



OFFICIAL CODE OF GEORGIA ANNOTATED
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*** Current Through the 2010 Regular Session ***
*** Annotations Current Through March 14, 2011 ***

TITLE 45. PUBLIC OFFICERS AND EMPLOYEES
CHAPTER 10. CODES OF ETHICS AND CONFLICTS OF INTEREST
ARTICLE 2. CONFLICTS OF INTEREST
PART 1. GENERAL PROVISIONS

O.C.G.A. § 45-10-20 (2011)

§ 45-10-20. Definitions

As used in this part, the term:

(1) "Agency" means any agency, authority, department, board, bureau, commission, committee, office, or instrumentality of the State of Georgia but shall not mean a political subdivision of the State of Georgia.

(2) "Business" means any corporation, partnership, proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, trust, or other legal entity.

(3) "Employee" means any person who, pursuant to a written or oral contract, is employed by an agency.

(4) "Family" means spouse and dependents.

(5) "Full-time" means 30 hours of work for the state per week for more than 26 weeks per calendar year.

(6) "Limited powers" means those powers other than state-wide powers.

(7) "Part-time" means any amount of work other than full-time work.

(8) "Person" means any person, corporation, partnership, proprietorship, firm, enterprise, franchise, association, organization, or other legal entity.

(9) "Public official" means any person elected to a state office and means any person appointed to a state office where in the conduct of such office the person so appointed has administrative and discretionary authority to receive and expend public funds and to perform certain functions concerning the public which are assigned to him by law.

(10) "State-wide powers" means those powers exercised by public officials which affect and influence all of state government. Public officials who exercise such powers include but are not limited to the Governor, the Lieutenant Governor, members of the General Assembly, Justices of the Supreme Court, Judges of the Court of Appeals, the Secretary of State, the Attorney General, the state auditor, the state accounting officer, the commissioner of administrative services, the commissioner of the State Personnel Administration and members of the State Personnel Board, the director of the Office of Planning and Budget, judges of the superior courts, and district attorneys.

(11) "Substantial interest" means the direct or indirect ownership of more than 25 percent of the assets or stock of any business.

(12) "Transact business" or "transact any business" means to sell or lease any personal property, real property, or services on behalf of oneself or on behalf of any third party as an agent, broker, dealer, or representative and means to purchase surplus real or personal property on behalf of oneself or on behalf of any third party as an agent, broker, dealer, or representative.

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*** Current Through the 2010 Regular Session ***
*** Annotations Current Through March 14, 2011 ***

TITLE 45. PUBLIC OFFICERS AND EMPLOYEES
CHAPTER 10. CODES OF ETHICS AND CONFLICTS OF INTEREST
ARTICLE 2. CONFLICTS OF INTEREST
PART 1. GENERAL PROVISIONS

O.C.G.A. § 45-10-21 (2011)

§ 45-10-21. Legislative declarations, purposes, and intent

(a) It is essential to the proper operation of democratic government that public officials be independent and impartial, that governmental decisions and policy be made in the proper channels of the governmental structure, that public office not be used for private gain other than the remuneration provided by law, and that there be public confidence in the integrity of government. The attainment of one or more of these ends is impaired whenever there exists a conflict between the private interests of an elected official or a government employee and his duties as such. The public interest, therefore, requires that the law protect against such conflicts of interest and establish appropriate ethical standards with respect to the conduct of elected officials and government employees in situations where conflicts exist.

(b) It is also essential to the proper operation of government that those best qualified be encouraged to serve the government. Accordingly, legal safeguards against conflicts of interest must be so designed as not unnecessarily or unreasonably to impede the recruitment and retention by the government of those men and women who are best qualified to serve it. An essential principle underlying the staffing of our government structure is that its elected officials and employees should not be denied the opportunity, available to all other citizens, to acquire and retain private economic and other interests, except where conflicts with the responsibility of such elected officials and employees to the public cannot be avoided.

(c) The General Assembly declares that the operation of responsible democratic government requires that the fullest opportunity be afforded to the people to petition their government for the redress of grievances and to express freely to individual members of the General Assembly, to committees of the General Assembly, and to officials of the executive branch their opinions on legislation, on pending executive actions, and on current issues and that, to preserve and maintain the integrity of the legislative and administrative processes, it is necessary that the identity, expenditures, and activities of certain persons who engage in efforts to persuade members of the General Assembly or the executive branch to take specific actions, either by direct communication to such officials, or by solicitation of others to engage in such efforts, be publicly and regularly disclosed. The provisions of this article shall be liberally construed to promote complete disclosure of such information so as to assure that the public interest will be fully protected.

(d) It is the policy and purpose of this article to implement these objectives of protecting the integrity of all governmental units of this state and of facilitating the recruitment and retention of qualified personnel by prescribing essential restrictions against conflicts of interest in state government without creating unnecessary barriers to the public service.



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*** Current Through the 2010 Regular Session ***
*** Annotations Current Through March 14, 2011 ***

TITLE 45. PUBLIC OFFICERS AND EMPLOYEES
CHAPTER 10. CODES OF ETHICS AND CONFLICTS OF INTEREST
ARTICLE 2. CONFLICTS OF INTEREST
PART 1. GENERAL PROVISIONS

O.C.G.A. § 45-10-22 (2011)

§ 45-10-22. Full-time public officials with state-wide powers prohibited from transacting business with all state agencies; public officials or employees with limited powers prohibited from transacting business with own state agency

(a)(1) It shall be unlawful for any full-time public official who has state-wide powers, for himself or on behalf of any business, or for any business in which such public official or member of his family has a substantial interest to transact any business with any agency.

