

**HENRY COUNTY
BOARD OF ETHICS
RULES AND PROCEDURE**



ADOPTED October 2022

Table of Contents

I. PREAMBLE.....3

II. DEFINITIONS.....3

III. BOARD OF ETHICS4

IV. ETHICS ADMINISTRATOR.....7

V. ETHICS OFFICER7

VI. ADMINISTRATION.....8

VII. MEETINGS.....10

VIII. INVESTIGATIONS/HEARINGS.....11

IX. VIOLATIONS/APPEALS.....14

X. ADVISORY OPINIONS15

HENRY COUNTY BOARD OF ETHICS RULES AND PROCEDURE

I. PREAMBLE

These rules are promulgated in order to maintain consistency and efficiency in carrying out the duties duly assigned pursuant to Senate Bill 22. It is not the intention, nor shall it be the effect, of these rules to conflict with the Constitution or substantive law, either per se or in individual actions and these rules shall be so construed and in case of.

- 1.1 Amendments. In order to remain in compliance with the duties assigned, the Board of Ethics may effectuate changes and additions to these rules from time to time whenever necessary or desirable.
- 1.2 Publication of Rules. These rules shall be published and made available to the public, to Henry County Government, its officials, and employees
- 1.3 Interpretation. Nothing in these rules shall be interpreted to conflict with state law. In the event of a conflict, state law shall control.

II. DEFINITIONS

For the purposes of these Rules the following definitions shall apply:

- 2.1 **Attorney** means any person admitted to practice law in the state of Georgia, and to any person who is permitted, in accordance with law, to represent a party in an action pending in the State of Georgia.
- 2.2 **Board** means Henry County Board of Ethics, a member individually or the group collectively.
- 2.3 **Business Days** mean Monday through Friday, and shall not include any Saturday, Sunday, or legal holiday officially observed by the county.
- 2.4 **Business Hours** mean the time from 9:00 A.M. to 5:00 P.M. eastern standard time on business days.
- 2.5 **Filing** means any submission to the ethics administrator either in paper or electronic form.
- 2.6 **Formal Investigation** means an inquiry into allegations of misconduct, including a search for and examination of further evidence concerning the allegations after the finding of probable cause by the Board of Ethics.
- 2.7 **Hearing** means the public proceeding at which the issues of law and fact raised by the complaint are tried.
- 2.8 **Investigation** means an inquiry into allegations of a violation of the code of ethics,

including a search for and examination of evidence concerning the allegations, divided into two stages: a preliminary investigation conducted by the ethics officer after the receipt of a complaint, and a formal investigation conducted after a finding of probable cause by the Board.

- 2.9 **Misconduct** means any violation of the code of ethics by an official or employee constituting grounds for discipline.
- 2.10 **Official or employee** means any person elected or appointed to or employed or retained by Henry County or any agency, whether paid or unpaid and whether part time or full time. Such term includes retired employees or former county employees during the period of time in which they are later employed or retained by the county or any agency. Such term does not include superior and state court judges and their immediate staffs, the district attorney, the solicitor of the state court, the clerks of the superior and state courts, magistrates, the judge of the probate court, and their respective staffs.
- 2.11 **Preliminary Investigation** means an examination of a complaint or other information coming to the attention of the ethics officer to determine whether the Board has jurisdiction and advise whether there is probable cause for belief that the code of ethics has been violated, warranting a formal hearing.
- 2.12 **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 County's Code of Ethics.
- 2.13 **Proceedings** means all steps in the discipline set forth in these Rules.
- 2.14 **Public Reprimand** means a reprimand by the Board in the form of a written decision, which shall be posted on the Board's website.
- 2.15 **Record** means all documents filed in the case beginning with the formal investigation.
- 2.16 **Regular Meetings** mean a periodic meeting scheduled by the Board in order to carry out the Board's duties and responsibilities.
- 2.17 **Respondent** means an official or employee against whom a complaint has been filed.

III. BOARD OF ETHICS

- 3.1 **Jurisdiction.** The Board shall have jurisdiction over officials or employees of Henry County regarding allegations of misconduct pursuant to Section 7.1 of SB22, commonly known as the Code of Ethics.
- 3.2 **Composition.** The Board of Ethics shall consist of the following seven (7) members, who shall have been residents of Henry County for not less than one (1) year preceding their selection.

