

ETHICS CODES



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2020 KACo Leadership Institute

ETHICS CODES

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STUDIES

Reform or Resistance? Local Government Responses to State-Mandated Ethics Reform in Kentucky, Publius: The Journal of Federalism 33:2 (Spring 2003).

Richard C. Fording, University of Kentucky

Penny M. Miller, University of Kentucky

Dana J. Patton, University of Kentucky

Local Government Ethics in South Carolina, A Pilot Study of Perceptions and Practices (2012).

Tracy Smith, Clemson University

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WHY?

Public Trust/Negative Impact on Governance

Less public participation/Fewer qualified candidates for office

Economic Impact

Potential negative impact on prospective business clients

State Oversight

Auditor Ed Hatchett, Jr. 2000

“Local Government Ethics Codes and Boards: August 2000 Performance Audit”

Auditor Crit Luallen Mid-2000s

Auditor Mike Harmon 2020

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Public trust is the most important asset of government because it provides reassurance to the citizens that the organization is acting in the best interest of the community.

Over time, with cable networks and the constant news cycle, even *small ethics infractions can become big stories*. As previously stated, this can degrade the public trust in government and leads citizens to question the intentions of public officials.

...ethics complaints filed against public officials quadrupled in Florida from 1974 to 1990. Multiple explanations are provided as to why this may have occurred; actual increase in misconduct by public officials, *more informed citizens* regarding the Florida Ethics Commission, and overall growth in the state's population (Menzel & Benton, 1991).

A study recently completed by the Ethics Resource Center (2007) found that when a well-implemented ethics and compliance program is coupled with a strong ethical culture in a government organization, misconduct decreases by 60 percent and reporting increases by 40 percent. These statistics suggest the success of formal ethics standards and provide a good foundation for further research.

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In addition to violating the trust of the electorate, unethical behavior by government officials can have deleterious effects on democratic governance. Corrupt or unethical behavior by elected officials might discourage citizen participation because some citizens will not wish to be associated with malfeasance. Perhaps of equal concern, the quality of candidates for office might suffer because the most highly qualified individuals might shun public service if the government is viewed as corrupt.

Reform or Resistance?

*Local Government Responses to State-Mandated
Ethics Reform in Kentucky*



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South Carolina

Centralized

South Carolina State Ethics Commission

Applicable to State and Local Governments/Employees

North Carolina

Decentralized

UNC School of Government

Statute

- (1) The need to obey all applicable laws regarding official actions taken as a board member.
- (2) The need to uphold the integrity and independence of the board member's office.
- (3) The need to avoid impropriety in the exercise of the board member's official duties.
- (4) The need to faithfully perform the duties of the office.
- (5) The need to conduct the affairs of the governing board in an open and public manner, including complying with all applicable laws governing open meetings and public records.

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THE 1990s LEGISLATIVE SCANDALS

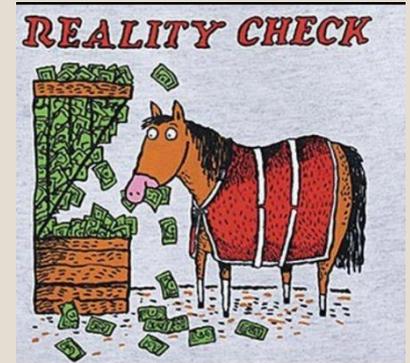
1992 Operation Boptrot

Bribery Scandal—Multiple Federal Indictments/
Convictions

1992 Executive Branch Code of Ethics

1993 Legislative Branch Code of Ethics

1994 Local Government Ethics Requirements



1996 Downey Scandal

Sex/Prostitution Scandal—Federal Indictment/Conviction
Shined Additional Light on Ethics Issues

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KRS 65.003 Codes of ethics for city, county, charter county, urban-county government, and consolidated local government officials and employees -- Codes of ethics for boards, officers, and employees of special purpose governmental entities -- Interlocal agreements -- Delegation of council's subpoena power to investigate code of ethics violations.