(2) It shall be unlawful for any public official who has limited powers, for himself or on behalf of any business, or for any business in which such public official or member of his family has a substantial interest to transact any business with the agency for which such public official serves.

(b) The provisions of paragraph (1) of subsection (a) of this Code section shall not apply to:

(1) Any transaction made pursuant to sealed competitive bids;

(2) Any transaction when the amount of a single transaction does not exceed \$250.00 and when the aggregate of all such transactions does not exceed \$9,000.00 per calendar year; and

(3) Any transaction involving the lease of real property to or from any agency if such transaction has been approved by the State Properties Commission or the Space Management Division of the Department of Administrative Services.

(c) Any person who knowingly violates subsection (a) of this Code section shall be subject to the penalties provided for in Code Section 45-10-28.



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*** Current Through the 2010 Regular Session ***
*** Annotations Current Through March 14, 2011 ***

TITLE 45. PUBLIC OFFICERS AND EMPLOYEES
CHAPTER 10. CODES OF ETHICS AND CONFLICTS OF INTEREST
ARTICLE 2. CONFLICTS OF INTEREST
PART 1. GENERAL PROVISIONS

O.C.G.A. § 45-10-23 (2011)

§ 45-10-23. Full-time employees prohibited from transacting business with own state agency; exception to prohibition for Board of Regents employees

(a) It shall be unlawful for any full-time employee, for himself or on behalf of any business, or for any business in which such employee or member of his family has a substantial interest to transact any business with the agency by which such employee is employed; provided, however, that neither this Code section nor any other provision of law shall prevent full-time employees of the Board of Regents of the University System of Georgia from serving as members of the governing boards of private, nonprofit, educational, athletic, or research related foundations and associations which are organized for the purpose of supporting institutions of higher education in this state and which in furtherance of this purpose may transact business with such institutions or with the Board of Regents of the University System of Georgia.

(b) Any person who knowingly violates subsection (a) of this Code section shall be subject to the penalties provided for in Code Section 45-10-28.



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*** Current Through the 2010 Regular Session ***
*** Annotations Current Through March 14, 2011 ***

TITLE 45. PUBLIC OFFICERS AND EMPLOYEES
CHAPTER 10. CODES OF ETHICS AND CONFLICTS OF INTEREST
ARTICLE 2. CONFLICTS OF INTEREST
PART 1. GENERAL PROVISIONS

O.C.G.A. § 45-10-24 (2011)

§ 45-10-24. Part-time public officials with state-wide powers prohibited from transacting business with any state agency; part-time employees prohibited from transacting business with own state agency; exceptions to prohibitions

(a)(1) Except as provided in subsection (b) of this Code section, it shall be unlawful for any part-time public official who has state-wide powers, for himself or on behalf of any business, or for any business in which such public official or member of his family has a substantial interest to transact any business with any agency.

(2) Except as provided in subsection (b) of this Code section, it shall be unlawful for any part-time employee, for himself or on behalf of any business, or for any business in which such employee or member of his family has a substantial interest to transact any business with the agency by which such employee is employed.

(b) The provisions of subsection (a) of this Code section shall not apply to:

(1) Any transaction made pursuant to sealed competitive bids;

(2) Any transaction when the amount of a single transaction does not exceed \$250.00 and when the aggregate of all such transactions does not exceed \$9,000.00 per calendar year;

(3) Any transaction involving the lease of real property to or from any agency if such transaction has been approved by the State Properties Commission or the Space Management Division of the Department of Administrative Services; and

(4) Any transaction involving the purchase of surplus state property at a public auction.

(c) Any person who knowingly violates subsection (a) of this Code section shall be subject to the penalties provided for in Code Section 45-10-28.



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*** Current Through the 2010 Regular Session ***
*** Annotations Current Through March 14, 2011 ***

TITLE 45. PUBLIC OFFICERS AND EMPLOYEES
CHAPTER 10. CODES OF ETHICS AND CONFLICTS OF INTEREST
ARTICLE 2. CONFLICTS OF INTEREST
PART 1. GENERAL PROVISIONS

O.C.G.A. § 45-10-24.1 (2011)

§ 45-10-24.1. Exemption for transactions by family owned business where university system employee has interest; requirements

Subsection (a) of Code Section 45-10-23 and paragraph (2) of subsection (a) of Code Section 45-10-24 shall not apply to a transaction with a unit of the University System of Georgia by a family owned business in which an employee of the university system or a member of the employee's family has an ownership interest where all of the following apply:

- (1) The employee or one or more members of the employee's family or both have an ownership interest in a family owned business, but the employee is not actively engaged in the day-to-day management of the business;
- (2) The employee is employed by a department of the unit of the university system in a position below that of department head; and
- (3) The transaction is:
 - (A) With a unit of the university system different than the unit employing the employee; or
 - (B) With a department of the employing unit of the university system different than the department employing the employee.

