



# THE STATE OF GEORGIA

## EXECUTIVE ORDER

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BY THE GOVERNOR:

**ORDERED:** That a new Code of Ethics, attached hereto, be established for the Executive Branch of state government effective upon execution of this Order.

This 1<sup>st</sup> day of April 2021.

A handwritten signature in black ink, appearing to read "B. Hathaway", is written over a horizontal line.

GOVERNOR

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**CODE OF ETHICS**  
**EFFECTIVE APRIL 1, 2021**

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- I. Employees shall use their positions to further the public interest and not for any financial or personal benefit other than salaried compensation and employer-provided benefits as provided herein.
- II. Employees shall avoid conflicts of interest and shall make every effort to avoid the appearance of a conflict of interest. An appearance of conflict exists when a reasonable person would conclude from the totality of the circumstance that the employee's ability to protect the public interest, or perform public duties, is compromised by personal interests.
- III. No employee shall take any action in his or her official capacity which he or she knows or should know could result in a financial benefit to themselves or a relative at any present or future time.
- IV. All oral and written statements made by employees in their official capacity as a state employee shall be made in what the employee believes to be an honest and truthful manner.
- V. Employees who witness or have evidence of misconduct shall report it immediately to the ethics officer of their agency.
- VI. Ethics officers shall report any conduct that violates this Code of Ethics to the Governor's Executive Counsel or the Office of the Inspector General.
- VII. Employees whose relatives are employed as lobbyists shall disclose such information to their agency's ethics officer as provided herein and shall recuse themselves from all matters related to the lobbyist-relative's clients.
- VIII. Employees whose relatives are not registered lobbyists, but who nonetheless have direct business dealings with, proposals to do business dealings with, or other ongoing matters in front of the employee's agency shall disclose such information to their agency's ethics officer as provided herein and shall recuse themselves from all matters related to the relative's direct business dealings or pending matters.
- IX. No employee shall use information garnered from their employment with an agency to violate any provision of this Code of Ethics.
- X. Employees shall abide by the Code of Ethics for Government Service in Code Section 45-10-1 *et seq.*
- XI. Employees are required to afford all constituents fair and equal opportunity to express their concerns and ideas regarding the State without regard to their political affiliation or personal attributes. Decisions made by employees in the performance of their duties shall be made without bias.
- XII. Absent a specific exemption below, no employee, nor any person on behalf of an employee, shall accept a gift from a lobbyist, vendor, or any other person with whom the employee has a business relationship or interacts in the course of their employment with the State.
- XIII. No employee may accept any honoraria.
- XIV. An employee shall not advocate for or cause the advancement, appointment, employment, promotion, or transfer of a relative to an office or position within his or her agency.

## **Section 1:     Purpose**

On January 14, 2019, Governor Brian P. Kemp signed Executive Order 01.14.19.03 "Establishing a Code of Ethics for Executive Branch Officers and Employees." That Executive Order renewed the Code of Ethics originally issued by Governor Nathan Deal on March 30, 2017, as Executive Order 03.30.17.02. Throughout the last two years, it has become evident that certain portions of those Executive Orders establishing the Code of Ethics need to be clarified. To that end, this extension of those previous Codes of Ethics seeks to provide clarity by grouping rules for employee conduct into a single list while defining additional terms to assist in the understanding of their meaning.

This Code of Ethics is therefore an extension and a guide to the ethical standards applicable to government employees set forth in Code Section 45-10-1 *et seq.* but does not describe all possible ethics regulations or situations that may arise. This Code of Ethics is intended to provide a basic framework to assist employees with common questions and should be used in conjunction with guidance from agency ethics officers and the Office of the Inspector General.

## **Section 2:     Definitions**

For the purposes of this Code of Ethics, the following terms shall be assigned the following meanings:

