners, including the provision of constituent services.

- (m) No county official or employee shall intimidate, threaten, coerce, take action against, or attempt any such actions against any other county official or employee for the purpose of interfering with or influencing that person's discretion in the regular discharge of his official duties.
- (n) No county official or employee shall influence or attempt to influence any other county official or employee to violate the ethical standards or provisions set forth in this article. Likewise, no county official or employee who is the subject of or has an interest in the outcome of an ethics complaint shall influence or attempt to influence any other member of the board of commissioners in voting on the recommended findings of the ethics board.
- (o) No county official or employee shall use the power of his office, his position or official authority for his own personal gain or that of another. The performance of usual and customary constituent services, without additional compensation, does not constitute the misuse of the power of office by a commissioner as otherwise prohibited by this section.
- (p) No county official shall knowingly or intentionally violate the abstention or disclosure requirements of Sec. 54-28, Sec. 54-30, Sec. 54-31, Sec. 54-32, Sec. 54-33, Sec. 54-34, Sec. 54-35 and Sec. 54-36 of this article.
- (q) No county official or employee shall knowingly or intentionally violate Section 54-42 of this article, the constitution, laws, regulations, ordinances of the United States, the state and the county, or be a party to their evasion.

Sec. 54-28. - Abstention to avoid conflicts of interest.

- (a) Except as otherwise provided by law, including provisions of this article, no county official or employee shall participate in the discussion, deliberation, vote or otherwise take part in the decision-making process on any item before him in which the county official or employee has a conflict of interest as set forth in this article.
- (b) In the event of a conflict of interest, the county official or employee shall announce his intent to abstain prior to the beginning of the discussion, debate, deliberation or vote and shall abstain from casting a vote.
- (c) In the event that a member of the board of commissioners is the subject of the investigation, such commissioner shall not participate in any decision made by the board of commissioners relating to that complaint under Section 54-37(c) of this article.

Sec. 54-29. - Exceptions.

- (a) It shall not be deemed a violation of the standards of this article if the interest of a county official or employee in a person or business entity is a contractual obligation of less than \$500.00 which has not been preceded by any other obligation, discharged or existing, between the parties, and which is not the first in a series of two or more loans or debts which either of the parties is under any obligation to make or incur.
- (b) The following shall not be deemed a violation of the standards of this article:

- (1) Legitimate salary, benefits, fees, commissions, or expenses associated with an official's or employee's nonpublic business;
 - (2) An award, plaque, certificate, memento, or similar item given in recognition of the official's or employee's civic, charitable, political, professional, or public service;
 - (3) Food, beverages, and registration at group events to which all similarly situated employees or officials are invited;
 - (4) Actual and reasonable expenses for food, beverages, travel, lodging, and registration for a meeting which are provided to an official or employee so that he may participate or speak at the meeting;
 - (5) A commercially reasonable loan made in the ordinary course of business;
 - (6) Any gift with a total value less than \$100.00 in any calendar year;
 - (7) Promotional items generally distributed to public officials;
 - (8) A gift from a member of the public official's immediate family; or
 - (9) Food, beverages, or expenses afforded public officials or employees, and members of their immediate families, or others that are associated with normal and customary business or social functions or activities.
- (c) It shall not be deemed a conflict of interest nor a violation of the standards of this article if a county official or employee, in his capacity as such official or employee, participates in the making of a contract even if such official or employee has a private pecuniary interest or performs in regard to that contract some function requiring the exercise of discretion on his part, if:
- (1) The contract is awarded through a process of public notice and competitive bidding; or
 - (2) The board of commissioners at regular meeting, after determining that it is in the best interest of the county to do so, authorizes the participation. Provided, however, that when such interest relates to an item of business that is considered initially in executive session, such participation shall first be authorized in such executive session.

Sec. 54-30. - Disclosure of spending on county officials by individuals and firms.

