

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



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## Table of Contents

|                     |                                             |                  |
|---------------------|---------------------------------------------|------------------|
| <b><u>I.</u></b>    | <b><u>PREAMBLE .....</u></b>                | <b><u>3</u></b>  |
| <b><u>II.</u></b>   | <b><u>DEFINITIONS .....</u></b>             | <b><u>3</u></b>  |
| <b><u>III.</u></b>  | <b><u>BOARD OF ETHICS .....</u></b>         | <b><u>4</u></b>  |
| <b><u>IV.</u></b>   | <b><u>ETHICS ADMINISTRATOR .....</u></b>    | <b><u>7</u></b>  |
| <b><u>V.</u></b>    | <b><u>ETHICS OFFICER .....</u></b>          | <b><u>8</u></b>  |
| <b><u>VI.</u></b>   | <b><u>ADMINISTRATION .....</u></b>          | <b><u>9</u></b>  |
| <b><u>VII.</u></b>  | <b><u>MEETINGS .....</u></b>                | <b><u>10</u></b> |
| <b><u>VIII.</u></b> | <b><u>INVESTIGATIONS/HEARINGS .....</u></b> | <b><u>12</u></b> |
| <b><u>IX.</u></b>   | <b><u>VIOLATIONS/APPEALS.....</u></b>       | <b><u>16</u></b> |
| <b><u>X.</u></b>    | <b><u>ADVISORY OPINIONS .....</u></b>       | <b><u>16</u></b> |

## 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 359 (SB 359). 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** means Monday through Friday, and shall not include any Saturday, Sunday, or legal holiday officially observed by the county.
- 2.4 **Business Hours** means the time from 9:00 A.M. to 5:00 P.M. eastern standard time on business days.
- 2.5 **Code of Ethics** means Section 7.1 of Senate Bill 359.
- 2.6 **Filing** means any submission to the ethics administrator either in paper or electronic form.
- 2.7 **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.
- 2.8 **Hearing** means the public proceeding at which the issues of law and fact raised by the complaint are tried.

- 2.9 **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.
- 2.10 **Misconduct** means any violation of the code of ethics by an official or employee constituting grounds for discipline.
- 2.11 **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.
- 2.12 **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.
- 2.13 **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.
- 2.14 **Proceedings** means all steps in the discipline set forth in these Rules.
- 2.15 **Public Reprimand** means a reprimand by the Board in the form of a written decision, which shall be posted on the Board's website.
- 2.16 **Record** means all documents filed in the case beginning with the formal investigation.
- 2.17 **Regular Meetings** mean a periodic meeting scheduled by the Board in order to carry out the Board's duties and responsibilities.
- 2.18 **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 elected and appointed county officials of Henry County regarding allegations of misconduct pursuant to Section 7.1 of Senate Bill 359, commonly known as the Code of Ethics. The Board shall not accept or hear complaints against county employees, and complaints regarding human resources or internal departmental issues, behaviors, or relations are outside the Board's jurisdiction and shall

be submitted to the county's Department of Human Resources.

