# COUNTY AGENDA REQUEST

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| Department: | Board of Commissioners | Presenter(s): | Chairman Steve Brown |
| Meeting Date: | December 11, 2014 | Type of Request: | New Business |

Wording for the Agenda:

Consideration of the Selection Committee's recommendation to appoint Mr. Darryl Paul to the Fayette County Ethics Board for a three-year term beginning November 8, 2014 and expiring November 7, 2017.

Background/History/Details:

In November 2010, the Board of Commissioners passed Ordinance 2010-10 which established the Fayette County Ethics Board. The Board consists of three members and two alternate members. Each Ethics Board member and alternative member is appointed to a three-year term.

In September 2014, the County advertised for one position that would become available on November 7, 2014. The advertisement was run for one month and was circulated to the Fayette Daily News, The Citizen, and the Atlanta Journal-Constitution. Five Fayette County citizens applied for consideration of appointment to the Ethics Board. Chairman Brown and Commissioner Ognio were appointed as the Selection Committee for this position.

Each of the five applicants were interviewed by the Selection Committee and Mr. Darryl Paul was selected to be appointed to the Fayette County Ethics Board.

What action are you seeking from the Board of Commissioners?

Approval of the Selection Committee's recommendation to appoint Mr. Darryl Paul to the Fayette County Ethics Board for a three-year term beginning November 8, 2014 and expiring November 7, 2017.

If this item requires funding, please describe:

Not Applicable.

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| Has this request been considered within the past two years? | No | If so, when? | |
| Is Audio-Visual Equipment Required for this Request?* | No | Backup Provided with Request? | Yes |

**** All audio-visual material must be submitted to the County Clerk's Office no later than 48 hours prior to the meeting. It is also your department's responsibility to ensure all third-party audio-visual material is submitted at least 48 hours in advance.***

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| Approved by Finance | Not Applicable | Reviewed by Legal | |
| Approved by Purchasing | Not Applicable | County Clerk's Approval | Yes |
| Administrator's Approval | | | |

Staff Notes:

1:30 pm

# APPLICATION FOR APPOINTMENT
## Fayette County Ethics Board

Thank you for your interest in being considered for appointment to the Fayette County Ethics Board.

Applicants must be a legal resident of the State of Georgia and have been a resident of Fayette County for at one year prior and shall remain a resident of Fayette County while serving as a member of the Ethics Board.

The Fayette County Ethics Board is comprised of three members and two alternate members appointed to three-year terms; however, appointment terms may be staggered- meaning appointments can be made for one-year and two-year terms as needed. Meetings are held when needed, but generally no more than once a year. Said meetings take place at the Fayette County Administrative Complex, 140 Stonewall Avenue West, Fayetteville, Georgia. **Applicants are encouraged to attend as many Ethics Board meetings as possible in an effort to become familiar with the responsibilities of the post.**

Please take a few minutes to complete the form and answer the questions on the reverse side of this form and return it with a resume, if available, to Floyd Jones, County Clerk, 140 Stonewall Avenue, West, Suite 100, Fayetteville, GA 30214 no later than 5:00 p.m. on Friday, October 17, 2014.

If you have any questions, please call (770) 305-5102.

*NOTE: Information provided on this form is subject to disclosure as a public record under Georgia Open Records Law.*

NAME Darryl L. Paul

ADDRESS [redacted]

TELEPHONE (day) [redacted]

(evening) [redacted]

(email address) [redacted]

Darryl L. Paul 10/08/2014

Signature Date

1. How long have you been a resident of Fayette County?
   I've been a resident of Fayette County since April of 1999

2. Why are you interested in serving on the Fayette County Ethics Board?
   I would like to more fully participate in the processes that affect me, my family, my neighbors, and my community. Moreover, I would like to help ensure that those who do govern and make decisions are operating at the highest levels of integrity.

3. What qualifications and experience do you possess that should be considered for appointment to the Ethics Board?
   I am a captain on the Boeing 767 for UPS airlines. In this capacity I am responsible for demonstrating and ensuring that my flight crew and I adhere to all the policies, procedures, rules, and regulations that are outlined in our various manuals. I must maintain the highest degree of professional ethics at all time to ensure a safe operation and I'd bring that same care, concern and committment to the ethics board.