- (a) Any individual or business entity who provides anything of monetary value singularly or in an aggregate amount greater than \$100.00 in a calendar year to a member of the board of commissioners or to any other county official and meets any of the criteria listed below shall file a disclosure of such expenditures.
- (1) The individual or business entity does business or is a party to a contract with the county during the calendar year;
 - (2) The individual or business entity seeks to do business or enter into a contract with the county during the calendar year;
 - (3) The individual or business entity is regulated in any fashion by the county during the calendar year; or

- (4) The individual or business entity seeks to influence any official action by the board of commissioners during the calendar year.
- (b) This section shall apply to individuals and business entities that represent any individual or entity meeting any of the criteria listed above.
- (c) Expenditures occurring on or after January 1, 2012, shall be reported to the clerk to the board of commissioners on a form provided by the county and shall be filed annually by February 28 of each year for the previous calendar year.
- (d) Reports submitted to the county shall be posted on the county website.
- (e) Failure to comply with this reporting requirement shall constitute a violation of this article and shall be punished by a fine not to exceed \$500.00.

Sec. 54-31. - Disclosure of interest in legislative action.

- (a) Any member of the board of commissioners of the county who has a financial or personal interest in any proposed legislative action before the commission shall immediately disclose on the record the nature and extent of such interest. This disclosure shall be made in writing to the clerk of the board of commissioners. When such interest relates to an item of business that is considered initially in Executive Session, the disclosure may be made orally in Executive Session for notation in the minutes of the Executive Session, provided, however, that disclosure through the normal method shall also be required at the time the matter is considered in a public meeting.
- (b) Any other official or employee who has a financial or personal interest in any proposed legislative action of the board of commissioners, and who participates in discussion with or gives an official opinion or recommendation to the commission, shall disclose on the record the nature and extent of such interest.

Sec. 54-32. - Disclosure of business relationships.

- (a) Any member of the board of commissioners of the county who is a party to a business relationship with any person, natural or corporate, appearing before the board of commissioners to advocate or oppose any action by the board of commissioners or who is a party to a business relationship with any person, natural or corporate, which business relationship is the subject of action by the board of commissioners shall immediately disclose that interest on the record.
- (b) Within five business days after a meeting at which such disclosure is made, the member shall file with the clerk to the board of commissioners written verification of that disclosure.

Sec. 54-33. - Disclosure by bidders and proposers.

- (a) Any business entity that makes a bid or proposal to provide goods or services to the county shall disclose under oath on a form provided by the county's purchasing division the name of all elected officials whom it employs or who have a direct or indirect pecuniary interest in

the business entity, its affiliates, or its subcontractors. It shall be the duty of the purchasing division director to promptly transmit any such disclosure to the clerk to the board of commissioners. Failure to submit this disclosure during the bid or proposal process shall render the bid or proposal non-responsive to the invitation for bid or request for proposal. This section shall not apply to bids or proposals for which the resulting contract would constitute an Informal purchase as defined by the county purchasing ordinance.

- (b) Where it appears a bidder or proposer has submitted false information on or has omitted material information from the disclosure form referred to in this section, the matter shall be referred to the purchasing policy review committee for action pursuant to the purchasing ordinance. The matter may also be referred to the district attorney for possible criminal prosecution.
- (c) Any business entity holding a contract with the county that subsequent to execution of the contract or issuance of the purchase order employs, subcontracts with, or transfers a direct or indirect pecuniary interest in the business entity to an elected official shall within five business days disclose such fact in writing under oath to the clerk to the board of commissioners. It shall be the duty of the purchasing division director to place language imposing this requirement in every contract issued by the county. The business entity's failure to submit this disclosure in a timely manner shall be referred to the purchasing policy and review committee for action pursuant to the purchasing ordinance. The matter may also be referred to the district attorney for possible criminal prosecution.

Sec. 54-34. - Disclosure of interest in real property.

Any real estate purchase and sale contract offered by the county to any property owner shall require that person to disclose any direct or indirect property or pecuniary interest in the real estate held by an elected official. This disclosure shall be a mandatory precondition to closing. It shall be the duty of the county attorney to promptly transmit any such disclosure to the clerk to the board of commissioners.

