

Title 17 – Counties
Chapter 16a – County Officers and Employees Disclosure Act

17-16a-1. Citation of chapter.

This chapter may be cited as the "County Officers and Employees Disclosure Act."

17-16a-2. Purposes.

The purposes of this chapter are to establish standards of conduct for county officers and employees and to require these persons to disclose conflicts of interest between their public duties and their personal interests.

17-16a-3. Definitions.

As used in this part:

- (1) "Appointed officer" means any person appointed to any statutory office or position or any other person appointed to any position of employment with a county, except special employees. Appointed officers include, but are not limited to persons serving on special, regular or full-time committees, agencies, or boards whether or not such persons are compensated for their services. The use of the word "officer" in this part is not intended to make appointed persons or employees "officers" of the county.
- (2) "Assist" means to act, or offer or agree to act, in such a way as to help, represent, aid, advise, furnish information to, or otherwise provide assistance to a person or business entity, believing that such action is of help, aid, advice, or assistance to such person or business entity and with the intent to so assist such person or business entity.
- (3) "Business entity" means a sole proprietorship, partnership, association, joint venture, corporation, firm, trust, foundation, or other organization or entity used in carrying on a business.
- (4) "Compensation" means anything of economic value, however designated, which is paid, loaned, granted, given, donated or transferred to any person or business entity for or in consideration of personal services, materials, property, or any other thing whatsoever.
- (5) "Elected officer" means any person elected or appointed to any office in the county.
- (6) "Governmental action" means any action on the part of a county including:
 - (a) any decision, determination, finding, ruling, or order; and
 - (b) any grant, payment, award, license, contract, subcontract, transaction, decision, sanction, or approval, or the denial thereof, or the failure to act in respect to.
- (7) "Special employee" means any person hired on the basis of a contract to perform a special service for the county pursuant to an award of a contract following a public bid.
- (8) "Substantial interest" means the ownership, either legally or equitably, by an individual, the individual's spouse, and the individual's minor children, of at least 10% of the outstanding shares of a corporation or 10% interest in any other business entity.

17-16a-4. Prohibited use of official position -- Exception.

(1) Except as provided in Subsection (3) or (5), it is an offense for an elected or appointed officer to:

- (a) disclose confidential information acquired by reason of the officer's official position or use that information to secure special privileges or exemptions for himself or others;
- (b) use or attempt to use the officer's official position to secure special privileges for the

officer or for others; or

(c) knowingly receive, accept, take, seek or solicit, directly or indirectly, any gift or loan for the officer or for another, if the gift or loan tends to influence the officer in the discharge of the officer's official duties.

(2) This section is inapplicable to:

- (a) an occasional nonpecuniary gift having a value of less than \$50;
- (b) an award publicly presented;
- (c) any bona fide loan made in the ordinary course of business; or
- (d) political campaign contributions subject to Section [17-16-6.5](#).

(3) A member of a county legislative body who is also a member of the governing board of a provider of mental health or substance abuse services under contract with the county does not commit an offense under Subsection (1)(a) or (b) by discharging, in good faith, the duties and responsibilities of each position, if the county legislative body member does not participate in the process of selecting the mental health or substance abuse service provider.

(4) Notwithstanding the provisions of this section, a county or county official may encourage support from a public or private individual or institution, whether in financial contributions or by other means, on behalf of an organization or activity that benefits the community.

(5) This section does not apply to an elected or appointed officer who engages in conduct that constitutes a violation of this section to the extent that the elected or appointed officer is chargeable, for the same conduct, under Section [76-8-105](#).

17-16a-5. Compensation for assistance in transaction involving county -- Public disclosure and filing required.

(1) No elected or appointed officer may receive or agree to receive compensation for assisting any person or business entity in any transaction involving the county in which he is an officer unless he files with the county legislative body a sworn statement giving the information required by this section, and discloses in open meeting to the members of the body of which he is a member, immediately prior to the discussion, the information required by Subsection (3).