1. "Agency" shall mean any agency, authority, department, board, bureau, commission, committee, office, or instrumentality of the State of Georgia that reports to the Governor, including the Office of the Governor.
2. "Business Entity" shall mean any for-profit corporation, sole proprietorship, partnership, limited partnership, limited liability company, limited liability partnership, professional corporation, enterprise, franchise, association, trust, or joint venture.
3. "Business Relationship" shall mean a relationship that exists between an agency employee and a non-government business entity or person because the employee directly engages or supervises the work of the person or entity.
4. "Bribe" and "Bribery" shall have the same meaning as Code Section 16-10-2.
5. "Campaign Committee" shall have the same meaning as Code Section 21-5-3(2).
6. "Contribution" shall have the same meaning as Code Section 21-5-3(7).
7. "Direct Ownership Interest" shall have the same meaning as Code Section 21-5-3(8).
8. "Employee" shall mean any person who is employed by an agency.
9. "Fiduciary Position" shall have the same meaning as Code Section 21-5-3(13).
10. "Gift" shall mean any object or sum that retains value of more than \$75.00 including intangible property, currency, gift cards, travel expenses, gratuities, subscriptions, memberships, loans, extensions of credit, forgiveness of debts, investment, or advances or deposits of money, but shall not include contributions to campaign committees, leadership committees, or anything given that accrues to the benefit of the State.
11. "Honoraria" shall mean a payment given for professional services that are rendered nominally without charge.
12. "Intangible Property" shall mean property which is not real property and which is held for profit and includes stocks, bonds, interest in partnerships, choses in action, and other investments but

shall not include any ownership interest in any public or private retirement or pension fund, account, or system; a license of any type; or any ownership interest in any public or private life insurance contract or any benefit, value, or proceeds of such life insurance contract.

13. "Investment" shall mean the investment of money or capital to gain interest or income.
14. "Lobbyist" shall have the same meaning as Code Section 21-5-70(6).
15. "Non-Profit Corporation" shall mean any corporation organized pursuant to 26 U.S.C.S. § 501 or § 527 but shall not include business entities.
16. "Officer" shall mean the Governor and the heads of all agencies who are appointed by the Governor. For purposes of this Code, all "Officers" are also "Employees" as that term is defined herein.
17. "Participant" shall mean a person, business entity, an owner, shareholder, partner, employee, or agent of a business entity involved in the proceeding.
18. "Person" shall mean an individual, partnership, committee, association, business entity, labor organization, or any other organization or group of individuals.
19. "Relative" shall mean a spouse, parent, grandparent, child, brother, sister, uncle, aunt, nephew, niece, first cousin, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepparent, stepchild, stepbrother, stepsister, half-brother, or half-sister.
20. "Travel" shall mean any trip, lodging, or transportation that is not otherwise within the scope of an employee's performance of a state duty.
21. "Value" shall mean the cost attributable to a gift, less applicable taxes and gratuities, or a reasonable estimate based upon customary charges for like goods or services in the locality.
22. "Vendor" shall mean a person or business entity that has a business relationship with an employee or an employee's agency or is actively engaged in the procurement of a contract with an employee's agency. This definition shall extend to third parties and subcontractors of other vendors.

### **Section 3:     Ethics Officer**

Each agency shall designate an Ethics Officer who shall be charged with enforcement of this Code of Ethics in his or her agency.

- a. The ethics officer shall take appropriate measures to ensure that the agency's employees become familiar with applicable ethics law and policies, including the policies set forth in this Code of Ethics. Each agency's ethics officer shall be an attorney or a senior official within such agency that reports to an officer. Each ethics officer is empowered to issue letters and opinions related to the application of this Code of Ethics to specific actions taken by agencies and employees.
- b. Ethics officers shall report directly to the Governor's Executive Counsel on all matters related to this Code of Ethics.
- c. Each officer shall make a copy of this Code of Ethics available to all employees and shall institute procedures for its enforcement consistent with all applicable Georgia laws.
- d. Completion of the attestation shall be a condition of employment for all employees. All current employees shall complete the attached attestation by June 30, 2021, and all newly hired employees shall complete the attached attestation at the time of their onboarding.

- e. Employees who violate this Code are subject to disciplinary action, including termination of employment, subject to review by the Executive Counsel.
- f. The Executive Counsel is hereby designated the ethics officer of the Office of the Governor and shall assist agency ethics officers with the implementation of this Code of Ethics. The Executive Counsel shall report directly to the Governor.
- g. The Inspector General of the State of Georgia is hereby empowered to investigate violations of this Order. The Inspector General shall report the findings of any investigation of violations of this Code of Ethics pursuant to its authority.
- h. There may be unique or compelling circumstances in certain individual cases that warrant exceptions to, or waivers from, the requirements outlined in this Code of Ethics. In those instances, prior written approval by the Ethics Officer is required, subject to review by the Executive Counsel.

