
THE SOUTH CAROLINA ETHICS ACT

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SOUTH CAROLINA ETHICS COMMISSION



**Orientation Training for
Local Planning/Zoning Officials and Employees**

Part I: Let's Get Started!

Thursday, May 12, 2005

9:00 a.m. – 12:30 p.m.

S. C. ETV Public Services Network

Sponsored by the South Carolina Association of Counties

Ethics Defined

Ethics refers to standards of conduct, standards that indicate how one should behave based on moral duties and virtues, which themselves are derived from principles of right and wrong. As a practical matter, ethics is about how we meet the challenge of doing the right thing when that will cost more than we want to pay.

There are two aspects of ethics: The first involves the ability to discern right from wrong, good from evil, and propriety from impropriety. The second involves the commitment to do what is right, good, and proper. Ethics entails action.

Making Ethical Decisions, Josephson Institute of Ethics, www.josephsoninstitute.org

From the AICPA Code of Ethics

▶ Planner's Responsibility to the Public:

While the definition of the public interest is formulated through continuous debate, a planner owes allegiance to a conscientiously attained concept of the public interest.

▶ Planner's Responsibility to the Employer:

A planner owes diligent, creative, independent and competent performance of work in pursuit of the employer's interest. Such performance should be consistent with the planner's faithful service to the public interest.

From the AICPA Code of Ethics

▶ Planner's Responsibility to the Profession:

A planner should contribute to the development of the profession by improving knowledge and techniques, making work relevant to solutions of problems, and increasing public understanding of planning activities. A planner should treat fairly the professional views of qualified colleagues and members of other professions.

▶ Planner's Self-Responsibility:

A planner should strive for high standards of professional integrity, proficiency and knowledge.

Public Service Values

1. **Honesty.** This is the most basic level of ethics. Everyone has the responsibility to be truthful, straightforward and sincere in their dealings with others.
2. **Integrity.** Integrity requires the courage to act on one's values, beliefs and convictions, and to do what is right rather than what is expedient.
3. **Keeping promises.** The ethical public official must live up to the spirit as well as the letter of agreements and commitments that have been made.

Public Service Values

4. **Fidelity.** The trustworthy public official is loyal to the organization and the principles of public service.
5. **Fairness.** Because the public official is in a position to exercise discretion, it is imperative that the decision making process be fair. There must be a commitment to justice, equal treatment, and tolerance. The public official must be open-minded and willing to consider diverse opinions.
6. **Caring.** The ethical public official manifests an attitude of concern for the well being of others and conducts the affairs of the organization with compassion and kindness.

Public Service Values

7. **Respect.** It is imperative that public officials demonstrate respect for human dignity and privacy.

8. **Citizenship.** Public officials have the responsibility to serve as role models for others to encourage participation in and respect for the democratic process of decision making.

9. **Excellence.** Public officials must be well informed and prepared to carry out their responsibilities. They must be diligent, reliable and committed. They must insist that the organization strive for excellence in carrying out its activities.

Public Service Values

10. **Accountability.** The public official has a special obligation to be accountable for his or her actions, and the actions of the organization.

11. **Avoidance of the Appearance of Impropriety.** Because the public official is responsible to safeguard the public trust, what they do must not only be right, it must look right.

- Michael Josephson

Principles of Public Service Ethics

1. **A public office is a public trust.** Public servants should treat their office as a public trust, only using the powers and resources of public office to advance public interests, and not to attain personal benefits or pursue any other private interest incompatible with the public good.
2. **Principle of independent objective judgment.** Public servants should employ independent objective judgment in performing their duties, deciding all matters on the merits, free from conflicts of interest and both real and apparent improper influences.

Principles of Public Service Ethics

3. **Principle of accountability.** Public servants should assure that government is conducted openly, effectively, equitably and honorably in a manner that permits the citizenry to make informed judgments and hold government officials accountable. ■

4. **Principle of democratic leadership.** Public servants should honor and respect the principles and spirit of representative democracy and set a positive example of good citizenship by scrupulously observing the letter and spirit of laws and rules.

Principles of Public Service Ethics

5. Principle of respectability and fitness for office. Public servants should conduct their professional and personal lives so as to reveal character traits, attitudes, and judgments that are worthy of honor and respect and demonstrate fitness for office

- Michael Josephson

Texas Instruments Ethics Quick Test

- ▶ Is the action legal?
- ▶ Does it comply with our values?
- ▶ If you do it, will you feel bad?
- ▶ How will it look in the newspaper?
- ▶ If you know its wrong, don't do it!
- ▶ If you are not sure, ask.
- ▶ Keep asking until you get an answer.