- 3.3 Manner of Appointment. The members shall be appointed as follows: five members shall be appointed by the grand jury of Henry County, provided that each such member shall reside in a different commission district than the other members appointed pursuant to this subparagraph, and two members shall be appointed by the tax commissioner of Henry County.
- 3.4 Alternate Members. Two alternate members shall be selected by the clerk of the Superior Court of Henry County and shall ensure a quorum when members of the Board are absent, have a conflict of interest, or find it necessary to recuse themselves or while a vacancy exists on the Board. When a lack of quorum exists on the Board, the Chair of the Board shall appoint an alternate to participate.
- 3.41 Participation by Alternate Member. If an alternate is participating in a meeting due to lack of a quorum, the alternate may participate as a full member with respect to all business taking place during that meeting. If an alternate is asked to participate in a particular matter due to a conflict of interest and/or recusal of another board member, the alternate shall only participate in the business involving the matter in which the recusal or conflict exists.
- 3.5 Term of Office. Each member and alternative selected after the initial terms of office have expired shall serve a term of three (3) years or until their respective successors are appointed and qualified.
- 3.6 Compensation. The members of the Board shall serve without compensation.
- 3.7 Officers. The Board shall select from their own membership a chair and vice-chair. The vice-chairperson shall perform the duties of the chair whenever the chair is absent or unable to act.
- 3.8 Removal. A member of the Board may be removed from office during a term if the member becomes ineligible to hold civil office pursuant to O.C.G.A. 45-2-1, and that ineligibility is established by decision of a court of competent jurisdiction which declares the office vacant because of such ineligibility or for good cause by a majority vote of the Board. Removal of a member of the Board for good cause shall be by a unanimous vote of all of the remaining Board members. As used in this Rule, the term “for cause” shall include indictment for or conviction of a felony or any offense involving moral turpitude; misconduct, malpractice, malfeasance, misfeasance, nonfeasance, or incapacity; failure to attend three or more panel meetings or hearings in a one-year period without good and sufficient reason; violation of Henry County Code of Ethics, or abstaining from voting, unless recused.
- 3.9 Vacancies. Any vacancy on the Board occurring with less than 360 days until the date of the next general election shall be filled in the same manner as the original selection for the remainder of the regular term. A vacancy in the Board shall exist by reason of death, the disability or incapacity of a member for more than 90 days, resignation, or as an operation

of law if a member of the Board ceases to be a resident of Henry County, and where applicable, a resident of the commission district he or she represents. The ethics officer shall notify the clerk of the Superior Court of Henry County and the tax commissioner of Henry County of a vacancy upon its occurrence, and such vacancy shall be filled for the unexpired term by the respective appointing authority.

- 3.10 Successors. Successors to all members and alternates of the Board shall be appointed by the respective appointing authorities not less than thirty (30) days prior to the expiration of each such member's term of office. Successors shall take office on January 1 following such appointment and shall serve terms of three (3) years or until their respective successors are appointed and qualified.
- 3.11 Appointments by Grand Jury. The clerk of the Superior Court of Henry County shall provide administrative assistance to the grand jury regarding the appointment of Board members upon a vacancy occurring or the conclusion of the term of a Board member appointed pursuant to this appointing authority, the clerk of the Superior Court of Henry County shall notify the then sitting grand jury of its duty pursuant to SB22.
- 3.12 Terms. The members and alternates shall each serve for terms of three years. No individual shall be appointed to more than two (2) consecutive terms. A member appointed to an initial term shall not be counted in the determination of terms served.
- 3.13 Political Activities. Members of the Board, during their term of office, are prohibited from making contributions to the partisan political campaigns of any candidate for a county office.
- 3.14 Duties. The Board shall have the following duties:
 - A. To establish procedures, rules, and regulations governing its internal organization and the conduct of its affairs;
 - B. To render advisory opinions with respect to the interpretation and application of SB 22 to all officials or employees who seek advice as to whether a particular course of conduct would constitute a violation of the standards imposed in the code of ethics or other applicable ethical standards. Such opinions shall be binding on the Board in any subsequent complaint concerning the official or employee who sought the opinion and acted in good faith, unless material facts were omitted or misstated in the request for the advisory opinion;
 - C. To prescribe forms for the disclosures required in the code of ethics and to make available to the public the information disclosed as provided in the code of ethics;
 - D. To receive and hear complaints of violations of the standards required by SB22 over which it has personal and subject matter jurisdiction;
 - E. To make such investigations as it deems necessary to determine whether any official or employee has violated or is about to violate any provisions of the code of ethics; and
 - F. To hold such hearings and make such inquiries as it deems necessary for it to carry out

properly its functions and powers.