#### **Section 4: Recusal & Disclosure of Conflicts**

- a. Employees of agencies shall recuse themselves from any situation in which the employee has a conflict of interest or where an employee's impartiality might reasonably be questioned due to the employee's personal or financial relationship with a participant in the proceeding. Such recusal shall apply to, among other circumstances, situations where the employee has a financial interest in a business entity that is engaging as a vendor with the employee's agency; where an employee's relative has a financial interest as a lobbyist or vendor on an issue pending before the agency; or where the employee has a business relationship with an agency.
- b. If an employee is uncertain whether a situation requires recusal, the employee shall disclose the relationship and the facts of the underlying situation to the ethics officer of his or her agency. The ethics officer shall determine the extent to which, if any, a conflict of interest exists and whether the employee should otherwise recuse himself or herself.
- c. Employees whose relatives are lobbyists or vendors shall disclose, in writing:
  - 1. the name of their relative;
  - 2. the name of their relative's employer;
  - 3. the name of their relative's client (if applicable);
  - 4. the issue for which the relative or the relative's employer has been retained;
  - 5. the contract or other business relationship the relative or the relative's employer or client is seeking to engage with an agency or the State;
  - 6. a thorough description of all relevant underlying facts; and
  - 7. an affidavit that the employee has not disclosed any information learned through his or her employment to the relative that would financially benefit the employee, the relative, the relative's employer, or the relative's client (if any) prior to disclosure of the relationship.
- d. Such disclosures shall be made in writing for each and every client, vendor, business relationship, or issue as the ethics officer deems appropriate so as to exhaust the information available from the employee of the scope of a potential conflict of interest. For existing state employees, this requirement shall not be effective until July 1, 2021, although such statements should be made as soon as practicable.
- e. Employees shall be responsible for updating and supplementing, if necessary, the information contained within the disclosures and informing the agency ethics officer of any changed or new circumstances or potential conflicts *at the time they arise*.
- f. An employee shall never engage in communication with any lobbyist-relative or vendor-relative on any issue for which the relative is actively engaging an agency or the State to act.

- g. The ethics officer shall reassign any matter for which an employee has recused himself or herself to another employee who is not under the supervision of the recused employee. If there is no employee to which the matter can be reassigned, the ethics officer shall oversee the matter.
- h. Ethics officers shall meet regularly with employees that have filed disclosure statements to ensure no further disclosures are necessary.
- i. Ethics officers shall disseminate to appropriate parties within an agency when an employee recuses from a matter. The dissemination of such information should be as broad and as detailed as necessary to ensure that the conflict is known by those employees engaging in the business relationship with the recused-employee's relative or business entity.
- j. Ethics officers shall maintain a listing available to all agency employees of recused employees and the issues from which they have recused.
- k. The use of lobbyists will not be required or preferred as a way to obtain access to employees.
- l. Former employees should not use their former positions for financial or other personal gain or to influence legislation or procurement decisions. Employees shall decline to communicate on official matters with any lobbyist or vendor who was an officer within the preceding one-year period.
- m. No agency shall be permitted to contract with any business entity to provide lobbying services on behalf of that agency.
- n. Employees of any agency who in their official capacities promote or oppose the passage of any legislation by the General Assembly, or any committee thereof, shall coordinate all such activities with the Office of the Governor.
- o. The Governor's Executive Counsel is hereby authorized to develop forms to be used for the purpose of disclosures of conflicts of interests.

## **Section 5:     Gifts**

- a. If a gift has been accepted in violation of this Code of Ethics, it may be returned to the donor, transferred to a charitable organization, or transferred to the State. Nothing shall be considered a gift for which valuable monetary consideration has been paid by the recipient.
- b. Where appropriate for purposes of tradition, ceremony, or inter-governmental relations, or when acting as a representative of an agency or to promote economic development, an employee may accept a gift on behalf of an agency. Contributions to campaign committees shall not be considered gifts unless such contribution is not disclosed pursuant to Code Section 21-5-1 *et seq.*
- c. Any gift or expenditure that could not be received directly may not be received indirectly. A gift to, or expenditure on behalf of, an employee's relative is considered a gift or expenditure to the employee if this Code of Ethics would otherwise prohibit the employee from receiving the gift.
- d. The offering, paying, solicitation, or acceptance of bribes shall be strictly prohibited by this Code of Ethics as it is by state criminal law. Any employee who is approached with or offered a bribe shall report such occurrence immediately to the Ethics Officer or law enforcement as appropriate.
- e. An employee on whose behalf actual and reasonable expenses for travel, transportation, or lodging in excess of \$75.00 are paid to permit the employee's participation in a meeting related to official or professional duties of the employee shall file a report no later than the 30 days after such expenses are paid. The report shall be filed with the designated ethics officer. The report must contain a description of each expense and the purpose, date, and location of the meeting. In-kind