Ethics

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Values and Principles of Public Service Ethics

(Source: Michael Josephson. *Preserving the Public Trust: Principles of Public Service Ethics*. 1990.)

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Guidelines for making ethical decisions

“Making Ethical Decisions” (available on-line from the Josephson Institute at www.josephsoninstitute.org)

The “PLUS” Decision Making Process (available on-line from the Ethics Resource Center at <http://www.ethics.org>)

1. Define the problem (PLUS)
2. Identify alternatives
3. Evaluate the alternatives (PLUS)
4. Make the decision
5. Implement the decision
6. Evaluate the decision (PLUS)

The PLUS filters are:

- ✓ **Policies** – is it consistent with the organization’s policies, procedures and guidelines?
- ✓ **Legal** – is it acceptable under the laws and regulations?
- ✓ **Universal** – does it conform to the universal principles and values my organization has adopted?
- ✓ **Self** – does it satisfy my personal definition of right, good and fair?

Rion's Questions (Michael Rion, *The Responsible Manager*, 1990.)

1. Why is this bothering me? Is it really an issue? Am I genuinely perplexed, or am I afraid to do what I know is right?
2. Who else matters? Who are the stakeholders who may be affected by my decisions?
3. Is it my problem? Have I caused the problem or has someone else? How far should I go in resolving the issue?
4. What is the ethical concern - legal obligation, fairness, promise keeping, honesty, doing good, avoiding harm?
5. What do others think? Can I learn from those who disagree with my judgment?
6. Am I being true to myself? What kind of person or agency would do what I am contemplating? Can I share my decision with family, colleagues, and public officials?

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Resources

The South Carolina State Ethics Commission at <http://www.state.sc.us/ethics/>

Center for Ethics in Government at www.ncsl.org/ethics

Josephson Institute of Ethics at www.josephsoninstitute.org

**THE ETHICS, GOVERNMENT ACCOUNTABILITY,
AND CAMPAIGN REFORM ACT OF 1991**

**SCAC “Let’s Get Started!”
Orientation Training for Local Government
Planning/Zoning Officials & Employees
May 12, 2005**

I THE ACT AS IT RELATES TO

- Lobbyist/Lobbyist’s Principal
- Rules of Conduct
- Financial Disclosure
- Campaign practices

II JURISDICTION

- Lobbyist/Lobbyist’s Principals
- Public Officials/Candidates
- Public Members
- Public Employees
- Campaign Committees

III LOBBYISTS/LOBBYIST’S PRINCIPALS

A. Lobbying, Lobbyist and Lobbyist’s principal definitions. §2-17-10(12), (13) and (14)

•Exceptions to Lobbyist definition:

- personal opinion
- public meeting
- public employee or member
- professional services
- press
- church
- running for an office elected by the General Assembly

-plant manager exception

B. Interactions with lobbyists/lobbyist's principals

- Lobbyists may not give anything of value to members of the General Assembly, constitutional officers and public officials and employees of state agencies. §2-17-80.

- Lobbyist's Principals may host functions (group invitation/spending limit rules apply). §2-17-90.

IV RULES OF CONDUCT

- May not use official office/position for financial gain - **knowingly**. §8-13-700(A).

- Recusal provisions for conflicts. §8-13-700(B).

- May not receive or give anything of value with intent to influence (Anti-Bribery Statute). §8-13-705.

- May not accept an honorarium for speaking engagements. May accept payment for actual expenses. §8-13-715.

- May not accept additional money for assistance given while performing one's duty. §8-13-720.

- May not use confidential information gained through employment for personal gain. §8-13-725.

- May not serve as a member of governmental regulatory agency that regulates a business with which that person is associated. §8-13-730.

- No one who serves and is an employee at the same time on the governing body of a state, county, municipal, or political subdivision may make a decision affecting his economic interests. §8-13-735.

- Representation prohibitions (not just applicable to attorneys). §8-13-740.

- No member of the General Assembly may represent clients before an agency under specific conditions. §8-13-745.

- May not cause the employment, promotion, or transfer of a family member to a position in which one supervises. Prohibits discipline of one's family member. §8-13-750.

