County Ethics Ordinances

An Analysis and Comparison

for

Gwinnett County, Georgia

October 2007
## Table of Contents

Executive Summary .......................................................................................................... 2  
Introduction ....................................................................................................................... 5  
Background and Purpose ................................................................................................. 5  
Methodology ...................................................................................................................... 6  
Ethics Codes Generally ..................................................................................................... 9  
Georgia’s Ethics Laws .................................................................................................... 14  
Gwinnett County’s Ethics Code .................................................................................... 15  
Issues ................................................................................................................................ 16  
  Conflicts of Interest ....................................................................................................... 16  
  Gifts ............................................................................................................................... 19  
  Disclosure and Disqualification .................................................................................... 22  
  Lobbying of Local Officials .......................................................................................... 26  
  Procurement .................................................................................................................. 28  
  Permanent Ethics Body ................................................................................................. 29  
  Incompatible Employment ............................................................................................ 35  
  Unauthorized Disclosure of Confidential County Information .................................... 35  
  Private Use of County Property ..................................................................................... 36  
  Representing Third Parties Against the County ............................................................ 36  
  Ethics Education ........................................................................................................... 37  
  Nepotism ....................................................................................................................... 38  
  Post-Service Restrictions on Employees or Officials ................................................... 39  
  Penalties ........................................................................................................................ 40  
Conclusion ....................................................................................................................... 41  
Appendix A - Gwinnett Ethics Study Interview Questions ......................................... 43
Executive Summary

This study was initiated at the request of the Gwinnett County Board of Commissioners to fulfill a goal adopted by the Commission in planning for 2007. Our hope is that this report brings together valuable and practical information that the county can readily utilize in crafting guiding principles.

An ethical government is often seen by the public as a precondition for making good public policy; political ethics are one basis by which citizens judge official actions. Generally, ethics codes fall into two categories: prohibitive or aspirational. An effective ethics code is directed at providing guidelines for ethical behavior and eliminating opportunities for unethical practices. Among the important elements of an effective governmental ethics code are political commitment, an effective legal framework, clear and comprehensive standards, workable codes of conduct, education and enforcement structures, clear leadership, and an ethics coordinating body.

Gwinnett County’s current ethics ordinance was enacted in the early 1990’s and applies to both county officials and employees. However, interviews revealed that most county officials have only a vague awareness of the county’s ethics ordinance and that only three complaints have been filed under the current ordinance in the 14 years since its adoption. The purpose of this study and report is to provide an analysis of the current ethics ordinance, policies, and procedures in Gwinnett County in comparison to relevant state law and ethics ordinances in comparable counties within Georgia and nationally.

A total of 22 counties, including Gwinnett County, were identified for the study, within and outside the state of Georgia. The ethics ordinances of each of these counties were reviewed and analyzed with regard to the key issues identified for the study. Eight Georgia counties with a mid-decade population over 175,000 were selected for the study:

- Fulton
- Cobb
- Cherokee
- Augusta-Richmond
- DeKalb
- Clayton
- Chatham
- Columbus-Muscogee

Outside the state of Georgia, counties were selected for the study on the basis of population and an effort was made to include counties from across the country with a wide variety of approaches to the regulation of ethics. The 13 selected counties, by state, are:

- California: Kern County and San Francisco City and County
- Colorado: Denver City and County
- Florida: Orange County and Palm Beach County
- Illinois: Lake County
- Kentucky: Lexington-Fayette County and Louisville-Jefferson County
- Maryland: Montgomery County
- New Mexico: Bernalillo County
- Tennessee: Nashville-Davidson County
- Washington: King County and Snohomish County
In addition, codes of ethical conduct from the National Association of Counties (NACo) and a number of state associations of counties were also reviewed.

Faculty from the Carl Vinson Institute of Government conducted interviews with the Gwinnett County Board of Commissioners, the District Attorney, the county administrator, deputy county administrator and the heads of key county departments and divisions using a survey instrument to examine knowledge of and experience with the current county ordinance and its perceived effectiveness and opinions of certain provisions found in the ethics ordinances of other counties.

The report examines 15 specific characteristics identified in the surveyed ordinances and the status of each issue within the counties in the study. (See Tables 1 and 2).

The categories include

1. Conflicts of interest
2. Activity that gives the appearance of impropriety
3. Gifts
4. Disclosure and Disqualification
5. Lobbying of local officials
6. Procurement process
7. Permanent Ethics Board or Commission
8. Incompatible employment
9. Unauthorized disclosure of confidential county information
10. Private use of county property
11. Representation of third parties against the county
12. Nepotism
13. Restrictions on employees or officials after they leave county service
14. Penalties
15. Ethics education

Each of the identified topics is examined through a statement of the issue and an examination of Georgia county ordinances, non-Georgia county ordinances, and the application of the current Gwinnett County ordinance, as well as county official’s perceptions of the issue as indicated in interviews conducted in the county. A more detailed analysis of each topic is found in the report.

The three issues most commonly-addressed in county ethics ordinances are a general prohibition on engaging in an activity that creates a conflict of interest with one’s official county responsibilities, a ban on the receipt of gifts from prohibited sources, and a requirement that outside or conflicting interests be disclosed and that the official or employee disqualify himself from participating in county action affecting such interests. Virtually all of the surveyed counties address these issues, including Gwinnett County. In fact, the Gwinnett County ordinance contains many of the prohibitions and restrictions found in the survey of county ethics ordinances undertaken for this report.
A review of the current Gwinnett County ethics ordinance reveals that the county addresses the majority of the issues identified for the study, with three notable exceptions: a permanent ethics body, lobbying, and ongoing ethics education. A relatively high proportion of other counties within the study have a permanent ethics body and a significant number of those interviewed in Gwinnett County expressed either support for establishment of a permanent body or concern with the current process. On the issue of lobbying, slightly less than a majority of the 13 counties outside the state but only two of the eight Georgia counties address the issue of lobbying county governing authorities. This was a topic on which most of those interviewed expressed strong opinions, either pro or con. Ongoing ethics education was also addressed by six of the 13 non-Georgia counties studied but was not addressed by any Georgia counties studied. Given the level of activity on these issues in other counties and the often intense opinions expressed by those in the county on these three issues, they are worthy of serious consideration if the county seeks to amend its ordinance.

Ethical leadership and a climate of ethics are among the most important factors in determining whether an ethics code is truly effective. Extensive interviews reveal that this is where Gwinnett leadership truly shines. The good news appears to be that Gwinnett County has an excellent reputation for ethical behavior among its citizens and employees, other local governments, businesses, and vendors.
Introduction

Maintaining public trust in the integrity of government is essential to the success of democratic government. The public expects its elected officials and public employees to conduct themselves with integrity while working for the public good. Public trust in the integrity of government is cultivated when individual public servants act with integrity and the public is aware that they do. An ethical government is often seen by the public as a precondition for making good public policy; political ethics are one basis by which citizens judge official actions.

Ethics can be an elusive concept. Behavior may be legal but not ethical. There are many definitions of “ethics,” but the common thread is that it involves a theory or system of moral principles and values and the establishment of rules of conduct for individuals or groups. Many professions such as medicine, law, business, journalism, and public management, as well as service organizations such as the Red Cross, United Way, and Rotary have developed and implemented codes of ethics that provide standards of behavior and principles to be observed regarding moral and professional obligations toward one another, their clients, and society in general.

Ethicists argue that mere adherence to legal strictures does not promote consideration of values, in other words, restrictions alone do not reach fundamental motivations and behaviors. Ethical decisions may be simple, choosing right from wrong, but are often more complex, choosing right from right or wrong from wrong. Just being a good person with high ethical standards may not be enough to handle the tough choices that arise day to day in the workplace. Although ethics is an individual responsibility, a strong culture of ethics with clear leadership combined with an effective legal framework and efficient enforcement mechanisms can help prevent conflicts of interest and resolve those conflicts that do occur. Thus, the primary function of a code of ethics is to provide guidance to employers and employees in ethical dilemmas, especially those that are particularly ambiguous.

Background and Purpose

The purpose of this study and report is to provide an analysis of the current ethics ordinance, policies, and procedures in Gwinnett County in comparison to relevant state law and ethics ordinances in comparable counties within Georgia and nationally. The study identified the following categories of issues:

1. Conflicts of interest
2. Activity that gives the appearance of impropriety
3. Gifts
4. Disclosure and Disqualification
5. Lobbying of local officials
6. Procurement process
7. Permanent Ethics Board or Commission
8. Incompatible employment
9. Unauthorized disclosure of confidential county information
10. Private use of county property
11. Representation of third parties against the county
12. Nepotism
13. Restrictions on employees or officials after they leave county service
14. Penalties
15. Ethics education

Methodology

Selection of comparison counties
A total of 22 counties, including Gwinnett, were identified for this study, both within and outside the state of Georgia. Population was the initial factor used in selecting comparable local governments. Gwinnett County’s phenomenal growth was a significant factor in the selection of comparison counties, since it remains one of the fastest growing counties in the nation. Its population nearly tripled from 165,687 in 1980 to 588,448 in 2000 and the 2005 mid-decade U.S. Census Bureau population estimate for the county was 726,723. The county’s population expansion continues giving it a current estimated population of 751,693 in 2006. For purposes of standardization of comparison populations, this study utilizes the 2005 census estimates of populations of all counties in the study. Of the 22 counties reviewed, seven are consolidated city-county governments, two within the state of Georgia and five in other states (identified with an asterisk).

Eight Georgia counties were selected as comparison counties for the study. Of the selected Georgia counties, three – Augusta-Richmond, Columbus-Muscogee, and Chatham – are located outside the Metropolitan Atlanta area. Gwinnett is one of four Georgia counties with a population in excess of 500,000 and five additional counties have populations over 175,000.
• Fulton County (915,623)
• DeKalb County (677,959)
• Cobb County (663,818)
• Clayton County (267,966)
• Chatham County (238,410)
• Augusta-Richmond (195,769)*
• Columbus-Muscogee (185,271)*
• Cherokee County (184,211)
Outside the State of Georgia, initial county selections were also based on population. Additionally, effort was made to include counties from across the country with a variety of approaches to the regulation of ethics. The following counties outside the state of Georgia were included in the study:

- Kern County, CA (756,825)
- San Francisco City and County, CA (739,426)*
- Denver City and County, CO (557,917)*
- Orange County, FL (1,023,023)
- Palm Beach County, FL (1,268,548)
- Lake County, IL (702,682)
- Lexington-Fayette County, KY (268,080)*
- Louisville Jefferson County Metro Government, KY (699,827)*
- Montgomery County, MD (927,583)
- Bernalillo County, NM (603,562)
- Metropolitan Government of Nashville and Davidson County, TN (575,261)*
- King County, WA (1,793,583)
- Snohomish County, WA (655,944)
The ethics ordinances of each of these 22 counties were reviewed and analyzed with regard to the 15 key issues identified for the study. This report does not attempt to examine policies and procedures of counties that are not contained within the ordinance themselves, though recognizing that these may affect the ultimate implementation of the ordinances studied. The state statutes for the states in which the study counties are located were reviewed to determine their impact on local government ethics ordinances.

