



Rules of Board of Ethics City of Atlanta

Rule 1. Formal Advisory Opinionsⁱ

1.1 Written Request Required. The Code of Ethics gives the Board of Ethics the authority to render advisory opinions based on a real or hypothetical set of circumstances. See section 2-804 (j). The request must be in writing and come from a city official, employee, board member, or other individual who is personally involved in a matter requiring interpretation of the ethics code.

1.2 Content of Opinions. The board shall consider any request for an advisory opinion at its next regularly scheduled board meeting and attempt to issue an opinion with 90 days of the request. Each board opinion shall be in writing and state the facts, issue presented, decision of the board, and reasons for its ruling. A majority vote of the members present at any meeting shall govern the board's decision, provided that at least four members vote. See section 2-804 (f) (5).

1.3 Distribution. Copies of the board's formal advisory opinions shall be sent to the Mayor and City Council President and posted on the Board of Ethics website.

1.4 Reliance on Opinion as Defense to Complaint. Persons who fully disclose all relevant facts may rely on the opinion for guidance, and their compliance with the opinion shall serve in mitigation in any proceeding brought against the individual for violating the ethics code.

Rule 2. Informal Advisory Opinions

2.1 Verbal or Written Request. The Ethics Code gives the ethics officer the duty to advise all city officials and employees about the provisions of the code. Section 2-805 (d). The official or employee may seek advice in writing, over the telephone, or in person.

2.2 Time and Content of Opinions. The ethics officer shall attempt to respond to each request within seven days and no later than fourteen days after receiving the inquiry. The ethics officer may give a written or verbal response. When the ethics officer addresses an issue that the board has not previously considered, the letter should state that it is the ethics officer's informal opinion and not the formal opinion of the board.

2.3 Referral of Issues to Board. The board's chairperson shall appoint a committee on advisory opinions composed of at least three board members with whom the ethics officer can consult as needed about the proper interpretation of the code. The committee shall periodically review the informal advisory opinions that the ethics officer has written to determine whether any of them should be referred to the board for its endorsement. In addition, the ethics officer may bring any inquiry or informal advisory opinion involving a novel, recurring, or unsettled issue before the board for its consideration.

2.4 Public Record. Both formal and informal opinions are subject to the Open Records Act, but only the formal advisory opinions shall be posted on the board's website.

Rule 3. Complaintsⁱⁱ

3.1 Reporting Violations. Any person or entity may report a violation of the Code of Ethics by filing a written complaint with the Ethics Office or Board of Ethics on a form prepared by the office or by communicating with the ethics officer.

3.2 Written Complaints. To be considered, any written complaint should contain the following information:

- (a) the name and address of the person filing the complaint;
- (b) the name and address of the party against whom the complaint is filed;
- (c) a clear and concise statement of facts on which the complaint is based, including dates, times, places, and actions;
- (d) a general reference to the provisions of the Code of Ethics that apply;
- (e) any further information that might support the allegations, including the names, phone numbers, and addresses of other persons with knowledge of the facts and any documents that support the allegations; and
- (f) the sworn verification and signature of the person filing the complaint.

3.3 Anonymous Complaints. The ethics officer may also receive anonymous complaints that are made in good faith and with sufficient specificity to provide salient and investigable facts. Any complaint should identify the following:

- (a) the person who is alleged to have committed the violation;
- (b) the facts on which the complaint is based;
- (c) the provisions of the ethics code that have been violated; and
- (d) any evidence that may support the allegations.*

3.4 Initiation of Complaints. The Board of Ethics or ethics officer may, on their own initiative, determine that a violation may exist and prepare a written complaint of their own. They may also amend a previously filed complaint by adding further allegations or dismissing allegations that would not constitute a violation of the code.

3.5 Review for Jurisdiction. The ethics officer shall determine within three business days of receipt of a complaint whether it alleges a violation of the City of Atlanta's Code of Ethics. If the complaint does not contain the necessary information under rule 3.2 or 3.3, the ethics officer shall advise the complainant of the defect and the need to correct the defect before the complaint will be considered. If the ethics officer determines that the complaint does not allege any act that, if true, would constitute a violation of the Code of Ethics, then the ethics officer shall dismiss the complaint and notify the complainant without requiring any formal board action.

