

## ETHICS COMMISSION POLICIES AND PROCEDURES

### PREAMBLE

The Charter of the Atlanta Independent School System provides for the creation of an Ethics Commission. Pursuant to Section 3-106(c), the Ethics Commission shall have the following duties and responsibilities:

- To receive and hear complaints of violations of standards established by the charter of the Atlanta Independent School System, the Board Code of Ethics (BH-E), or applicable state or federal law (“Ethics Standards”);
- Upon receipt of a complaint, to conduct investigations as it deems necessary to determine whether any Board member has violated any Ethics Standards;
- To take appropriate action as provided in this policy;
- To request funding from the Board in order to conduct a hearing and to use any funds provided to conduct hearings;
- To establish policies and procedures for conducting meetings and hearings of the Commission; and
- To make recommendations to the Board for the adoption of any revisions or amendments to the Board Code of Ethics Policy, Conflicts of Interest Policy and other related policies.

### Defined Terms:

*Business* means any corporation, partnership, proprietorship, organization, self-employed individual or any other entity operated for economic gain, whether professional, industrial, or commercial, or other entities, which for purposes of federal income taxation are operated as non-profit organizations.

*Contract* means any written or otherwise established agreement, lease, claim, account, or demand against any person, to which the School System is an actual or otherwise interested party.

*Ethics Standards* means the standards for Board Members outlined in the Charter (3-101, 3-103, 3-108), Board Policy, and state and federal law.

*Gifts and Favors* means anything of value given by or received from a Prohibited Source.

*Good and Sufficient Cause* means evidence sufficient to lead a person of ordinary caution and prudence to believe or entertain a strong suspicion that a violation of the

Ethics Standards has been committed and that the Board Member committed or caused the violation.

*Immediate family* means the Board Member and the spouse of or an individual in a certified or committed relationship or legally recognized domestic partnership with a Board Member, as well as the parents, children, brothers, and sisters of a Board Member. .

*Intent* means the state of mind in which a person seeks to accomplish a given result through a deliberate course of action.

*Intent to influence* means to deliberately and willfully act in a manner chosen and designed to exert power over others, or to modify or affect the actions of others, even in a gentle, subtle, or gradual fashion.

*Interest* means any financial interest or personal interest or any other direct or indirect pecuniary or material benefit held by or accruing to a Board Member as a result of a contract or transaction which is or may be the subject of an official act or action by or with Atlanta Public Schools. Unless otherwise provided, the term “interest” does not include any remote interest. For the purposes of this Policy, and without being limited hereto, a Board Member shall be deemed to have an interest in matters and transactions involving:

- (a) any person in his or her immediate family;
- (b) any person with whom a contractual relationship (either written or implied) exists, whereby he or she may receive any payment or other benefit, including any agreement for employment; and
- (c) any business in which he or she is a director, officer, employee, prospective employee, or substantial shareholder.

*Financial interest:* means any interest which shall, directly or indirectly, yield a monetary or other material benefit to the Board Member, or to the immediate family of the Board Member;

*Personal interest* means any interest arising from relationships between the Board Member and members of his or her immediate family or from associations with any business, whether or not a financial interest is involved.

*Prohibited Source* means any person, business, or entity that the Board member knows or should know:

- (a) is seeking official action from the School System; or

- (b) is seeking to do or is doing business with the School System;
- (c) represents a person who is seeking official action from the School System or who is seeking to do or is doing business with the School System; or
- (d) has interests that may be affected by the performance or non-performance of official duties by the Board Member; or
- (e) is a registered lobbyist in accordance with state law.

## **I. Appointment of Ethics Commission Members**

A. The seven members of the Ethics Commission shall be recommended by the following community organizations and appointed by the Board in this order until seven (7) members are appointed. Each organization will have the opportunity to refill its seat if the Ethics Commission member resigns.

1. Atlanta Bar Association
2. Gates City Bar Association
3. Institute of Internal Auditors, Atlanta Chapter
4. Georgia School Boards Association
5. Atlanta Council of PTAs
6. Georgia Chamber
7. Emory University Center for Ethics
8. Georgia Partnership for Excellence in Education
9. Georgia School Superintendents Association

B. A person is eligible to serve as a member of the Ethics Commission if the person, while serving:

1. Resides in the city of Atlanta, Georgia and is a registered voter.
2. Is not an employee of the Atlanta Board of Education or relative (as defined in the Board Code of Ethics [BH-E]) or business associate of any member of the Board.
3. Does not hold any elected or appointed office and is not a candidate for any office of the United States, the state of Georgia, or the city of Atlanta.
4. Has not provided a financial contribution to (either directly or by an immediate family member as defined in the Board Code of Ethics [BH-E]) or worked in the political campaign of any member of the board.

## **II. Operations of the Ethics Commission**

A. The Ethics Commission shall elect one (1) member to act as chairperson for a term of two (2) years, or until a successor is duly elected. The chairperson shall have the same voting rights as the other Commission members. The Ethics Commission shall also elect one (1) member to act as vice chairperson for the

same team. If the office of chairperson or vice chairperson is vacated in any manner before the expiration of the term, the Commission shall elect a temporary successor.