**Codes of Ethical Conduct**

Faculty also reviewed the Codes of Ethical Conduct of the National Association of Counties (NACo) and of those states in which survey counties are located. The following state associations have adopted Codes of Ethics that apply to county officials and employees: the California State Association of Counties (CSAC), the Florida Association of Counties (FAC), the Association County Commissioners of Georgia (ACCG), the Kentucky Association of Counties (KACo), and the Washington Association of County Officials (WACO). Most of these codes address elected and appointed officials and employees equally, but those that primarily address county elected officials often also recognize the need to apply such standards to the day to day conduct of appointed officials and employees.

**Interviews**

Faculty from the Carl Vinson Institute of Government conducted interviews with the Gwinnett County Board of Commissioners, the District Attorney, the county administrator, the deputy county administrator, and the heads of 11 key county departments and divisions. The faculty developed a survey instrument (Appendix A) that examined the official’s knowledge of and experience with the processes and perceived effectiveness of the current county ordinance, perception of the county’s ethical climate, and existing or emerging areas of concern relative to the county’s ethics ordinance. Additionally, the interview sought to obtain the thoughts and reactions of these officials to certain provisions found in the ethics ordinances of other local governments.

**Ethics Codes Generally**

Generally, ethics codes fall into two categories: prohibitive or aspirational. Ordinances define a community’s minimum ethical standards. Many, if not most, government ethics codes are compliance codes, specifying activities that are forbidden, establishing a minimum level of acceptable behavior, and containing strong enforcement measures and sanctions. In contrast, aspirational codes seek to express core values and desirable moral qualities and place a greater reliance on creating an organizational culture of voluntary adherence. Effective ethics codes often contain statements of broad principles designed to encourage positive behavior as well as limitations and prohibitions.

It is impossible for a code to cover all possible decisions and actions of individuals serving in the public sector, thus an effective ethics code is directed at providing guidelines for ethical behavior and eliminating opportunities for unethical practices.
Common provisions found in county ethics codes include

- restrictions on the receipt of gifts;
- regulations on outside employment both during and after public service;
- limitations on the holding of financial assets including investments and other income producing property;
- requirements for disclosure of financial assets;
- obligation to disclose conflicts of interest;
- the duty to abstain from participating in any official action affecting personal interests;
- prohibitions against the use of public property for private gain, the unauthorized disclosure of confidential information, and the representation of third parties before or in opposition to the county government;
- regulation of lobbying;
- procurement;
- a permanent ethics body with authority to enforce the ordinance and procedural safeguards built into the investigation and hearing of complaints;
- a clear statement of the penalties for violations; and
- ethics education.

Studies of state ethics statutes and local ordinances have discovered that ethics policies are often adopted in response to a scandal and as a result may be narrowly targeted. A related issue is that such statutes and ordinances may be directed at a particular group of officials or employees and thus may be applied unevenly. Among the important elements of an effective governmental ethics structure identified in the academic literature are political commitment, an effective legal framework, clear and comprehensive standards, workable codes of conduct, education and enforcement structures, clear leadership, and an ethics coordinating body.

Three tables are presented below to give a snapshot of the counties in the study. Tables 1 and 2, examine 15 specific characteristics identified in the surveyed ordinances and the status of each of these issues within the counties in the study. Each of these issues is examined in greater detail in subsequent sections of the report. Table 3 looks at the application of each county’s ethics ordinance to elected county governing authorities, appointed officials, and employees.
Table 1. *A Survey of Selected County Ethics Ordinances – A Matrix of Characteristics*

<table>
<thead>
<tr>
<th>Comparison County</th>
<th>Conflict of Interest</th>
<th>Appearance of Impropriety</th>
<th>Gift Ban</th>
<th>Disclosure of Interest &amp; Disqualification</th>
<th>Lobbying</th>
<th>Procurement</th>
<th>Permanent Ethics Body</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Within Georgia</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Gwinnett County</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td></td>
<td></td>
<td>*</td>
</tr>
<tr>
<td>Augusta-Richmond</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Chatham County</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Cherokee County</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Clayton County</td>
<td>X</td>
<td>X</td>
<td></td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cobb County</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Columbus-Muscogee</td>
<td>X</td>
<td>X</td>
<td></td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>DeKalb County</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fulton County</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td><strong>Outside Georgia</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Kern County, CA</td>
<td>X</td>
<td></td>
<td></td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>San Francisco, CA</td>
<td>X</td>
<td></td>
<td></td>
<td>X</td>
<td>X</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Denver, CO</td>
<td>X</td>
<td></td>
<td></td>
<td>X</td>
<td>X</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Orange County, FL</td>
<td>X</td>
<td></td>
<td></td>
<td>X</td>
<td>X</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Palm Beach County, FL</td>
<td>X</td>
<td></td>
<td></td>
<td>X</td>
<td>X</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Lake County, IL</td>
<td>X</td>
<td></td>
<td></td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lexington-Fayette County, KY</td>
<td>X</td>
<td></td>
<td></td>
<td>X</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Louisville-Jefferson County, KY</td>
<td>X</td>
<td></td>
<td></td>
<td>X</td>
<td>X</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Montgomery County, MD</td>
<td>X</td>
<td></td>
<td></td>
<td>X</td>
<td>X</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Bernalillo County, NM</td>
<td>X</td>
<td></td>
<td></td>
<td>X</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Nashville-Davidson County, TN</td>
<td>X</td>
<td></td>
<td></td>
<td>X</td>
<td>X</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>King County, WA</td>
<td>X</td>
<td></td>
<td></td>
<td>X</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Snohomish County, WA</td>
<td>X</td>
<td></td>
<td></td>
<td>X</td>
<td>X</td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

* Separate ordinance.
1 State law requirement.
2 State commission fulfills function for local governments.
3 Ordinance is only a ban on gifts as required by state law.
4 Disqualified official or employee may act under limited circumstances if the nature of conflict is disclosed.
5 Procurement-related standards, only applicable to employees.
Table 2. *A Survey of Selected County Ethics Ordinances – A Matrix of Additional Characteristics*

<table>
<thead>
<tr>
<th>Comparison County</th>
<th>Incompatible Employment</th>
<th>Disclosing Confidential Information</th>
<th>Use of Public Property</th>
<th>Representing 3RD Party</th>
<th>Nepotism</th>
<th>Post-service Restriction</th>
<th>Penalties</th>
<th>Ethics Education</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Within Georgia</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Gwinnett County</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>*</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Augusta-Richmond</td>
<td>X</td>
<td>X</td>
<td></td>
<td></td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Chatham County</td>
<td>X</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cherokee County</td>
<td>X</td>
<td>X</td>
<td></td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Clayton County</td>
<td>X</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cobb County</td>
<td>X</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Columbus-Muscogee</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>DeKalb County</td>
<td></td>
<td>X</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fulton County</td>
<td>X</td>
<td>X</td>
<td></td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td><strong>Outside Georgia</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Kern County, CA</td>
<td></td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>San Francisco, CA</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Denver, CO</td>
<td>X</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Orange County, FL</td>
<td></td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Palm Beach County, FL</td>
<td></td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lake County, IL</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lexington-Fayette County, KY</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td></td>
<td>X</td>
<td>X</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Louisville-Jefferson County, KY</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Montgomery County, MD</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Bernalillo County, NM</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>x^2</td>
</tr>
<tr>
<td>Nashville-Davidson County, TN</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>King County, WA</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Snohomish County, WA</td>
<td>X</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*Addressed in employee handbook.
1 State law prohibition applies to local governments.
2 Penalties apply to employees only.
### Table 3. A Survey of Selected County Ethics Ordinances – Applicability of Ethics Ordinances

<table>
<thead>
<tr>
<th>Comparison County</th>
<th>To Elected Officials</th>
<th>To Appointed Officials</th>
<th>To Employees</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Within Georgia</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Gwinnett County</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Augusta-Richmond</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Chatham County</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cherokee County</td>
<td>X</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Clayton County</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Cobb County</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Columbus-Muscogee</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>DeKalb County</td>
<td>X</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Fulton County</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td><strong>Outside Georgia</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Kern County, CA</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>San Francisco, CA</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Denver, CO</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Orange County, FL</td>
<td>X&lt;sup&gt;1&lt;/sup&gt;</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Palm Beach County, FL</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Lake County, IL</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Lexington-Fayette County, KY</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Louisville-Jefferson County, KY</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Montgomery County, MD</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Bernalillo County, NM</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Nashville-Davidson County, TN</td>
<td>X&lt;sup&gt;2&lt;/sup&gt;</td>
<td></td>
<td></td>
</tr>
<tr>
<td>King County, WA</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Snohomish County, WA</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
</tbody>
</table>

<sup>1</sup> Local act on lobbying is applicable only to Board of Commissioners; charter incorporates state ethics law by reference which applies to elected, appointed officials, and employees.

<sup>2</sup> Limited application to employees.
Georgia’s Ethics Laws

The Georgia Constitution provides that public officials are both trustees and servants of the people. It is a fundamental tenet of good governance that a public official or employee has a responsibility to give objective consideration to all official decisions, act impartially, and not give preferential treatment and that a public official or employee may not use public office for private gain.

Georgia law contains a number of criminal laws relative to prohibited behaviors in public office. Bribery of a public official is a felony, either the offering or giving or the soliciting or accepting of the bribe. A local government officer or employee who sells real or personal property to the political subdivision he serves is, with certain exceptions, guilty of a felony. The “Ethics in Government Act,” addresses campaigns for public office at all levels of government and requires public disclosure of contributions made to candidates for public office, campaign committees, and political parties and expenditures relative to the seeking of elective office. Every local elected county official is prohibited from accepting an honorarium or fee in excess of $101 for a speaking engagement or other activity related to the office.

The state’s ethics laws provide criminal penalties for certain actions by state and local elected and appointed officials and employees. These statutes generally attempt to regulate a number of actions and activities that may not constitute a crime but may violate or give the appearance of violating the public trust and are therefore deemed appropriate for civil and regulatory enforcement. Conflict of interest laws focus on the ethical concerns involved in a particular transaction and are primarily concerned with defining and prohibiting conduct in particular situations and circumstances. The “Code of Ethics for Government Service” is primarily an aspirational statement of principles applicable to those at all levels of government in the state but with no specific penalties for violation of these principles.

The state conflicts of interest law is generally applicable to state elected and appointed officials and employees with only very limited application to county and municipal officials and employees. The state law also addresses lobbying both at the state level and at the local government level, though with some distinctions. The application of the state law on conflicts of interest and lobbying at the local level is discussed in greater detail in the issues section of this report.

One additional area of state law should also be noted. The Conflict of Interest in Zoning Actions law requires a local government official to disclose to his local government any ownership interest in real property affected by a rezoning action by the local government, a financial interest of either direct ownership or at least 10 percent stock interest in a business with interests in real property affected by a rezoning action by the official’s government, or any such interests held by a family member of the official. The law further requires the official to disqualify himself from voting on the rezoning and prohibits any other action to influence the application for rezoning. Applicants for and
opponents of a rezoning are also required to disclose campaign contributions aggregating $250 or more to a local official of the government considering the application. This law is directly applicable to local governments and no local ordinance is necessary to bring a county within the purview of this law. Clayton County is the only Georgia county within this survey that specifically provides that a violation of state law is also a violation of its county ethics ordinance.