4. List your recent employment experiences to include name of company and position.
   I'm currently employed as a Boeing 767 captain for United Parcel Service Airlines. I've been with UPS for 20 years. Prior to joining UPS, I was a pilot for American Eagle Airlines where I served for 3 years.

5. Do you have any past experience related to this position? If so, please describe.
   I have worked in Federal Law Enforcement for over 10 years with the Department of Homeland Security. In this capacity I am responsible for ensuring the highest levels of aviation security are enforced and maintained. I serve as the Inflight Security Coordinator onboard large transport aircraft and liaison with Ground Security Coordinators throughout the country to verify that all priorities, procedures, and security protocols are met before I take my plane into the sky so that the plane, pilots, people and property we fly over are as safe as can reasonably be expected.

6. Are you currently serving on a commission/board/authority or in and elected capacity with any government? No

7. Have you attended any Ethics Board meetings in the past two years and, if so, how many? No

8. Are you willing to attend seminars or continuing education classes at county expense?
   Yes

9. Would there be any possible conflict of interest between your employment or your family and you serving on the Ethics Board? No

10. Are you in any way related to a County Elected Official or County employee? If so, please describe. No

11. Describe your current community involvement.
    Each summer I volunteer with a camp that is sponsored by Delta Airlines and Chick-fil-A. The purpose of this camp is to expose young people to the myriad of career options available in the broader field of aviation. Camp participants are exposed to careers such as pilots, flight attendants, mechanics, air-traffic controllers, NTSB crash investigators, dispatchers, police helicopter pilots, medevac pilots, and military careers.

12. A criminal background check is required for this appointment. Do you agree to submit to a criminal background check for appointment? Yes

13. Have you been given a copy of the county's Ethics Ordinance? Yes

14. Is there any reason you would not be able to comply with the Ethics Ordinance? No

# DARRYL PAUL

[redacted]

## WORK HISTORY

*Apr 2004 to Present*

**Federal Flight Deck Officer**
*Department of Homeland Security*
*Atlanta, GA*

Tasked with protecting the safety and security of flights operating within the United States and to/from its territories

*Nov 1994 to Present*

**Airline Pilot**
*United Parcel Service Airlines*
*Louisville, KY*

Boeing 757/767 captain operating large transport aircraft domestically and internationally in a fast-paced, dynamic environment while ensuring safe, on-time deliveries to designated gateways

- Consistently recognized as a fuel conservation leader in the flight department
- Received recognition several times for going the extra mile to ensure an on-time operation

*Sep 1991 to Nov 1994*

**Airline Pilot**
*American Eagle Airlines*
*Miami, FL*

Airline pilot for large regional airline providing safe, efficient, reliable transportation to people traveling throughout the southeastern United States and the islands of The Bahamas.

## EDUCATION

*Aug 1984* **Wayne State University**

*to* *Detroit, MI*
*Dec 1990* *Bachelors in Sociology*

*May 1988* **Aztec Aviation Academy**
*to* *Long Beach, CA*
*Aug 1988* *Professional Pilot Course*

Received certifications as an Airline Transport Pilot and Certified Flight Instructor

*Aug 1986* **Coastal Aviation Academy**
*to* *New Bern, NC*
*Aug 1987* *Professional Pilot Course*

Obtained commercial pilot license with instrument and multi-engine ratings

## MEMBERSHIPS

Organization of Black Aerospace Professionals

This organization seeks to expose youth to the myriad of career options available to them within the broad field of aviation.

- Director of the Aviation Career Education summer camps for 4 years.
- Director of the Flight Line Camp for two years.

## LANGUAGE SKILLS

Developing fluency in Spanish via the Rosetta Stone Latin America Spanish learning program

## DIVISION 3. CODE OF ETHICS [3]

Sec. 2-200. Purpose.
Sec. 2-201. Definitions.
Sec. 2-202. Standards.
Sec. 2-203. Exceptions.
Sec. 2-204. Disclosure of interest in legislative action.
Sec. 2-205. Abstentions.
Sec. 2-206. Enforcement and administration.
Sec. 2-207. Penalties.
Sec. 2-208. Compliance with applicable laws.
Secs. 2-209—2-239. Reserved.