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*** Current Through the 2010 Regular Session ***
*** Annotations Current Through March 14, 2011 ***

TITLE 45. PUBLIC OFFICERS AND EMPLOYEES
CHAPTER 10. CODES OF ETHICS AND CONFLICTS OF INTEREST
ARTICLE 2. CONFLICTS OF INTEREST
PART 1. GENERAL PROVISIONS

O.C.G.A. § 45-10-25 (2011)

§ 45-10-25. Exceptions to prohibitions on transactions with state agencies

(a) The provisions of Code Sections 45-10-22, 45-10-23, and 45-10-24 shall not apply to:

- (1) Any transaction involving the sale of real property to the state or any agency through eminent domain;
- (2) Any transaction involving the purchase by the public official or employee of any health or life insurance, disability benefits, or retirement or pension benefits offered as a part of a public official's or employee's service or employment;
- (3) Any transaction between a public official or employee or any business in which such public official or employee or any member of his family has a substantial interest and any person, the cost of which transaction is paid directly or indirectly by state funds, if the property or services involved in the transaction are for the private use and benefit of the person to whom such property or services are sold or rendered and such person does not subsequently sell or lease such property or services to an agency;
- (4) Any transaction between a public official or employee or any business in which such public official or employee or any member of his family has a substantial interest and the state or any agency thereof under which it is agreed that the public official or employee or any business in which such public official or employee or any member of his family has a substantial interest is to provide Medicaid and related services and benefits or medicare and related services and benefits, or both, and under which it is agreed that the state or any agency thereof is to reimburse or pay for the services and benefits so provided;
- (5) Any transaction between a public official or employee or any business in which such public official or employee or any member of his family has a substantial interest and the state or any agency thereof under which the public official or employee or any business in which such public official or employee or any member of his family has a substantial interest directly or indirectly receives reimbursement or payment from the state or any agency thereof for providing Medicaid and related services and benefits or medicare and related services and benefits, or both, and under which the state or any agency thereof reimburses or pays the public official or employee or any business in which such public official or employee or any member of his family has a substantial interest for providing Medicaid and related services and benefits or medicare and related services and benefits, or both;
- (6) Any transaction between a public official or employee or any business in which such public official or employee or any member of his family has a substantial interest and any state contractor if there was no agreement prior to the transaction that the public official or employee would assist, other than by providing goods or services as required under the terms of the agreement underlying the transaction, the contractor in obtaining, retaining, or fulfilling the state contract and if the public official or employee does not assist, other than by providing goods or services as required under the terms of the agreement underlying the transaction, the contractor in obtaining, retaining, or fulfilling the state contract;
- (7) Any transaction involving part-time employment by the Georgia Building Authority or the Department of Natural Resources of custodial and cleaning workers or cooks who work for other agencies;

(8) Any transaction involving part-time employment by any agency of a chaplain; firefighter; any person holding a doctoral or master's degree from an accredited college or university; a licensed physician, dentist, or psychologist; a registered nurse or licensed practical nurse; or a certified oral or manual interpreter for deaf persons, if employed by the state, if:

(A) The chief executive officer of the department, agency, commission, or authority which desires to obtain the services of a chaplain, firefighter, any person holding a doctoral or master's degree from an accredited college or university, a licensed physician, dentist, or psychologist, a registered nurse or licensed practical nurse, or a certified oral or manual interpreter for deaf persons presently employed by another department, agency, commission, or authority of the state shall certify in writing the need for the services and set forth why the best interest of the state will be served by obtaining the part-time services of such a person in lieu of obtaining such services from a person not presently employed by the state;

(B) The chief executive officer of the department, agency, commission, or authority presently employing the chaplain; firefighter; any person holding a doctoral or master's degree from an accredited college or university; the licensed physician, dentist, or psychologist; the registered nurse or licensed practical nurse; or the certified oral or manual interpreter for deaf persons shall certify in writing that the person whose services are desired is available to perform such services, that the performance of such services will not detract or have a detrimental effect on the performance of said person's employment and, where appropriate, that the part-time employment of such person by the department, agency, commission, or authority desirous of obtaining the services will be in the best interest of the state; and

(C) The departments, agencies, commissions, or authorities, after having complied with subparagraphs (A) and (B) of this paragraph shall, by agreement, establish the procedures under which the employee shall perform the additional services. The agreement shall specify the means of employment either as a part-time employee or as a consultant, the compensation, and other pertinent details and conditions of the employment relationship. The agreement shall be terminable at any time by either of the departments, agencies, commissions, or authorities;

(9) Any transaction involving the Public Service Commission's employment of any state employee who has any particular expertise or knowledge which may be of assistance to the Georgia Public Service Commission or the consumers' utility counsel division of the office of the administrator created in Code Section 10-1-395 in fulfilling its duties and responsibilities under Title 46. The terms and conditions of such employment shall be solely determined by the Georgia Public Service Commission; but, in any event, the employee may not provide services to the Georgia Public Service Commission during such times as he or she is regularly scheduled to be at his or her primary place of employment unless the employee has received permission to do so from his or her regular employer or unless the employee is on annual leave or leave without pay;

(10) Any transaction involving an emergency purchase by any agency which must be made to protect the health, safety, or welfare of the citizens or property of Georgia;

(11) Any transaction involving property or a service for which the only source of supply in the State of Georgia is from the public official or employee or a business in which such public official or employee or member of his family has a substantial interest;

(12) Any transaction occurring prior to March 1, 1983;

(13) Any transaction occurring prior to qualifying to run for elective office, accepting appointment to public office, or accepting public employment and any transaction occurring after qualifying to run for elective office, accepting appointment to public office, or accepting public employment if the legal obligation and duty to undertake such transaction arose prior to qualifying to run for elective office, accepting appointment to public office, or accepting public employment;