Gwinnett County’s Ethics Code

Gwinnett County’s current ethics ordinance was enacted in the early 1990’s and applies to both county officials and employees. “County official” is defined to include the Board of Commissioners, the county administrator, the county attorney, county employees exempt from the merit system, and any member of any other county board or authority. “Employee” includes all full-time and part-time employees and contract employees. Among the surveyed counties, all have ordinances that apply to the elected county governing authority and the majority of these ordinances also apply to county officials appointed by the board of commissioners and county employees. This study did not attempt to address other elected county officials or individuals appointed by elected officials other than the county governing authority. (See Table 3)

The Gwinnett ordinance contains statements of prohibited conduct and identifies standards and exceptions to those standards. It also requires disclosure of financial or personal interests and abstention from participation in county matters in which an official or employee has a private interest. The ordinance prohibits disclosure of confidential county information, incompatible outside employment, the representation of a third party before the county or against the county’s interest, and the use of county property for personal gain. These prohibitions and restrictions are among the most common standards of conduct found in ethics ordinances in the surveyed counties in Georgia and across the country. Specific aspects of the ordinance are discussed in more detail in relation to each of the identified issues.

The current ordinance does not create a standing or permanent ethics board, instead it establishes a procedure for the creation of an ad hoc ethics panel by the grand jury when a complaint is filed. Ethics complaints are filed with the District Attorney who directs them to the panel which is empowered to make findings and non-binding recommendations to the Board of Commissioners and the District Attorney for disciplinary or criminal action. The ethics ordinance is included within the county’s employee handbook which is given to all employees, but there is no provision for ongoing education or training regarding the ordinance or ethics in general.

In interviews with county officials, most acknowledged having only a vague awareness of the county’s ethics ordinance. The District Attorney has the clearest understanding and familiarity with the ordinance since he charged with specific responsibilities under the ordinance. However, since only three complaints have been filed under the ordinance.
since its adoption, he acknowledged that he rarely had reason to review it. The District Attorney indicated a number of problems with the current ordinance including the lack of procedural safeguards, absence of a process of initial screening of complaints, and issues related to the imposition of sanctions under the ordinance. Among other county officials and department heads, the fact of so few ethics complaints was seen varyingly as a reflection that the county doesn’t have any serious ethics issues, that the ordinance has no day to day applicability to employees outside of top management, that the ordinance is not user friendly and does not clearly provide a way to express ethics concerns, and that the scope of the ordinance is insufficient.

### Issues

It is difficult to directly compare ethics ordinances due to the wide variation in the organization, definitions, actions covered, conduct prohibited, exceptions, and procedures found among ordinances. For this reason, this study examines the ordinances of the surveyed counties within the identified issues, recognizing that individual ordinances may not be organized in this manner and that there is frequently significant overlap in the treatment of issues within an ordinance. It is important to note that many of the ethics issues reviewed may be addressed in state law and a county may or may not have adopted an ordinance to address the issue. This may have several impacts at the county level: a county’s ordinance may address an issue only by referencing the state law; the county ordinance may state that it is enacted pursuant to a state law; or, if permitted by state law, the ordinance may include some variation of provisions found in state law. Alternatively, if state law specifically preempts local action on a topic, a county may not have an ordinance addressing the particular issue.

### Conflicts of Interest

Conflict of interest laws generally seek to assist the general public in receiving an official’s most objective, best efforts and to address possibly competing private interests or other influence. A general definition of “conflict of interest” is any situation in which someone in a position of public trust has competing professional or personal interests. To some extent, conflicts of interest at the local government level are to be expected, since local elected officials are commonly part-time public servants and necessarily have outside employment or business interest. The extent of the conflict and how it is handled are crucial. An effective conflict of interest ordinance should ensure that public officials should have the ability to seek reasonable private gain to the same extent as the general public.

A conflict of interest may exist even if no unethical or improper behavior actually results from it. Ordinances often address this concept with either an affirmative statement that officials and employees should make every reasonable effort to avoid even the appearance of a conflict of interest or as a prohibition against engaging in conduct that would tend to give the impression that a person can improperly influence an official or
employee or unduly enjoy his favor in the performance of official duties. Of the surveyed counties, all but two Georgia counties’ ordinances contained such statements while outside the state of Georgia only three of the surveyed counties contained a statement regarding avoiding the appearance of a conflict of interest or impropriety.

Ethical conflicts generally arise when a public official places personal interests above the fiduciary duty to the public or allows personal interests to prevent the making of an impartial, objective decision in his official capacity. Conflict of interest is one of the most basic concepts in ethics laws and yet is an area of significant variance. The two most common prohibitions found in conflicts of interest provisions are using public office for private gain and giving preferential treatment. However, even when ordinances purport to prohibit similar kinds of conduct there can be substantial variation in the actual conduct addressed.

**Definitions**

These differences among ordinances often begin with the definitions of terms used in the ordinance. An “interest” is defined in the Gwinnett code as a “direct or indirect pecuniary or material benefit.” An official or employee is deemed to have an “interest” in the affairs of his immediate family and people and businesses with whom he has various kinds of business relationships, including ownership, investment, employment, or contractual. The definition of “interest” contained in the Gwinnett ordinance is comparable to that found in most of the surveyed counties. “Interest” is a term that can be defined in a myriad of ways: Chatham County contrasts a “substantial interest” as from a “remote” or “incidental” interest; Kern County, California defines “financial interest;” Palm Beach County, Florida defines “material interest;” Montgomery County, Maryland identifies an “economic interest;” and Nashville-Davidson County, Tennessee uses the broad term “anything of value.” Such variations in definition can determine the ultimate application of an ordinance to the conduct of officials and employees.

Although the term “interest” is most often defined to mean primarily a financial interest, this definition may produce a result that is somewhat unsatisfying to the public which may want the law to recognize that a conflict exists as a result of other non-financial types of interests. The Fulton County ordinance defines both “financial interest” and “personal interest” and specifically recognizes that an officer or employee may have a personal interest as a result of family or other relationships whether or not a financial interest is involved.

Determining whether an official or employee has a conflict of interest usually also encompasses an examination of whether a family member’s interests are likely to be affected by the actions of the official or employee and whether the objectivity of the official or employee is likely to be affected by a family member’s interests. This first requires defining who is deemed to be “family.” Among surveyed counties, there is a continuum: the spouse and child of an official or employee are universally included in definitions of family and parents and siblings are also commonly included in such definitions (76%). At the other end of this continuum are those counties that include grandparents and grandchildren (38%), in-laws (33%), domestic partners (24%), aunts...
and uncles (19%), other dependents living in the household (19%), and cousins (14%). The Gwinnett ordinance defines “immediate family” to include the official or employee’s spouse and “their parents, children, brothers and sisters related by blood or marriage.” This places Gwinnett in the solid majority of counties that include the spouse, parents, and siblings within the definition of family but this definition also seems to include in-laws of the official or employee, thereby placing Gwinnett among those counties using a fairly broad definition of family.

Determining who is an “employee” or “official” subject to a particular ordinance is crucial in discovering the application of the ordinance. A number of ordinances include members of the elected county governing body and members of appointed county boards within the term “employee” thereby indicating that the ordinance applies equally to elected and appointed officials and to those employed by the county. Other ordinances define both “employee” and “official” or “public official” and use the terms throughout the ordinance or distinguish application of specific provisions by the use or non-use of a term. Still other ordinances do not define or use the term “employee,” rather defining and using only “officer,” “official,” or “public official” thereby indicating that the ordinance applies only to those elected and appointed officials.

Other terms and the variation among their definitions that can impact the scope and application of an ordinance include “gift,” “lobbyist,” and “vendor.” These terms are discussed more fully within those specific sections of the report.

**Prohibited Conduct**

This is an aspect of conflict of interest ordinances where it is particularly difficult to draw direct comparisons. Some ordinances merely contain a statement prohibiting an employee from using his position for private financial benefit or gain to himself or another. Other ordinances regulate specific behaviors.

Augusta-Richmond County’s ordinance prohibits an employee or public official from using his position in any manner that will result in financial benefit to him, his relatives, or any individual with whom he has a financial interest. Chatham County prohibits an officer from taking part in any activity that places him in a position of conflict between his private and public interests. Cobb County’s ordinance, in addition to prohibiting using public office for private gain or giving preferential treatment to any person, provides that officers must not take part in any activity or receive any financial interest that results in a conflict between public and private interests, they must not use their positions to influence employees or subordinates in a way that would provide any benefit to themselves or others, and may not vote on any matter involving an organization of which they are a member.

The two California counties surveyed provide that acceptance of a gift of $250 or more within the previous 12 months constitutes a “financial interest” and it is then a conflict of interest for the official or employee to use his official position to participate in or influence a county decision affecting the donor of such gift. Kern County, California provides that it is a conflict of interest to engage in any activity in a private capacity
knowing that the act may later be subject to the “control, inspection, review, audit, or enforcement” of the officer or employee or the department by which he is employed.

In addition to addressing general conflicts of interest, many ordinances prohibit officials and employees from participating in or having any interest in a contract awarded by the county. Lexington-Fayette County, Kentucky’s prohibition applies to officers and employees and their immediate families if the officer or employee is authorized to participate in establishing contract specification, award the contract, or manage contract performance; exception is made for contracts entered into prior to the person becoming an officer or employee. King County, Washington prohibits officials and employees from receiving any financial interest in any purchase, sale, or lease to or by the county when the financial interest is a result of prior knowledge of the intended county action. Appoint officials and employees of King County who become aware of a potential conflict of interest in the course of official duties are required to notify their supervisor or appointing authority in writing and the supervisor or appointing authority must take action to resolve the conflict of interest.

**Gwinnett County**

The “Standards” section of the county’s ordinance contains most of the prohibitions and limitations on a county official’s or employee’s actions while a few prohibitions, such as the gift ban, are modified by an exceptions section. The very first prohibition is that no county official or employee may have an interest in any contract that may be subject to official county action, if he has the power or duty to perform an official act related to such contract. This prohibition also restricts an official or employee from having any interest in a business representing anyone involved in the contract, being employed by anyone with an interest in the contract, or accepting a gift from anyone with an interest in such contract. The county’s ordinance also prohibits acquiring an interest which the official or employee has reason to believe may be affected by future official county action. Gwinnett County’s ordinance may be viewed as the midpoint in terms of the surveyed ordinances, containing somewhat more detail in its description of prohibited conduct than those ordinances that merely prohibit using one’s position for financial gain but not including the often lengthy lists of prohibited behaviors found in some ordinances in the surveyed counties.

**Gifts**

Virtually every ordinance reviewed for this study includes some type of restriction on the acceptance of gifts by public officials or employees. One county’s ordinance consists entirely of a gift ban and includes a statement that the adoption of the ordinance was not taken because of any perceived problem with county employees but was adopted in response to a state law requirement.