### Sec. 2-200. Purpose.

The proper operation of local government requires that the public officials be independent, impartial and responsible to the people; that the government decisions and policy be made through proper channels of the governmental structure; that public office not be used for personal gain; that the public officials be free from the appearance of impropriety; and that the public have confidence in the integrity of its government. In recognition of these goals, a code of ethics for all county officials is adopted. The purpose of this policy is to establish ethical standards of conduct for all such officials by setting forth those acts or actions that are incompatible with the best interests of the county and by directing disclosure by such officials of private financial or other interests in matters affecting the county.

*(Code 1992, § 2-207; Ord. No. 2010-10, § 1, 11-18-2010)*

### Sec. 2-201. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Business entity* means any business, proprietorship, firm, partnership, person in either a representative or a fiduciary capacity, association, venture, trust, or corporation.

*Confidential information* means any information which, by law or practice, is not available to the public.

*County official* or *official* means the county board of commissioners, county administrator, county attorney and his assistants, and any county employee who has been appointed to the position by the board of commissioners. For purposes of this policy, a county official shall be deemed to have an interest in the affairs of:

(1) His immediate family;

(2) Any business entity in which the county official is an officer, director, or member having a financial interest in, or employed by it; or

(3) Any business entity as to which the stock, legal ownership, or beneficial ownership of a county official is in excess of five percent of the total stock or total legal and beneficial ownership, or which is controlled or owned directly or indirectly by the county official.

*Immediate family* means an official and the spouse of an official, their parents, children, brothers and sisters related by blood or marriage.

*Interest* means direct or indirect pecuniary or material benefit accruing to a public officer or official as a result of a contract or transaction which is or may be the subject of an official act or action by or with the county except for such contracts or transactions which, by their terms and by the substance of their provisions, confer the opportunity and right to realize the accrual of similar benefits to all other persons and/or property similarly situated.

*Official act* or *action* means any legislative, administrative, appointive or discretionary act of any official of the county or any agency, board, committee, authority or commission thereof.

*Reprimand* means an expression of disapproval.

*(Code 1992, § 2-208; Ord. No. 2010-10, § 1, 11-18-2010)*

## Sec. 2-202. Standards.

(a) Interest in contract or transaction. No county official having the power or duty to perform an official act or action related to a contract or transaction which is or may be the subject of an official act or action of the county shall:

(1) Have or thereafter acquire an interest in such contract or transaction;

(2) Have an interest in any business entity involved in such contract or transactions;

(3) Have solicited or accepted present or future employment with a person or business entity involved in such contract or transaction; or

(4) Have solicited or accepted a present or future gift, favor, service, or thing of value from a person involved in such contract or transaction, except as provided in section 2-203.

(b) Pre-acquisition of interest. No county official shall acquire an interest in a contract or transaction which is or may be the subject of an official act or action of the county at a time when the county official believes or has reason to believe that such contract or transaction will be directly or indirectly affected by an official act or action of the county.

(c) Disclosure of information. No county official shall without proper legal authorization, disclose confidential information concerning the property, government, or affairs of the county, or use such information to advance the financial or other private interest of himself or others.

(d) No county official shall waive the attorney-client privilege or disclose any documents protected by the attorney-client privilege without the consent of the majority of the board of commissioners.

(e) No county official shall disclose to others matters discussed in executive session of any board or commission without the consent of the majority of the board of commissioners or until after the minutes of the meeting is required to be released as a matter of law.

(f) Incompatible service. No county official shall engage in or accept private employment or render service for any private entity, when such employment or service is incompatible with

the proper discharge of his official duties or would tend to impair his independence of judgment or action in the performance of his official duties, unless otherwise permitted by law and unless disclosure is made as provided in this policy.

(g) Appearance. No county official shall appear on behalf of any private person other than himself, his spouse or minor children, before any county agency, authority or board, However, a member of the board of commissioners may appear before such groups on behalf of his constituents in the course of his duties as a representative of the electorate or in the performance of public or civic obligations.