3.6 Notice to Respondents. Upon the ethics officer determining that a complaint meets the requirements in rules 3.2, 3.3 and 3.5, the ethics officer shall send written notice to the respondent against whom the complaint was filed by the next business day. A copy of the complaint, any amendments, and supporting documents shall accompany the notice.

3.7 Response to Allegations. The respondent shall file a written response to the complaint within 30 days of its receipt.

3.8 Confidentiality and Public Disclosure. Each complaint shall be deemed a separate pending investigation at the time it is reported. Except for the initial complaint, the board's records in any pending investigation are exempt from disclosure under the Georgia Open Records, as is the identity of confidential sources and records of confidential investigations.

3.9 Periodic Reports to the Board. The ethics officer shall report periodically to the board on the number of complaints received and their disposition.

Rule 4. Investigations

4.1 Preliminary Investigation of Complaint. The ethics officer shall conduct a preliminary investigation of any complaint over which the Board of Ethics has exclusive jurisdiction.

4.2 Initiation of Investigations. The ethics officer may initiate an investigation into suspected violations of the Code of Ethics as necessary. The board also has the authority to investigate any alleged violation based on a sworn written complaint by any person, the request of the ethics officer, or a decision by a majority of the board that the matter should be investigated.

4.3 Referral to Other Agencies. If another city employee, department, or agency is investigating the same complaint or similar allegations, the ethics officer may defer any investigation until the other investigation or proceeding is completed. In addition, the ethics officer may refer a complaint for investigation to other departments or agencies that have authority over the matter. Complaints that

allege violations of criminal laws shall be reported to the appropriate city, state, or federal law enforcement agencies.

4.4 Administrative Dismissal. The ethics officer may dismiss a complaint when a preliminary investigation determines that the board does not have jurisdiction, the board has previously considered and dismissed similar allegations, the evidence does not support the allegations, or the complaint expresses conclusions or opinions without any specific, actionable allegations. The ethics officer shall report to the board at the next regularly scheduled meeting all complaints that are dismissed administratively.

4.5 Probable Cause Report. After conducting a preliminary investigation, the ethics officer shall provide a written report to the board. The report shall state the officer's findings and recommendation concerning whether there is probable cause to believe that the Code of Ethics has been violated. Code section 2-806 (3)(a) "Probable cause" means cause that would induce a reasonably intelligent and prudent person to believe that a person has committed an act constituting a violation of the City's Code of Ethics.

4.6 Notice of Respondent. The ethics officer shall send a copy of the probable cause report to the respondent and give notice of a hearing date. Any respondent who wishes to appear before the board must first file a written response to the probable cause report, stating the facts and issues on which the respondent disagrees with the report. The response is due 14 days from the date the probable cause report is received. Failure to file a written response will result in the respondent not being allowed to address the board.

4.7 Probable Cause Finding. Upon receipt of the report and response, the board shall determine whether there is probable cause that the person has violated a provision of the Code of Ethics. If the board determines that probable cause does not exist, it shall dismiss the complaint and notify the complainant and respondent of its decision.

Rule 5. Enforcement Hearings

5.1 Notice of Hearing. After a finding of probable cause, the board shall give notice to the complainant and respondent and set the matter down for a public enforcement hearing to determine whether a violation of the Code of Ethics has occurred. The notice shall state the specific provisions of the ethics code alleged to have been violated.

5.2 Pretrial Conference. A pretrial conference shall be held to identify the disputed facts and issues for the board to decide.

5.3 Subpoenas. The board may issue subpoenas to compel any person to appear, give sworn testimony, or produce documents or other evidence. Persons who fail to respond to subpoenas may be subject to penalties.

5.4 Record of Hearing. The board may contract for the services of a court reporter or a person adept at shorthand reporting or mechanical transcribing devices to take down the proceedings at the enforcement hearing.

5.5 Board's Legal Counsel. The board may request the city attorney or any attorney from that office to advise the board. In the event of a conflict, the board may select another attorney to provide pro bono services to the board.