donations of travel may be accepted: by a campaign committee pursuant to the appropriate disclosure requirements and contribution limits of the Ethics in Government Act, Code Section 21-5-1 *et seq.*; if such donation accrues to the benefit of the State, is disclosed prior to use, where any perceived conflict (if any) is outweighed by the State purpose, and is approved in writing by the agency ethics officer after he or she balances the savings to the State and the state purpose of the travel; or if such donation of travel is *de minimis*. Notwithstanding this provision, the preferred practice is for agencies to pay such expenses.

#### **Section 6:     Judicial Appointments**

The following persons shall not be eligible for appointment by the Governor to fill a vacancy on the Supreme Court, the Court of Appeals, the superior courts, or the state courts:

- a. Any person who has made a contribution to, or expenditure on behalf of, the Governor or the Governor's campaign committee at any time after the vacancy occurs; or
- b. Any person who has made a contribution to, or expenditure on behalf of, the Governor or the Governor's campaign committee within the 30 days preceding the vacancy, unless such person requests and is granted a refund of such contribution or reimbursement of such expenditure.

#### **Section 7:     Political Activities**

- a. Employees wishing to take part in political activities are responsible for complying with applicable federal and state law.
- b. Employees are prohibited from soliciting or knowingly accepting any campaign contribution in a governmental building or office. For the purposes of this section, "accept" means to receive a contribution by personal hand-delivery from a contributor or his or her agent. This does not apply when a government-owned building or any portion thereof is rented for the specific purpose of holding a campaign fundraiser.
- c. Employees are permitted to express their opinions on political subjects and candidates and to take an active part in political campaigns outside of working hours, including the wearing of badges or buttons and displaying of bumper stickers and posters.
- d. Employees are encouraged to vote.
- e. Employees who wish to seek office must comply with applicable federal and state laws. Employees must notify the designated ethics officer prior to announcing or qualifying for any elected position or office.

#### **Section 8:     Personal Use of Telephone and Internet Access**

State-provided telephone and internet access is intended for public business. Employee use of the internet on any state-provided device may be recorded and monitored. No employee is permitted to use or access the internet for pornographic, obscene, or other improper purposes.

#### **Section 9:     Outside Employment**

- a. Pursuant to the provisions and limitations of state law and rules, employees may serve on the boards or commissions of governmental entities subject to agency approval.

- b. Except as provided below, no employee shall serve as an officer or director of any nongovernmental business entity or non-profit corporation. The following are exceptions to this restriction:
  - 1. Subject to approval by the employee's agency, an employee may serve as an officer or director of a non-governmental business entity or non-profit corporation that does not seek funding from the State; and
  - 2. Subject to approval by the Governor's Executive Counsel, an employee may serve as an officer or director of a non-governmental business entity or non-profit corporation that seeks funding from the State if:
    - i. serving in that capacity is directly related to the employee's employment; and
    - ii. the employee has been requested to do so by the Office of the Governor, by his or her agency, or is required to serve in that capacity by statute, rule, executive order, or other applicable law.
- c. Voluntary, pro bono services on behalf of non-profit corporations shall be permitted, so long as services to such corporations would not have the potential to create a conflict of interest and do not impair the employee's ability to discharge his or her public duties fully and faithfully. The prohibition relating to soliciting gifts does not restrict employees from soliciting charitable contributions from lobbyists or principals, so long as the employee or any relative does not control or work for the non-profit corporation.
- d. Employees shall strictly adhere to State Personnel Board Rule, GA. COMP. R. & REGS. 478-1-.07.



### **Attestation**

1. I have been provided with a copy of the Governor's Code of Ethics.
2. I have fully read and understand the Governor's Code of Ethics.
3. I affirm that I will strictly adhere to the Governor's Code of Ethics, and am committed to maintaining an honest, ethical, and open system of government for the people of Georgia.
4. I understand that failure to adhere to the Governor's Code of Ethics, whether intentional or not, may be cause for discipline, termination, or even criminal prosecution.

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Signature

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Printed Name

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Employee ID Number

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Date