- Post employment restrictions. §8-13-755. (Government lawyers see Rule 407 of Appellate Court Rules, Rule 1.11 Successive Government & Private Employment).
- Breach of ethical standards for an employee participating in procurement to resign and accept employment with a person contracting with the governmental body. §8-13-760.
- May not use government personnel/materials in an election campaign. §8-13-765.
- A public official/employee may not have an economic interest in a contract with the State or a political subdivision if the public official/employee is authorized to perform an official function relating to the contract. §8-13-775.
- A public official and family members can be awarded a grant/scholarship if given on objective and competitive basis and has not contacted any person involved in the selection of the recipient. §8-13-795.

V FINANCIAL DISCLOSURE

- A. Statement of Economic Interests to be filed on or before April 15th of each year of service.
- B. Conflict between Sections 8-13-710(B) and 8-13-1120(A)(9) on the reporting of gifts.

VI CAMPAIGN PRACTICES

A. Requirements for candidates/committees.

- Must open a separate checking/savings account for contributions and expenditures for the campaign. §8-13-1312.
- Committees must file a Statement of Organization after spending/receiving \$500 in the aggregate. §8-13-1304.
- Must file the Campaign Disclosure Form (Initial, Pre-election, Quarterly, & Final). §8-13-1308.

B. Contribution limits.

- \$3500 for statewide candidates per election cycle. §8-13-1314.

- \$1000 for local candidates per election cycle. §8-13-1314.
- \$3500 for non-candidate committees per calendar year. §8-13-1322.
- No limits for ballot measure committees.

C. Contribution prohibitions.

- Cash contributions prohibited unless <\$25 and accompanied by name and address of contribution. §8-13-1324(A).
- May not accept contributions from registered lobbyist. §2-17-80(A)(5).
- May not solicit contributions for 2 offices simultaneously. §8-13-1350.
- Limits apply for party contributions. §8-13-1316.
- Anonymous contributions strictly prohibited. Must be contributed to the Children's Trust Fund. §8-13-1324(B).
- May not solicit contributions on State Capitol grounds/offices. §8-13-1336.
- Certain people may not solicit contributions. §8-13-1338.
- Candidates may not use campaign funds to contribute to another candidate. §8-13-1340.
- May not solicit contributions in exchange for promise of a contract with the State or a political subdivision. §8-13-1342.
- An employer must not discriminate against an employee based on the employee's contribution or failure to contribute to a candidate. §8-13-1344.
- A person may not use/authorize public funds to influence the outcome of an election. §8-13-1346.

D. Use of campaign funds.

- May not use campaign funds to defray personal expenses. §8-13-1348.
- Petty cash fund can be established. §8-13-1348.
- Must only be used for the office in which the candidate is seeking. Funds can not be transferred to another office the candidate is seeking without authorization of contributor. §8-13-1352.

- All printed matter must contain name and address of candidate. §8-13-1354.

E. Loans

- Considered a contribution from the maker and subject to limitations. §8-13-1326.
- Limits apply for repayment to candidate. §8-13-1328.
- Can be repaid from campaign contributions. §8-13-1318.

VI PENALTIES

- Imprisonment of not more than 10 years and fined not more than \$10,000. Permanently disqualified as public official or forfeits public employment. (Anti-Bribery §8-13-705).
- A violation of the Rules of Conduct and Campaign Practices is a misdemeanor and on conviction one may be fined not more than \$5,000 or be imprisoned not more than 1 year or both. §8-13-1520.
- A violation of the Lobbyist/Lobbyist's Principal Article is a misdemeanor and on conviction one may be fined not more than \$2,500 or be imprisoned not more than 1 year or both. Additionally one may not act as a lobbyist or lobbyist's principal for 3 years from date of conviction. §2-17-130.
- Late filing penalty beginning at \$100 and increasing at \$100 per day for failure to file reports. §8-13-1510.
- Public reprimand issued by the Commission. §8-13-780.
- Up to a \$2,000 fine per violation. §8-13-320(10)(l).

VIII STATUTE OF LIMITATIONS

- Action can not be taken on a complaint filed more than 4 years after the violation is alleged to have occurred. §8-13-320(9)(d).

IX STATE ETHICS COMMISSION WEBSITE IS www.state.sc.us/ethics.

- All Advisory Opinions.
- All Forms.**
- Complaints Resolved