History: Amended 2017 Ky. Acts ch. 150, sec. 7, effective June 29, 2017. -- Amended 2015 Ky. Acts ch. 17, sec. 4, effective June 24, 2015. -- Amended 2013 Ky. Acts ch. 40, sec. 10, effective March 21, 2013. -- Amended 2010 Ky. Acts ch. 117, sec. 46, effective July 15, 2010. -- Amended 2007 Ky. Acts ch. 47, sec. 40, effective June 26, 2007. -- Amended 2002 Ky. Acts ch. 291, sec. 1, effective July 15, 2002; and ch. 346, sec. 22, effective July 15, 2002. -- Amended 1998 Ky. Acts ch. 69, sec. 29, effective July 15, 1998. -- Amended 1996 Ky. Acts ch. 214, sec. 1, effective July 15, 1996. -- Created 1994 Ky. Acts ch. 16, sec. 1, effective July 15, 1994.

NINE VERSIONS

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DOES IT APPLY TO YOU?



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The governing body of each city, county, urban-county, consolidated local government, and charter county, shall adopt, by ordinance, a code of ethics which shall apply to all elected officials of the city, county, urban-county, consolidated local government, or charter county, **and to appointed officials and employees of the city, county, urban-county, consolidated local government, or charter county government, or agencies created jointly, as specified in the code of ethics...** Candidates for the local government elective offices specified in this subsection shall comply with the annual financial disclosure statement filing requirements contained in the code of ethics.

The boards, officers, and employees of **special purpose governmental entities** (SPGE) shall be subject to a code of ethics as provided in KRS 65A.070. As used in this section, special purpose governmental entity has the same meaning as in KRS 65A.010.

KRS 65.003

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- (1) (a) The board, officers, and employees of each special purpose governmental entity shall be subject to the code of ethics of the establishing entity in which the special purpose governmental entity's principal business office is located.

(b) If the principal business office is located in more than one (1) establishing entity, the board of the special purpose governmental entity shall select one (1) of the applicable codes of ethics that will apply.

(c) If there is no establishing entity, the board, officers, and employees of the special purpose governmental entity shall be subject to the code of ethics of the county in which the special purpose governmental entity's principal business office is located.
- (2) The governing body of a special purpose governmental entity may adopt ethics provisions that are more stringent than those of the establishing entity in which its principal business office is located. If more stringent provisions are adopted, the governing body of the special purpose governmental entity shall, within twenty-one (21) days of the adoption of the provisions, deliver a copy of the provisions to the DLG and the establishing entity. Any subsequent amendments shall also be delivered to the DLG and the establishing entity within twenty-one (21) days of adoption. The DLG shall include any documents provided under this section as part of the public records and lists maintained under KRS 65.003(5)(a).“

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WHAT DOES IT MEAN?

1. Counties and cities have to have ethics codes that apply to elected officials.
2. SPGEs shall be subject to the code of ethics of the establishing entity.
3. The ethics codes may apply to appointed officers and employees at the government's discretion.

What does this mean for SPGE non-elected board members and staff where the establishing entity ethics code is inapplicable to non-elected officers and staff?
4. Candidates for office have to comply with the financial disclosure statement requirement.

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WHAT HAS TO BE IN AN ETHICS CODE?

1. Standards of Conduct
2. Annual Financial Disclosure Statements
 - Elected officials
 - Candidates for office
 - Appointed officials and employees as designated
 - SPGEs utilize the establishing entity requirements
3. Nepotism Policy
4. Enforcement Mechanism

WHAT DOES THAT MEAN?

The fiscal court has the discretion to enact an Ethics Code that reflects the best interests of the county.

While every Ethics Code has to address the four statutory mandates, each county has the ability to determine how to address those mandates.