Sec. 54-35. - Disclosures to be placed on county website; referral to grand jury.

It shall be the duty of the clerk to the board of commissioners to post any disclosure pursuant to sections 54-30 through 54-34 within five business days of receipt of same. It shall also be the duty of the clerk to the board of commissioners periodically to forward all such disclosures to the district attorney for review and comment by the grand jury.

Sec. 54-36. - Abstentions.

A county official or employee who has an interest that he has reason to believe may be affected by an official act or action shall abstain from any participation in the same, unless otherwise allowed by State or local law.

Sec. 54-37. - Ethics board.

(a) *Procedure.*

- (1) Any county resident, any county employee or any business with a physical presence in the county or that transacts business with the county may initiate a complaint of a violation of Section 54-27 of this article by submitting a written, verified and sworn complaint under the penalty of perjury or false swearing to the county attorney. The complaint shall specifically identify all provisions of Section 54-27 which the subject of the complaint is alleged to have violated, set forth facts as would be admissible in evidence in an administrative proceeding and show affirmatively that the complainant or affiant (if in addition to or different than the complainant) is competent to testify to the matter set forth therein. All documents referenced in the complaint as well as supporting affidavits shall be attached to the complaint.
- (2) The complaint must be filed within six months from the date the alleged violation occurred, or in the case of concealment or nondisclosure, within six months from the date the alleged violation should have been discovered after due diligence. A complaint filed more than six months after the alleged violation occurred or was discovered shall not be considered under any circumstance. However, no complaint may be filed based on any event alleged to have occurred or alleged to have been discovered against a candidate between the qualifying date for election of such candidate and the date of the candidate's general election, special election or runoff election, if necessary. Complaints alleging violations occurring or discovered during this period may be filed commencing upon the date immediately following the general election, special election or runoff election, if necessary, and the six-month period shall run from that date. Complaints may not be filed or processed against officials or employees after their term of office or employment with the county has ended; this provision does not limit the pursuit of legal recourse when State laws may have been violated.
- (3) Upon receipt of the complaint, the county attorney shall immediately deliver the complaint to the complaint examination officer who shall review the complaint to determine if it meets the technical requirements set forth in subsections (a)(1) and (2) of this section. If the complaint fails to meet these requirements, the complaint examination officer shall notify the person who filed the complaint and he shall have ten days from the date of notice to correct and re-file the same directly with the complaint examination officer. A complaint which fails to satisfy the technical requirements of this article following one amendment shall be dismissed.
- (4) If the complaint meets all of the technical requirements of this article, the complaint examination officer shall forward the complaint to the county attorney within five days of his decision or as soon thereafter as practicable.
- (5) Within five days after receiving the complaint from the complaint examination officer, the county attorney shall forward the complaint to the board of commissioners, the district attorney, the president of the Gwinnett County Bar Association, the chairman of the local government section of the State Bar of Georgia, and the employee or official who is the subject of the ethics complaint. Each such appointing authority shall appoint its member to the ethics board within 30 days after receiving the complaint or as soon thereafter as practicable.

- (6) The ethics board shall consist of one member appointed by the county board of commissioners, one member appointed by the district attorney from the roll of grand jurors then in session, one member appointed by the president of the Gwinnett County Bar Association who is a member of the Gwinnett County Bar Association, one member appointed by the chairman of the local government section of the State Bar of Georgia who is a member of the local government section of the State Bar of Georgia, and one member appointed by the official or employee who is the subject of the ethics complaint. These appointees shall constitute the ethics board empaneled to investigate the subject complaint and, when appropriate, to make recommendations to the county board of commissioners. The ethics board shall establish its own procedural rules and select a chairperson and vice-chairperson.
- (7) The complaining party shall serve a complete copy of the complaint upon the county official or employee who is the subject of the complaint on the date the complaint is filed with the county attorney. Service shall be complete upon personal delivery or deposit in a U.S. mail or express delivery depository.
- (8) Once empaneled, the ethics board shall notify the subject of the complaint that he may file a reply to the complaint within 30 days unless such time for reply is extended by the chairperson of the ethics board upon a showing of good cause.