- B. The Board may remove a Commission member for neglect of duty, misconduct in office, a disability rendering the member unable to discharge the powers and duties of the office as specified herein, or for no longer qualifying pursuant to Section I.B of this policy.
- C. There shall be no scheduled regular monthly or bi-monthly meetings of the Commission. A majority of Commission members may call a meeting, which shall be open to the public. The purpose of the public meeting shall be to hear and dispose of complaints or to render advisory opinions as set forth in this policy.
- D. Five members of the Ethics Commission shall constitute a quorum.
- E. The Ethics Commission shall be governed by and subject to this policy. No official action, except as outlined in this policy, shall be taken by the Commission.
- F. If a Commission member has a conflict of interest involving any matter currently before the Commission or must otherwise disqualify himself/herself under this policy or by law, the remaining Commission members shall choose by majority vote an alternate person who meets all the qualifications set out above to hear the complaint.
- G. If the workload requires staff assistance, independent staff support (up to \$6,000 per year) will be secured by the Board's executive assistant.
- H. The Ethics Commission members will receive appropriate training upon taking office.

### **III. Advisory Opinion**

The Ethics Commission may render an advisory opinion based on prospective, real or hypothetical sets of circumstances when requested in writing by any Board Member or any citizen eligible to vote in the City of Atlanta. Such written requests shall fully set forth the circumstances to be reviewed by the Ethics Commission. The advisory opinions of the Ethics Commission shall be made available to the public and will be available on the Ethics Commission website.

#### **IV. Complaint and Investigation Procedure:**

- A. Any citizen eligible to vote in the City of Atlanta or employee of the Atlanta Public Schools may file a complaint alleging a violation of any of the provisions of the Ethics Standards by filing it with the Board's executive assistant.
  - 1. To be valid, the complaint shall be written and verified under oath. The complaint shall name the Board member against whom the complaint is lodged and shall contain a clear and concise statement of act(s) upon which the complaint is based along with an allegation that such facts constitute one or more violations of Ethics Standards under the jurisdiction of the Ethics Commission.
  - 2. An Ethics Complaint form shall be available to guide complainants. Use of the form is suggested but not mandatory.
  
- B. The Board's executive assistant shall immediately deliver the complaint to the chairperson of the Ethics Commission or his/her designee. A copy of the complaint shall also be immediately forwarded by certified and regular mail to the Board member against whom the complaint was filed, along with a copy to the Superintendent and General Counsel.
  
- C. A complaint must be filed within six (6) months of the date of the alleged violation or, in the case of concealment or nondisclosure, within six (6) months of the date the alleged violation should have been discovered after due diligence.
  
- D. An affirmative vote of three Commission members is required to initiate an investigation.
  - 1. The investigation will be completed within sixty (60) days of receipt of a Complaint.
  - 2. During the investigation, the Commission has the power to secure necessary documents, which will be requested by the Commission's counsel.
  - 3. Board Members must respond in writing to a request from the Ethics Commission within the time frame specified.
  - 4. The Superintendent shall ensure that APS employees cooperate with any Commission investigation.
  - 5. The investigations shall not be open to the public.
  - 6. Although the Commission shall not receive live testimony under oath as part of the preliminary investigation, it may conduct voluntary interviews.
  - 7. The Commission may request sworn affidavits or written comments from individuals to assist in the investigation of any Complaint.
  - 8. If at the conclusion of an investigation, five members of the Commission vote that no good and sufficient cause exists for a determination that a violation has occurred, it may dismiss the complaint and shall report said dismissal to the Board.

9. If at the conclusion of an investigation, five members of the Commission vote that good and sufficient cause exists that a violation of the Ethics Standards may have occurred, a formal public hearing shall be conducted.

**V. A Formal Hearing**

- A. The Commission shall notify the Board member charged with a violation of the date, time, and place for the hearing by certified and regular mail, which hearing shall not be sooner than ten business days following the notice of the same.
- B. The Commission is authorized to issue subpoenas on its own behalf for the appearance of any party and/or for documents as provided by law.
- C. Subject to its discretion, the Commission may issue a subpoena on behalf of any party for the appearance of any party and/or for documents as provided by law.
- D. At the discretion of the Chair, the hearing will be presided over by a member of the Ethics Commission, or by a Hearing Officer appointed by the Ethics Commission.
- E. The hearing shall be recorded by a certified court reporter.
- F. At the hearing, the Commission shall hear sworn testimony from all witnesses it deems relevant, in the order prescribed by the Ethics Commission. The Ethics Commission can also receive and review any documents as provided by law.
- G. The hearing shall be open to the public and shall comply with all applicable state and federal open meetings and open records laws.
- H. The complainant and Board Member have the right to hire counsel to represent them during the proceedings at their own expense.
- I. The complainant, Board Member, or counsel shall have the right to direct and cross-examine witnesses and introduce documents.
- J. For purposes of these proceedings hearsay is admissible.
- K. After the hearing of the evidence, the commission may deliberate and review the evidence in executive session. Upon conclusion of the deliberation, the Commission shall issue written findings of fact and conclusions of law.

**VI. Commission Actions**

A. The Commission will take, but shall not be limited to taking, one or more of the following actions:

1. Find that the Board member did not violate an Ethics Standard, and the Commission may recommend that the Board reimburse the accused Board member of up to \$2500 in actual attorney's fees and costs;
2. Censure or reprimand the Board member;
3. To the extent applicable, file criminal charges against the Board member; or
4. Recommend removal of the Board member. The Commission must recommend the removal of a Board member if it finds that the Board member committed any one of the actions specified in Section 3-106 (g)(1)-(7) of the Charter. If the Commission recommends that a Board member should be removed, the Board member is automatically and immediately suspended from the Board on the date such recommendation is made.

B. The Commission will notify the Board and Board member of its action by sending a certified letter to the Chairperson of the Board and the Board member. Within 30 days receipt of the notice from the Commission, the Board may reject or modify the action of the Commission, but only by a three-fourths vote of the Board.

C. If the Board accepts, by majority vote, the findings of the Commission to remove a Board member, or has not rejected the findings of the Commission within the 30 day period, the Board member is automatically and immediately removed from the Board.