

County Code of Ethics



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County Code of Ethics



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The National Association of Counties (NACo) is the only national organization that represents county governments in the United States. Founded in 1935, NACo provides essential services to the nation's 3,068 counties. NACo advances issues with a unified voice before the federal government, improves the public's understanding of county government, assists counties in finding and sharing innovative solutions through education and research, and provides value-added services to save counties and taxpayers money. For more information about NACo, visit www.naco.org.

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Ethics in County Government

The legitimacy of a democratic government rests on its ability to gain the trust of its citizens. Corrupt government officials and staff who fail to uphold basic standards of ethics completely undermine the role of public service. At the core of decisions, officials are expected to keep the interest of the public—not themselves—in mind.

While the most prominent cases of public corruption have occurred on the federal and state levels, county governments are not exempt from adhering to ethical guidelines. In many cases, counties have less oversight and accountability making it easier to get away with unethical practices. For that reason, it can be very helpful for counties to utilize codes of ethics to increase accountability and principled conduct.

“Nearly all men can stand adversity, but if you want to test a man’s character, give him power.”—Abraham Lincoln

Why Do Counties Need a Code of Ethics?

Most people interpret ethical conduct in black and white—there are right things to do and then there are wrong things. However, upon entering into public office, many public officials quickly realize that a vast array of ethical dilemmas fall into a menacing “gray” area where the “right thing to do” is not easily apparent. Making the right choice in a difficult situation is not always so straightforward. In many instances, just the appearance of wrongdoing, whether illegal or unethical activity has actually occurred, can create major problems for county officials.

According to Ron Carlee, former County Manager of Arlington County, VA, when making a difficult ethical decision, government officials should be able to ask themselves, “Would I be will-

ing to defend my actions on the front page of the newspaper, and could I do so successfully?" A code of ethics for a county or local municipality can be a useful tool in eliminating ethical confusion and misunderstandings, providing a concrete framework for acceptable conduct.

How should a Code of Ethics be written?

Before determining what content should be integrated into a Code of Ethics, the purpose of the code must be decided. Is the code designed to inspire officials or to simply regulate the behavior of officials? Different kinds of codes are designed to serve different purposes. For some counties, a "statement of values" or a "mission statement" are sufficient means of portraying standards of ethics.

However, if it is clear that a broader, more detailed code of ethics is necessary, then one should be constructed in the proper form. The most common and effective layout divides the code into two parts. First, an aspirational section frequently includes a preamble and outlines the ideals of the county. The second section typically sets forth the rules or guidelines that county officials and employees are expected to uphold.

Once these two sections have been drawn up, the enforcement process must be developed. Will there be penalties for violating the code? If so, how will they be administered? Additionally, counties must look at how the code will be implemented and advertised to the staff, as well as to county residents.

A well-written code of ethics is designed:

- To define acceptable behavior by county officials and employees
- To promote high standards for county officials and employees
- To provide a measurement for members to use for self evaluation
- To establish a framework for professional behavior and responsibilities
- To establish occupational identity
- To show occupational maturity

What topics should a Code of Ethics attempt to address?

Transacting business is one of the most common areas included. This is generally where most citizen complaints are “conflicts of interest” issues. A county may contract or do business with an employee’s or county official’s business as long as they are not involved in the award of the business contract.

Conflicts in Voting Procedures can be another problematic area. This applies specifically to county commissioners and board members and generally says that they should abstain from a vote on issues on which they would profit or enhance a relationship.

Acceptance of gifts is a touchy area. The inclusion of this area in a code generally defines a gift either by its economic value or as a promise for future benefits. Codes usually state that gifts are prohibited if official acts have or could occur.

Exploitation of Official Position is included in a code to prohibit elected officials from using their elected positions to obtain special privileges and exemptions.

Prohibition on the use of confidential information is always included to prohibit elected officials and other county employees from accepting payment to divulge information or from using confidential information for their own personal gain or benefit.

Financial Disclosure Reports are also typically included. This financial disclosure report, filed either with a state office, if it is a state law, or the county office, usually has a required form and includes an itemized source of income



statement for the official. This regulation also requires candidates for elective office to satisfy financial disclosure regulations.

Outside employment rules are also often included in a code of ethics. This section of the code usually prohibits county employees from receiving payment for the same services they perform for the county from any other source. It also often includes a prohibition of certain kinds of outside employment for county employees.

Many more advanced codes include a *two-year rule*. This rule states that elected officials cannot lobby the county for any purpose, including doing business, for a period of two years after the end of their time in office.

Are Codes of Ethics always enough to thwart corruption?

Although ethics codes provide concrete rules for conduct in public office, they must not only be taken to heed by the officials themselves but also examined by an outside audience to ensure accountability. Oversight of ethical conduct is critical to the success of any sort of ethical guidelines. Depending on the size of the

county and its history of unethical behavior, this “ethics inspector” can be anyone from another county official, staff member, or even a public citizen. Any person can report an ethics violation if there are sound rules in place.

Certain larger counties and counties that have experienced episodes of corruption have gone a step further and constructed an ethics commission to monitor the conduct of county offi-



cials. These commissions generally consist of several appointed members who investigate and monitor suspicious or unethical behavior within the government. Counties such as Broward, Miami Beach and Palm Beach, Fla., Montgomery, Md., and Los Angeles and San Bernadino, Ca., have all found it useful to create such commissions to enforce their county's codes of ethics.