(h) Public property. No county official shall request or permit the unauthorized use of county-owned vehicles, equipment, materials or property for personal convenience or profit.

(i) Special treatment. No county official shall grant any special consideration, treatment or advantage to any citizen beyond that which is available to every other citizen in the same or similar circumstances.

(j) Later case interest. No county official shall, after the termination of service or employment with the county, accept remuneration of any kind for any appearance before any board, commission, committee, agency or authority of the county on behalf of any adverse party in relation to any case, proceeding, or application in which he personally participated during the period of his service or employment, which was under his active consideration during the period of his service or employment or as to which he could have acquired knowledge or information during the period of his service or employment.

(k) Political recrimination. No county official, whether elected or appointed, shall promise an appointment or threaten the dismissal from any county position as a reward or punishment for any political activity.

(l) Withholding of information. No county official shall knowingly withhold any information which would impair the proper decision making of any of the county board, authorities, agency or commissions.

(m) Payment of debts. All county officials shall settle all accounts between them and the county, including the payment of taxes, in a timely fashion.

(n) Organizational integrity. County commissioners, as policy makers, shall refrain from interfering in the daily administrative affairs of department directors. Commissioners shall not make recommendations regarding the hiring, firing or disciplining of department directors and other county employees.

*(Code 1992, § 2-209; Ord. No. 2010-10, § 1, 11-18-2010; Ord. No. 2013-01, § 1, 2-19-2013)*

## Sec. 2-203. Exceptions.

(a) It shall not be deemed a violation of the standards of this policy if the interest of a county official in a person or business entity is a contractual obligation of less than $500.00 which has not been preceded by any other obligation, discharged or existing, between the parties, and which is not the first in a series of two or more loans or debts which either of the parties is under any obligation to make or incur.

(b) The following shall not be deemed a violation of the standards of this policy:

(1) Legitimate salary, benefits, fees, commissions, or expenses associated with an official's non-public business;

(2) An award, plaque, certificate, memento, or similar item given in recognition of the official's civic, charitable, political, professional, or public service;

(3) Food, beverages, and registration at group events to which all similarly situated officials are invited;

(4) Actual and reasonable expenses for food, beverages, travel, lodging, and registration for a meeting which are provided to an official so that he may participate or speak at the meeting;

(5) A commercially reasonable loan made in the ordinary course of business;

(6) Any gift with a total value less than $100.00 in any calendar year;

(7) Promotional items generally distributed to public officials generally;

(8) A gift from a member of the public official's immediate family; or

(9) Food, beverage, or expenses afforded public officials, and members of their immediate families, or others that are associated with normal and customary business or social functions or activities.

(c) It shall not be deemed a violation of the standards of this policy if a county official, in his capacity as such official, participates in the making of a contract even if such official has a private pecuniary interest or performs in regard to that contract some function requiring the exercise of discretion on his part, if:

(1) The contract is awarded through a process of public notice and competitive bidding; or

(2) The board of commissioners at regular meeting, after determining that it is in the best interest of the county to do so, authorizes the participation.

*(Code 1992, § 2-210; Ord. No. 2010-10, § 1, 11-18-2010)*

## Sec. 2-204. Disclosure of interest in legislative action.

(a) Any member of the board of commissioners of the county, who has financial or personal interest in any proposed legislation before the commission shall immediately disclose on the record the nature and extent of such interest.

(b) Any other official who has a financial or personal interest in any proposed legislative action of the board of commissioners, and who participates in discussion with or gives an official opinion or recommendation to the commission, shall disclose on the record the nature and extent of such interest.

*(Code 1992, § 2-211; Ord. No. 2010-10, § 1, 11-18-2010)*

## Sec. 2-205. Abstentions.

A county official who has an interest that he has reason to believe may be affected by an official act or action shall abstain from any participation in the same.

*(Code 1992, § 2-212; Ord. No. 2010-10, § 1, 11-18-2010)*

## Sec. 2-206. Enforcement and administration.

(a) *Constituting the board; chairperson.*

(1) The board of ethics of the county is hereby created and authorized by the board of commissioners.

