

## Section 9. - Board created; membership; organization, staff and budget; powers and duties.

- (a) There is created the Board of Ethics of Cherokee County to be composed of seven citizens of Cherokee County to be appointed as provided in subsection (b) of this section. Each member of the board of ethics shall have been a resident of Cherokee County for at least one year immediately preceding the date of taking office and shall remain a resident of the county while serving as a member of the board of ethics. No person shall serve as a member of the board of ethics if the person has, or has had within the immediately preceding two-year period, any interest in any contract, transaction, or official action of Cherokee County.
- (b) Two members of the board of ethics shall be appointed by the chairman of the board of commissioners of Cherokee County and five members shall be appointed by a majority vote of the full membership of the board of commissioners of Cherokee County. At a minimum, two members shall be members of the Republican Party and two members shall be members of the Democratic Party. The initial members of the board of ethics shall be those members appointed pursuant to an Act approved March 28, 1990 (1990 Ga. Laws, page 4745), and each such member shall serve until the expiration of the initial term to which such member was appointed and until such member's successor is appointed and qualified under this Act. Successors to the first members of the board of ethics and future successors shall be appointed by the respective appointing authorities for terms of seven years upon the expiration of the respective terms of office. All members of the board of ethics shall serve until their successors are appointed and qualified.
- (c) If a member of the board of ethics ceases to be a resident of Cherokee County, that member's position on the board, by operation of law, shall become vacant upon the establishment of the fact of such nonresidency, if contested, by a court of competent jurisdiction. A vacancy in the board of ethics shall exist by reason of death, resignation, or loss of residency as described in this subsection. A member of the board of ethics may be removed from office during a term only if the member becomes ineligible to hold civil office within the meaning of 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. A vacancy shall be filled for the unexpired term by the respective appointing authority.
- (d) The members of the board of ethics shall serve without compensation and shall elect from their own membership a chairman and otherwise provide for their own internal organization. The governing authority of Cherokee County shall provide adequate office and meeting space for the board of ethics. Subject to budgetary procedures and requirements and Cherokee County merit system regulations, the board of ethics shall be authorized to employ its own staff and clerical personnel. The governing authority of Cherokee County shall also provide the board of ethics with such supplies and equipment as may be reasonably necessary for it to carry out its duties and responsibilities. The board of ethics shall be a department of the county government and shall be subject to budgetary procedures and requirements in the same manner as are other departments of the county government; provided, however, in exercising its powers and duties under this section, the board of ethics shall be completely independent and shall not be subject to control or supervision by the chairman of the commission, the county manager, the commission, or any other officer, department, or agency of the county government.
- (e) The board of ethics shall have the following duties:
- (1) To establish procedures, rules, and regulations governing its internal organization and the conduct of its affairs;

- (2) To render advisory opinions with respect to the interpretation and application of this Act to all persons who seek advice as to whether a particular course of conduct would constitute a violation of the standards imposed in this section. Such opinions shall be binding on the board of ethics in any subsequent complaint concerning the person who sought the opinion and acted in good faith, unless material facts were omitted or misstated in the request for the advisory opinion;
  - (3) To prescribe forms for the disclosures required in this section and to make available to the public the information disclosed as provided in this Act;
  - (4) To receive and hear complaints of violations of the standards required by this Act;
  - (5) To make such investigations as it deems necessary to determine whether any person has violated or is about to violate any provisions of this Act; and
  - (6) To hold such hearings and make such inquiries as it deems necessary for it to carry out properly its functions and powers.
- (f) [Enforcement powers; conduct of hearings.]
- (1) Any public official who knowingly violates any provision of the code of ethics provided for in this Act shall forfeit his office and may be removed from office after notice and hearing by the affirmative vote of five members of the board of ethics. The board of ethics by its own motion or as a result of a complaint filed with the board of ethics by any citizen or by a group of citizens of Cherokee County may make such investigation as it deems proper to carry out its duties under this subsection. For the purposes of this subsection, the board of ethics may hold and conduct hearings, issue subpoenas, examine witnesses, and administer oaths. The board of ethics shall apply to the Superior Court of Cherokee County for the enforcement of any subpoena issued by the board.
  - (2) At any hearing held under paragraph (1) of this subsection, the public official who is adversely affected shall have the right to be represented by counsel, to hear and examine the evidence and witnesses against the member of the governing authority, and to present evidence and witnesses in opposition or in extenuation.
- (g) [Judicial review of decisions.]
- (1) Any public official adversely affected by any final decision of the board of ethics under subsection (f) of this section may obtain judicial review of such decision as provided in this subsection.
  - (2) An action for judicial review may be commenced in the Superior Court of Cherokee County within 30 days after the decision of the board of ethics becomes final.
  - (3) The effective date of the final decision of the board of ethics shall be postponed pending judicial review [as] provided for in this subsection.
  - (4) The record on review, unless otherwise stipulated by the parties, shall include the original or certified copies of all pleadings, testimony, evidence, exhibits, and other papers presented to or considered by the board of ethics and the findings and decisions of the board of ethics. As to alleged procedural irregularities, evidence may be taken independently by the court.
  - (5) If the court finds no error, it shall affirm the decision of the board of ethics. If it finds that such action was:
    - (A) Arbitrary or capricious;
    - (B) A denial of a statutory right;
    - (C) Contrary to constitutional right, power, privilege, or immunity;
    - (D) In excess of statutory jurisdiction, authority, purposes, or limitation;
    - (E) Not in accord with the procedures or procedural limitations of this section or as

- otherwise required by law;
- (F) An abuse or clearly unwarranted exercise of discretion, unsupported by substantial evidence when the record is considered as a whole; or
  - (G) Otherwise contrary to law,
- then the court shall hold unlawful and set aside the decision of the board of ethics removing the public official from office.
- (6) The decision of the trial court shall be subject to appellate review in the same manner and with the same effect as in appeals from a final judgment or decree in any other civil action.