(2) The statement required to be filed by this section shall be filed 10 days prior to the date of any agreement between the elected or appointed officer and the person or business entity being assisted or 10 days prior to the receipt of compensation by the business entity. The statement is public information and is available for examination by the public.

(3) The statement and disclosure shall contain the following information:

- (a) the name and address of the officer;
- (b) the name and address of the person or business entity being or to be assisted, or in which the appointed or elected official has a substantial interest; and
- (c) a brief description of the transaction as to which service is rendered or is to be rendered and of the nature of the service performed or to be performed.

17-16a-6. Interest in business entity regulated by county -- Disclosure.

Every appointed or elected officer who is an officer, director, agent, or employee or the owner of a substantial interest in any business entity which is subject to the regulation of the county in which the officer is an elected or appointed officer shall disclose the position held and the precise nature and value of the officer's interest upon first becoming appointed or elected, and again during January of each year thereafter during which the officer continues to be an appointed or elected officer. The

disclosure shall be made in a sworn statement filed with the county legislative body. The commission shall report the substance of all such disclosure statements to the members of the governing body or may provide to the members of the governing body, copies of the disclosure statement within 30 days after the statement is received. This section does not apply to instances where the value of the interest does not exceed \$2,000, and life insurance policies and annuities may not be considered in determining the value of the interest.

17-16a-7. Interest in business entity doing business with county -- Disclosure.

Every appointed or elected officer who is an officer, director, agent, or employee, or owner of a substantial interest in any business entity which does or anticipates doing business with the county in which he is an appointed or elected officer, shall publicly disclose to the members of the body on which he is a member immediately prior to any discussion by such body matters relating to such business entity, the nature of his interest in that business entity. The disclosure statement shall be entered in the minutes of the meeting.

17-16a-8. Investment creating conflict of interest with duties -- Disclosure.

Any personal interest of or investment by any elected or appointed official of a county which creates a potential or actual conflict between the official's personal interests and his public duties shall be disclosed in open meeting to the members of the body in the manner required by Section [17-16a-6](#).

17-16a-9. Inducing officer to violate provisions prohibited.

No person shall induce or seek to induce any appointed or elected officer to violate any of the provisions of this part.

17-16a-10. Violation a misdemeanor -- Removal from office.

In addition to any penalty contained in any other provision of law, any person who knowingly and intentionally violates this part is guilty of a class A misdemeanor and shall be dismissed from employment or removed from office.

17-16a-11. County ethics commission -- Complaints charging violations -- Procedure.

(1) A county may establish by ordinance an ethics commission to review a complaint, except as provided in Subsection (3), against an officer or employee subject to this part for a violation of a provision of this part.

(2) (a) Except as provided in Subsection (3), a person filing a complaint for a violation of this part shall file the complaint:

- (i) with the county ethics commission, if the county has established a county ethics commission in accordance with Subsection (1); or
- (ii) with the Political Subdivisions Ethics Review Commission established in accordance with [Title 11, Chapter 49, Political Subdivisions Ethics Review Commission](#) if the county has not established a county ethics commission.

(b) A county that receives a complaint described in Subsection (2)(a) may:

- (i) accept the complaint if the county has established a county ethics commission in accordance with Subsection (1); or
- (ii) forward the complaint to the Political Subdivisions Ethics Review Commission established in Section [11-49-201](#):

(A) regardless of whether the county has established a county ethics commission; or

(B) if the county has not established a county ethics commission.

(3) Any complaint against a person who is under the merit system, charging that person with a violation of this part, shall be filed and processed in accordance with the provisions of the merit system.

17-16a-12. Rescission of prohibited transaction.

If any transaction is entered into in connection with a violation of Section [17-16a-6](#), the county may rescind or void any contract or subcontract entered into pursuant to that transaction without returning any part of the consideration received by the county.