**Definitions**

Many of the ordinances use variations of similar terms in defining “gift” while a few ordinances impose specific dollar limits on gifts. A few examples of the types of items included in ordinance definitions of gift are: gratuities, favors, loans, services, promises, discounts, forgiveness of debts, tangible or intangible personal property, cash, offers of
employment, subscriptions, dues, tickets and admissions, lodging, transportation, and generally anything of value. Examples of specific dollar limits on gifts that officials and employees may accept within a calendar year are found in the ordinances of Gwinnett and Augusta-Richmond and Snohomish County, Washington ($100); in the California counties of Kern and San Francisco ($250). Montgomery County, Maryland’s ordinance has multiple limits: $10 for items of personal property, $25 for advertising or informational items, $50 for meals and beverages, and $100 for ceremonial gifts or awards. Some counties use much broader definitions: Cobb County’s ordinance defines gift as the “transfer of anything of economic value, regardless of form, without adequate and lawful consideration” and prohibits an official from accepting a gift for himself, any member of his family, or any other person; Palm Beach County, Florida has adopted the state definition of “anything for which equal or greater consideration is not given within 90 days” and has an extensive list of covered items.

Prohibitions
Those counties with specified monetary limits on gifts that officials and employees may accept tend to have straightforward prohibitions on the acceptance of any gift that has a value in excess of the allowed amount, while those counties without monetary limits generally address the conditions under which an official or employee may accept a gift. Several counties in the survey prohibit an official or employee from accepting a gift if the gift tends to influence the discharge of official duties or there is an understanding that the gift is given for the purpose of influencing such officer, if the gift gives an impression of improper influence, or if the official has a financial interest that can be substantially and materially affected by performance or non-performance of his official duties. The consolidated city-county of Columbus, Georgia prohibits acceptance of a valuable gift from any person which the official knows is interested, directly or indirectly, in business dealings with the consolidated government. Fulton County contains a similar prohibition on accepting a gift from a prohibited source, defined as any person or business the officer or employee knows to be doing business with the county. A somewhat unusual provision found in Augusta-Richmond County requires an official or employee who accepts a gift from a lobbyist, vendor, or any other person seeking to influence official action to return the gift or give it to charity.

Outside of Georgia, King County, Washington has a similar prohibition on employees accepting a gift if the acceptance would conflict with the performance of the employee’s official duties and a conflict is deemed to exist when it creates the impression that the gift was given for the purpose of obtaining special treatment or to influence county action. Lake County, Illinois prohibits employees and officials from accepting gifts from a “prohibited source” which is defined as a person or entity who seeks official action from, does business with, conducts activities regulated by, or has interests that may be affected by performance or nonperformance by the gifted employee or official. In Denver, Colorado, officials and employees are prohibited from accepting gifts if the official or employee is in a position to take direct official action with regard to the donor and the city has an existing or pending contractual or regulatory relationship with the donor. Montgomery County, Maryland prohibits the acceptance of any gift from a registered lobbyist.
Exceptions

One of the most significant factors in the scope and application of any ordinance regulating the acceptance of gifts is the exclusion or exemption of certain items. The near-universal exclusions from gift bans include: salaries associated with an authorized nonpublic employment or business; gifts from a family member; awards given in recognition of civic, professional, or public service; commercially reasonable loans; advertising or promotional items; campaign contributions; and occasional nonpecuniary gifts under specified limits. Additionally, in the surveyed Georgia counties, it is common to find exclusions for food, beverages, travel, lodging, and registration for an official or employee to participate or speak at a meeting; food or beverages consumed at a single meal or event; food, beverages, and registration at events to which an entire agency is invited; and for food, beverages, and expenses associated with business or social functions attended by public officials, employees, or their families. A few of the surveyed Georgia counties specifically exempt courtesy tickets or free admission to events, while in others it appears acceptance of such tickets would be permissible if the value was within a maximum limit on gifts. At least one county (Fulton) specifically bans acceptance of tickets to “recreational, musical, theatrical, or sporting” events for less than face value unless the officer or employee is performing an official duty and further prohibits selling any such gifted ticket.

Similar exemptions are found in most of the surveyed counties outside the state of Georgia. Additional exemptions found outside the state include intra-governmental (gifts given by an officer or employee to another officer or employee) and inter-governmental gifts (gifts given by an officer or employee to an officer or employee of another governmental entity); bequests and inheritances; educational materials; refreshments, lodging, travel, and other benefits related to outside employment and not connected to the officer or employee’s position with the county; and gifts provided on the basis of personal friendship so long as there is no reason to believe the gift was given because of the official position or employment of the recipient. Denver specifically exempts expenses paid by nonprofit organizations or other governments for attendance at a convention, fact finding mission, or other meeting if the officer or employee is making a speech, participating in some manner or representing the city-county and it exempts memberships and passes from the city’s museums, botanic gardens, and zoo.

Gwinnett County
The current Gwinnett county ordinance prohibits against an official or employee from accepting a gift from a person involved in a contract or transaction that may be the subject of official county action, if the official or employee has the power or duty to perform an official act related to such contract or transaction. Modifying this general prohibition, the section on exceptions provides that accepting a gift with a total value of less than $100 is not a violation. Other items that officials and employees are allowed to accept without violating the ordinance are included within a list of exceptions: (1) salary, commissions, fees, or benefits associated with a nonpublic business; (2) awards given in recognition of service; (3) food, beverages, and registration at group events for similarly situation employees or officials; (4) actual and reasonable expenses for food, beverages, travel, lodging, and registration for meetings that are provided for an official or employee.
speaking at or attending the meeting; (5) commercially reasonable loans; (6) any gift with a total value of less than $100 in a calendar year; (7) promotional items distributed to public officials; (8) gifts from immediate family; and (9) food, beverages, and expenses given to public officials and employees and their immediate families associated with business or social functions.

Interviews revealed a good, general knowledge of the ordinance limits on accepting gifts, at least by upper management and elected officials. Interviewees repeatedly expressed the importance of being and providing a good role model for employees in the area of acceptance of gifts and what types of gifts could be seen as improper or opening the employee up to scrutiny. It is worth noting that almost no one among the Gwinnett County officials interviewed expressed any concern that there is a problem with officials or employees in the county accepting gifts in violation of the existing ordinance or that the gifts that are accepted present a significant ethical problem. There was general agreement that county employees are ethical in their behavior and would not be swayed by a small, inconsequential gift or meal or even by the occasional ticket to an event. Many of those interviewed indicated that it is and should be easy for anyone to draw the distinction between acceptance of those kinds of gifts and acceptance of larger gifts and the accompanying implication of influence or impartiality.

There appears to be very little support for the imposition of a more restrictive gift ban with a few even expressing that the ban could be loosened without significant harm. However, those who did favor strengthening the current gift ban expressed a strong preference for a comprehensive statement rather than an exhaustive list, noting the impossibility of listing every kind of gift that should be banned. Those favoring a stronger ban on gifts expressed concern not about actual conflicts but about the perception of conflict or undue influence. The primary areas of concern regarding the potential for improper influence of employees tended to be in the procurement process and most interviewees made reference to the effectiveness of the county’s existing procurement ordinance as well as internal departmental policies. The county’s purchasing and procurement ordinance and policies will be discussed in more detail in the procurement section.

**Disclosure and Disqualification**

Two of the primary approaches to solving actual or potential ethical conflicts are disclosure and disqualification of the individual official or employee. The rationale for requiring a public official or employee to disclose any personal interest he may have in a matter being considered by the government he serves is that increased public scrutiny will ensure accountability while still allowing the official or employee to fulfill his official duties. In some instances, the personal interest of the official or employee is deemed insignificant and disclosure of the interest is considered a sufficient safeguard of the public interest and the official or employee is permitted to act in his official capacity. The next step along this continuum is for the official or employee to abstain from or be disqualified from participating in his official capacity on behalf of the government in any matter in which he has a personal interest. All of the surveyed Georgia counties require some form of disclosure and disqualification or abstention in the event of a conflict of
interest. The majority of the non-Georgia counties surveyed also require disclosure and disqualification.

Disclosure
Disclosure requirements found in the various ordinances seem to fall into three distinct categories: (1) interests that may be affected by county action or by official action of the official or employee, including real property, business ownership or investment interests, or employment of the official or employee or a family member; (2) general financial interests of the official or employee and their families; and (3) transactions with the county.

Affected Interests
Cherokee County’s ordinance requires a public official who believes he may have a private interest affected by his official actions to disclose the nature and value of the interest to the county board of ethics and to ask for an opinion as to the propriety of the interest. Augusta-Richmond requires an employee or official who is uncertain whether a personal or financial relationship with any participant in an official proceeding to disclose the relationship to the person presiding over such proceeding, and that presiding officer is given authority to determine whether the affected employee may participate in the proceeding. Clayton County requires an official or employee to disclose an interest that may be affected by his or her actions and requires disclosure of any relationship with a person who has interests that may be affected by such actions.

Any Palm Beach County, Florida commissioner who is disqualified from voting on a matter because of a private interest in the matter must publicly disclose the nature of the interest at the time of the vote and file a written statement to be incorporated in official minutes of the board. Lexington-Fayette County, Kentucky provides a slight distinction in its disclosure requirements, with members of the county council permitted to disclose a private interest in a pending matter either orally during the council meeting or in writing in advance of the council’s consideration of the matter to the clerk of council while employees and other officers must disclose interests in writing to the clerk prior to consideration. Of the surveyed counties outside the state of Georgia, only King County, Washington specifically addressed the issue of an elected or appointed official or an employee having an interest in an action for revaluation of real property based either on the official’s or employee’s ownership interest in the property or a personal interest or connection with another person’s petition for revaluation.

Financial Disclosures
The financial disclosure requirements referenced in this section for Georgia counties are in addition to those requirements in state statutes and, in contrast to state law generally, apply to appointed officials and employees as well as elected officials. Cobb County’s ordinance requires officers to disclose financial interests of a spouse; interests of any child of the officer, if the interest is controlled by the officer; real estate interests of $20,000 or more held by a business in which the officer has an interest; and income interests or reversionary trust interests over specified amounts. The ordinance also requires that all county officials subject to the ethics ordinance inform the board of
commissioners and the chief executive in writing of any business relationships with any other official subject to the ordinance within 10 days of any contractual or implied relationship.

A requirement for annual financial disclosure statements for both officials and employees was common, though not universal, among the surveyed counties outside Georgia. San Francisco, California requires officers and employees to disclose personal, professional, and business relationships with any person who is the subject of a governmental decision by the officer or employee. Palm Beach, Florida requires county officials and department heads to file an annual disclosure statement detailing real property interests as well as outside employment and the relationship of the reporting person to the business. Jefferson County, Kentucky and Lexington-Fayette County, Kentucky both require annual financial disclosure statements of all business interests, real property, and outside income of officers and employees and their spouses. Montgomery County, Maryland’s ordinance contains a detailed list of public employees who must file financial disclosure forms including the members of a number of appointed boards and commissions. The ordinance includes exhaustive descriptions of the required content of such financial disclosures including the dates that any real property interests were acquired or transferred and from and to whom the interest was transferred, as well as a description of the interest; sources and amounts of income by category; gifts from lobbyists or persons doing business with or regulated by the county; and debts and the amounts, terms, and to whom owed. Similar but less detailed annual disclosure requirements are applicable in King County, Washington and Nashville-Davidson County, Tennessee. The Nashville-Davidson County ordinance includes the required forms for annual disclosure and a statement of intent that the purpose of disclosure is to alleviate reasonable concerns of the public relative to possible conflicts and influences on a member’s exercise of legislative discretion and that disclosure statements should be completed consistently with this intent.