(14) Any transaction whereby a public official or employee or any business in which such public official or employee or any member of his family has a substantial interest collects a fee or commission as compensation for performing a service for the state when such performance is required or authorized by law, including but not limited to the collection of state sales tax, the collection of license fees, and the collection of excise taxes;

(15) Any transaction whereby an appointed public official or employee, under the procedures specified in this paragraph, sells to a unit of the University System of Georgia services as a teacher or instructor of an evening or night course or program, if:

(A) The chief executive officer of the unit of the University System of Georgia shall certify in writing the need for the services and set forth why the best interest of the state will be served by obtaining the services of such state official or employee in lieu of obtaining such services from a person not presently employed by the state;

(B) The chief executive officer of the department, agency, commission, or authority presently employing the state official or employee shall certify in writing that the person whose services are desired is available to perform such services, that the performance of such services will not detract or have a detrimental effect on the performance of said person's full-time employment, and, where appropriate, that the employment of such person by the unit of the University System of Georgia will be in the best interest of the state; and

(C) The departments, agencies, commissions, authorities, and units, after having complied with subparagraphs (A) and (B) of this paragraph, shall, by agreement, establish the procedures under which the official or employee shall perform the additional services. The agreement shall specify the means of employment, the compensation, and other pertinent details and conditions of the employment relationship. The agreement shall be terminable at any time by any of the departments, agencies, commissions, authorities, or units; or

(16) Any transaction involving the lease for the purpose of small business and economic development of laboratory and research facilities owned by the Board of Regents of the University System of Georgia during times when the laboratory and research facilities are not in use.

(b) Authority is given for a public official or employee or any business in which such public official or employee or any member of his family has a substantial interest and the state or any agency thereof to engage in any transaction exempted from the coverage of this part by subsection (a) of this Code section and subsection (b) of Code Section 45-10-24 and any transaction necessary and proper to such transaction.



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*** Current Through the 2010 Regular Session ***
*** Annotations Current Through March 14, 2011 ***

TITLE 45. PUBLIC OFFICERS AND EMPLOYEES
CHAPTER 10. CODES OF ETHICS AND CONFLICTS OF INTEREST
ARTICLE 2. CONFLICTS OF INTEREST
PART 1. GENERAL PROVISIONS

O.C.G.A. § 45-10-26 (2011)

§ 45-10-26. Public officials and employees to file yearly disclosure statements concerning business transactions with state; statements to be public records

(a) Except as provided in subsection (b) of this Code section, any public official or employee, whether for himself, herself, or on behalf of any business, or any business in which such public official or employee or any member of his or her family has a substantial interest who transacts business with the state or any agency thereof shall disclose such transactions. Such disclosure shall be submitted prior to January 31 each year to the Georgia Government Transparency and Campaign Finance Commission on such forms as it shall prescribe and shall include an itemized list of the previous year's transactions with the dollar amount of each transaction reported and totaled. Such disclosure statements shall be public records.

(b) The requirement to disclose certain transactions as provided in subsection (a) of this Code section shall not apply to any transaction when the amount of a single transaction does not exceed \$250.00 and when the aggregate of all transactions does not exceed \$9,000.00 per calendar year.

(c) Any person who fails to file a disclosure statement as required in subsection (a) of this Code section shall be subject to the penalties provided for in Code Section 45-10-28.



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*** Current Through the 2010 Regular Session ***
*** Annotations Current Through March 14, 2011 ***

TITLE 45. PUBLIC OFFICERS AND EMPLOYEES
CHAPTER 10. CODES OF ETHICS AND CONFLICTS OF INTEREST
ARTICLE 2. CONFLICTS OF INTEREST
PART 1. GENERAL PROVISIONS

O.C.G.A. § 45-10-27 (2011)

§ 45-10-27. Construction of part with rules and regulations of the State Personnel Administration

This part shall in no way amend or repeal any statute or regulation promulgated pursuant thereto pertaining to the State Personnel Administration.



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*** Current Through the 2010 Regular Session ***
*** Annotations Current Through March 14, 2011 ***

TITLE 45. PUBLIC OFFICERS AND EMPLOYEES
CHAPTER 10. CODES OF ETHICS AND CONFLICTS OF INTEREST
ARTICLE 2. CONFLICTS OF INTEREST
PART 1. GENERAL PROVISIONS

O.C.G.A. § 45-10-28 (2011)

§ 45-10-28. Penalties for violation of part; civil actions by Attorney General to collect penalties

(a) (1) Any appointed public official or employee who violates Code Section 45-10-22, 45-10-23, 45-10-24, or 45-10-26 shall be subject to:

- (A) Removal from office or employment;
- (B) A civil fine not to exceed \$10,000.00; and
- (C) Restitution to the state of any pecuniary benefit received as a result of such violation.

(2) Any elected public official who violates Code Section 45-10-22, 45-10-23, 45-10-24, or 45-10-26 shall be subject to:

- (A) A civil fine not to exceed \$10,000.00; and
- (B) Restitution to the state of any pecuniary benefit received as a result of such violation.

(3) Any business which violates Code Section 45-10-22, 45-10-23, 45-10-24, or 45-10-26 shall be subject to:

- (A) A civil fine not to exceed \$10,000.00; and
- (B) Restitution to the state of any pecuniary benefit received as a result of such violation.

(b) The penalties provided for in subsection (a) of this Code section may be imposed in any civil action brought for that purpose, and such actions shall be brought by the Attorney General.



