



County Technical Assistance Service

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County Ethics Policies

Dear Reader:

The following document was created from the CTAS electronic library known as e-Li. This online library is maintained daily by CTAS staff and seeks to represent the most current information regarding issues relative to Tennessee county government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other e-Li material.

Sincerely,

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County Ethics Policies

Reference Number: CTAS-621

The “Comprehensive Governmental Ethics Reform Act of 2006” is codified in T.C.A. § 8-17-101 *et seq.* Pursuant to the Ethics Reform Act all counties were required to adopt local ethics policies by June 30, 2007. The law directed CTAS to develop a **model policy**.

These ethics policies are required to include rules and regulations regarding limits on, and/or reasonable and systematic disclosure of, gifts or other things of value received by officials and employees that impact or appear to impact their discretion, and rules and regulations regarding reasonable and systematic disclosure by officials and employees of their personal interests that impact or appear to impact their discretion. T.C.A. § 8-17-102(a)(3). It is important to note that the provisions of state law, to the extent that they are more restrictive, control. Additionally, the Ethics Reform Act expressly states that these policies cannot include personnel or employment policies, or policies or procedures related to operational aspects of governmental entities. T.C.A. § 8-17-102(a)(3).

The ethics policies adopted by a county commission apply broadly to all officials and employees in all offices, agencies, and departments of the county and to the members, officers, and employees of all boards, commissions, authorities, corporations, or other instrumentalities of a county. However, ethics policies adopted by the county commission do not apply to utility districts or schools which must adopt their own ethics policies. T.C.A. §§ 8-17-102(c) and 8-17-102(d).

If a board, commission, authority, corporation or other instrumentality is created by two or more local government entities, such creating entities are required, by amendment to the interlocal agreement or other agreement creating such joint instrumentality, to designate the ethical standards that govern the jointly created instrumentality. T.C.A. § 8-17-102(b).

Violations of ethics policies by officials or employees covered by the local ethics policy are enforced in accordance with the provisions of existing state law. T.C.A. § 8-17-106(b).

County Ethics Committees

Reference Number: CTAS-622

The ethics legislation that was passed in 2005 and 2006 does not require a county to have an ethics committee. Nevertheless, many counties have established county ethics committees to deal with potential ethics complaints. Bear in mind that a county ethics committee has very little, if any, authority to do anything other than to screen ethics complaints and direct the complaint to the proper county official or county or state agency that can take appropriate action on the complaint.

As previously stated, the county ethics policy is required to cover the acceptance of and disclosure of gifts accepted by officials and employees and the disclosure of conflicts of interest. Accordingly, an ethics complaint received by a county ethics committee that does not address either the acceptance and/or disclosure of a gift or a conflict of interest need not be pursued by the ethics committee.

Note that the County Purchasing Law of 1957, T.C.A. § 5-14-101 *et seq.*, and the 1981 Financial Management Act, T.C.A. § 5-21-101 *et seq.*, both contain stringent conflict of interest provisions and prohibitions on the acceptance of gifts. It is important to note that in counties that have adopted either of these two Acts, the provisions of these state laws control to the extent that they are more restrictive than the county's ethics policy.

County officials who serve on a county ethics committee should review ethics complaints to make sure that the complaint first addresses either the acceptance/disclosure of a gift or a conflict of interest. If the ethics complaint does not address one of these two issues, the ethics committee should direct the complainant to the appropriate person or agency that may properly address the complaint and proceed no further.

If the complaint does address an issue covered by the county ethics policy, the committee should proceed to determine if the complaint bears further inquiry. If the complaint states a possible violation of the county ethics policy, the committee should turn the complaint over to the proper county official who actually has the authority to deal with the violation. Depending upon the stated complaint, that could be a county office holder, if the complaint is against an employee, or the county attorney if the complaint is against

an elected county official. If the complaint states a possible criminal violation, the committee should turn the matter over to the district attorney's office. In addition, if the information contained in the complaint reasonably causes the committee members to believe that a theft, forgery, credit card fraud, or any other act of unlawful taking of public money, property, or services has occurred, the committee must report the information in a reasonable amount of time to the office of the Comptroller of the Treasury. T.C.A. § 8-4-503(a).

In order to do the job effectively, members of the ethics committee must be well versed in the state conflict of interest laws that apply to their particular county. A general understanding of criminal law would also be helpful.

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