- 3.15 Recusal. A Board member shall recuse himself or herself from any matter where a conflict of interest arises or whenever their impartiality might reasonably be questioned. A party to the proceeding may file a motion to recuse a Board member from the matter within a reasonable time after the party discovers or should have discovered the grounds for recusal. The motion and all evidence thereon shall be presented by accompanying affidavit(s) that shall clearly state the facts and reasons for the belief that bias or prejudice exists, being definite and specific as to time, place, persons, and circumstances of the status, conduct, or statements that demonstrate either bias in favor of any adverse party, prejudice toward the moving party, or that the member's impartiality otherwise might be reasonably questioned. Allegations consisting of bare conclusions and opinions shall not be legally sufficient to support the motion. Whether raised by motion to recuse or otherwise, the Board member whose impartiality is questioned shall determine individually whether or not to recuse, although the member may consult with other members of the Board.

IV. ETHICS ADMINISTRATOR

- 4.1 Ethics Administrator. The ethics administrator shall be selected by the Board, shall perform the duties as set forth in the enabling legislation, and shall not be involved in partisan or nonpartisan political activities or the political affairs of Henry County.
- 4.2 Political Activities. The ethics administrator shall not be involved in partisan or nonpartisan political activities or the political affairs of Henry County.
- 4.3 Duties. The ethics administrator shall have the following duties:
- 4.31 Maintaining the records of the Board as required by Article 4 of Chapter 18 of Title 50 of the O.C.G.A.;
- 4.32 Notifying the subject of a report of any alleged violation of the ethics code, whether the report is anonymous, made by an identified individual, or written. Such notice shall be given in writing to the subject of the complaint at the same time and in the same form that any disclosure of information is required by Article 4 of Chapter 18 of Title 50 of the O.C.G.A.;
- 4.33 Notifying the Board of any report of an alleged violation of the ethics code received by the ethics administrator; and
- 4.34 Such other duties as may be assigned by the Board.

V. ETHICS OFFICER

- 5.1 Ethics Officer. The ethics officer must be an active member of the State Bar of Georgia in good standing with five years' experience in the practice of law. The ethics officer shall be appointed by a majority of the members of the Board for a period not to exceed six years. Removal of the ethics officer before the expiration of the designated term shall be for cause

by a majority vote of the members of the Board. The ethics officer need not be a resident of the county at the time of his or her appointment, but he or she shall reside in Henry County within six months of such appointment and continue to reside therein throughout such appointment.

5.2 Political Activities. The ethics officer shall not be involved in partisan or nonpartisan political activities or the political affairs of Henry County.

5.3 Duties. The ethics officer shall have the following duties:

5.31 Educating and training all county officials and employees to have an awareness and understanding of the mandate for and enforcement of ethical conduct and advising them of the provisions of the code of ethics of Henry County;

5.32 Meeting with the Board;

5.33 Advising officials and employees regarding disclosure statements and reviewing the same to ensure full and complete financial reporting;

5.34 Urging compliance with the code of ethics by calling to the attention of the Board any failure to comply or any issues, including the furnishing of false or misleading information, that the ethics officer believes should be investigated by the Board so that the Board may take such action as it deems appropriate;

5.35 Monitoring, evaluating, and acting upon information obtained from an ethics hotline, which shall be a county telephone number for the receipt of information about ethical violations. Each complaint, as of the time it is reported, whether by telephone or otherwise, shall be deemed to be a separate pending investigation of a complaint against a public officer or employee as provided by Article 4 of Chapter 18 of Title 50 of the O.C.G.A.;

5.4 Reporting, as appropriate, suspected ethical violations to the Board;

5.5 Reporting, as appropriate, suspected criminal violations to state or federal law enforcement agencies; and

5.6 Filing with the Board and the Board of Commissioners on the first Tuesday of each February a written report describing the activities of the ethics officer in carrying out the goals of his or her office and the code of ethics and reporting on the ethical health of Henry County.