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*** Current Through the 2010 Regular Session ***
*** Annotations Current Through March 14, 2011 ***

TITLE 45. PUBLIC OFFICERS AND EMPLOYEES
CHAPTER 10. CODES OF ETHICS AND CONFLICTS OF INTEREST
ARTICLE 2. CONFLICTS OF INTEREST
PART 2. CONTRACTS OF OFFICERS OF STATE INSTITUTIONS WITH STATE INSTITUTIONS

O.C.G.A. § 45-10-40 (2011)

§ 45-10-40. Contracting with state institutions not allowed; exceptions

No member of the Board of Regents of the University System of Georgia or of the Board of Human Services, no trustee or other officer of any institution which is wholly or in part supported by state funds, and no partnership of which such person is a member shall make any contract with the governing board or trustees of such institution or any officer of such institution for the sale and purchase of merchandise or supplies for such institution whereby profit shall accrue to such board member or trustee or such partnership of which such person is a member. Such trustee or officer of such institution shall not make any profit or receive any money for the sale, handling, or disposal of any crop or crops or property of such institution. Such member, trustee, or other officer of such institution shall not make or be interested in any contract for supplies or merchandise for such institution when such contract or the making of the same is wholly or in part made or influenced by the action of the board governing such institution or the trustees thereof or is controlled by any officer of such institution; and any and all such contracts are declared to be illegal and void, provided that any such contracts as are described in this Code section may be made with a corporation of which any such board member or trustee is a stockholder if such member or trustee does not vote on or participate in the making of such contract. No board member or trustee of such institution shall be prohibited from making contracts for furnishing supplies to the students or faculty of such institution for their individual use.



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*** Current Through the 2010 Regular Session ***
*** Annotations Current Through March 14, 2011 ***

TITLE 45. PUBLIC OFFICERS AND EMPLOYEES
CHAPTER 10. CODES OF ETHICS AND CONFLICTS OF INTEREST
ARTICLE 2. CONFLICTS OF INTEREST
PART 2. CONTRACTS OF OFFICERS OF STATE INSTITUTIONS WITH STATE INSTITUTIONS

O.C.G.A. § 45-10-41 (2011)

§ 45-10-41. Penalty for profiting from contracts with state institutions generally; discharge from office

Any member of the Board of Regents of the University System of Georgia or of the Board of Human Services or any trustee or other officer of any institution supported wholly or in part by state funds who violates Code Section 45-10-40 shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished as prescribed in Code Section 17-10-3. If any member of the Board of Regents of the University System of Georgia or of the Board of Human Services is found guilty of violating Code Section 45-10-40, his office shall become vacant; and it is the duty of the Governor, where the power to fill the vacancy is lodged in the Governor, to appoint some other person to fill the vacancy. If any trustee or other officer of such institution is found guilty of violating Code Section 45-10-40, he shall be discharged from his office in such institution and shall not be eligible to be reelected or reappointed to such office; and the vacancy shall be filled by the board or the authority which, under the law, has the right to fill such vacancy.



OFFICIAL CODE OF GEORGIA ANNOTATED
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*** Current Through the 2010 Regular Session ***
*** Annotations Current Through March 14, 2011 ***

TITLE 45. PUBLIC OFFICERS AND EMPLOYEES
CHAPTER 10. CODES OF ETHICS AND CONFLICTS OF INTEREST
ARTICLE 2. CONFLICTS OF INTEREST
PART 2. CONTRACTS OF OFFICERS OF STATE INSTITUTIONS WITH STATE INSTITUTIONS

O.C.G.A. § 45-10-42 (2011)

§ 45-10-42. Reporters for State Board of Workers' Compensation may sell transcripts to state agencies

Notwithstanding any other provision of Part 1 of this article or any other provision of this Code, public officers and employees who are reporters for the State Board of Workers' Compensation may, for themselves or on behalf of any business entity, when providing transcripts of records to parties under subsection (g) of Code Section 34-9-102, sell such transcripts to any agency of the state and receive compensation therefor.



OFFICIAL CODE OF GEORGIA ANNOTATED
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*** Current Through the 2010 Regular Session ***
*** Annotations Current Through March 14, 2011 ***

TITLE 45. PUBLIC OFFICERS AND EMPLOYEES
CHAPTER 10. CODES OF ETHICS AND CONFLICTS OF INTEREST
ARTICLE 2. CONFLICTS OF INTEREST
PART 3. CONTRACTS OF COUNTY COMMISSIONERS WITH COUNTY

O.C.G.A. § 45-10-60 (2011)

§ 45-10-60. Requirements for sales of real property by county commissioner to county

Notwithstanding any other provision of general or local law, a county commissioner or member of a board of county commissioners may sell real property to the county if all of the following conditions are met:

- (1) The real property which is the subject of the sale is adjacent to a landfill owned and operated by the county;
- (2) The real property which is the subject of the sale is to be used by the county in connection with the operation of the landfill;
- (3) The sale price of the real property does not exceed the lowest of three appraisals of the fair market value of the property made by three appraisers appointed by the probate judge of the county; and
- (4) Disclosure of the sale is made as required by Code Section 16-10-6.



