



Anderson County  
Board of Education

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Dr. John Burrell, Chairman

September 17, 2008

Tennessee Ethics Commission  
SunTrust Bank Building  
201 4<sup>th</sup> Avenue North  
Suite 1820  
Nashville, TN 37243

Dear Commission:

Anderson County Board of Education has adopted the TSBA Ethics model standards effective September 16, 2008.

Sincerely,

  
Dr. John Burrell  
Chairman

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TENNESSEE  
ETHICS COMMISSION

# TSBA

Tennessee School Boards Association

## MEMORANDUM

TO: Board Chairmen, Directors of Schools, Board Secretaries  
 FROM: Stephen Smith  
 RE: Public Chapter 898 – Ethical standards for officials and employees  
 DATE: June 18, 2008

During the 2008 legislative session, the General Assembly amended the "Comprehensive Governmental Ethics Reform Act of 2006," which is codified in T.C.A. § 8-17-101 *et seq.* As you are probably aware, the original law required local governments to adopt ethical standards related to the acceptance of gifts and disclosure of conflicts of interest. With the exception of special school districts, boards of education and their employees fell under the standards adopted by their respective county or city legislative bodies. The General Assembly, with TSBA's support, amended the law this year with SB 3024/HB 2544 (Public Chapter 898) to recognize local boards of education as separate government entities for the purpose of adopting their own ethical standards.

Here are some important points you should know about the law:

1. Local ethical standards must be adopted by each board of education.
2. The standards are required to cover two things: 1) disclosure and/or limits on gifts, and 2) disclosure of conflicts of interest.
3. The standards apply broadly to all officials and employees of the school district.
4. TSBA is required to draft and distribute a model code of ethics to school districts to provide guidance and direction. A school district may choose to adopt the model or draft standards or its own. \*
5. The standards must be filed with the Tennessee Ethics Commission. If the school district adopts the TSBA model, however, it must simply notify the Ethics Commission in writing that the district has adopted the TSBA model standards. The address of the Ethics Commission is: Tennessee Ethics Commission, SunTrust Bank Bldg., 201 4<sup>th</sup> Ave N., Suite 1820, Nashville, TN 37243. *Jobb, please mail to this address.*
6. Enforcement remains as provided under current law.
7. A failure or refusal to adopt standards by a school district subjects its members to ouster.
8. Public Chapter 898 went into effect upon becoming law – May 12, 2008. Therefore, boards should take action as soon as possible. Obviously, the state will have to provide some time for school districts to formulate and adopt ethical standards; however, it is not clear how much time will be given for this purpose.

C. Field Trips

1. Gary Jeffers and Dianne Teffteller, ACCTC, to allow students to compete in Skills USA Youth Organization competition in Kansas City, KA – June 24- July 1, 2007. 6 students and 2 chaperones.
2. Caneta Gentry, Norris Elementary, to take 5<sup>th</sup> grade students to science/environmental camp in Ten Mile, TN – 40 students and 6 chaperones.

**Professional Leave**

1. Doris Day-McBride and Tammy Hembree, Head Start, to attend ERSEA training to increase knowledge of enrollment process in Nashville, TN – July 9-11, 2007.
2. Tommy Harper, Tammy Bacon, Chris Perry, Clemmer Adams, Bennie Iannaccone, and Gary Houck, Learn Center to attend the State Alternative School Conference in Smyrna, TN – July 18-20, 2007.
3. Harriet Hensley, Elizabeth Hawkins, Shelly Scarbrough, Sheila Bolden, Head Start/PreSchool, for Family Advocate Family Partnership training in Atlanta, GA – July 23-25, 2007.
4. Denise Wilburn, Fed. Projects, to meet with grant program officer to discuss middle school literacy grant proposal in Washington, DC – June 28, 2007.
5. Bob Stokes, Norwood Middle, to attend Train-the-Trainer workshop in Clarksville, TN – June 20-21, 2007.
6. Stacey Griffith and Kelly Myers, ACCTC, to attend PLTW training in Chattanooga, TN – July 8-20, 2007.