VI. ADMINISTRATION

6.1 Hours of Operation. Office of the Board shall be closed to the public but accessible via phone and email from 9:00 a.m. to 5:00 p.m. each weekday except Saturdays, Sundays, and legal holidays, and such other times as the Governor shall declare state offices closed.

- 6.2 Filing of Documents. All documents, motions, and pleadings related to matters pending before the Board, shall be filed with the Board at 339 Phillips Drive McDonough, Georgia 30253. Copies shall be furnished by the party filing said documents to all parties of record, including the attorney representing the Board.
- 6.3 Electronic Submissions. Documents may be electronically submitted in lieu of paper by emailing the document to the ethics administrator.
- 6.4 Dismissal for Lack of Conformity. Upon receipt of a written, nonanonymous complaint which does not conform to the applicable requirement, the ethics administrator shall advise the complainant of the defect in the complaint, that the complaint will not be considered by the Board unless the defect is corrected, and a deadline for resubmission. Continued failure to comply with the filing requirements stated herein or resubmission by the date given may result in the noncomplying submission being excluded from consideration.
- 6.5 Filing Date. All documents shall be deemed to be received by or filed with the Board on the earlier of: (1) the date such document is actually received by the Board; (2) the official postmark date such document was mailed, properly addressed with postage prepaid, by registered or certified mail; (3) the date on which such document was delivered to a commercial delivery company for statutory overnight delivery as provided in Code Section 9-10-12 as evidenced by the receipt provided by the commercial delivery company; or (4) the date on which such document was sent in accordance with the with the date stamp supplied by such means.
- 6.6 Computation of Time. Computation of any period of time referred to in these rules shall begin with the first day following that on which the act which initiates such period of time occurs. When the last day of the period so computed is a day on which the office of the Board is closed, the period shall run until the end of the following business day. When such period of time, with the intervening Saturdays, Sundays, and legal holidays counted, is seven (7) days or less, the said Saturdays, Sundays, and legal holidays shall be excluded from the computation; otherwise, such days shall be included in the computation.
- 6.7 First-Class Mail. Whenever a party has a right or requirement to act or respond to service of notice or other documents by another party within a period prescribed by these Rules and not otherwise specified by law, three (3) calendar days shall be added to that prescribed period if the notice or document is served by first class mail.
- 6.8 Extension of Time. It shall be within the discretion of the Board to extend, for good cause shown, any time limit prescribed or allowed by these rules. Extensions shall be granted only when the Board is satisfied that good cause has been shown and not otherwise.
- 6.9 Ex Parte Communication. No person shall engage in any ex parte communications regarding any member of the Board or any staff of the Board involved in the decisional process with respect to the merits of a formal investigation.

- 6.10 Open Records. After notice of a formal investigation is issued, all pleadings and information shall be subject to disclosure to the public and all hearings and proceedings shall be open and available to the public except to the extent that such pleadings and information or hearings and proceedings could be properly sealed or closed by a court as provided by law, or redacted to comply with SB22 in maintaining the anonymity of the complainant. See O.C.G.A. § 50-14-1 et seq.
- 6.101 Anonymous Filings. Anonymous complaints are to be made in a manner and form that is intended only to obtain relevant facts related to the alleged violation of this section and that is not designed to reveal the identity of the complainant.