OFFICIAL CODE OF GEORGIA ANNOTATED
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*** Current Through the 2010 Regular Session ***
*** Annotations Current Through March 14, 2011 ***

TITLE 45. PUBLIC OFFICERS AND EMPLOYEES
CHAPTER 10. CODES OF ETHICS AND CONFLICTS OF INTEREST
ARTICLE 2. CONFLICTS OF INTEREST
PART 4. HOLDING OF ADDITIONAL OFFICES BY NONELECTIVE STATE OFFICERS OR EMPLOYEES

O.C.G.A. § 45-10-70 (2011)

§ 45-10-70. Holding office in political subdivision, political party, or political organization by nonelective state officers or employees

No rules or regulations of any state agency, department, or authority shall prohibit nonelective officers or employees of this state from offering for or holding any elective or appointive office of a political subdivision of this state or any elective or appointive office of a political party or political organization of this state, provided that the office is not full time and does not conflict with the performance of the official duties of the person as a state employee.



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*** Current Through the 2010 Regular Session ***
*** Annotations Current Through March 14, 2011 ***

TITLE 45. PUBLIC OFFICERS AND EMPLOYEES
CHAPTER 10. CODES OF ETHICS AND CONFLICTS OF INTEREST
ARTICLE 2. CONFLICTS OF INTEREST
PART 5. FAMILY MEMBERS OF PUBLIC EMPLOYEES

O.C.G.A. § 45-10-80 (2011)

§ 45-10-80. Public officers prohibited from advancing, employing, or advocating the employment of family members

(a) A public officer, as defined in subparagraphs (A) through (E) of paragraph (22) of Code Section 21-5-3, is prohibited from advocating for or causing the advancement, appointment, employment, promotion, or transfer of a member of his or her family, as such term is defined in Code Section 21-5-3, to an office or position to become a public employee, as defined in paragraph (3) of subsection (a) of Code Section 45-1-4, that pays an annual salary of \$10,000.00 or more or its equivalent.

(b) Any person advanced, appointed, employed, promoted, or transferred in violation of this Code section shall not be entitled to any payment, salary, or benefits received for any position so illegally obtained; and any person who receives payment, salary, or benefits for a position obtained in violation of this Code section shall be required to reimburse the state for all amounts so received.



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*** Current Through the 2010 Regular Session ***
*** Annotations Current Through March 14, 2011 ***

TITLE 45. PUBLIC OFFICERS AND EMPLOYEES
CHAPTER 10. CODES OF ETHICS AND CONFLICTS OF INTEREST
ARTICLE 2. CONFLICTS OF INTEREST
PART 6. JOINT LEGISLATIVE ETHICS COMMITTEE

O.C.G.A. § 45-10-90 (2011)

§ 45-10-90. (Effective until January 10, 2011) Definitions

As used in this part, the term:

- (1) "Committee" means the Joint Legislative Ethics Committee created under Code Section 45-10-91.
- (2) "Member of the legislative branch of state government" means any person elected to the General Assembly and any person who, pursuant to a written or oral contract, is employed by the legislative branch of state government.
- (3) "Speaker" means the Speaker of the House of Representatives.



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*** Current Through the 2010 Regular Session ***
*** Annotations Current Through March 14, 2011 ***

TITLE 45. PUBLIC OFFICERS AND EMPLOYEES
CHAPTER 10. CODES OF ETHICS AND CONFLICTS OF INTEREST
ARTICLE 2. CONFLICTS OF INTEREST
PART 6. JOINT LEGISLATIVE ETHICS COMMITTEE

O.C.G.A. § 45-10-91 (2011)

§ 45-10-91. (Effective until January 10, 2011) Joint Legislative Ethics Committee created; members; terms; reimbursement for members' expenses; quorum; voting; recusal for conflicts of interest

(a) There is created the Joint Legislative Ethics Committee, with such duties and powers as are set forth in this part. The committee shall be a part of the legislative branch of state government. The committee shall be governed by ten members appointed as follows:

- (1) Four members of the Senate, appointed by the President Pro Tempore of the Senate, two of whom shall be from the majority party and two of whom shall be from the minority party;
- (2) Four members of the House of Representatives, appointed by the Speaker, two of whom shall be from the majority party and two of whom shall be from the minority party;
- (3) The Speaker; and
- (4) The President Pro Tempore of the Senate.

The Speaker and the President Pro Tempore of the Senate shall be nonvoting members of the committee except as provided in subsection (e) of this Code section.

(b) Each legislative member of the committee shall serve for a term of two years concurrent with the term of his or her office. If a vacancy occurs in the membership of the committee, a new member shall be appointed by the state official to the unexpired term of office. The new member shall be selected in the same manner as provided in subsection (a) of this Code section.

(c) The President Pro Tempore of the Senate and Speaker shall serve as cochairpersons. The President Pro Tempore of the Senate shall preside in odd-numbered years and the Speaker shall preside in even-numbered years.

(d) The members shall not be compensated for their services but they shall be reimbursed in an amount equal to the per diem received by the General Assembly for each day or portion thereof spent in serving as members of the committee. They shall be paid their necessary traveling expenses while engaged in the business of the committee.

(e) Six members of the committee constitute a quorum for the transaction of business. The vote of at least a majority of the members present at any meeting at which a quorum is present is necessary for any action to be taken by the committee. If a decision of the committee results in a tie vote, the Speaker shall cast the vote to break the tie if the subject of the complaint is a member of the Senate or a Senate staff member and the President Pro Tempore of the Senate shall cast the vote to break the tie if the subject of the complaint is a member of the House of Representatives or a House of Representatives staff member. No vacancy in the membership of the committee impairs the right of a quorum to exercise all rights and perform all duties of the committee.