- 3.2 Composition. The Board shall consist of five (5) members who shall have been residents of Henry County for not less than one (1) year immediately preceding the date of taking office, and each member shall remain a resident of Henry County while serving as a member of the Board of Ethics. No person shall be appointed to or serve on the Board who has, or has had within the immediately preceding two-year period, any interest in any contract, transaction, or official act or action of Henry County, as confirmed by Henry County government. No member of the Board shall be a member of an agency or an official or employee of Henry County or shall have served in such capacity within the two-year period immediately preceding appointment to the Board. No person shall serve on the Board who has been a candidate for, or was elected to, public office within the immediately preceding three-year period; a sitting Board member's filing for elective office shall constitute an automatic resignation from the Board effective on the date of filing. Appointees to the Board shall possess professional knowledge or expertise in matters of ethics, finance, governance, or law. All proposed appointments to the Board shall be subject to an education and employment background check as well as a criminal history check, and each nominee shall execute all releases necessary for the appointing authority to complete such checks; a nominee determined to have been convicted of a felony shall have his or her nomination withdrawn.
- 3.3 Manner of Appointment. The members shall be appointed by each of the following appointing authorities: (i) The Clerk of the Superior Court of Henry County; (ii) The Judge of the Probate Court of Henry County; (iii) The Sheriff of Henry County; (iv) The Tax Commissioner of Henry County; and (v) The Solicitor General of Henry County.
- 3.4 Alternate Members. Each appointing authority identified in Rule 3.3 shall appoint one alternate member, who shall serve to ensure a quorum when a Board member is absent, has a conflict of interest, recuses himself or herself, or while a vacancy exists on the Board.
- 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. The terms of the initial members shall be as follows: the initial appointees of the Judge of the Probate Court of Henry County and the Solicitor General of Henry County shall serve until December 31, 2027, and until the appointment and qualification of their successors; the initial appointee of the Sheriff of Henry County shall serve until December 31, 2028, and until the appointment and qualification of his or her successor; and the initial appointees of the Clerk of the Superior Court of Henry County and the Tax Commissioner of Henry County shall serve a standard three-year term commencing January 1, 2027. After the initial terms have expired, each member and alternate member 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 its 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 during their respective term if the member becomes ineligible to hold civil 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 majority 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 four or more Board hearings in a one-year period without good and justifiable cause; failure to adhere to this Board’s Rules and Procedure, violation of Henry County Code of Ethics, or abstaining from voting, unless recused.
- 3.9 Vacancies. A vacancy in the Board shall exist by reason of death, the disability or incapacity of a member for more than ninety (90) business days, resignation, or as an operation of law if a member of the Board ceases to be a resident of Henry County. 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) business days prior to the expiration of each such member's term. Successors shall begin service 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 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.
- 3.12 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.
- 3.13 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 359 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 SB 359 over which it has personal and subject matter jurisdiction, excluding human resources and internal department issues or grievances; provided, however, that the Board shall not accept or hear complaints of violations of the code of ethics against county employees, and the Board's complaint jurisdiction is limited to elected and appointed county officials;
  - 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.
- 3.14 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.
- 3.15 Independence and Funding. The Board shall be completely independent and shall not be subject to control or supervision by the Chairperson of the Board of Commissioners, the Board of Commissioners, or any other official, employee, or agency of Henry County government. The Board shall have authority to propose its own budget and shall recommend such budget to the Board of Commissioners, which shall fund the Board's budget as a priority. Where the Board's proposed budget exceeds \$200,000.00, the Board of Commissioners shall have authority to authorize the additional funds requested in accordance with standard county budgetary procedures and requirements. The Board shall be bound by county purchasing and procurement, travel and training, and budget policies, and shall abide by county personnel policies and procedures.
- 3.16 Staffing. The Board shall be authorized to employ its own staff and clerical personnel and to contract for the services of a competent court reporter, an attorney, and a private investigator, as it deems necessary.

#### **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 and the county manager 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 and the county manager, 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;
- 4.34 Making any complaint received by the ethics administrator, and all evidence related to such complaint, available for inspection and review by each member of the Board; and
- 4.35 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 the Chief Judge of the Superior Court of Henry County for a period not to exceed six (6) years. Removal of the ethics officer before the expiration of the designated term shall be for cause by the Chief Judge of the Superior Court of Henry County. 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.;
- 5.36 Reporting, as appropriate, suspected ethical violations to the Board;
- 5.37 Reporting, as appropriate, suspected criminal violations to state or federal law enforcement agencies; and
- 5.38 Filing with the Board and the Board of Commissioners on the first Tuesday of each calendar quarter 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. Such report shall, within three (3) business days of the filing date, be made available via email to any member of the General Assembly who represents all or any portion 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, legal holidays, and such other times as the Governor or county manager shall declare closure.
- 6.2 Filing of Documents. All documents, motions, and pleadings related to matters pending before the Board, shall be filed with the Board. 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 dated 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 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) business 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 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 SB 359 in maintaining the anonymity of the complainant. See O.C.G.A. § 50-18-72, *et seq.*
- 6.11 Anonymous Filings. Anonymous complaints shall 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 from amongst those members present for that particular meeting.

- 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.
- 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 Board's legal counsel. If Board legal counsel opines that there is a conflict of interest, the member shall abstain from any discussion or vote on the item. If the Board's legal counsel 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 seventy percent (70%) of the regular meetings held during any one-year term. A Board member who continues to be absent and has missed more than thirty percent (30%) of the regularly scheduled meetings, without good and justifiable reason, will be subject to removal.