Questions Citizens Ask About Ethics

Who do I report a conflict of interest to in my county?

Most people think they understand a conflict of interest. They know one when they see one! However, an action by a local official is probably not a conflict of interest unless some law, code, ordinance or regulation says it is a conflict. Many counties and some states have adopted codes of ethics that provide a definition of a conflict of interest. In the absence of such a formal definition, it is difficult for a citizen to substantiate their claim. In fact, a conflict of interest is often viewed to be a moral call made by the individual in his own subjective terms if there is no law to follow.

A key determinant in defining a conflict of interest first involves determining whether the public official made a decision that would only benefit the public interest. It is important to ask the following questions: Did the official make a decision that benefits him personally, professionally or financially? Was the official in a position to influence a decision that benefited him or a colleague? Depending on the answers to these questions and the state and county government structure, you may want to file your complaint with the County District Attorney or the State Secretary of State.

In most cases where a conflict of interest arises, the official recuses him or herself from the deliberations or abstains from any vote.

Why do we need ethics codes anyway?

An elected official once said "ethics codes don't work if you have unethical people." However, by having a tangible code that establishes standards of conduct based on duties and virtues and establishes parameters for behavior, officials are forced to be ac-

countable for their actions. NACo established a model code of ethics for county officials that states:

The ethical county commissioner *should*:

- Properly administer the affairs of the county.
- Promote decisions which only benefit the public interest.
- Actively promote public confidence in county government.
- Keep safe all funds and other properties of the county.
- Conduct and perform the duties of the office diligently and promptly dispose of the business of the county.

Why do you have to be related to someone at the county to get a decent county job?

Many counties have addressed this issue in a section of their ethics codes that relates to nepotism. Nepotism is favoritism or patronage granted to relatives, especially in business or politics. In many counties, anti-nepotism policies have been adopted in order to prevent the appearance of favoritism in hiring. These policies usually will establish who (by family relationship) can work in the county and where. These policies are generally designed to eliminate the look of impropriety in hiring.

Can anybody contribute money to a local candidate for office?

Generally, yes. Some states and some counties have established strict rules about campaign contributions. These rules usually include a limit on the amount that can be contributed over a certain time period or to a single campaign. In many instances, these rules also require that the candidate, or the candidate's staff, report the source and amount of all campaign funds either to a state or county office. This information is usually available to the public.

A Model Practice for Ethical Conduct and Behavior—Powhatan County, Virginia

When a new Powhatan County, Va. Board of Supervisors took office in 2008, it sought ways to build a cohesive team focused on problem-solving and gaining public trust.

Together, the officials drafted a program called the Rules of Engagement, Commitment to Excellence and Covenant with Staff,

County Administration and Management. It emphasizes a system of safeguards to ensure personal disagreements do not get in the way of policy decisions and a strong code of ethics.

“They viewed it as a way to start fresh and make sure they got along as a team,” said Carolyn Cios, County Administrator, “and to make a real commitment to work together.”

The new board was made up of two incumbents and three first-term members, who hammered out a list of supplemental guidelines. These guidelines, called the Rules of Engagement, were adopted at their first board meeting together. Some of the rules on the list included,

- represent the county as a whole and maintain a professional image,
- show respect for each other and look for honorable intent,
- seek meaningful compromise,
- resolve issues directly and privately, and
- defer action when more information is needed.

The Code of Ethics adopted by the board reaffirmed best practices such as putting loyalty to the county as a whole above personal interest, individuals, districts and particular groups; full disclosure through the Freedom of Information Act; and clarifying the difference between personal opinion and board decisions when responding to the media.

The covenant between the Board of Supervisors and staff recognizes their mutual interdependence, including the acknowledgment that mistakes do occur. “We acknowledge that staff is often confronted with issues of an interpretational nature, and it is our responsibility as a Board to work with staff in reconciling these issues in establishing sound policies,” reads one of the covenant rules.

“We’re a growing locality, and we are growing very quickly,” Cios said. “We have had over 25 percent growth in the last decade. Oftentimes, with a growing locality it is hard to keep up. When we don’t have as much staff as a larger locality might have, we have to wear many different hats. Because of that we have to be a little bit more tolerant of mistakes.”

Standards of conduct adopted by the board included the avoidance of language or gestures that could be considered abusive, conduct off the job that could cast public doubt on the integrity or competence of the county government, creating a positive work environment in public meetings and tolerance of differing viewpoints.

Cios said the board and staff recommits to the program every year, and that the county is “very proud of this.”

“It is something that has really become a part of the way we operate as a government,” she said.

Working as a team with the supplemental rules, she added, has enabled the board to make decisions on matters the previous board tabled indefinitely, including,

- adoption of an innovative wetland buffering program, despite developer scrutiny,
- total agreement regarding more stringent standards for private road construction,
- creation of several citizen committees to work on planning and transportation issues, and
- work on the development of a regional water source in partnership with three other counties.

Cios said the program has created a positive work environment that spills into the community as a whole. Spelling out expectations of excellence, professionalism, and competence in a public document engenders trust among residents in the county’s leadership. Cios said she decided to submit the program to NACo for an Achievement Award after an attorney, who was visiting from another county, heard the board talking about the second-year revisions and additions to the program.

“We were in a closed-door meeting on a very controversial topic, so he got to see us in action,” she said. “He saw the way we dealt with this controversial issue and adopted the rules of engagement and said, ‘You know, this really does work.’”

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