(f) If a complaint is filed alleging a violation by one of the members of the committee, the committee member shall recuse himself or herself and a temporary replacement member of the committee shall be appointed for the recused member. The replacement member shall be selected in the same manner as provided for in subsection (a) of this Code section.



(g) Meetings of the members of the committee shall be held at the call of the presiding cochairperson.



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*** Current Through the 2010 Regular Session ***
*** Annotations Current Through March 14, 2011 ***

TITLE 45. PUBLIC OFFICERS AND EMPLOYEES
CHAPTER 10. CODES OF ETHICS AND CONFLICTS OF INTEREST
ARTICLE 2. CONFLICTS OF INTEREST
PART 6. JOINT LEGISLATIVE ETHICS COMMITTEE

O.C.G.A. § 45-10-92 (2011)

§ 45-10-92. (Effective until January 10, 2011) Funding

The funds necessary to carry out this part shall come from the funds appropriated to and available to the General Assembly and from any other available funds.

HISTORY: Code 1981, § 45-10-92, enacted by Ga. L. 2005, p. 859, § 26/HB 48.

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*** Current Through the 2010 Regular Session ***
*** Annotations Current Through March 14, 2011 ***

TITLE 45. PUBLIC OFFICERS AND EMPLOYEES
CHAPTER 10. CODES OF ETHICS AND CONFLICTS OF INTEREST
ARTICLE 2. CONFLICTS OF INTEREST
PART 6. JOINT LEGISLATIVE ETHICS COMMITTEE

O.C.G.A. § 45-10-93 (2011)

§ 45-10-93. (Effective until January 10, 2011) Powers and duties

(a) The committee is vested with the following powers:

- (1) To meet at such times and places as it may deem necessary;
- (2) To cooperate with and secure the cooperation of every department, agency, or instrumentality in the state government or its political subdivisions in the furtherance of the purposes of this part;
- (3) To employ an executive director and such additional staff as the committee deems necessary to carry out the powers delegated to the committee by this part;
- (4) To summons any person to appear, give sworn testimony, or produce documentary or other evidence;
- (5) To adopt such rules and regulations as are necessary to carry out the purposes of this part; and
- (6) To do any and all things necessary or convenient to enable it to perform wholly and adequately its duties and to exercise the powers granted to it.

(b) The committee shall have the following duties:

- (1) To advise and assist the General Assembly in establishing rules and regulations relating to conflicts between the private interests of a member of the legislative branch of state government and the duties as such;
- (2) To receive and investigate all complaints alleging a violation of the rules and regulations established by the committee;
- (3) To prescribe forms to be used in complying with this part;
- (4) To adopt a retention standard for records of the committee;
- (5) To prepare and publish in print or electronically an annual report for the General Assembly summarizing the activities of the committee and recommending legislation that in its judgment will promote the purposes of this part;
- (6)(A) To conduct an investigation of the merits of a written complaint by any person who believes that a violation of this part has occurred. If there are found no reasonable grounds to believe that a violation has occurred, the complaint shall be dismissed, subject to being reopened upon discovery of additional evidence or relevant material. If the committee determines that there are such reasonable grounds to believe that a violation has occurred, it shall give notice by summoning the persons believed to have committed the violation to a hearing. The committee may file a complaint charging violations of this part. Nothing in this Code section shall be construed to limit or encumber the right of the committee to initiate on probable cause an investigation on its own cognizance as it deems necessary to fulfill its obligations under this part;



(B) In any such investigation referenced in subparagraph (A) of this paragraph, until such time as the committee determines that there are reasonable grounds to believe that a violation has occurred, it shall not be necessary to give the notice by summons nor to conduct a hearing;

(7) To report suspected violations of law to the appropriate law enforcement authority;

(8) With respect to matters involving the legislative branch of state government, to investigate upon a written complaint any illegal use of state employees in a political campaign by any candidate;

(9) To issue, upon written request, written advisory opinions, based on a real or hypothetical set of circumstances. The committee shall make all advisory opinions publicly available for review. No liability shall be imposed for any act made in conformity with a written advisory opinion issued by the committee that is valid at the time of the act; and

(10) With respect to punishment for violations by employees of the legislative branch of state government other than members of the General Assembly, the committee may order the violator to cease and desist from committing further violations and may issue employment related sanctions against such employee, including but not limited to reprimand, suspension, demotion, and termination; with respect to members of the General Assembly, the committee may make recommendations to the respective house of the type of punishment to be imposed.

(c) The committee shall designate the place where members of the public may file papers or correspond with the committee and receive any form or instruction from the committee. The committee shall preserve all complaints, statements, and other documentation received or generated by the committee.



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*** Current Through the 2010 Regular Session ***
*** Annotations Current Through March 14, 2011 ***

TITLE 45. PUBLIC OFFICERS AND EMPLOYEES
CHAPTER 10. CODES OF ETHICS AND CONFLICTS OF INTEREST
ARTICLE 2. CONFLICTS OF INTEREST
PART 6. JOINT LEGISLATIVE ETHICS COMMITTEE

O.C.G.A. § 45-10-94 (2011)

§ 45-10-94. (Effective until January 10, 2011) Written and sworn complaint required for investigations; notice to persons against whom complaints are made

The committee shall not initiate any investigation or inquiry into any matter under its jurisdiction based upon the complaint of any person unless that person shall produce the same in writing and verify the same under oath to the best information, knowledge, and belief of such person, the falsification of which shall be punishable as false swearing under Code Section 16-10-71. The person against whom any complaint is made shall be furnished by hand delivery or statutory overnight delivery or mailed by certified mail, return receipt requested, a copy of the complaint by the committee within five business days of the committee's receipt of such complaint. Nothing contained in this Code section, however, shall be construed to limit or encumber the right of the committee to initiate on probable cause an investigation on its own cognizance as it deems necessary to fulfill its obligations under this part.