(2) The board of ethics of the county shall be composed of three residents of the county to be appointed as provided herein. Each member of the board of ethics shall have been a resident of the 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 preceding one year period, any interest in any contract, transaction, or official action of the county.

(3) The members of the board of commissioners may nominate persons to serve on the board of ethics, who shall be appointed by a majority vote of the board of commissioners. These individuals must agree to undergo a criminal background check conducted by the county marshal prior to designation, and/or redesignation, the results of which will be forwarded to the board of commissioners. These individuals should be available to be called upon for their term of office. At the end of each term, the board of commissioners shall appoint eligible residents to fill the board. Current members can be reappointed and there shall be no term limits for the members. If a member of the board of ethics does not finish their term, the remainder of the term shall be filled through an appointment by the board of commissioners.

(4) Alternates. In addition to the members of the board, the board of commissioners shall appoint two alternate members. These alternates shall be appointed in the same manner as members of the board of ethics.

(5) If any member of the board of ethics has a conflict of interest in any matter before the board, the remaining two members of the board of ethics shall select an alternate to serve for that matter from the two alternative members appointed by the board of commissioners.

(6) The board shall select a chairperson at the beginning of each matter to be heard.

(7) Term of office. The term of office for each member of the board of ethics and alternates shall be for three years, however. In the appointment of the first board, one member and one alternate shall be appointed for three years; one member and one alternate for two years and one member for one year. It is the intent of this section that their terms be staggered. Any vacancy in the membership shall be filled for the unexpired term in the same manner as the initial appointment.

(b) *Duties of board.* The board of ethics shall have the following duties and powers:

(1) To administer the ethics ordinance;

(2) To receive, review, process, make determinations on, and hear complaints of violations of standards required by this chapter. The board is not designed to be an oversight board or to perform investigations;

(3) To make such response to a complaint as it deems necessary to determine whether any person has violated any provisions of this chapter;

(4) To hold such hearings and make such inquiries as deemed necessary to investigate and rule upon complaints; and

(5) To report its findings and actions to the board of commissioners.

(c) *Administration.*

(1) *Complaints.*

a. All complaints of ethical violations must be filed with the county clerk, in writing, signed by the complainant, no later than 90 days after the alleged act occurred unless the complainant, by exercising reasonable diligence, failed to discover the alleged ethical violation within such 90 day period. In such a case, the complainant must file a written complaint with the county clerk no later than 90 days after the complainant discovered the alleged violation. In all such cases brought after 90 days from the date of the alleged ethical violation, the complainant bears the burden of convincing the board of the true date complainant learned of the alleged violation.

b. In no event, shall an ethical charge be filed with the county clerk more than two years from the date of the alleged ethical violation.

c. The complainant may withdraw the complaint at any time in writing.

(2) *Pay and staff support.*

a. The members of the board of ethics shall serve without compensation. The governing authority of the county shall provide meeting space for the board of ethics. Subject to budgetary procedures and requirements of the county, the county shall provide the board of ethics with such supplies and equipment as may be reasonably necessary for it to perform its duties and responsibilities.

b. The county clerk shall serve as the recording secretary to the board and shall provide such administrative services to the board as may be necessary.

c. Subject to budgetary procedures and requirements of the county, the county shall provide the board of ethics with such legal staffing as may be reasonably necessary for it to perform its duties and responsibilities by an attorney who does not serve at the county attorney.

(3) *Action by the board.* Within 30 days of receipt of a complaint from the county clerk, the board may perform one or more of the following:

a. Upon receipt of a complaint in proper form, review the complaint to determine whether the complaint is unjustified, frivolous, patently unfounded or fails to state facts sufficient to invoke disciplinary jurisdiction. The board of ethics shall be empowered to collect evidence and information concerning any complaint and to add the findings and results of its investigation to the file containing such complaint;

b. Upon completion of its review and/or investigation of a complaint, the board at a public meeting may dismiss those complaints which are unjustified, frivolous, patently unfounded or which fail to state facts sufficient to invoke disciplinary jurisdiction. Provided, however, that a rejection of such complaint by the board of ethics shall not deprive the complaining party of any action he might otherwise have at law or in equity against the respondent. A rejection shall prevent refiling of a complaint regarding the same subject(s) and alleged perpetrator(s) for the same offense;

c. Admonish, formally reprimand, publicly censure, any complaining party that files an unjustified, frivolous, patently unfounded or factually insufficient complaint;

d. Forward an order to the board of commissioners; or

e. Hold a public hearing within 60 days after the complaint was received.