**Motion** by Gail Martin and seconded by Peggy Hayes o approve the consent agenda as presented. **Motion carried.**

**VI. EXECUTIVE APPROVAL** (for information only)

- A. Debbie Long, Lesa Larson, Amy Butcher, Anita Hamm, Sharon Gaylor, Crystal Smiddy, Tammy Hembree, Brenda Bean, Meg Cardwell (or designee) & Julie Meg Cardwell, Glenda Duncan. Brenda Bean and Sharon Gaylor, Preschool/Head Start. to revise program policies and Procedures in preparation of 07-08 PRISM Review in Gatlinburg, TN - June 10, 2007.
- B. Denise Wilburn, Fed. Projects, to attend AMSP management team meeting in Lexington, KY – June 8, 2007.
- C. Pat Elliott, ACHS Cheerleading, to allow student to participate in NCA Camp

**VII. COMMENTS FROM THE CHAIR**

- A. District Code of Ethics Policy –

**Code of Ethics**

**Anderson County, Tennessee**

Section 1. Definitions

(1) "County" means Anderson County Tennessee shall include all boards, committees, commissions, authorities, corporations, or any other instrumentalities of Anderson County Government appointed or created by the County, or an official of the County, and including the County School Board, the County Election Commission, the County Health Department, and Utility Districts of the County.

(2) "Official and employee" means and includes any Anderson County official, singular or plural, whether elected or appointed, officer, employee, or any member of any board, agency, commission, authority or corporation (whether compensated or not) or any person employed or appointed by Anderson County.

(3) "Personal interest" means, for the purpose of disclosure of personal interests in accordance with this Code of Ethics, a financial interest of the official or employee, or a financial interest of the official's or employee's spouse or child living in the same household, in the mailer to be voted upon, regulated, supervised, decided or otherwise acted upon in an official capacity.

#### Section 2. Disclosure of Personal Interest in Voting Matters

An official or employee with the responsibility to vote on a measure shall disclose during the meeting at which the vote takes place, before the vote and to be included in the minutes of the meeting, any personal interest that affects or that would lead a reasonable person to infer that it affects the official's or employee's vote on the measure. In addition, the official or employee may, to the extent allowed by law, abstain from voting on the measure.

#### Section 3. Disclosure of Personal Interest in Non-Voting Matters

An official or employee who must exercise discretion relative to any mailer other than casting a vote; including but not limited to, managing, supervising, or awarding any contract, and who has a personal interest in the mailer that affects or that would lead a reasonable person to infer that it affects the exercise of discretion shall disclose, before the exercise of discretion when possible, the personal interest on the authorized Disclosure Form and file that form with the County Clerk. In addition, the official or employee may, to the extent allowed by law, recuse himself or herself from the exercise of discretion in the matter.

#### Section 4. Acceptance of Gifts and Other Things of Value

An official or employee, or an official's or employee's spouse or child living in the same household, may not accept, directly or indirectly, any gift, money, gratuity, or other consideration or favor of any kind from anyone other than the County:

(1) For the performance of an act, or refraining from performance from an act, that he or she would be expected to perform or refrain from performing in the regular course of his or her County duties; or

(2) That a reasonable person would understand was intended to influence the vote, official action, or judgment of the official or employee in executing County business.

It shall not be considered a violation of this policy for an official or employee to receive entertainment, food, refreshments, meals, health screens, immunizations, vaccines, amenities, or items necessary to the performance of the official or employees' duties that are provided by the County, or in connection with a conference, meeting, or employee fair sponsored by the County, other governmental entity, or an established and recognized state-wide association of county

government officials or by an umbrella or affiliate organization of such state-wide association of county government officials, or professional organization, association or licensing board.

#### Section 5. County Ethics Commission

A County Ethics Commission (hereinafter "Commission") consisting of sixteen (16) voting members shall be appointed to serve two (2) year terms, subject to the initial term provision recited below, with no term limits, and shall consist of the following membership:

- A) County Mayor, or designee;
- B) Chairman of the County Legislative Body, or designee;
- C) County Clerk, or designee;
- D) Circuit Court Clerk, or designee;
- E) Clerk and Master, or designee;
- F) Director of Schools, or designee;
- G) Highway Superintendent, or designee;
- H) Member of the Judiciary — as selected by the Honorable Judges of the County and Seventh ( Judicial District, or designee;
- I) Assessor of Property, or designee;
- J) Register of Deeds, or designee;
- K) Sheriff, or designee;
- L) Trustee, or designee;
- M) Member of the County Legislative Body as selected by their membership, or designee;
- N) Member of the County School Board as selected by their membership, or designee;
- O) County Mayor Appointment;
- P) County Legislative Body Appointment; and
- Q) Ombudsman/Law Director, ex officio.

Designees and appointees can be selected from other County Officials, employees or citizens.