Transactions with the County
A third, rarely seen, category of disclosure requirement is that of transactions by an official or employee with the county he serves. Cherokee County requires officials to fully disclose any interest in a county contract to the board of commissioners. Clayton County requires any official or employee transacting business with the county to disclose such transaction with the board of commissioners, with an itemized list of transactions including dollar amounts, but exempts transactions of $250 or less or $9,000 in a calendar year. The fact that very few county ordinances directly address transactions between a county and a county official or employee is largely attributable to the existence of state statutes either prohibiting or restricting on such transactions.

Disqualification
There is significant variation in the disqualification provisions among the surveyed counties. Some ordinances specify the conditions under which an official or employee is disqualified from participating in official duties as the result of a conflict of interest while others are silent as to the actual procedures and requirements relative to disqualification. Augusta-Richmond County requires an official or employee to abstain from any official
proceeding where there may be a question of his impartiality. Chatham County requires county commissioners to vote in all questions before the board of commissioners, unless they are immediately and particularly interested in the question or are excused from voting by the board. A Cherokee County official who is required to disclose a conflicting interest must also disqualify himself from participating in any official action affecting even a remote interest, which is defined to include employment in a nonprofit corporation, ownership of less than five percent of a business, or acting in a representative capacity. Cobb County has a lengthy listing of instances in which an official must disqualify himself from participating in an official action and requires the official to leave the meeting room or at a public meeting to move to the area occupied by the general public. Columbus requires an official or employee to disqualify himself from participating in any decision or vote relating to any private interest in a matter pending before the council. DeKalb County’s ordinance provides that an elected or appointed official who believes he has an interest that may be affected by his or the county’s acts must abstain from participating in such actions. Fulton County prohibits an officer or employee with a disclosable interest from participating in any official action affecting the interest including any discussion of the matter.

Palm Beach County, Florida commissioners are disqualified from voting on matters if they have a private interest in the matter. Denver, Colorado prohibits officials and employees from taking direct official action on a matter in which he or a family member has a substantial interest unless the city attorney advises that the rule of necessity applies. Similarly, Montgomery County, Maryland allows disqualified officials and employees to participate in proceedings, deliberations, and other actions by the county under certain limited circumstances, if the disqualification results in the county council or other agency having less than a quorum or if the disqualified employee is required by law to act or is the only person authorized to act.

Gwinnett County
Members of the Board of Commissioners are required to disclose on the record the nature and extent of any financial or personal interest in proposed legislation pending before the commission. The same disclosures are required of other officials and employees with financial or personal interests in legislation pending before the commission who participate in discussions with or give official opinions or recommendations to the commission regarding such legislation. All such officials or employees who have interests that they have reason to believe may be affected by an official action are required to abstain from participating in such official action.

Gwinnett County’s ordinance’s disclosure and disqualification requirements are relatively straightforward but do leave substantial room for interpretation by individual officials and employees. The ordinance does not contain any additional financial disclosure requirements for officials or employees. Interviews with county officials and department heads revealed that while some are troubled by a lack of formal reporting requirements under the current ordinance, there is limited interest in substantially increasing reporting requirements, with the most common reason cited being the anticipated costs of implementing such requirements.
Lobbying of Local Officials

One aspect of state law that was identified as being of particular interest to Gwinnett County is lobbying. The Georgia Public Officials Conduct and Lobbyist Disclosure\(^9\) law includes a lengthy definition of “lobbyist” but essentially provides that any person who is either compensated for or expends money to promote or oppose passage of legislation or its approval or veto is engaging in lobbying. This definition includes lobbying of members of the General Assembly, the Governor, and elected county and municipal officials. The Georgia statute and most local ordinances reviewed do not prohibit lobbying, but rather regulate the activity of lobbying. Georgia’s law requires lobbyists to register with the state ethics commission but contains several exclusions from the registration requirement. Perhaps the two exclusions of most significance to this report are (1) individuals who are expressing their own personal views to any public officer and (2) licensed attorneys appearing on behalf of a client in an adversarial proceeding. Any person engaged in lobbying is required to register with the state ethics commission and file disclosure reports with the state ethics commission. Lobbyists whose reports indicate contain expenditures relating to a county’s affairs are required to file their state disclosure reports with the election superintendent of that county.

A 1995 unofficial opinion of the Georgia Attorney General, specifically addressed the application of the state law to local governments.\(^{10}\) Tracing the history of the state lobbying law, particularly the 1994 amendment that included persons who undertook lobbying activities in relation to elected county officials, county boards, of education, and elected municipal officials, the Attorney General opined that persons who meet the statutory definition of lobbyist must comply with the law’s registration and reporting requirements. The opinion looked at several categories of persons involved with local governments including business councils, chambers of commerce, private developers, attorneys, neighborhood associations, consultants, and speakers at public hearings. The key to determining if a person representing any of these organizations would be deemed a lobbyist was whether the person was either paid to promote or oppose an ordinance or resolution or expended more than $250.00 on public officials for such purposes. Whether an individual member of any of the groups or a person representing any of the organizations was categorized as a lobbyist depended upon the circumstances in each case. No exception was found in state law for lobbying activities undertaken by an attorney – the same test applies to an attorney as to any other person, the sole exception being that an attorney representing clients in an adversarial proceeding is exempt from the lobbyist registration. An additional factor that should be considered in determining whether a person’s actions are covered under the lobbying statute is whether the official before whom the person is appearing is appointed or elected since local appointed officials are not included in the definition of public officers.

A 2005 report by the Georgia state auditor examined compliance with the state law by those who lobby local government officials.\(^{11}\) In this report, the auditor found that of the 1,331 lobbyists registered with the ethics commission, only 409 were registered to lobby local governments. Of those 409 registered lobbyists, only 15 reported any local government lobbying expenditures in calendar year 2004, and those reports covered only nine of the 159 counties in the state. The auditor’s office contacted six of those nine...
local governments and found that none of the six had received any lobbyist disclosure reports. At the time of the auditor’s report, it was found that very few states required lobbyists to report local government lobbying activities and that their statutory requirements were comparable to Georgia’s. Only two of the Georgia counties in the survey address lobbying and slightly less than half of the counties outside of Georgia surveyed for this report address the issue of lobbying. (See Table 1) Both Augusta-Richmond County and Fulton County define lobbyists as those who are required to register and file reports with the state ethics commission. Augusta-Richmond County prohibits the acceptance of gifts from lobbyists while Fulton County requires lobbyists to file reports locally.

Many of the surveyed counties with a strong lobbying ordinance are located in states that have stringent lobbying statutes and some of those states require local governments to adopt ordinances regulating lobbying, particularly Florida and California.12 Two lobbying ordinances in non-Georgia counties are worth noting for their strict requirements. The ordinance of the city and county of San Francisco, California differentiates between types of lobbyists, depending upon the type of business or organization the lobbyist represents; the number of contacts with officials in a specified time period; and the amount of lobbyist expenditures. The ordinance prohibits lobbyists from giving gifts to one county officer of more than $50 within three months of contacting the officer. The county’s ethics commission oversees lobbyist registration, disclosures, and sanctions. Orange County, Florida maintains lobbyist logs in the offices of the Board of Commissioners and lobbyists are required to sign the log and indicate the topic of lobbying contacts. Contacts outside the county commission offices are required to be reported by the lobbyist within seven calendar days.

**Gwinnett County**
The current Gwinnett ordinance does not address lobbying and there appears to be some difference of opinion among officials in the county as to the application of the state lobbying law to county governments as well as whether the county’s ordinance should require registration and reporting requirements for lobbyists. However, the issue of lobbying county elected officials appears to be a concern of a number of those interviewed in the county government and may be affecting public perception of the county government. Concern was repeatedly expressed over the issue of lawyer-lobbyists, particularly in the land-use and zoning arenas. When asked about the possibility of revising the Gwinnett ethics ordinance to regulate lobbying, responses ranged from “there is no problem” and “state law addresses this issue” to “registration is needed only for paid lobbyists” and “don’t restrict citizen access to Commissioners.” There was also significant concern over the enforcement of such a requirement.

The potential for vendor influence in the procurement process was also mentioned by many in the county interviews and is discussed in greater depth in the following section on procurement.
Procurement

Georgia’s Public Officials Conduct and Lobbyist Disclosure statute provides that any person who influences a public officer or state agency in the selection of a vendor to supply goods and services to a state agency or who promotes or opposes passage of a rule or regulation by a state agency is engaging in lobbying. State law also requires vendors who sell to state government and who make gifts totaling $250 or more to one or more public employees in a calendar year to report such gifts to the state ethics commission. However, neither of these state laws apply to vendors seeking to influence a county’s purchasing.

Augusta-Richmond County’s ethics in procurement ordinance provides that it is unethical for an employee or official to transact business or participate directly or indirectly in a procurement contract if he or any member of his immediate family has a substantial or financial interest in the contract, and employees and officials are prohibited from participating in the contracting process if employed by a person contracting with the county. Augusta-Richmond further specifically prohibits the acceptance of gifts, kickbacks, and rebates in connection with any aspect of a purchasing contract and requires that this prohibition be included in all county contracts and solicitations. Alone among surveyed counties in Georgia, Augusta-Richmond requires vendors who make gifts totaling $100 in a calendar year to public officials or employees to file disclosure reports with the clerk of the county commission. Fulton County prohibits officer or employee participation in a contract involving the county if the officer or employee or a family member has an interest in the contract. The county’s ordinance defines participation in contracting to mean preparing, influencing the content of, or rendering advice on any part of the purchasing specifications or solicitations for bids or proposals, as well as the generally included meaning of making a decision on or participating in any action affecting the contract.

Outside of Georgia, Nashville-Davidson County, Tennessee has a strong ethics in public contracting ordinance that prohibits an employee from participating in a procurement contract when he knows that he or a family member has a financial interest in the contract and requires the employee to file a written statement of disqualification and withdraw from participation if there is an actual or potential conflict of interest. The ordinance also contains prohibitions against gratuities and kickbacks in the procurement process and a requirement that these prohibitions be included in county contracts.

Gwinnett County

Gwinnett County addresses purchasing in a separate ordinance, which has a section on ethics. The county’s purchasing ordinance and its effectiveness was mentioned a number of times in the county interviews. Similar provisions relative to the acceptance of gratuities, kickbacks, and contemporaneous employment are found in Gwinnett’s current purchasing ordinance. At the time of this study, a proposal was pending to amend the current ethics section of the county’s purchasing ordinance which, if adopted, would provide direct prohibitions on county officials, employees, and their families and on prospective vendors. The amendment would authorize the establishment of procurement initiatives and methods for monitoring compliance with the ordinance. A significant
concern mentioned by several of those interviewed, regarding the potential for improper influence during the solicitation phase of contracting, is addressed in the proposed amendment by adding explicit restrictions on communications regarding active contract solicitations.