(b) *Hearings.*

- (1) The ethics board shall meet, receive evidence, deliberate and vote in accordance with O.C.G.A. § 50-14-1 et seq., and all parties shall have the opportunity to be heard, to examine witnesses and to present evidence. Persons alleged to have violated this ethics ordinance shall have the right to be represented by counsel at their own expense.
- (2) The chairperson of the ethics board shall have the right to request the attendance of witnesses and/or the production of documents or other tangible items, upon written request of any party or on its own behalf, so as to facilitate a full hearing and otherwise properly investigate the complaint.
- (3) The chairperson of the ethics board shall determine when it shall meet and the number of meetings and hearings necessary to investigate the complaint.
- (4) Three members of the ethics board shall constitute a quorum for the transaction of business and for voting purposes. The chairperson shall be entitled to the same voting rights as other members.
- (5) At the conclusion of the hearing, the ethics board shall deliberate upon the evidence gathered and shall determine its recommended findings by majority vote. The board shall recommend that each alleged violation is either "sustained" or "not-sustained." Recommended findings that a violation of this article has occurred shall be based upon the preponderance of the evidence. The board's recommended findings shall be reduced to writing and provided to the parties, to the county board of commissioners and to the office of the appropriate prosecutorial agency if the board finds evidence of possible criminal violations. It shall further be the duty of the ethics board to make non-binding recommendations to the board of commissioners as to the appropriate penalties to be administered under Section 54-38 for sustained violations of this article and for other operational or remedial measures which would prevent further violations of a like nature.

- (c) *Review and Enforcement.* Within 30 days of its receipt of the ethics board's recommended findings, or as soon thereafter as practicable, the board of commissioners shall, at a public hearing and, by a majority vote, (1) adopt said findings, (2) reject said findings, (3) adopt in part and reject in part said findings, (4) adopt modified findings based on the record developed by the ethics board, or (5) remand the matter to the ethics board for further proceedings. In the event a recommended finding by the ethics board sustaining a violation of this article is adopted, in whole or in part, the board of commissioners may decide that no action is to be taken, or may decide to take any action consistent with state law including those set forth in Section 54-38.
- (d) *Qualification and members of the board of ethics.*
- (1) Other than the member appointed by the chairman of the local government section of the State Bar, who shall be excluded from subsections (d)(1)(a), (b) and (f) of this section, a person is eligible to be appointed as a member of the board of ethics, if the person:
 - a. Is a current resident of the county;
 - b. Has resided in the county for 60 consecutive months prior to the date of appointment;
 - c. Is a registered voter;
 - d. Is not an employee or official of the county or any municipality within the county and has not been an employee or official of the county during the five years immediately preceding his appointment, and is not the spouse, parent, child or sibling of any employee, official or county commissioner of the county;
 - e. Is not an employee or officer of any political party; and
 - f. Does not hold any elected or appointed office with the United States, this state or this county, is not a candidate for any such office, and has not held any such office during the five years immediately preceding his appointment to the ethics board. This subsection shall not apply to part-time federal or state appointed positions.
 - (2) If at any time during his service on the board of ethics a member becomes ineligible or otherwise unable to serve, he shall automatically be removed and the appointing authority shall appoint a new member in accordance with the provisions for original appointment.
 - (3) The ethics board shall be a temporary board for the specific purpose of investigating a complaint which has been approved by the hearing officer and all other like complaints which have been properly filed while the board is in session. The ethics board should whenever possible, endeavor to consolidate for a single hearing all ethics complaints filed contemporaneously against the same employee, official, individual, or entity which arise out of a common nucleus of operative facts. The board shall expire upon disposition of the complaint or complaints for which it was created or which it was otherwise authorized to hear.
 - (4) Subject to budgetary constraints, the ethics board shall be provided sufficient meeting space and other reasonable supportive services, including access to legal counsel by the county governing authority to carry out its duties required under this article. The county attorney shall appoint an administrative employee to assist the hearing officer and to publish notices of all meetings and provide other administrative assistance

upon request of the chairperson of the ethics board. The board of commissioners shall ensure adequate funding is provided for this purpose.