(4) *Parties right.* At any hearing held by the board of ethics, the official who is the subject of a complaint shall have the right to written notice of the allegations at least ten business days before a hearing, to be represented by counsel, to hear and examine the evidence and witnesses and to present evidence and witnesses in opposition or in extenuation according to the procedures contained in subsection (6) of this section.

(5) *Advisory opinions.* When any official has a doubt regarding the applicability of any provision of this chapter to a particular situation, or regarding the definition of its terms, he may apply in writing or verbally during a public meeting to the county attorney for an advisory opinion. The advisory opinion shall be written unless it is given verbally during a public meeting, and may be provided directly to the requestor of such opinion. Nothing in this chapter shall be construed to prohibit a request for an informal opinion by any public official from the county attorney regarding a potential conflict of interest. Neither a request for an informal opinion, nor the making of a statement concerning a potential conflict of interest made by a member of the

governing body in the course of abstaining from voting shall create a presumption or inference that a public servant actually has a personal interest in the matter about which the opinion was requested.

(6) *Hearing procedures.*

a. At the hearing the conduct of the parties shall be dignified both on and off the record.

b. Misconduct before the board may be grounds for summary exclusion from the hearing. The hearing is intended to receive evidence either to refute or to substantiate specific charges. It shall not be a forum for discussion of extraneous or irrelevant matters having no bearing on the charges, and the alleged misconduct of others who may have escaped discipline in the past shall serve as no defense. All parties at action and witnesses shall be given ample time and opportunity to develop points, subject to the discretion of the board.

c. It should be recognized that the board will be composed of private citizens. Accordingly the board may not follow established legal procedures as might be expected in a court of law. However, in taking testimony and in considering the evidence, the board shall follow accepted legal procedure insofar as is practicable but shall not be bound by the technical rules of evidence observed in courts of law. The board may decline to listen to numerous character witnesses or numbers of witnesses testifying to identical facts.

d. The chairperson of the board of ethics shall conduct the hearing.

e. The hearing shall be recorded and the county clerk shall prepare a written summary of the hearing. The complainant and/or respondent may provide a court reporter at their expense for a verbatim transcript of the hearing, if so desired. The county clerk, or their designee shall take minutes of the hearing, specifically including the name of the board members who make any motions, the board members who second any such motions, and the names of the individuals on the board and how each voted. This written report shall be presented to the board of commissioners at the conclusion of the board's proceedings.

f. Three members of the constituted board shall be required to conduct the hearing. The ethics board may, before the hearing and upon ten days' notice to all parties, approve regulations governing conduct of ethics board hearings so long as such regulations do not conflict with this article.

g. The person who filed the complaint ("complainant") shall present his case to the board first.

h. All documentary evidence which is anticipated to be submitted to the board at the hearing by either the respondent or the complainant, and the names, with telephone numbers, of all individuals expected to present testimony to the board on behalf of either the respondent or complainant, must be given to the county clerk and the opposing party at least ten days in advance of the hearing. This requirement shall not apply to evidence used solely for purposes of cross-examination or rebuttal. The failure of a party to adhere to this rule shall preclude such party from tendering such evidence or individual's testimony at the hearing through any form. The respondent, complainant, and the public shall be entitled to see all such lists which are placed on file with the county clerk.

i.

