

CHEROKEE COUNTY BOARD of ETHICS

GENERAL RULES OF PROCEDURE

PURPOSE: The purpose of this document is to establish the general rules and procedures of the Cherokee County Ethics Board.

SCOPE: These procedures are general in content and do not restrict or limit the Board's ability to develop procedures to cover a particular situation. These procedures may be amended or updated by a majority vote of the Board.

AUTHORITY: These rules and procedures are developed in accordance with Section 9, H.B. 12 EX.

Section A: Meetings

1. **Conduct of meetings.** The Chairperson (hereafter, the Chair) and the Vice Chair are elected in January of each year by the members of the Board. In the absence of the Chair, the Vice Chair presides; in the absence of both the Chair and Vice Chair, a temporary Chair may be elected for a specific meeting provided a quorum is present.
2. **Regular meetings.** Regular meetings are held four times a year: January, April, July and October on the fourth Thursday of the month at 6:00 p.m. The Chair may cancel or reschedule the regular meeting by giving reasonable notice to each member.
3. **Special meetings.** Special meetings may be held as called by the Chair, Vice Chair, or any four Board members. Each Board member should be given notice of at least three working days prior to the special meeting date unless circumstances require otherwise.
4. **Quorum.** Four (4) members shall constitute a quorum.
5. **Orderliness of meetings.** The meetings shall be conducted in the same orderly fashion as a court of law, including attention by the audience to the case at hand, quiet respect for the person addressing the Board, and direction of the presentation of the case to the Board, not to the audience; and refraining from the expression of the public opinion except through the person addressing the Board. Members of the public not complying with the rules of civility shall be requested to leave the meeting room.
6. **Roberts' Rules.** The Chair shall have discretion as to when Roberts' Rules of Order shall guide the conduct of the meeting.
7. **Appearance of Public Officials.** The Ethics Board will subpoena all public officials subject to their jurisdiction who are asked to appear before the Ethics Board, unless the public officials confirm in writing at least twenty days prior to their requested appearance that he/she will voluntarily appear at the time and place requested.
8. **Executive Session.** The Board may convene in Executive Session for any lawful purpose.

Section B: Agenda

1. **Preparation.** An agenda shall be prepared by the Chair.
2. **Order of agenda.** The order of the agenda is binding on the Chair unless otherwise approved by the Board.
3. **Agenda additions.** No case shall appear on the agenda that is not in compliance with state law. Items shall not be added to the agenda without the approval of the Board.

Section C: Records

1. **Official records.** The Board Secretary shall tape and transcribe the minutes of the meetings. The completed minutes shall be presented at the next meeting (whether that be a Regular Meeting or a Special Meeting) for approval, and any necessary corrections shall be made at that time. Once the minutes have received final approval from the Board, those minutes shall be submitted to The County Clerk. The County Clerk shall maintain all official records and shall have official custody thereof. The County Clerk is authorized and empowered to certify the records as true and correct copies of originals on file in the County Clerk's office. In the absence of the County Clerk, the Chair and Vice Chair, upon inspection of the same shall be authorized and empowered to make such certification. All documents releasable to the public will be maintained in digital form on the Board of Ethics website. Documents not releasable to the public will be maintained in hardcopy by the County Clerk.
2. **Minutes and resolutions.** Minutes shall be kept as required under state law. The minutes will be prepared in draft by the Board's Secretary and presented to the full board for approval at the next Board meeting. The Chair is authorized to sign the minutes of each meeting and resolutions after approval by the Board.

Section D: Advisory Opinions

1. Any person desiring an advisory opinion regarding the interpretation and application of the code of ethics may submit such a request (in writing and signed by the requesting party) to the Board by addressing the same to the Chair of the Board of Ethics by email or by regular mail to 1130 Bluffs Parkway, Canton, GA 30114. The Board secretary shall then provide copies of the same to all members of the Board.
2. The Board may consider any request for an advisory opinion at the next regularly scheduled meeting of the Board or can defer the issuance of an advisory opinion to a later meeting to allow time for the Board and/or its attorney to research the matter.
3. If a requesting party shows good cause as to why an advisory opinion should be considered in advance of the next regularly scheduled meeting, then the Board may in its discretion schedule a special meeting to consider such a request.
4. All advisory opinions issued by the Board 1) shall be in writing, 2) shall be approved by at least four affirmative votes, 3) shall be signed by the chair and attested by the secretary. 4) shall be filed with the clerk of the governing authority by the Board secretary, and 5) shall be available to the public.