VII. MEETINGS

- 7.1 Presiding Officer. The Chair shall serve as the presiding officer during Board meetings. The presiding officer is responsible for ensuring the orderly conduct of meetings and enforcing the rules of procedure adopted by the Board. In the absence of the Chair, the Vice-Chair shall preside. Where a quorum is present and neither the Chair nor Vice-Chair is present, the Board shall elect an acting presiding officer for that particular meeting from amongst those members present.
- 7.2 Regular Meetings. Regular Board meetings shall be held at a time and place determined by the Board, or virtually, in no event shall the Board meet less than once each calendar quarter. There will be a minimum of one-week notice for regular meetings. Board members shall attend all scheduled Board meetings, unless an emergency occurs or a designated reason is given to the Chair and/or Vice-Chair.
- 7.3 Special Meetings. Special Meetings of the Board may be called by the Chair or any three (3) members of the Board with (24) hours verbal notice. The call for said meeting must state the purpose of the meeting and no other business shall be transacted. Members may attend by telephone or by other electronic devices.
- 7.4 Quorum. A majority of the members of the Board shall be necessary to constitute a quorum for the transaction of business. A majority of members present at a meeting at which a quorum is present at the time of the action shall be the act of the Board of Ethics.
- 7.5 Voting. Every member of the Board shall have the power to vote. Unless otherwise specified in the enabling legislation, the affirmative vote of a majority of members present shall be required for official action on any item.
- 7.6 Order and Procedure Motions. Where a procedural question arises during a meeting and these rules are silent, the most current edition of Robert's Rules of Order, Newly Revised, may be consulted as a reference source. The Chair shall make a recommendation for resolving the procedural question to the Board to follow. All items of business that require Board approval or Board action, shall be acted upon only after a Board member makes a motion and receives a second to the motion. Each Board member, regardless of position, has the right to make or second any motion; provided that should the Chair make a motion

and such motion receives a second, the Chair shall not serve as presiding officer for the duration of that particular motion.

- 7.7 Conflict of Interest. All members in attendance must vote for or against a motion unless he or she has a conflict of interest in which event the member shall abstain. Prior to abstaining, the member shall disclose all relevant facts to the Chair regarding the conflict of interest. If there is any question as to the existence of a conflict of interest, the Chair shall seek advice from the ethics officer. If Board counsel opines that there is a conflict of interest, members shall abstain from any discussion or vote on the item. If the ethics officer determines that there is no conflict of interest, the member shall proceed in the usual course.
- 7.8 Virtual and Telephonic Meetings. Board members may participate in and hold a meeting by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can simultaneously hear each other during the meeting. Minutes shall be maintained for all meetings conducted by virtually, or by phone, the same as if a meeting were actually convened in person.
- 7.9 Meeting Attendance. Members of the Board shall attend all meetings unless the absence is unavoidable. To remain on the Board each Member shall be required to attend not less than sixty percent (60%) of the meetings of the Board held in any one-year term pursuant to these Rules, unless expressly excused in writing. A Board member that continues to be absent and has missed a total of three (3) scheduled meetings, without excuse, within a one-year term of the Board will be subject to disciplinary action and/or removal. A letter from the Board Chair will be sent notifying the member of termination.

VIII. INVESTIGATIONS/HEARINGS

- 8.1 Preliminary Investigation of Complaint. Upon receipt of a Complaint, the ethics administrator shall bring the complaint before the Board of Ethics which shall cause the ethics officer to conduct a preliminary investigation to determine whether it meets the jurisdictional requirements as set forth in SB22. Upon the conclusion of the preliminary investigation, the ethics officer shall report his or her findings to the Board. If, in the opinion of the Board, the complaint fails to meet the jurisdictional requirements as set forth in SB22, the Board shall direct the ethics officer to notify the person who filed the complaint and such person shall have ten days from the date of notice to correct and refile the complaint with the Board. A complaint which fails to satisfy the jurisdictional requirements as established by SB22 and by the rules and procedures established by the Board of Ethics shall be dismissed by the Board of Ethics no later than 30 days after the complaint is filed with the ethics administrator, unless extended by a majority vote of the Board of Ethics.
- 8.2 Confidentiality of Preliminary Investigation. All information regarding an investigation shall be kept confidential by the Board before formal investigation are filed and served.
- 8.3 Probable Cause Finding. The ethics officer will report his or her findings and recommendation to the Board of Ethics and advise whether there is probable cause for

belief that the Code of Ethics has been violated, warranting a formal hearing. If the Board of Ethics determines, after the preliminary investigation of a complaint by the ethics officer, that there does not exist probable cause for belief that the code of ethics has been violated, the Board of Ethics shall so notify the complainant and the subject of the investigation, and the complaint will be dismissed. If the Board of Ethics determines, after a preliminary investigation of the complaint by the ethics officer, that there does exist probable cause for belief that the code of ethics has been violated, the Board of Ethics shall give notice to the person involved to attend a hearing to determine whether there has been a violation of the code of ethics.