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ENFORCEMENT



1. An individual or group must be designated
2. Duties include maintenance of financial disclosure statements
3. Receipt of complaints
4. Issuance of opinions related to the ethics code
5. Investigation of possible violations
6. Imposition of any penalties referenced within the code of ethics

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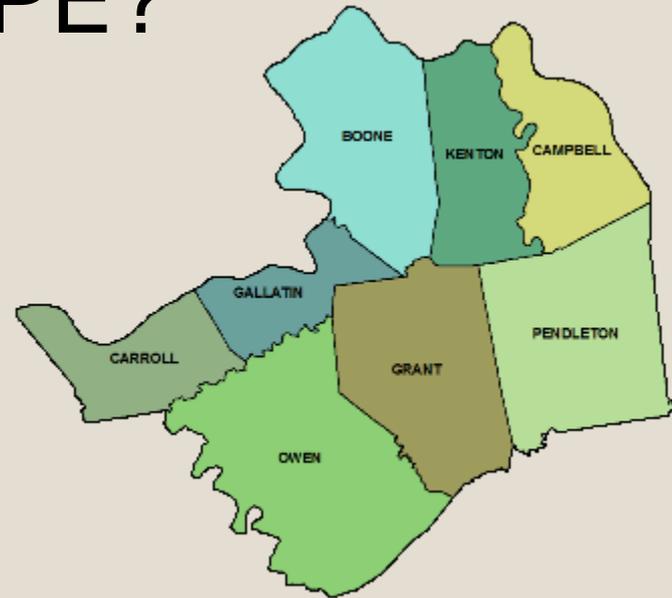
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CAN AN ETHICS CODE BE REGIONAL IN SCOPE?

An Interlocal Cooperation Agreement is required.

1. Content
2. Administration
3. Enforcement

Northern Kentucky Regional Ethics Authority



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WHERE DO THEY GO AND CAN WE CHANGE THEM?

Within 21 days of the adoption of the ordinances, the ordinances are to be filed with the KY Department for **Local Government**.

Within 21 days of amendment, the amended ordinance is to be filed with DLG, along with proof of publication.

WHERE CAN ETHICS CODES BE ACCESSED?

http://kydlgweb.ky.gov/Legal/16_EthicsSearch.cfm

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WHAT HAPPENS IF WE ABOLISH OUR ETHICS ORDINANCE, OR IF ALL FOUR ISSUES ARE NOT ADDRESSED?

1. DLG is required by law to notify the Commonwealth, including the ADDs.
2. These agencies stop delivering services and payments.
3. Services and payments may be restarted once the local government is in compliance.



ETHICS CODES EXAMPLES

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DEFINITIONS

“Family Member”

- #1 spouse, parent, child, brother, sister, grandparent, grandchild, father-in law, mother-in-law, brother-in-law, sister-in-law, daughter-in-law, son-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister
- #2* spouse, child, parent, sibling, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, grandparent, or grandchild
- #3 spouse, an unemancipated child residing in an individual's household, or a person claimed by the individual or individual's spouse as a dependent for tax purposes

“Rule of Necessity”

- #1^ the county government, agency or district may make or enter into a contract in which an officer or employee or family members or a business associate has an economic interest if:
1. The nature of the transaction and the nature of the interest is publicly disclosed on record prior to the time it is engaged in, and;
 2. A specific finding is made by the county government, agency, or district and entered on the official record of the proceedings of the governing body that, notwithstanding the conflict, it is in the best interests of the local government because of limited supply, price, or documented emergency.

*No definition section.

^ Depending upon the officeholder, KRS may prohibit this Rule.

ETHICS CODES EXAMPLES

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DEFINITIONS

“County Government Employee”

- #1 any person, whether compensated or not, whether full-time or part-time, employed by or serving the county government, but shall not mean any employee of a school district or school board
- #2* None
- #3 any person, whether compensated or not, whether full-time or part-time, employed by or serving the county government or county government agency who is not a county government officer, but shall not mean any employees of school district or school board

“County Government Officer”

- #1 any person, whether compensated or not, whether full-time or part-time, who is elected to any county government office; any person who serves as a member of the governing body of any county government agency or special taxing or non-taxing district
- #2 None
- #3 Any person, whether compensated or not, whether full-time or part-time, who is elected to any county government office; or any person who serves as a member of the governing body of any county government agency or special taxing or nontaxing district, but shall not mean any officer of a school district or school board.