Section E: Complaints and Investigations

1. Complaints

A. Written Complaints.

Any person desiring to make a complaint of a violation of the standards set forth in the code of ethics defined by Article II of the Municipal Code may do so by filing a written complaint. The complainant may attach such additional information or explanation as believed suitable. The complaints shall be notarized and addressed to the Chair of the Board of Ethics, 1130 Bluffs Parkway, Canton, GA 30114. The Board secretary shall in turn forward copies to each of the Board members.

B. Oral Complaints.

Oral complaints will only be received at meetings of the Board. However, the Board will not act on these oral complaints at the same meeting in which they are received. An oral complaint must always be submitted in writing following the method described above prior to the next meeting of the Board in order for the Board to act upon it.

C. Complaints by the Board.

The Board may initiate any investigation it deems appropriate without need for a written public complaint. This may take place when a majority of the Board members agree that there is a question of ethical misconduct by any party under the purview of H.B. 12 EX.

2. **Notice of complaint to member of governing authority.** Within ten (10) days of the Board either receiving a written complaint or deciding to itself initiate an investigation, the Board shall provide written notice to the public official against whom said complaint is made or said investigation is initiated. This notice shall include: 1) the name of the person(s) making the complaint (or shall indicate the Board has initiated an investigation); 2) a copy of the complaint (or the circumstances prompting a Board investigation); and 3) instructions to that public official that they may submit a written response to said complaint within twenty (20) business days of their receipt of this notice.

3. **Investigations.** Upon receipt of a written complaint (other than one initiated by the Board), the Board shall review the complaint to determine if the complaint, on its face, sets out or describes a potential violation of the code of ethics. This initial determination is for the Board alone to make, and such determination may be made without any hearing on the subject complaint

A. Complaint does not set out a violation.

If the complaint does not, on its face, set out or describe a potential violation of the code of ethics, the Board shall 1) notify the complainant of that fact in writing, 2) decline to take jurisdiction of that case, and 3) send a copy of the complaint and the Board's written response thereto to the public official who is the subject of the complaint.

Section E: Complaints and Investigations (continued)

Thereafter, the complainant may have one opportunity to amend and resubmit the complaint. Should the complaint be deemed insufficient a second time, the matter shall be dismissed.

B. Complaint does set out a violation.

If the complaint, on its face, does set out or describe a potential violation of the code of ethics, then the Board may do one of the following:

- a. Read the public official's response to the complaint, and determine that, based on that response, no violation of the code of ethics has occurred. At that point, the Board may exercise its discretion to dismiss the complaint.
- b. Convene an informal preliminary hearing (i.e., a hearing that does not follow the form set forth below in Section F), with the sole purpose of determining whether to proceed with an evidentiary hearing as set forth below in Section F. In this informal preliminary hearing, the Board generally will not accept any additional items of evidence. Rather, the parties or their representatives may present orally their respective positions regarding the complaint, and summarize to the Board the evidence they would present in a formal hearing to support those positions. The Board may then take the following action:
 1. If after hearing from both parties the Board decides that there would not be sufficient evidence to demonstrate that an ethical violation had taken place, then the matter shall be dismissed.
 2. If after hearing from both parties the Board decides that there may be sufficient evidence to demonstrate that an ethical violation had taken place, then the Board shall conduct a formal evidentiary hearing as provided in Section F.

Section F: Hearings

1. In General

- A. The Board shall conduct such hearings as it deems necessary to carry out its responsibilities 1) in determining whether a public official has committed a violation of the code of conduct, 2) in issuing advisory opinions, 3) in evaluating evidence offered to support or refute complaints or allegations which arose during an investigation, and 4) in executing other functions of the Board.
- B. All hearings shall be open to the public pursuant to the Open Meetings Act, O.C.G.A. Chapter 14.

Section F: Hearings (continued)

C. The accused public official and the complainant shall have the right to be represented by counsel, to hear and examine the evidence, to cross-examine witnesses against him or her, and to present evidence and witnesses in support, response or opposition.

D. The Board may determine all matters of evidence and procedure or may delegate this task to the Board's legal counsel in making rulings on matters of procedure and the admissibility of evidence. Only sworn testimony given under oath shall be considered.

E. The party making the complaint and the public official against whom such complaint is made shall provide the Board a list of witnesses or speakers who are expected to be present and testify. Such notice shall be exchanged at least ten (10) days prior to the date of the hearing, and shall be sent to the Attention of the Chair of the Board of Ethics, 1130 Bluffs Parkway, Canton, GA 30114

2. **Notice of hearing.** If the complaint is not dismissed according to Sections E(3)(a) or E(3)(b) and the Board finds that it has jurisdiction over a complaint (or according to the issuance of a complaint by the Board itself), the Board secretary shall prepare, at the direction of the Chair, a notification of the Board's acceptance of said complaint to be sent to all parties. This notification shall include the following: 1) a statement of the time, place, and nature of the hearing; 2) a brief statement of the basis for the Board's claim of jurisdiction over the complaint, with specific reference to the section or sections of the code of ethics at issue; and 3) a statement regarding the right of the parties to subpoena witnesses and documentary evidence through the Board.