When interviewers asked whether lobbying of county staff was perceived as a concern, virtually all of those interviewed indicated that the only lobbying of employees is by vendors seeking to sell products to the county, and it was not deemed to be a significant problem. Several interviewees stressed that the county has a good reputation in the purchasing world for ethical behavior. The county has a centralized purchasing process, which is designed to make improper influence difficult. It was acknowledged that the initiation of contract specifications is an area of potential influence, though there was no sense that this has actually occurred. The Transportation and Water Resources departments are the areas where the potential for improper influence is largest, simply because of the high dollar value and large number of contracts awarded. Those department heads indicated that they have strong internal standards designed to eliminate potential problems, usually much stricter than the county ordinance requirements. An example is found in the Department of Public Utilities which supplements the county’s ethics ordinance with a policy limiting acceptance of any gifts from consultants or contractors with a value of more than a coffee mug. Any gift in excess of this value is to be refused, shared within the department if it is a food item, or forwarded to charity.

There appeared to be only limited support for the registration of vendors as lobbyists as is required at the state level. The two most commonly expressed concerns with such a requirement were the cost, as it would require a significant effort to register all those doing business with the county and to monitor compliance with registration and reporting requirements, and that the limits on the ability of new vendors to bring their products to the attention of the county, possibly preventing the county from discovering an item it needs. However, some concern was expressed during interviews that there is a need to strengthen the existing purchasing process to keep politics and political influence out of the purchasing process, especially subtle interference and pressure by elected officials.

**Permanent Ethics Body**

One of the key enforcement methods for many ethics ordinances is a permanent ethics body. Different terms are used among counties in referring to a local ethics body, it may be called a board of ethics or an ethics commission or even a board of conduct, but differences in name do not necessarily indicate differences in duties, authority, method of creation, membership, level of independence, or procedures. The perceived independence of an ethics board can be a significant factor in its effectiveness. Cherokee County specifies that the board is completely independent and not subject to the control or supervision of the chairman, the commission, the county manager, or any other officer, department, or agency of the county government. Common methods of ensuring board impartiality and independence are the varying of appointing authorities, imposing qualifications for membership, limiting or prohibiting partisan political involvement, and staff and budgeting authority.
Membership
Four of the other eight Georgia counties surveyed, have ordinances creating a permanent boards of ethics. Each of these counties has slightly different methods for appointment of members to its county board of ethics. Chatham and Cherokee counties provide for selection by their chairman and commission, while in Cobb and Fulton Counties specified public and private bodies and organizations including bar associations, chambers of commerce, homeowners associations, county employees, county personnel boards and civil service systems, as well as county commissioners appoint the county ethics boards. Cherokee County requires that one member of its ethics board be an attorney.

The imposition of specific requirements of professional knowledge or expertise for appointment to a board of ethics is common but by no means universal. San Francisco, California provides for the appointment of members by the mayor, the board of supervisors, the city attorney, the district attorney, and the assessor and provides that the members must have specific professional backgrounds or expertise in public information and public meetings, in law and government ethics, in campaign finance, and that two members be broadly representative of the general public. The mayor of Lexington-Fayette County, Kentucky appoints the ethics commission from nominations given by at least seven different professional and civic organizations in the county.

Chatham, Cobb, and Fulton Counties impose strong restrictions on ethics board members engaging in political activities while serving on the board, particularly partisan county politics. However, Cherokee County requires that at least two members of the board be members of the Democratic Party and at least two members must belong to the Republican Party. San Francisco, California prohibits members of its ethics commission from holding office or public employment and strictly prohibits political activity by members including campaign contributions.

Of the surveyed counties, the shortest terms of ethics board members was found in Bernalillo County, New Mexico (two years) and the longest terms were found in San Francisco (six years) and Cherokee County (seven years) with the average terms being three or four years.

Authority
Ordinances in the surveyed counties with ethics boards provide for a variety of powers and duties for the county’s ethics board. Almost universally, ethics boards are granted the authority to establish their own procedures, rules, and regulations; prescribe necessary forms; recommend changes to the county’s ethics ordinance; and investigate complaints of ethical violations, hold hearings, and make findings concerning those complaints. In a few instances an intervening body is tasked with the initial review of an ethics complaint. San Francisco’s ethics commission investigates ethics violations only if the city attorney or the district attorney does not pursue the violation. In Nashville-Davidson County, Tennessee’s all ethics complaints are initially reviewed by the county’s law department and the board of conduct may then dismiss a complaint or call a formal hearing. King
County, Washington has an ombudsman, who hears all initial complaints, with the ethics board hearing appeals from the decisions of the ombudsman.

Procedural Requirements, Hearings, and Deliberations
The most common procedural requirements found in the surveyed county ethics ordinances include the right of a person who is the subject of a complaint to file a response, the right to call witnesses, and the right to be represented by counsel. Ethics bodies are generally given the authority to issue summons and subpoenas and to take testimony under oath. All ordinances also provide for the judicial review of decisions of an ethics body. The four Georgia counties with ethics boards provide for formal hearing procedures and guarantee due process to those accused of violating the county’s ethics code.

There is considerable variation among the surveyed counties, both within Georgia and outside the state, on the subject of open or closed deliberations, though the majority do provide for publication of ultimate findings and orders or recommendations. Chatham County ethics board hearings must conform to the state’s open meetings law, but deliberations may be private. The board’s final opinion must be published. Cobb County provides that all meetings, including hearings and deliberations are open to the public. San Francisco provides that all proceedings are open, in Denver hearings are open to the public but advisory opinion deliberations are private, and in Louisville-Fayette County, Kentucky proceedings are confidential until the final determination. Montgomery County, Maryland’s ethics commission hearings are closed unless the person who is the subject of the complaint requests an open hearing. The ordinance provides for revealing the identity of the person who is the subject of a complaint only if a violation is found.

In recognition of the personal and professional upheaval that an ethics complaint may bring upon an individual, a few counties incorporate an additional procedural protection into their ethics codes, imposing time restrictions on an ethics boards’ investigations, hearings, and deliberations and issuance of findings and recommendations. Chatham County requires all hearings to be conducted within 30 days after receipt of a complaint and the board must submit its report and findings to the Board of Commissioners within 60 days. Among the counties that do not have ethics boards, time limits may be imposed on the county governing authority’s investigation and final decisions. DeKalb County provides that the committee established by the board of commissioner’s presiding officer must complete its investigation of a complaint within 30 days and the board must vote on whether to act on the committee’s recommendations at its next regular meeting after receipt of the report.

Preliminary Review and Dismissal of Complaints
Another relatively common authority granted to ethics boards and commissions is the power to conduct a preliminary review of a complaint and determine whether a full investigation and hearing are needed or if the complaint should be dismissed. The imposition of a process for the preliminary review of a complaint and a determination whether the complaint should move forward fulfills the objective of protecting those who devote themselves to public service, both elected officials and employees, from the
unnecessary burden and disruptions of frivolous complaints or those made for political purposes.

Chatham County’s ordinance provides that the board is empowered to dismiss complaints that are unjustified, frivolous, patently unfounded, or which fail to state facts sufficient to invoke disciplinary jurisdiction. Both Cobb County and Fulton County provide for dismissal if the board of ethics finds that there is not probable cause to believe an ethics violation has occurred. Denver, Colorado requires its ethics board to meet and screen an ethics inquiry within 14 days of receipt and immediately dismiss if the alleged violation, if true, would not constitute a violation, if it is a minor violation, or if it is frivolous, groundless, or brought to harass.

Advisory Opinions
An ethics board that is empowered to issue advisory opinions, while not eliminating all conflicts, can assist individuals serving in county government in determining whether a specific situation presents a conflict; whether interests held by an official, employee, or a family member should be reported; and whether disqualification in a particular situation would alleviate or resolve a conflict. This is a relatively common authority granted to ethics boards, all of the four ethics boards in the Georgia counties reviewed are authorized to issue advisory opinions as are all but one of those counties outside Georgia that have ethics boards.

Only two of the surveyed counties further provide that ethics board opinions are binding in subsequent complaints concerning the same person and fact situation and only Lexington-Fayette County, Kentucky provides that such opinions are a defense in civil or criminal proceedings. Denver, Colorado authorizes its ethics board to take steps to ensure compliance with the advisory opinions it issues. A corollary authority, granted to ethics boards in two of the surveyed counties is the authority to issue a waiver from a restriction or prohibition in the county’s ethics code. In those counties without ethics boards or commissions, similar authority is often specifically granted to the county governing authority, as in Augusta-Richmond and Gwinnett.

The publishing of advisory opinions provides an opportunity for officials and employees, other than the requesting party, to benefit from the open examination and analysis of real-life situations. Cobb and Fulton County require their boards of ethics deliberations on advisory opinions to be public while Chatham provides that board deliberations are private but advisory opinions must be published. Denver, Colorado authorizes publication of advisory opinions but requires removal of information that would identify the individual involved. Lexington-Fayette County, Kentucky’s ordinance similarly provides for modifying advisory opinions prior to publication to avoid revealing the identity of the person associated with the opinion but also authorizes the ethics commission to adopt criteria for the issuance of confidential advisory opinions. Montgomery County, Maryland requires weighing the privacy interest of the employee with the public’s need to be informed in determining whether to publish advisory opinions and requires publication of an annual list of unpublished opinions and the reason why each opinion was not published.
Statutes of Limitations
Many counties have some statute of limitations on the filing of complaints. At six months, Cobb County has the shortest time limit on filing complaints with the longest limit, five years, founding Snohomish County, Washington County. A slightly different limit is also found in Snohomish County, which places restrictions on the filing of ethics complaints in the period immediately prior to an election. Only complaints that are alleged to have occurred within the prior week may be filed within the four weeks preceding an election. The imposition of a statute of limitations on the filing of ethics complaints would help to ensure that witnesses and documentation relevant to an alleged violation would likely still be available to the body investigating the complaint.

Imposition of Penalties
A concern expressed during the Gwinnett County interviews relative to the possibility of a permanent ethics board was the need for that body to be accountable to the public, rather than an appointed board or a county department. Maintaining the county governing authority as the final decider in the imposition of penalties could be a means of alleviating this concern. A review of county governments with ethics boards or commissions, both within and outside Georgia, reveals that in majority of counties with ethics boards or commissions the ethics board reports its findings and recommends sanctions to the county governing authority. Fulton County and many of the counties outside the state allow their ethics board to impose minor administrative sanctions, including civil penalties, cease and desist orders, and letters of reprimand. Penalties are discussed more fully in a separate section of this report, but generally boards or commissions may recommend censure, suspension, demotion, or termination of employees; reprimand, censure, or removal from office of elected and appointed officials; debarment or suspension of contractors or vendors. Boards are also often given the authority to refer violations for criminal prosecution and may recommend that the county government seek restitution from the involved parties.

Other Approaches
Counties that do not have an ethics board or commission most frequently assign the authority for administering their ethics ordinance to the county governing authority as is the case in Augusta-Richmond and Clayton counties and Kern County, California or to a committee of the governing body as in DeKalb County. In those counties, the governing authority investigates complaints, holds hearings, and imposes penalties for violations of the ethics code. Alternatively, a county may delegate this responsibility to an existing county agency or department or a full-time county officer as in Lake County, Illinois which has an ethics advisor.