5.6 Testimony. All testimony shall be under oath, which a board member shall administer to the witnesses. The members of the Board of Ethics may question witnesses.

5.7 Rights of Witnesses. Any person who appears before the board shall have all of the due process rights, privileges, and responsibilities of a witness appearing before the courts in the state. The board shall be fundamentally fair in its administration of evidence and follow the rules of evidence that apply in contested cases under the Georgia Administrative Procedures Act.

5.8 Rights of the Respondent. The respondent has the right to attend the hearing; be represented by counsel; present oral or written documentary evidence that is not irrelevant, immaterial, or unduly repetitious; examine and cross-examine witnesses; and be represented by legal counsel or another representative.

5.9 Rights of Persons Adversely Affected. Any person who is adversely affected by comments made during the hearing may appear personally before the board or file a written sworn statement for incorporation into the record.

5.10 Deliberations. At the conclusion of the proceedings concerning an alleged violation, the board shall immediately begin deliberations on the evidence and proceed to determine by a majority vote of the members present whether there has been a violation. In no event shall a decision of the board be voted on by fewer than four members.

5.10 Standard of Evidence. The board's decision shall be governed by the preponderance of the evidence standard.

5.11 Public Disclosure. The board's findings and the record of the proceedings shall be made public as soon as practicable after the board has rendered its decision.

Rule 6. Disposition of Cases

6.1 Disposition. At the end of the public enforcement hearing, the board may dismiss the case if no violation is found. If a violation is found, the board may enter an order to cease and desist from all violations, order the filing or amending of any deficient disclosure statement, and impose any penalties provided by law.

6.2 Civil Penalties. The board may assess an administrative sanction of up to \$1,000 for each violation and issue a public reprimand for violations. All civil penalties imposed by the board shall be made payable to the City of Atlanta and deposited in the General Fund.

6.3 Recovering Gratuities. The value of any gratuity transferred or received in violation of the Code of Ethics may be recovered from the entity providing it or the recipient. Any funds recovered shall be deposited in the City of Atlanta General Fund.

6.4 Recommendations. The board may recommend disciplinary actions for violations by employees, including oral admonishment, written reprimand, demotion, suspension with pay, suspension without pay, and dismissal. If the violation involves a company doing business with the city, the board may recommend to the Department of Procurement that the contractor be suspended, disqualified, or debarred from contracting or subcontracting with the city.

6.5 Right of Review. The decision of the board shall be final. The proceeding shall be subject to review by writ of certiorari to the Fulton County Superior Court.

6.6 Criminal Proceedings. Nothing in these rules is intended to eliminate the right of any person under the Code of Ethics to institute a proceeding in municipal court as provided in section 2-803.

Rule 7. Financial Disclosureⁱⁱⁱ

7.1 Failure to Comply. Any person who fails to file a timely and complete financial disclosure statement without reasonable cause is a delinquent filer under section 2-814 of the Code of Ethics and shall be subject to administrative sanctions for non-compliance.

7.2 Reasonable cause. Requests for exceptions to the filing requirement based on reasonable cause shall be reviewed on an individual basis and granted by the ethics officer, who shall report her findings to the Board of Ethics.

7.3 Notice of Non-Compliance. The ethics officer will notify persons who fail to comply with the city's financial disclosure requirements by sending a notice of non-compliance by first class mail. The notice shall state the way in which the individual has not complied with the law. There is a presumption that the notice

is received when it is mailed by regular first class mail to the filer's current address contained in the personnel or board records of the City of Atlanta and the letter is not returned to the Ethics Office as undeliverable.

7.4 Ethics Officer's Report. After the filing deadline has passed, the ethics officer shall prepare and present to the Board of Ethics a report of all persons required to file a financial disclosure statement under section 2-814. The report shall specify those persons who have complied with the filing requirements, filed a late statement, filed an incomplete statement, and failed to file a disclosure statement.