The board may compel the production of any document in the possession of the county and subject to the Open Records Act, O.C.G.A. title 50, ch. 18, art. 4 (O.C.G.A. § 50-18-70 et seq.) and the testimony of any county employee. Where the board compels any such document or testimony after a hearing has commenced a continuation shall be provided so that such order can be complied with.

j. Neither party shall have the right to require depositions of any individual, including the opposite party.

k. The complainant's evidence must prove that respondent is guilty of the offense charged by the evidentiary standard commonly referred to as "preponderance of the evidence."

l. Each witness presented by the complainant, and including the complainant, shall be subject to cross-examination by the individual accused of the ethical violation ("respondent") or such person's representative.

m. At the conclusion of the complainant's case, the respondent shall be entitled to move for dismissal based on insufficient evidence on the part of complainant's case. If respondent makes such a motion and the board, by majority vote, agrees to dismiss the complaint, the hearing shall be terminated at this point. If either the respondent fails to make such a motion, or, if the board decides by majority vote to overrule respondent's motion, the hearing shall continue. The board may also direct a decision in favor of the respondent upon the board's own initiative.

n. Respondent shall then be entitled to present his evidence to the board.

o. Respondent is not required to testify. The absence of respondent's testimony shall not be viewed by the board as an admission of any sort.

p. If respondent testifies, then respondent shall be subject to cross-examination by complainant. All other witnesses who testify in the respondent's case shall be subject to cross-examination by complainant.

q. All persons who testify before the board, shall be placed under oath, by either the chairperson or a person designated by the chairperson.

r. At the conclusion of respondent's case, the complainant may offer rebuttal evidence only to those items presented in respondent's case. At the conclusion of complainant's rebuttal, respondent shall be entitled to offer rebuttal evidence only to those matters presented in complainant's rebuttal case.

s. During the course of testimony and at the conclusion of all the testimony and closure of all of the evidence, the board members may ask questions of any of the individuals who testified before the board.

t. At the conclusion of all questions by parties and board members, the chairperson shall end the hearing and permit the board to deliberate in public. If the board decides by majority vote that additional evidence is needed to make a decision, the board shall have the authority to require either the complainant or respondent to submit additional evidence at a continuation of the hearing which must be held no later than 45 days after the date of the initial hearing. The board has no authority to continue the hearing past this 45-day deadline.

u. Following the conclusion of any additional evidence received at the continued hearing, the board shall continue to deliberate. When deliberations are concluded, the chairperson shall call for a vote. The board may vote immediately after deliberations are concluded or they may continue the

meeting for up to two weeks when a public vote must be taken. The board's first vote must be whether the respondent violated the ethics code as charged by the complainant. If, by majority vote, the board rules that the respondent did not violate the ethics code as charged by the complainant, then the matter is concluded. If the board, by majority vote, concludes that the respondent did violate the ethics code as charged by the complainant, then the board must make a second decision by majority vote. The second decision involves the form of penalty. The board shall have six options of penalty which include:

1. No admonishment and no further action;
2. A public reprimand and admonishment not to violate the ethics code in the future;
3. Formal reprimand;
4. Public censure;
5. Recommendation for termination, resignation, or recall; or
6. Recommendation of prosecution in the state court of the county.

v. The complainant may withdraw his complaint at any time without the approval of the board.

w. An order will be generated by the board and submitted to the board of commissioners for inclusion in the minutes within 15 days of the completed hearing.

(d) *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 the 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. The court shall hold unlawful and set aside 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 of discretion, unsupported by substantial evidence when the record is considered as a whole; or

g. Otherwise contrary to law.

(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.

*(Code 1992, § 2-213; Ord. No. 2010-10, § 1, 11-18-2010)*

### Sec. 2-207. Penalties.

County officials are subject to the following penalties and action for breach of ethics:

(1) Written warning or reprimand;
(2) Cancellation of the contract or rejection of the bid or offer;
(3) Recovery of the value transferred or received; and/or
(4) Debarment or suspension from award of county contract for a period of up to three years.

*(Code 1992, § 2-214; Ord. No. 2010-10, § 1, 11-18-2010)*

### Sec. 2-208. Compliance with applicable laws.

No officer or official shall engage in any activity or transaction that is prohibited by any law, now existing or hereafter enacted, which is applicable to him by virtue of his office.

*(Code 1992, § 2-215; Ord. No. 2010-10, § 1, 11-18-2010)*

### Secs. 2-209—2-239. Reserved.

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FOOTNOTE(S):

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***State Law reference—*** *Ethics in government, O.C.G.A. § 21-5-1 et seq.* *(Back)*