Gwinnett County
As noted earlier in this report, the current Gwinnett ethics ordinance provides for the creation of an ethics panel only when an ethics complaint is filed. Interviews revealed that the ad hoc nature of the ethics panel is perceived as a significant problem with the current ordinance. A number of persons also commented on the intimidation factor present in the current system with complaints required to be filed with the District Attorney and investigated by the grand jury. The potential for the District Attorney to
wield considerable influence with the grand jury in its investigations and deliberations was also commented upon. Several interviewees expressed the need for more professionalism in an ethics panel, noting that under the current system each ethics panel is created from the current grand jury with no requirement that ethics panel members have any specific professional or representative qualifications and no guarantee that any member of the panel will have an understanding of the workings of county government or of the ethics ordinance. These were seen as serious flaws in the current system.

The current ordinance is also silent on a number of issues that are addressed in other counties’ ordinances. As noted earlier in the report, the District Attorney expressed concern regarding the lack of procedural due process protections in the ordinance. No procedures are set forth for the conduct of investigations or hearings by the board. All proceedings, deliberations, and records of any ethics panel are specifically exempted from the state open meetings law and only final findings and recommendations of the panel may be disclosed. There is no provision for a preliminary review of a complaint or to allow for its dismissal if it is determined to be frivolous or groundless. The panel must complete its investigation and present its findings and recommendations to the Board of Commissioners within 30 days of receiving the complaint. The ordinance authorizes the creation of an ethics panel to render an advisory opinion upon written request. However, there is no indication that this provision has ever been used. The ordinance specifically provides that advisory opinions are not binding upon a subsequently appointed ethics panel investigating the same matter.

There appears to be mixed interest and support among those interviewed for the creation of a permanent board to administer the ethics ordinance. There were those who either thought the current system was sufficient or adamantly opposed creating an ethics body that was not directly accountable to the voters. If a board were to be created, there was considerable disagreement as to how such a board should be constituted, with some favoring substantial staff involvement and others focusing on the need to specify professional or other qualifications of appointees. The possibility of creating the position of ethics officer to monitor the process, to provide confidential impartial review of complaints, and to ensure the overall integrity of the process was also mentioned by several interviewees.

There is also likely be some expense related to creating a permanent ethics body. Some staffing needs for an ethics body, such as the receipt of complaints and maintenance of board records, could be assigned to existing county staff. It was noted in interviews that assigning a permanent ethics body to an existing county department would alleviate the need to hire new staff but that reliance of a board upon department staff may tend to lessen the board’s independence. There would also likely be the need for board meeting space and perhaps office space, depending upon the specific requirements of the ordinance. Additionally, the creation of a permanent ethics body and the implementation of a more user-friendly complaint process may result in an increase in the number of complaints filed.
Incompatible Employment

The surveyed counties’ ordinances generally contain some restrictions or prohibitions on employees and officials accepting employment, rendering services to a private business, or engaging in professional activity that is adverse to and incompatible with the proper discharge of official duties. Ordinances may contain exclusions for employees or officers whose government duties are ministerial so long as the private employment doesn’t create a conflict of interest. Chatham and Cobb counties exclude from this prohibition officers who are appointed to a regulatory body pursuant to statutory requirement.

Denver, Colorado requires all employees and officers, except elective officers, to report existing or proposed outside employment or business activity annually in writing and to immediately report any change in employment status that could give rise to a conflict of interest. The employee or official is encouraged to seek an advisory opinion or waiver if he believes the outside employment may create a conflict of interest. Louisville-Jefferson County, Kentucky prohibits a county officer from undertaking employment, compensated or not, that might reasonably be expected to prejudice his judgment in the exercise of official duties. Montgomery County, Maryland requires officials and employees to obtain prior approval for outside employment unless the employment was held and disclosed at the time of appointment and prohibits a public employee or official from being employed by or owning more than 1% of a business that is regulated by or contracts with the county. Nashville-Davidson County, Tennessee prohibits the mayor and members of the metropolitan council from employment with a person or organization seeking approval, action, or determination from the council or any committee, except that this restriction does not apply if the outside employment is the member’s primary source of income and the member complies with disclosure and disqualification requirements.

Gwinnett County

Gwinnett County’s ethics ordinance prohibition on county officials or employees engaging in private employment contains language similar to that found in many other ordinances among surveyed counties. Outside employment is prohibited when incompatible with the proper discharge of official duties or if it tends to impair independence of judgment or action unless the employment is permitted by law and disclosure is made. All of those interviewed in the county appeared to be clear on these provisions. The police chief particularly noted that all outside employment of police officers is screened and monitored and closely governed by internal rules. The current ordinance and employee handbook appear to adequately address this issue and there does not appear to be any need nor was there any support expressed for increasing current restrictions in this area.

Unauthorized Disclosure of Confidential County Information

In the surveyed counties, both within and outside the state of Georgia, the unauthorized disclosure of confidential county information is a nearly universal prohibition in county ethics ordinances. This prohibition is essentially another aspect of the conflict of interest prohibition against using public position for personal gain and showing partiality. There is some variation in the descriptions of the types of information that may not be disclosed, it may include any information that is not generally available to the public or
that is not common knowledge, or it may be defined as information that the individual employee or official receives or acquires in the course of his official position or information that is not required to be released under a state open records statute. Some ordinances specifically tie the requirement for disclosure to whether the disclosure would affect a personal or financial interest of the disclosing individual or prohibit disclosure for private gain. Chatham County’s ordinance specifically extends this prohibition to disclosing information to the media. Augusta-Richmond County prohibits the use of confidential information for personal gain and further prohibits the release of information of a proprietary nature or non-public information about customers or suppliers of the county.

Gwinnett County

Gwinnett County specifically prohibits any county official or employee from disclosing, without proper legal authorization, confidential information concerning the property, government, or affairs of the county using such information to advance financial or other private interests. None of those interviewed expressed that this was an area of concern.

Private Use of County Property

Only two of the surveyed Georgia counties and six of the non-Georgia counties specifically address the unauthorized use of county property by employees and officials. The ordinance in Columbus uses a sweeping statement prohibiting the use of property owned by the consolidated government except in accordance with policies of the council. Kern County, California addresses the use of county time while Lexington-Fayette County, Kentucky prohibits the use of public time, funds, personnel, equipment, or real property unless specifically authorized by the county government or the ethics commission or unless its use is available to the general public.

Gwinnett County

The current ordinance prohibits the use of county-owned vehicles, equipment, materials, and property for personal convenience or profit. Most of the department heads interviewed indicated that this is not an issue in the county and that the existing ordinance is sufficient and that employees understand the current restrictions. Of those that expressed some concern on this issue, a few indicated that internet usage is an area in which there is potential for employee abuse. The vast majority expressed confidence in their employees and in their leadership in setting a good example. There does not appear to be any particular need to revise the current ordinance provisions.

Representing Third Parties Against the County

The majority of the surveyed counties, both within Georgia and across the country, provide some restriction on officials and employees representing a third party before any county agency, board, or authority. Additionally, some counties prohibit an official or employee from representing any person or business in any proceeding or litigation in which the county is a party. A few counties restrict county officials from representing a third party before any agency of the county only if the represented party’s interest is adverse to that of the government. This conduct should properly be considered as a type
of conflict of interest and, if an ordinance does not specify this as a separate prohibition, it is often included within a list of activities deemed to be conflicts of interest.

Gwinnett County
The current ordinance prohibits an official or employee of the county from appearing on behalf of any private person, other than himself or his spouse or minor children, before any county agency, authority, or board. A county commissioner’s representation of his constituents is specifically excluded from this prohibition as being in the course of the official’s public duties. No mention was made during interviews in Gwinnett County that would indicate that this is or has been a concern in the county and the current ordinance provision appears sufficient.

Ethics Education
Simply enacting an ethics code does not help officials or employees to resolve ethical dilemmas; however, ethics education can maximize the effectiveness of any ethics code. Effective ethics training encourages ethical behavior and can be particularly useful as a means of clarifying the values of the organization and having individuals understand how to address ethical dilemmas. Among the benefits of training are ensuring familiarity with organizational policies and legal requirements; increasing general ethics awareness, including an understanding of the purpose of a code of ethics; providing an opportunity for a discussion of ethics standards and expectations; and demonstrating the use of a practical, ethical decision-making process. It is essential that employees know what is expected and training by line managers can provide reinforcement of standards and, by making the issues explicit, foster better decision-making. In other words, it gives employees the opportunity to see how ethics is involved in their day to day work lives.

Despite the existence of a number of studies supporting the benefits of ethics training, a minority of the counties reviewed for this study specifically provide for ongoing education programs for officials or employees. Of those counties, provisions range from a simple direction to the ethics body to develop and conduct programs on the purpose and implementation of the county ethics ordinance to a more extensive statement of authority regarding the implementation of ethics training. San Francisco requires its ethics commission to develop a program of seminars for newly elected officers and newly-hired employees, candidates and their campaign treasurers, and lobbyists to familiarize them with applicable ethics laws. It further requires annual seminars for top level county officials to reinforce the importance of compliance with federal, state, and local ethics laws and to inform these officials of changes in the law. Palm Beach County, Florida’s ordinance emphasizes ongoing ethics training for members of appointed boards.

Gwinnett County
The current Gwinnett County ordinance provides that a copy of the ethics code is to be distributed to every official and employee of the county as a part of the county employee handbook. This requirement is comparable to that found in most of the surveyed counties that address ethics education in their ethics ordinance. There was mixed support among officials and senior staff for the possibility of implementing ongoing ethics education in the county. While most interviewees expressed favorable opinions about the need for
more ethics education a few strongly opposed the addition of more training stating that additional education was unnecessary, it was likely to be too costly, or it would take too much time out of employee’s work schedules. A number of interviewees expressed the need for ongoing education for officials and staff with decision-making authority. The need for education tailored to specific groups was also mentioned several times, specifically with respect to advisory boards and authorities and the special challenges that the membership of such appointed bodies may face.

**Nepotism**

A minority of counties the counties studied for this report address nepotism in their ethics ordinances. *(See Table 2)* However, this is not necessarily an indication that these counties do not address the issue of favoritism and preferential treatment in hiring. It is more likely that the issue is either addressed in another county ordinance or, as in Gwinnett County, that the county addresses the issue in its employee handbook. It should also be noted that even absent a specific prohibition, the employment or appointment of a relative by a county official or employee or the direct supervision of a relative, could fall within a county’s general conflict of interest prohibitions against showing partiality or giving the impression of improper influence on the basis of kinship. As with conflict of interest restrictions, the definition of “family,” “relative,” or “immediate relative” plays a significant role in determining the scope of nepotism restrictions.

Two Georgia counties, Augusta-Richmond and Fulton, directly address the issue of nepotism in their county ethics codes, prohibiting an official or employee from affecting the employment, appointment, promotion, or transfer of a relative, with Augusta-Richmond limiting this restriction to any position that the official or employee directly supervises or manages while Fulton more broadly applies this to any position with the county. Augusta-Richmond also prohibits the employee or official from participating in any disciplinary action affecting a relative. The conflict of interest provisions of the ethics ordinances of Chatham County and Cobb County both state that it is not the intention of the ethics code to prohibit an immediate relative of a county officer from being engaged in gainful employment with the county.