3. **Order of Proceedings.**

- A. Call meeting to order and welcome all in attendance.
- B. Ask all visitors to sign an attendance sheet.
- C. Approve and distribute copies of the agenda.
- D. Approve minutes of previous meeting.
- E. State purpose of the meeting and that the Board functions in accordance with and by the authority of H.B. 12 EX.
- F. Introduce Board members and disqualify any Board member who has so requested. Reason for the request must be clearly stated for the record.
- G. State complainants' right to appeal the Board's decision to the Superior Court of Cherokee County as per H.B. 12 EX.
- H. Call of cases in order as they appear on the agenda or as re-ordered by a majority vote of the Board members.

Section F: Hearings {continued}

- I. All witnesses for a particular case are sworn in together prior to the hearing of that case.
- J. Both parties may present opening statements to the Board. Thereafter, the complainant (or in a case where the complainant is the Board itself, the Board through the Chair) shall present the case against the public official first, and then the public official may present his or her case. After the close of evidence, the parties may present a closing argument. In those proceedings in which a complaint is made by the Board, the Board shall have the right to call such witnesses or present such evidence as it deems appropriate, and the public official shall then have a right to present his or her case followed by the right of that member to make a closing argument to the Board.
- K. If the complainant or representative or legal counsel does not appear at designated meeting, and there is no request for the case to be continued, the complaint may be deemed abandoned and no further action by the Board is necessary.
- L. The Board may call on its legal counsel for input at any stage of the proceedings.
- M. Board members shall have the right to ask questions at any time.
- N. The Board may enter into Executive Session in order to hear and consider advice from the Board's attorney.
- O. A decision may be rendered after each case, at the end of all cases, or at the next meeting date. If the Board chooses to delay its decision, the next meeting must be held within two weeks.
- P. By a majority vote of the members present, any matter before the Board may be continued to the next meeting for the purpose of gathering additional information. The Board may use any or all of the state or local law enforcement agencies as needed. The Board is not required to use and is not limited to these agencies.
- Q. Because of their decision-making authority, the members of the Board are quasi-judicial and should be guided by the highest ethical standards in the consideration and handling of complaints. Board members shall not discuss cases before the Board with the public prior to a decision being made in a formal Board meeting.

Section G: Appeals

1. **Requests for Appeal.** All requests for appeal shall be delivered in writing to the Superior Court of Cherokee County in accordance with H.B. 12 EX.
2. **Representation of Board.** The Board shall be represented by its attorney in all phases of the appeals process.
3. **Action upon complaint or appeal.** The decision to uphold or reject the complainant's contentions, and the Board's actions and findings shall be summarized in the minutes. The Board shall then take whatever action is authorized by law. A detailed, written statement of the Board's findings and its decisions will be submitted to the Board of Commissioners within five working days following such decision.

Section H: Miscellaneous

1. The Board shall select from a list of people willing to assist the Board, a part-time paid secretary, to be compensated in a set cost per meeting rate plus an additional per hour rate for any extra requested work beyond the routine tasks performed in preparing for, publishing notice for, conducting and preparation of minutes for the subject meeting. These payments are to be in amounts determined by the Board. The Board secretary shall be responsible for 1) placing the public service announcement of upcoming meetings with the Board's address, 2) all copying and related tasks, 3) all mailing, and 3) any other duties as delegated by the chair. The Board secretary shall not be currently employed by or in any way work on behalf of the Cherokee County Commissioners.
2. The official address of the Board of Ethics will be 1130 Bluffs Parkway, Canton, GA 30114. This address shall appear in every Public Announcement of upcoming meetings.
3. Any expenses shall be submitted to the Chair for approval, prior to disbursement.
4. The Chair, on behalf of the Board, shall be responsible for addressing any questions, concerns or other comments posed by the Cherokee County Commissioners as a whole or by any individual Cherokee County Commissioner. Such questions, concerns or other comments shall not be made directly to the attorneys for the Board unless and until the Chair has authorized such communication.

These rules do not alter or replace H.B. 12 EX. If conflict should arise, H.B. 12 EX and other applicable state and/or Federal laws shall take precedence.

These rules and procedures were approved on the 18th day of November, 1993, amended on the 2nd day of April, 2002, and again on the 14th day of July, 2016.