Initial Terms shall run from July 1, 2007 until September 30, 2010. Subsequent two (2) year membership terms shall begin on October 1, 2010.

The Commission shall convene as soon as practical after their appointment and elect a Chair and Secretary. All meetings, with the exception of executive sessions, shall be open to the public and publicly noticed in a newspaper of general circulation in the County for at least one time no less than five (5) days prior to the meeting.

A majority of Commission members present shall constitute a quorum. The Commission shall act officially by majority vote of the entire membership. Death of a member and abstentions for stated cause shall reduce the needed majority vote accordingly.

The Commission shall have original jurisdiction to hear and decide all violations of this Code.

Unless specifically governed herein, or by state law, the Commission shall conduct all meetings in accordance with Robert's Rules of Order, most recent edition.

The official records, minutes and closed investigations of the Commission shall be maintained by the Secretary and filed in the Office of the Anderson County Clerk, where they shall be open for public inspection during reasonable business hours.

#### Section 6. Complaints

Questions and complaints regarding violations of this Code of Ethics or any violation of state law governing ethical conduct should be directed to the Ombudsman for the Commission.

Complaints shall be in writing and signed by the person making the complaint. At least one witness shall sign the complaint attesting to the authenticity of the signature only. All complaints shall be as specific as possible and shall set forth in reasonable detail the facts upon which the complaint is based. Complaints will be received by U.S. Mail only addressed to the following:

Anderson County Ethics Commission  
101 South Main Street, Suite 310  
Clinton, TN 37716

The Commission or Ombudsman shall investigate any credible complaint against an official or employee charging any violation of this Code of Ethics, or may undertake an investigation on its own initiative when it acquires information indicating a possible violation, and make recommendations for such action to end or seek retribution and/or restitution for any activity that, in the Commission's judgment constitutes a violation of this Code of Ethics. If a member of the Commission or the Ombudsman is the subject of a complaint, such member shall recuse himself or herself from all proceedings involving such complaint. If the Ombudsman is the subject of the complaint, the Chair of the Ethics Commission shall receive and investigate the complaint and otherwise serve and act in the role of Ombudsman.

#### Section 7. Ombudsman

The County Law Director shall serve in the position of Ombudsman and shall receive and investigate all complaints regarding violations of this Code of Ethics. The Ombudsman shall make an initial inquiry to determine if the act complained of lies within the original jurisdiction of this Code and Commission, as defined herein. If the Ombudsman determines that jurisdiction is vested with the Commission then the alleged violation will be investigated and referred to the Commission for further action. The Ombudsman shall cause reasonable notice to be given to the affected official or supervising department head when an ethics complaint is received. All ethical violations defined herein will be referred the Commission.

After the investigation is complete, or within ninety (90) days of the postmark on the complaint, whichever comes first, the Ombudsman shall report the matter to:

- 1) The Commission, if the act complained of falls within the original jurisdiction of the Commission; and/or
- 2) The Department Head or Elected Official, Board, or Commission supervising the official or employee for additional action; and/or
- 3) Local law enforcement agency or the District Attorney General if criminal activity is suspected; and/or

- 4) State Ethics Commission or the State Election Commission if the act complained of falls within the appropriate jurisdiction; and/or
- 5) The District Attorney General or Law Director for ouster investigation and appropriate action; or
- 6) The Ombudsman shall dismiss the complaint for lack of reasonable supporting and corroborating evidence, lack of jurisdiction, lack of merit, lack of cooperation from the complainant, or complainant's unwillingness to testify before the Commission or Court of law, or withdrawal of the complaint by the complainant.

#### Section 8. Enforcement Options

The Commission may, upon majority vote:

- 1) Refer the matter to the Law Director for a legal opinion and/or recommendation for action; or
- 2) In the case of an official, refer the matter to the County Legislative Body for possible public censure by resolution of the County Legislative Body if such body finds such action warranted;
- 3) In the case of an employee, refer the matter to the official or department head responsible for supervision and control of that employee for possible disciplinary action if the official or department head finds such discipline warranted;
- 4) In a case involving possible violations of state statute, refer the matter to the District Attorney General for possible ouster or criminal prosecution.

When interpreting and enforcing the provisions of this Code the Commission and/or Ombudsman shall use the standard of what an objective reasonable person would have done, or would have perceived was done, under the facts and circumstances given. When a violation of this policy also constitutes a violation of a personnel policy or civil service policy, the violation shall be dealt with as a violation of the personnel or civil service policy provisions rather than a violation of this policy.