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*** Current Through the 2010 Regular Session ***
*** Annotations Current Through March 14, 2011 ***

TITLE 45. PUBLIC OFFICERS AND EMPLOYEES
CHAPTER 10. CODES OF ETHICS AND CONFLICTS OF INTEREST
ARTICLE 2. CONFLICTS OF INTEREST
PART 6. LEGISLATIVE ETHICS

O.C.G.A. § 45-10-90 (2011)

§ 45-10-90. (Effective January 10, 2011) Definitions

As used in this part, the term:

- (1) "Abuse of official power" means threatening to use the powers or personnel of a state entity for personal purposes of coercion, retaliation, or punishment.
- (2) "Clerical officer" means the Clerk of the House of Representatives or the Secretary of the Senate.
- (3) "Committee" means the House Committee on Ethics or the Senate Ethics Committee.
- (4) "Conflict of interest" means an individual has multiple interests and uses his or her official position to exploit, in some way, his or her position for his or her own direct, unique, pecuniary, and personal benefit.
- (5) "Employee" means any person who is employed by the legislative branch of state government.
- (6) "Improper conduct" means a member of the General Assembly:
 - (A) Engages in conduct that is a conflict of interest;
 - (B) Engages in conduct that is an abuse of official power; or
 - (C) Illegally uses an employee in a political campaign.
- (7) "Member of the General Assembly" means any person elected and certified as a member of the General Assembly.
- (8) "Sexual harassment" means making sexual advances, requesting sexual favors, or other verbal or physical conduct of a sexual nature when:
 - (A) Submission to such conduct is made explicitly or implicitly a term or condition of an individual's employment;
 - (B) Submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting the employee; or
 - (C) Such conduct interferes with the employee's work performance or creates an intimidating, hostile, or offensive work environment.



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*** Current Through the 2010 Regular Session ***
*** Annotations Current Through March 14, 2011 ***

TITLE 45. PUBLIC OFFICERS AND EMPLOYEES
CHAPTER 10. CODES OF ETHICS AND CONFLICTS OF INTEREST
ARTICLE 2. CONFLICTS OF INTEREST
PART 6. LEGISLATIVE ETHICS

O.C.G.A. § 45-10-91 (2011)

§ 45-10-91. (Effective January 10, 2011) Method of addressing improper conduct

(a) Any person may file a complaint with the clerical officer of the appropriate chamber alleging improper conduct involving a member of the General Assembly. Any employee may file a complaint with the clerical officer of the appropriate chamber alleging sexual harassment by a member of the General Assembly. The clerical officer shall designate the place where such complaints may be filed, provide instruction necessary to properly submit a complaint, and prescribe forms for such complainants. Complaints shall be submitted in writing and verified under oath to the best information, knowledge, and belief of such person. Any person who knowingly provides false information in executing a complaint under this Code section commits the offense of false swearing within the meaning of Code Section 16-10-71.

(b) The clerical officer shall forward, within one business day of receipt, the original complaint and all materials appended to such complaint in a confidential report to the presiding officer of the appropriate chamber and to the chairperson of the House Committee on Ethics or the chairperson of the Senate Ethics Committee, as appropriate.



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*** Current Through the 2010 Regular Session ***
*** Annotations Current Through March 14, 2011 ***

TITLE 45. PUBLIC OFFICERS AND EMPLOYEES
CHAPTER 10. CODES OF ETHICS AND CONFLICTS OF INTEREST
ARTICLE 2. CONFLICTS OF INTEREST
PART 6. LEGISLATIVE ETHICS

O.C.G.A. § 45-10-92 (2011)

§ 45-10-92. (Effective January 10, 2011) Abuse of power and improper use of state employees by General Assembly members

(a) The committee shall serve the person against whom any complaint is made a copy of the complaint by hand delivery or statutory overnight delivery or mailed by certified mail, return receipt requested, within five business days of the committee's receipt of such complaint.

(b) The committee shall conduct a preliminary investigation of the merits of such complaint. If a complaint alleges a violation by one of the members of the committee, such member shall recuse himself or herself. If there are found no reasonable grounds to believe that improper conduct or sexual harassment has occurred, the complaint shall be dismissed, subject to being reopened upon discovery of additional evidence or relevant material. The committee shall not be required to conduct a hearing if there are no reasonable grounds to believe that improper conduct or sexual harassment has occurred. If the committee determines that there are such reasonable grounds to believe that improper conduct or sexual harassment has occurred, it shall give notice by summoning the persons believed to have committed the violation to a hearing. The rules of the committee shall be invoked if a hearing occurs. The committee may report suspected violations of law to the appropriate law enforcement authority.

(c) Nothing in this Code section shall be construed to limit or encumber the right of the committee to initiate on probable cause an investigation on its own cognizance as it deems necessary to fulfill its obligations to investigate improper conduct or sexual harassment.

(d) The committee shall adopt a retention standard for complaints and documents attached thereto.