ETHICS CODES EXAMPLES

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FINANCIAL DISCLOSURE

- A. The following individuals shall be required, as defined in the body of this document, to file a financial disclosure statement:
1. Elected officers annually;
 2. Candidates for elected office within 21 days of filing;
 3. Management personnel such as chief deputies, department heads - as potential conflicts of interest arise;
 4. Officers and employees with procurement authority exceeding five hundred dollars (\$500) per purchase - as potential conflicts of interest arise;
 5. Members of boards and commissions to which this Code of Ethics applies- as potential conflicts of interest arise.
- B. The financial disclosure statement shall be on a form setting forth the above (a sample attached hereto). The financial disclosure statement shall be filed annually by elected officials no later than July 1.
- C. Candidates shall be required to file the statement no later than twenty-one (21) days after the filing date or the date of nomination.
- D. Newly-appointed officers, Chief Deputies, Department Heads, Board and Commission members shall be required to file their statement of financial disclosure no later than twenty-one (21) days after the initial discovery of said potential conflict of interest.

ETHICS CODES EXAMPLES

FINANCIAL DISCLOSURE

- E. The financial disclosure statement for elective officers and candidates or an official or an employee that has an interest in matters currently (or expected to be) before the county government shall include the following information:
1. Name of filer;
 2. Current business address, business telephone number and home address of filer;
 3. Title of the filer's public office or office sought;
 4. Occupations of filer and spouse;
 5. Positions held by the filer, spouse, and minor children in any business organization or nonprofit entity from which the filer, spouse, and minor children received compensation in excess of \$10,000 during the preceding calendar year, and the name, address, and telephone number of the business organization or nonprofit entity;
 6. Name, address, and telephone number of each source of income of the filer, spouse, and minor children which exceeded \$10,000 during the preceding calendar year;
 7. Name, address, and telephone number of each business organization in which the filer, spouse, and minor children had an interest of ten thousand dollars (\$10,000) at fair market value or five percent (5%) ownership interest or more during the preceding year;
 8. The location and type (commercial, residential, agricultural) or all real property, other than the filer's primary residence, in which the filer, spouse, and minor children had an interest of ten thousand dollars (\$10,000) or more during the past year;
 9. Any officer or employee, or any member of his family (as defined in Section I of this document), of the county government who shall have any private financial interest, directly or indirectly, in any contract or matter pending before or within any department or agency of the county government shall disclose such private interest to the fiscal court or the local ethics commission;
 10. Any county judge/executive, magistrate, sheriff, jailer, coroner, constable, county attorney, county clerk, or member of his family, who has a private interest in any matter pending before the court shall disclose such private interest on the records of the court and shall disqualify himself from participating in any decision or vote relating thereto;
 11. Any officer or employee, or a member of his family, of an independent agency or special district to which this code of ethics applies who shall have any private financial interest, directly or indirectly, in any contract or matter pending before or within such independent agency or special district shall disclose such private interest to the governing body of such agency or district.

ETHICS CODES EXAMPLES

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Financial Disclosure

- F. Each statement shall be signed and dated by the individual filing the statement of financial interest. Signing a fraudulent statement shall be a Class A misdemeanor.
- G. All financial disclosure statements shall be open records. Each individual or organization requesting to view financial disclosure statements shall complete a form giving full name, address, telephone number and organization/individual represented if other than individual making request. One copy of this form shall be attached to the statement so requested and shall become a part of the record.
- H. The financial disclosure statements shall be filed with the County Ethics Commission. The financial disclosure statements shall be maintained by the County Clerk.

ETHICS CODES EXAMPLES

STATEMENT OF FINANCIAL DISCLOSURE

TO BE FILED NO LATER THAN JULY 1 OF EACH YEAR, COMPLETED THROUGH DECEMBER 31 OF THE PRECEDING YEAR.