- 8.4 Dismissal. The Ethics Officer may recommend the dismissal of 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.
- 8.5 Standard and Burden of Proof. The decision of the Board shall be governed by a preponderance of the evidence standard.
- 8.6 Notice. Upon receipt of a complaint by the ethics administrator, the ethics administrator shall send a written notice to the subject of the complaint within three business days. Both this notice and any subsequent documents shall be subject to Article 4 of Chapter 18 of Title 50 of the O.C.G.A.
- 8.7 Formal Investigation. After a finding of probable cause, the Board shall give written notice to the subject of the complaint. The notice shall state the specific provisions of the ethics code alleged to have been violated.
- 8.8 Answer. The Respondent shall file a written answer with the Ethics Board within 30 days after notification of the formal investigation unless the time is extended by the Board.
- 8.9 Failure to Answer. Upon proof of receipt, failure to answer after notification of the formal investigation shall constitute an admission of the factual allegations.
- 8.10 Hearings. Any investigation or hearing pursuant shall be commenced within two years of the date of the alleged violation; provided, however, that any complaint filed against an elected official within 60 days of an election in which such official is a candidate for public office shall not be acted upon until such election is concluded and certified.
 - 8.151 Testimony. All testimony shall be under oath, which shall be administered by a member of the Board of Ethics.
 - 8.152 Due Process. Any person who appears before the Board of Ethics shall have all of the due process rights, privileges, and responsibilities of a witness appearing before the courts of this state.

- 8.153 Rules of Evidence. The rules of evidence applicable to non-jury civil proceedings and the rules of civil procedure shall apply in hearings.
- 8.154 Exhibits. Documents, photographs, recordings or other exhibits that you would like the Board to consider during the hearing must be emailed to the Ethics Administrator three (3) business days before your hearing begins. The exhibits will need to be numerically marked for the Board.
- 8.155 Hearing Officer. The Board may contract for the services of a hearing officer, who shall have the power to:
- i. exercise general supervision over assigned ethics matters, including jurisdictional questions;
 - ii. grant continuances;
 - iii. sign subpoenas;
 - iv. preside over evidentiary hearings and decide questions of law and fact raised during such hearings; and
 - v. prepare reports and/or make recommendations as requested by the board.
- 8.156 Rights of 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; and examine and cross-examine witnesses.
- 8.157 Rights of Persons Adversely Affected. Any person whose name is mentioned during a proceeding of the Board of Ethics and who may be adversely affected thereby may appear personally before the Board of Ethics on such person's own behalf or may file a written sworn statement for incorporation into the Record to be made part of all proceedings.
- 8.158 Pretrial Conferences. At the request of the Respondent, a pretrial conference may be held between the ethics officer and Respondent to identify the disputed facts and issues for the Board to decide.
- 8.159 Deliberation. At the conclusion of proceedings concerning an alleged violation, the Board of Ethics shall immediately begin deliberations on the evidence and proceed to determine by a majority vote of members present whether there has been a violation of the code of ethics.
- 8.11 Public Disclosure. The findings of the Board concerning a violation and the Record of the proceedings shall be made public by the ethics officer as soon as practicable after the determination has been made.
- 8.12 Time Limitation. The furnishing of false or misleading information, the failure to comply with a subpoena issued by the Board, or any investigation or hearing pursuant to an allegation of misconduct shall be commenced within two years of the date of the alleged

violation; provided, however, that any complaint filed against an elected official within 60 days of an election in which such official is a candidate for public office shall not be acted upon until such election is concluded and certified.