## **VIII. INVESTIGATIONS/HEARINGS**

- 8.1 Complaints Regarding Adverse Employment or Departmental Matters. Complaints regarding adverse activities, departmental issues, behaviors, or relations shall be submitted to the Henry County Department of Human Resources. No further review shall be conducted pursuant to these Rules, including hearings by the Board, the ethics officer, or the ethics administrator, with respect to such complaints.
- 8.2 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 SB 359. 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 SB 359, the Board shall direct the ethics officer to notify the person who filed the complaint and such person shall have ten (10) business 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 SB 359 and by the rules and procedures established by the Board of Ethics shall be dismissed by the Board of Ethics no later than thirty (30) business days after the complaint is filed with the ethics administrator, unless extended by a majority vote of the Board of Ethics.
- 8.3 Confidentiality of Preliminary Investigation. All complaints received by the ethics administrator, and all evidence related to such complaints, shall be treated as confidential information by the members of the Board, the ethics officer, the ethics administrator, the county manager, the human resources director, the person filing the complaint, the subject of the complaint, and any other employee of Henry County, until such time as the Board has determined that probable cause exists to proceed to a formal hearing on the complaint.
- 8.4 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.

- 8.5 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.
- 8.6 Notice. Upon receipt of a complaint by the ethics administrator, the ethics administrator shall send a written notice to the subject of the complaint, the county manager, and the human resources director by the next business day. 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 thirty (30) business 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 at the Board's discretion.
- 8.10 Standard and Burden of Proof. The decision of the Board at a formal hearing shall be governed by a preponderance of the evidence standard.
- 8.11 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 sixty (60) business 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.
- 8.111 Testimony. All testimony shall be under oath, which shall be administered by a member of the Board of Ethics.
- 8.112 Presentation of Evidence. The ethics officer and Respondent are each limited to thirty (30) minutes per side. Upon the motion of either side, the Board may grant an expansion of time.
- 8.113 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.
- 8.114 Rules of Evidence. The rules of evidence applicable to non-jury civil proceedings

and the rules of civil procedure shall apply in hearings.

- 8.115 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 seven (7) business days before your hearing begins. The exhibits will need to be numerically marked for the Board. Exhibits not submitted prior to a hearing shall be considered only upon a showing of good cause, as determined by the Board.
- 8.116 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.
- 8.117 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.
- 8.118 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. The sworn statement must be submitted fourteen (14) business days before a hearing.
- 8.119 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.
- 8.1110 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. The Board shall either dismiss the case or impose a sanction.
- 8.1111 Continuances. Absent good cause, the Board will not continue or delay scheduled hearings. All requests for continuations shall be made in writing at least three (3) business days before any scheduled hearing. Failure to make a request within three (3) business days shall constitute an automatic denial.

- 8.1112 Witnesses. Both parties have the right to present and cross-examine witnesses. The ethics officer may call the respondent as a witness. The names and addresses of all witnesses the parties will call or may at the hearing must be exchanged within seven (7) business days of any hearing.
- 8.1113 Virtual Appearances. The request for virtual appearances shall be submitted within seven (7) business days of any hearing, and will only be granted for good cause.
- 8.1114 Failure to File Answer and Appear. The Respondent's failure to file a written answer and failure to appear at a properly noticed hearing, shall constitute an admission of the factual allegations.
- 8.1115 Failure to Disclose. Absent a showing of good cause, as determined by the Board, the Board may preclude either party from calling a witness at the hearing if the party has not provided the opposing party with the witness's name and address.
- 8.12 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.
- 8.13 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 sixty (60) business 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.
- 8.14 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.
- 8.15 Advisement of the Board of Ethics. Upon request of the Board of Ethics, the Solicitor General of Henry County or any attorney representing the office of the Solicitor General of Henry County, 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.
- 8.16 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.

- 8.17 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 subpoenas properly issued may be subjected to the penalties set forth Rule 9.1.
- 8.18 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.
- 8.19 Counsel Conflict Notices. Failure to file a proper conflict notice, pursuant to the Superior Court rules, constitutes an automatic denial.

## **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 Solicitor General of Henry County 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. All appeals shall be governed by O.C.G.A. § 5-3-1, *et seq.*

## **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 (90) business 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, 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.