Use additional sheets if necessary. Number of additional sheets attached: _____

TYPE OF STATEMENT: ANNUAL CANDIDATE POTENTIAL CONFLICT OF INTEREST

NAME: _____

BUSINESS ADDRESS: _____

BUSINESS TELEPHONE: _____

HOME ADDRESS: _____

TITLE OF PUBLIC POSITION OR OFFICE SOUGHT: _____

OTHER OCCUPATIONS OF FILER: _____

OCCUPATIONS OF SPOUSE: _____

Positions held by filer in any business, partnership, corporation for profit, or corporation not for profit from which the filer receives compensation in excess of \$10,000 during the preceding year and the name of the business, partnership, or corporation:

Positions held by filer's spouse in any business, partnership, corporation for profit, or corporation not for profit from which the filer's spouse receives compensation in excess of \$10,000 during the preceding year and the name of the business, partnership, or corporation:

Name and addresses of all businesses, investments, or securities in which the filer, filer's spouse, or filer's minor children had at any time during the reporting year an interest of \$10,000 at fair market value or 5% ownership interest or more:

STATEMENT OF FINANCIAL DISCLOSURE

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Sources and form of gross income of the filer which exceeded \$10,000 during the preceding calendar year (list sources by name, address, and telephone number):

Sources and form of gross income of the filer's spouse and minor children which exceeded \$10,000 during the preceding calendar year (list sources by name, address, and telephone number):

A designation as commercial, residential, or rural, and the location of all real property other than the filer's primary residence, in which there is an interest of \$10,000 or more held by the filer, filer's spouse, or filer's minor children:

Do you or any member of your family (as defined in Section 1) have any private financial interest, directly or indirectly, in any contract or matter pending before or within any department or agency of the county government or independent agency or special district?

YES _____ NO _____ If YES, explain: _____

I certify that the above information is true and correct to the best of my knowledge. I understand that signing a fraudulent statement is a Class A misdemeanor. I also understand that the information contained in this statement is considered an open record.

(Date)

(Signature of Applicant)

ETHICS CODES EXAMPLES

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NEPOTISM

- #1 After the effective date of this ordinance, a family member of a county officer *shall not be initially employed or appointed to a position in a governmental agency in the same county in which the officer serves, unless reviewed by the Ethics Commission with an opinion presented to the Fiscal Court.* This provision shall not apply to a public officer's family member who, after the effective date of this ordinance, on the date of the officer's election or appointment, has been employed for *at least six (6) months in the same county in which the officer serves.*
- #2 After the effective date of this ordinance, a spouse, child, parent, sibling, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, grandparent, or grandchild of a county official *shall not be initially employed or appointed to a position in a county government agency in the same county in which the elected official serves.* This provision shall not apply to an elected official's spouse, child, parent, sibling or other family member who, on the date of the official's election or appointment, *has been employed for at least six (6) months in the same county in which the official serves.*
- The prohibitions in this section shall not apply to any relationship or situation created by marriage after the effective date of this section, provided, however, that such relationship shall be reported to the Ethics Commission which may recommend lateral transfer, substitute supervision, or other personnel action to eliminate or ameliorate the adverse effects of the relationship.
- #3 No county government officer or county government employee shall act in his/her official capacity to hire or cause to be hired any member of his/her immediate family *at an hourly pay rate or with benefits in excess of any other employee* with similar job duties, responsibilities and qualifications requirements.

ETHICS CODES EXAMPLES

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ETHICS COMMISSION

Membership

- #1 Three members. No elected officials. One public official maximum. Chair is a citizen member. Vacancies filled within 60 days. After 60 days, remaining members choose the third member. Staggered four year terms.
- #2 Five members. One public official maximum. Chair is a citizen member. Joint commission. One member by the fiscal court, one by each of the two cities, two jointly by the executive authority with legislative body approval. Staggered four year terms.
- #3 Five members. Appointments by the fiscal court from lists submitted by the county clerk, county attorney, jailer, sheriff and one local citizen's group. Four year terms. Maximum of two consecutive terms.

Powers and Procedures

- #1 Yes. Detailed. Advisory opinion power.
- #2 Left to Commission to establish procedures. Advisory opinion power.
- #3 None listed.