- 8.13 Disposition. At the end of the enforcement hearing, the Board may dismiss the case if no violation is found. If a violation is found, the Board shall enter a written order and impose any penalties provided by the code of ethics.
- 8.14 Advisement of the Board of Ethics. Upon request of the Board of Ethics, the Henry County Solicitor or any attorney representing the office of the Henry County Solicitor, or in the event of a conflict any attorney who shall be selected by a majority vote of the Board of Ethics, shall advise the Board of Ethics.
- 8.15 Initiation of Investigations. A complaint may be filed by the ethics officer, any resident, or a group of residents of Henry County by submitting to the ethics administrator a written, verified, and sworn complaint under the penalty of perjury or false swearing. The complaint shall specifically identify all provisions of the Henry County Code of Ethics which the subject of the complaint is alleged to have violated, set forth facts as would be admissible in evidence in a court proceeding, and show affirmatively that the complainant or affiant, if in addition to or different from 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.
- 8.16 Subpoenas. The Board shall have the power to issue subpoenas to compel any person to appear, give sworn testimony, or produce documentary or other evidence. Any person who fails to respond to such subpoenas may be subjected to the penalties set forth herein.
- 8.151 Issuance of Subpoenas. At the written request of the ethics officer, the chair is authorized to execute subpoenas on behalf of the board. If for any reason the Chair is unavailable, the vice-chair shall be authorized to execute subpoenas on behalf of the board. Following the execution, the ethics officer shall be authorized to issue the subpoena for the purpose(s) specified therein. The ethics administrator shall (1) maintain records of all requests made by the ethics officer and subpoenas executed by the chairman or vice-chair pursuant to this section and (2) transmit copies of the same to the full board. Nothing herein shall be construed as precluding the full board from authorizing the issuance of subpoenas in connection with an investigation or hearing before the board.
- 8.17 Right to Counsel. The Respondent shall be entitled to retain counsel and to have the assistance of counsel at every stage of these proceedings. The county attorney shall be prohibited from appearing before the Board of Ethics on behalf of any person.

IX. VIOLATIONS/APPEALS

- 9.1 Violations. Any intentional violation of the code of ethics, furnishing of false or misleading information to the Board of Ethics or the ethics officer, failure to follow an opinion rendered by the Board of Ethics, or failure to comply with a subpoena issued by

the Board of Ethics pursuant to the code of ethics shall subject the violator to any one or more of the following:

- a. Administrative sanction of not more than \$1,000.00 assessed by the Board of Ethics;
- b. Public reprimand by the Board of Ethics; or
- c. Prosecution by the Henry County Solicitor in the magistrate court of Henry County and, upon conviction, a fine of up to \$1,000.00 per violation and up to six months' imprisonment whether the official or employee is elected or appointed, paid or unpaid.

9.2 Additional Remedies. With regard to violations by persons other than officials or employees, the Board of Ethics may recommend to the Board of Commissioners any one or more of the following:

- a. Suspension of a contractor; and/or
- b. Disqualification or debarment from contracting or subcontracting with Henry County.

9.3 Appeals. The decision of the Board after a hearing shall be final; provided, however, that such proceeding shall be subject to review by writ of certiorari to the Superior Court of Henry County. The ethics administrator shall be authorized to acknowledge service of any such writ and shall, within the time provided by law, certify and cause to be filed with the clerk of the superior court a Record of the proceedings before the Board, the decision of the Board, and the notice of the final actions of the Board.

X. ADVISORY OPINIONS

10.1 Request for Advisory Opinion. The Board of Ethics may render advisory opinions with respect to the interpretation and application of the Code of Ethics to all officials or employees who seek advice as to whether a particular course of conduct would constitute a violation of the standards imposed in the code of ethics or other applicable ethical standards upon written request from an official or employee who is personally involved in a matter requiring interpretation of the ethics code.

10.2 Discretion of Board. The Board has the discretion to determine when to issue an advisory opinion and reserves the right to decline to answer a question raised. Among the factors considered in deciding when to issue an opinion are:

- a. does the issue fall within the Board's jurisdiction,
- b. does the opinion provide guidance on future conduct,
- c. does the question raise a new policy issue,
- d. is the issue one of general application that may affect others,
- e. is the issue likely to be the subject of a controversy or dispute, and
- f. does the Board need to reconsider a previous opinion due to changed facts or circumstances.

10.3 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 within ninety days

of the request. Each Board opinion shall be in writing and state the facts, issue presented, the 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.

- 10.4 Guidance on Future Conduct. Advisory opinions are intended to provide guidance to officials and employees on proposed future conduct or actions.
- 10.5 Distribution. Copies of the Board's formal advisory opinions shall be sent to the County Manager and members of the Board of Commissioners and posted on the Board of Ethics website. The name of a person requesting a formal advisory opinion will be kept confidential unless the person waives such confidentiality.
- 10.6 Reliance on Opinion. Individuals 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 them for violating the Ethics Code.