#### Section 9. Applicable State Laws

In addition to the ethical principles set out in this Code, state law also provides a framework for the ethical behavior of County officials and employees in the performance of their duties. Officials and employees should familiarize themselves with state laws applicable to their office, position and the performance of their duties. To the extent that an issue is addressed by state law, (law of general application, public law of local application, local option law, or private act), the provisions of state law, to the extent they are more restrictive, shall control. The following is a brief nonexclusive survey of selected state laws concerning ethics in County government. For the full text of these statutes see the identified Tennessee Code Annotated (T.C.A.) sections.

**Campaign Finance — T.C.A. Title 2, Chapter 10. Part 1** (Campaign Financial Disclosure) requires candidates for public office to disclose contributions and contributors to their campaigns. **Part 3** (Campaign Contribution Limits) limits the total amount of campaign contributions a candidate may receive from an individual and sets limits on the amount a candidate may receive in cash.

**Conflict of Interest** — T.C.A. §12-4-101 is the general conflict of interest statute that applies in all counties. It prohibits anyone who votes for, lets out, or in any manner supervises any work or contract from having a direct financial interest in that contract, purchase, or work, and it requires disclosure of indirect financial interests by public acknowledgment.

**Conflict of Interest** — T.C.A. §49-6-203 applies to the Department of Education or School Board in all counties and prohibits the direct and indirect conflict of interest in the sale of supplies for use in public schools.

**Conflict of Interest** — T.C.A. §5-1-125 applies in all counties and prohibits county officials and employees from purchasing surplus county property except where it is sold by public bid.

**Conflict of Interest** — T.C.A. §54-7-203 applies in all counties that are governed by the County Uniform Highway Law. It prohibits officials and employees in the Highway Department and members of the County Legislative Body from having any personal interest in purchases of supplies, materials, machinery, and equipment for the Highway Department.

**Conflict of Interest** — T.C.A. §5-14-114 is part of the **Purchasing Law of 1957**, lawfully adopted and in effect in Anderson County. It prohibits the purchasing agent, members of the purchasing commission, and all county officials from having any financial or personal beneficial interest in any contract or purchase of goods or services for any department or agency of the County.

**Conflict of Interest** — T.C.A. §§5-5-102 and 12-4-101 govern disclosures and abstentions from voting due to conflicts of interest related to members of the County Legislative Body.

**Conflict of Interest Disclosure Statements** — T.C.A. §§8-50-501 et seq. requires candidates and appointees to local public offices to file a disclosure statement with the State Ethics Commission listing major sources of income, investments, lobbying activities, professional services provided, bankruptcies, certain loans, and other information, and to keep these statements up to date.

**Gifts** — T.C.A. § 5-14-114 is part of the **Purchasing Law of 1957**, lawfully adopted and in effect in Anderson County. It prohibits the purchasing agent, members of the purchasing commission, and all county officials from receiving anything of value, directly or indirectly, from anyone who may have or could obtain a contract or purchase order with the County.

**Honorarium** — T.C.A. §2-10-116 prohibits elected officials from accepting an honorarium, (including money or anything of value, but not including reimbursement for actual expenses) for an appearance, speech, or written article in their official capacity.

**Private Use of Public Property** — T.C.A. §54-7-202 applies to the Anderson County Highway Department. It prohibits the private use of equipment, rock, and other highway materials.

**Court Sales** — T.C.A. §39-16-405 prohibits judges, clerks of the court, court officers, and employees of court from bidding on or purchasing any property sold through the court for which such person discharges official duties.

**Rules of the Supreme Court** — **Rule 10, Cannon 5**, (Code of Judicial Conduct), establishes ethical rules for Judges and other court personnel when exercising judicial functions.

**Rules of the Supreme Court** — **Tennessee Rules of Professional Conduct**, establishes ethical rules for Tennessee attorneys.

**Fee Statutes** — T.C.A. §§8-21-101, 8-21-102, and 8-21-103 set out circumstances where fees are authorized, prohibit officials from requiring payment of fees in advance of performance of services except where specifically authorized and set penalties for charging excessive or unauthorized fees.

**Consulting Fee Prohibition for Elected County Officials** — T.C.A. §§2-10-122 and 2-10-124 prohibit officials from receiving compensation for advising or assisting a person or entity in influencing County legislative or administrative action.

**Crimes Involving Public Officials** — T.C.A. §§39-16-402 et seq. and the following sections prohibit bribery, soliciting unlawful compensation, and buying and selling in regard to offices.