7.5 Late Filing Penalty. Any person who files a statement after March 1 is subject to a late filing penalty. This penalty applies to all city officials, elected or appointed, and city employees who are required to file. The board adopts the following penalties for all late filers:

Filing Date	Sanction
By March 1	No fine - grace period
By March 15	\$50.00
By April 1	\$100.00
By April 15	\$150.00
By May 1	\$200.00
May 2 or later	\$500.00

If a filing date falls on a weekend or holiday, then the deadline is extended to the next regular work day. At the board's discretion, the penalty may be increased to up to \$1,000 for second or subsequent violations of the financial disclosure laws.

7.6 Payment of Penalty. Any late filing penalty is due in full at the time of the filing.

7.7 Roll of Delinquent Filers. The Ethics Office shall publish a Roll of Delinquent Filers that includes persons who have not complied with the city's disclosure requirements due to their failure to file any statement, filing a late or incomplete statement, or failure to pay the late filing penalty.

7.8 Notice of Delinquency. The Ethics Office will notify persons that they have been found delinquent and listed on the Roll of Delinquent Filers by sending a letter by first class mail to the person's current address contained in the personnel or board records of the City of Atlanta.

7.9 Right to Administrative Review. Any person found delinquent or owing a late filing penalty may seek an administrative review on a form provided by the Ethics Office. The request shall state the reason for the person's failure to comply and the relief sought and must be filed within 30 days of the date of the notice of

delinquency. A person must file a disclosure statement before they are entitled to an administrative hearing.

7.10 Good Cause Required. The ethics officer shall serve as the hearing officer and conduct an administrative hearing, unless the person agrees to have the matter considered on the written record. After reviewing the evidence, the ethics officer shall grant relief if the person establishes good cause for his or her failure to comply with the city's financial disclosure requirements.

7.11 Decision of the Ethics Officer. The ethics officer shall issue a written decision that sets out findings of fact and conclusions of law and gives notice of the right to appeal any adverse administrative decision to the Board of Ethics.

7.12 Right to Appeal. A delinquent filer must have sought administrative review by the ethics officer within 30 days of the delinquency notice to have a right to appeal to the board. The appeal must be filed on a form provided by the Ethics Office and within 30 days of the date of the administrative decision. The appeal shall state the facts and issues on which the respondent disagrees with the administrative decision and the reasons that the board should reverse the decision.

7.13 Standard of Review. The Board of Ethics will review the appeal or administrative decision based on the written record. The board may rely on the findings of the ethics officer, which may be disturbed only if the board concludes that the ethics officer acted unreasonably, arbitrarily, or capriciously. The Board of Ethics has the discretion to grant a hearing in connection with any appeal.

7.14 Time Limits on Arguments. All hearings of the board shall be fundamentally fair. Each party may have ten minutes to present its arguments and evidence. At the chair's discretion, the board may grant additional time for argument, provided that each side is given the same amount of additional time.

7.15 Order of Presentation. The ethics officer or other city representative shall first outline the case and present any evidence. The person appealing or his or her representative shall respond and present relevant facts and argument. Board members may question any person during the hearing. Members of the public may not participate in the proceeding. All testimony shall be under oath.

7.16 Board Decisions. The board shall base its decisions on the preponderance of the evidence standard.

7.17 Removal from Office. The board may recommend to the appointing authority the removal from office of any board member, hearing officer, or NPU officer who is found delinquent for failing to comply with the city's financial disclosure requirements.

7.18 Other Penalties. The board may impose any other penalty as provided in section 2-807 and Rule 6.4.

7.19 Reporting Sanctions. The ethics officer shall communicate any penalty that the board imposes on any employee to the employee's department head and Commissioner of Human Resources, any penalty imposed on a board member or hearing officer to the appointing authority, and any penalty imposed on a neighborhood planning unit officer to the Commissioner of Planning and Community Development, the NPU coordinator, and the officers of that NPU.

7.20 Final Decision. The decision of the board shall be final. The proceeding shall be subject to review by writ of certiorari to the Fulton County Superior Court.

ⁱ Rules 1 & 2 adopted November 20, 2003.

ⁱⁱ Rules 3, 4, 5, & 6 adopted December 18, 2003, and amended November 15, 2007.

ⁱⁱⁱ Rule 7 adopted March 24, 2005, and amended October 27, 2005; November 16, 2006; and November 15, 2007.