- (5) Each member appointed to the ethics board shall be paid the sum of \$250.00 for each day that the ethics board meets to consider an ethics complaint.
- (6) Each member appointed to the ethics board shall take the following oath: "Do you swear or affirm that you will discharge your duties as a member of the Gwinnett County Board of Ethics, free from outside influences and without favor or affection to either party in the matter, in accordance with the County's Code of Ethics and in due consideration of the evidence presented, to the best of your abilities?"

Sec. 54-38. - Penalties.

- (a) Notwithstanding any other provision of this article, employees are subject to the following penalties and actions for a breach of Section 54-27 of this article:
 - (1) Written warning or reprimand;
 - (2) Suspension without pay;
 - (3) Disciplinary probation;
 - (4) Demotion, transfer, shift change, or reassignment;
 - (4) Termination of employment;
 - (5) Recovery of value transferred or received by the county;
 - (6) Cancellation of the contract or rejection of the bid or offer; and/or
 - (7) Referral to proper criminal authorities.
- (b) County officials are subject to the following penalties and action for breach of this article:
 - (1) Oral warning, censure or reprimand to be issued in public;
 - (2) Written warning, censure, or reprimand to be issued in public;
 - (3) Initiation of removal proceedings as provided by state law;
 - (3) Cancellation of the contract or rejection of the bid or offer;
 - (4) Recovery of the value transferred or received; and/or
 - (5) Referral to proper criminal authorities.
- (c) Private firms and organizations are subject to the following penalties and actions for breach of this article:
 - (1) Debarment or suspension from award of county contracts for a period of up to three years;
 - (2) Referral to proper criminal authorities;
 - (3) Restitution to the county of value transferred or received; and/or
 - (4) Cancellation of the contract or rejection of the bid or offer.

- (d) In determining whether to adopt, reject, modify, etc., the recommended findings of the ethics board and/or whether to impose a penalty, the board of commissioners shall consider only the record developed by the ethics board; provided, however, that in determining whether to impose a penalty and/or the severity of said penalty, the board of commissioners may take into account any mitigating or aggravating circumstances made known to it during or prior to the public hearing conducted pursuant to Section 54-37.

Sec. 54-39. - Distribution.

The office of the county administrator shall cause a copy of this article to be distributed to every official and employee of the county within 30 days after its effective date (or the effective date of any amendment thereto) for addition to the Gwinnett County Employee Handbook. Each official and employee elected, appointed or engaged thereafter shall be furnished a copy within his Gwinnett County Employee Handbook before entering upon the duties of his office or employment.

Sec. 54-40. - Training.

Every official and employee shall receive mandatory training concerning this article within one year of taking office, being appointed or hired. Every official and employee shall receive training about this article every two years thereafter.

Sec. 54-41. - Protection for reporting violations.

No county official or employee shall use or threaten to use his position or authority related to that position to retaliate against, discourage, restrain or interfere with any other person for the purpose of preventing such person from acting in good faith (a) to make or pursue a complaint under this article, (b) to assist with or otherwise provide support for such complaint, or (c) to participate in an investigation or proceedings relating to any such complaint.

Sec. 54-42. - Compliance with applicable laws.

No officer, official, or employee shall engage in any activity or transaction that is prohibited by any law, now existing or hereafter enacted, which is applicable to him by virtue of his office.

Sec. 54-43. - State code adopted by reference.

The Code of Ethics for Government Service established by O.C.G.A. § 45-10-1 is hereby adopted and incorporated by reference.