**Official Misconduct** — T.C.A. §39-16-402 applies to public servants and candidates for office and prohibits the unauthorized exercise of official power acting in an official capacity exceeding the servant's power, refusal to perform a duty imposed by law, violating a law relating to the servant's office or employment, and receiving a benefit not provided by law.

**Official Oppression** — T.C.A. §39-16-403 prohibits abuse of power by a public servant.

**Bribery for Votes** — T.C.A. §§2-19-121, 2-19-126, and 2-19-127 prohibit bribery of voters in an election.

**Misuse of Official Information** — T.C.A. §39-16-404 prohibits a public servant from obtaining a benefit or aiding another person in obtaining a benefit from information which was obtained in his/her official capacity and is not available to the public.

**Public Official Ouster Law** — T.C.A. §8-47-101 sets out conduct that is punishable by ouster from office, including misconduct in office and neglect of duties. Ouster cases may be filed by either the Law Director or District Attorney General.

Anderson County, Tennessee

Board of Commissioners

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION TO ADOPT A CODE OF ETHICS FOR OFFICIALS  
AND EMPLOYEES OF ANDERSON COUNTY GOVERNMENT

WHEREAS, Section 49 of the *Comprehensive Governmental Ethics Reform Act* of 2006, Public Chapter 1 (hereinafter the 'Ethics Reform Act) requires county legislative bodies to adopt certain ethical standards by resolution on or before June 30, 2007; and

WHEREAS, Anderson County desires to adopt a Code of Ethics for Anderson County and its Officials and Employees as required by Tennessee Law.

NOW THEREFORE, BE IT RESOLVED by the Anderson County Legislative Body meeting in regular session at Clinton, Tennessee on this 16<sup>th</sup> day of April, 2007. that pursuant to the mandates contained in the Tennessee Ethics Reform Act of 2006, the following is hereby duly adopted and approved;

SECTION 1. The attached Code of Ethics is hereby adopted as the Official Code of Ethics for Anderson County, Tennessee.

SECTION 2, Upon approval of this resolution, the County Clerk is directed to:

- (a) Mail a copy of this resolution to the State Ethics Commission; and
- (b) Mail a copy of this resolution and the attached Code of Ethics to each county office governed thereby, including all boards, committees, commissions, authorities, utilities, departments, subsidiaries, corporations or other instrumentalities appointed or created by the county or an official of the county, and including the county school board, the county election commission, the county health department and utility districts in the county; and
- (c) Post notice of the reporting procedures for the Code of Ethics on each public bulletin board in the Anderson County courthouse.

SECTION 3. This resolution shall take effect upon its passage and approval, the public welfare requiring it.

RESOLVED, this 16th day of April, 2007.

Dr. Burrell commented this policy was adopted by the County Commission on May 21, 2007 and our board approved it at the May meeting pending the commission adoption. **Motion** by Gail Martin and second by Peggy Hayes to approve the adoption of the District Code of Ethics.

**Motion carried.**

B. Board Attorney Selection Discussion – Two applicants, Sal Varsalona and Randy Miller, have submitted their resume for the position of board attorney vacated by Jerry Shattuck. Dail Cantrell made a **motion** to hire Sal Varsalona as board attorney. Seconded by Gail Martin.

**Motion carried.**

C. Appoint Member of Campus Court – Dr. Burrell asked if we could have a representative to the Campus Court on a rotating basis due to the volume of the cases and the time required. Judge Meldrum said that would be fine as long as we have someone there each month from the school system and suggested the representatives are kept up to date on the cases coming before the court. Dr. Burrell asked Terri Ferry if she would be responsible for contacting a board member each month for attendance. A member of student services is in attendance at every court event. Dr. Burrell would like to have a board member in attendance on a rotating basis. She said it all depends on how many referral they have as to how many times they will meet. Glenda Langenberg said she was interested in the Mentoring Program and would like to serve on that.

D. Community Award to Carton Services – The board has purchased a plaque for Carton Services for their financial support of the school system and will present it to them at their plant at a later date.

E. Out of Harm's Way – TSBA Workshop – July 11, 2007 – 11:30 – 7:00 p.m. in the board room.

F. TSBA Legislative Conference – July 19, 2007 at the Park Vista Hotel in Gatlinburg.

G. Dr. Burrell reported he has received information concerning resolutions and if anyone want to submit one they need to be in to TSBA by November for consideration.