San Francisco, California and Montgomery County, Maryland impose similar limits on county officials and employees in the hiring, promotion, and discipline of relatives as those found in Augusta-Richmond and Fulton counties. Denver, Colorado prohibits both the employment of immediate family members of officials and employees and an official or employee being in the direct line of supervision over a family member. However, Denver also specifically authorizes the board of ethics to issue waivers from the restrictions on hiring and supervision of relatives of county officials and employees. Louisville-Jefferson County, Kentucky also prohibits an official or employee directly supervising a family member and a violation results in the prohibited employment being voided and a two-year period of ineligibility for future employment and the official or employee who violated the restriction may receive a reprimand or censure.
Gwinnett County
The county addresses the issue of nepotism in the employees’ handbook rather than in the ethics code. The county’s current provisions appear to be comparable to that of most of the other counties surveyed. Two members of the same family may not be employed in the same division of a department, unless specifically approved by the Merit System Board. The ordinance prohibits any employment action, including hiring, promotion, or transfer that results in a family member supervising or influencing the work activities or status of another family member. Hiring of a family member of a county elected official during that official’s term of office is also prohibited. Interviews revealed some support for the adoption of a stronger nepotism policy in the county, particularly in the Human Resources and Finance departments. It was suggested that elected officials be restricted from any contacts with Human Resources during the hiring process. However, no specific instances of improper activity were cited and it was suggested that this issue could be addressed with more education and training regarding the application of the current policy.

Post-Service Restrictions on Employees or Officials
State statutes and county ordinances restricting employees and officials from accepting certain types of employment after leaving county service generally fall within conflict of interest restrictions. Georgia law restricts certain elected and appointed state officials from engaging in lobbying for a period of one year after leaving office or employment with the state. While this state statute does not apply to county and municipal officials and employees, three of the surveyed Georgia counties, including Gwinnett County, address this issue in their ethics ordinances. Cherokee County’s ordinance prohibits the county from contracting with a business represented by a former member of the county governing authority for one year after the member leaves office. Fulton County prohibits its former employees and officers from participating in county contracts or attempting to influence any department, board, or other county entity that was under that individual’s official responsibility for a period of one year or two years for former members of the board of commissioners.

San Francisco, California has a severe post-employment restriction, permanently disqualifying a former officer or employee from representing any outside entity in any matter in which the city-county is a party or has a direct interest if the former employee or officer participated personally and substantially in that matter during his service with the city-county. Nashville-Davidson County, Tennessee restrictions on former employees range from permanent to one-year depending upon the employee’s participation in the matter during employment. Montgomery County, Maryland prohibits a former employee or official from working on any matter for 10 years after the last date the employee or official significantly participated in the matter as a public employee or official. Denver, Colorado imposes a six month restriction on employment involving matters that the former employee or official took direct official action during his employment or service with the city-county and the limit extends to one year if the employment involves litigation in which the city-county is involved. As in the Georgia counties noted above, it is not uncommon for counties in other states to impose lengthier time restrictions on former elected officials than on employees appearing before the
government. Lexington-Fayette County, Kentucky restricts a salaried officer or employee from appearing before the county for one year and an elected official for two years.

**Gwinnett County**
The current Gwinnett County ethics ordinance prohibits county officials and employees from accepting paid employment before any county board, commission, committee, agency, or authority of the county in relation to any case, proceeding, or application in which the employee or official personally participated during his service with the county. There is no time limit stated in connection with this prohibition making Gwinnett’s code potentially among the most restrictive of those examined. Interviews with county officials and senior management did not reveal any instance in which post-service employment of former officials or employees has been a concern in the county.

**Penalties**
While federal and state laws define behaviors as illegal, ethics codes generally regulate “undesirable” behaviors that are deemed appropriate for civil and regulatory enforcement. A clear statement of the sanctions that may be imposed for violation of an ethics code demonstrates a commitment to ethical behavior and the expectation of compliance. Although most governmental ethics codes focus on the actions and intent of officials and employees of the government, it is not uncommon to address the actions and intent of those doing business with the government such as vendors and contractors or those seeking to influence the government through lobbying.

The majority of Georgia counties provide for administrative penalties for employees including warnings, reprimands, fines, and, in some instances, suspensions or terminations. Augusta-Richmond, Chatham, Clayton, and DeKalb counties provide that the board of commissioners may impose such penalties while Fulton County, which has an ethics board, provides that the ethics board may impose a fine or public reprimand and may recommend additional discipline to the board of commissioners or the appointing authority. Columbus specifically provides that members of the county’s merit service are subject to dismissal in accordance with personnel rules. Several Georgia counties provide that the county governing authority may take legal action to reprimand or censure one of its own members; an appointed official; or a board, authority, or commission member appointed by the governing authority. A small minority provide for the removal from office of an elected official for an ethics code violation. Cherokee County is the only surveyed Georgia county that provides for removal of a public official by the county board of ethics. The Augusta-Richmond county commission is authorized to issue written warnings or reprimands, terminate contracts, or pursue debarment or suspension of vendors or contractors who violate its ethics ordinance. Fulton County’s board of ethics may recommend that the county purchasing pursue debarment proceedings against vendors and contractors.

Some counties outside the state of Georgia distinguish between intentional and unintentional violations while others authorize sanctions for ethical violations not available to Georgia counties. Lake County, Illinois punishes an intentional violation of
its gift ban with a fine of $1,000 to $5,000. Any person intentionally filing a false report of a violation of any provision of the ordinance is subject to incarceration for up to one year and a fine of $2,500. Louisville-Jefferson County, Kentucky distinguishes between intentional and unintentional violations. The ethics commission may issue a letter of technical violation or a letter of reprimand for a violation found to be unintentional or the result of a good faith misinterpretation of the ordinance; intentional violations are subject to a letter of public reprimand, formal censure, or a fine. Orange County, Florida’s lobbying ordinance authorizes the county governing authority to warn, reprimand or censure, or suspend or prohibit lobbyists who violate the county ordinance from lobbying any agency of the county for up to two years and to void any procurement contract in which a county commissioner or a member of the procurement committee was lobbied in violation of the ordinance. King County, Washington provides that elected officials violating the ethics ordinance are subject to a penalty of one month’s pay and the county contract will be canceled of any person who violates the ethics ordinance by giving anything of value to a county employee or official and the contractor will be prohibited from bidding on future county contracts for two years.

_Gwinnett County_

The current county ordinance specifies penalties for employees and for county officials for breach of the county’s code of ethics. Employees and officials are subject to written warnings or reprimands. Employees are subject to suspension without pay and termination of employment, while officials are subject to removal from office as provided by state law. Cancellation of the contract and recovery of the value transferred or received under the contract are also authorized. In addition, the ordinance provides for debarment or suspension of county officials from award of a county contract for a period of up to three years. The penalties currently imposed are comparable to those imposed by other Georgia counties as well as counties across the country.

**Conclusion**

A government may have an ethical environment without an ethics code. Conversely, adopting an ethics code will not, in and of itself, result in more ethical behavior. Rules will never replace the need for character. However, ordinances are often necessary to define a community’s minimum ethical standards. Although direct comparisons of ordinances are difficult, the Gwinnett County ethics ordinance is certainly comparable in scope to the other Georgia counties studied. Differences noted between Gwinnett County’s ordinance and the ordinances of the 13 counties outside Georgia can, at least to some extent, be attributed to differences between the laws of Georgia and those states in which the other counties are located. For example, the state of Illinois mandates that counties adopt a local ordinance addressing gifts and prohibited political activities at least as restrictive as the state statute.

A review of the current Gwinnett County ethics ordinance reveals that the county addresses the majority of the issues identified for the study, with three notable exceptions: a permanent ethics body, lobbying, and ongoing ethics education. Nine of
the 13 non-Georgia counties (69%) and four of the eight Georgia counties (50%) studied provide for some type of permanent ethics body. However, of the four non-Georgia counties without permanent ethics bodies, two are located in Florida which provides that the state ethics commission fulfills this function for local governments. Given that a relatively high proportion of other counties within the study have a permanent ethics body coupled with the fact that a significant number of those interviewed expressed either outright support for establishment of a permanent body or concern with the current process for creating an ad hoc panel, amendment of this section of the current ordinance would appear to be worthy of serious consideration.

On the issue of lobbying, six of the 13 counties outside the state (46%) while only two of the eight Georgia counties (15%), address the issue of lobbying county governing authorities. Although a minority of Georgia counties studied address this issue in their ethics codes, this was a topic on which most of those interviewed expressed strong opinions, either pro or con. However, given the division of opinion this is a topic that at least warrants additional study.

Ongoing ethics education was addressed by six of the 13 non-Georgia counties studied (46%) but was not addressed by any Georgia county in the study. There is considerable academic literature to support the efficacy of ethics education despite its relative scarcity in local government. And, there was a not insignificant amount of support expressed by those interviewed in the county leadership for the implementation of additional education and training, which could be particularly important if other amendments to the current ethics code are adopted.

Ethical leadership and a climate of ethics are among the most important factors in determining whether an ethics code is truly effective. Extensive interviews reveal that this is where Gwinnett leadership truly shines. The good news appears to be that Gwinnett County has an excellent reputation for ethics among its citizens and employees, other local governments, businesses, and vendors.
Appendix A - Gwinnett Ethics Study Interview Questions

We (the Carl Vinson Institute of Government at the University of Georgia) are conducting a study for the Gwinnett County Board of Commissioners to examine the current Ethics Code for the County and the ethics ordinances of a number of similar counties within Georgia and across the country. As a part of that study, we are interviewing county elected and appointed officials and department heads to get a sense of the effectiveness of the current county ethics ordinance and any emerging issues in the county.

1. Are you familiar with the current County ethics ordinance and procedures?

2. What has been your experience with the current ordinance?

3. Do you have any knowledge or experience with ethics complaints filed in the county? Have any ethics complaints been filed against anyone in your department?

4. What is the public perception of county government ethics, including any media coverage of alleged ethical violations involving Gwinnett County government?

5. Here are some provisions found in ethics ordinances of other counties:
   a. Registration of lobbyists
   b. Independent Ethics Board or Commission
   c. More specific or restrictive gift ban
   d. Ongoing/regular training or education relative to ethics

   Should similar provisions should be included in Gwinnett’s ordinance?

6. Do you have any thoughts on the current process for reporting violations? On the current process for establishing an Ethics Panel?

7. Do you have any comments on how the current process could be improved?

8. Have you been approached by a lobbyist regarding a contract or other work pending in your department? What were the circumstances?

9. What restrictions do you think should be imposed on lobbying of county departments and employees?

10. Are there any other issues that you think should be addressed that I haven’t asked about?

11. Should the county ethics ordinance should address campaign finance?
    (This question was asked only of Commissioners.)
1 GA CONST. art 9, §2, ¶1.
2 O.C.G.A. §16-10-2.
3 O.C.G.A. §16-10-6.
4 O.C.G.A. title 21, ch. 5.
5 O.C.G.A. §21-5-11.
6 O.C.G.A. §45-10-1.
7 O.C.G.A. title 45, ch. 10, art. 2.
8 O.C.G.A. title 36, ch. 67A.
9 O.C.G.A. title 21, ch. 5, art. 4.
13 O.C.G.A. §45-1-6.
16 O.C.G.A. §21-5-75.