



THE ATLANTA BOARD OF EDUCATION

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BOARD EXECUTIVE
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SECTION 3-106. Ethics Commission.

(a) Creation of Ethics Commission. The Board shall establish a seven-member Ethics Commission. Members of the Commission shall be appointed by the Board for staggered five-year terms. When the Commission is first established, two persons will be appointed to serve five-year terms, one person will be appointed to serve a four-year term, two persons will be appointed to serve three-year terms, one person will be appointed to serve a two-year term, and one person will be appointed to serve a one-year term. Each member of the Commission shall hold office from the date of appointment until the end of the term for which he or she was appointed or until his or her successor qualifies for office. Members of the Commission shall not be eligible for reappointment. If a vacancy occurs on the Commission, the Board shall within 90 days appoint a person to fill the unexpired term.

(b) Qualifications. A person is eligible to serve as a member of the Ethics Commission if that person, while serving:

- (1) Resides in the City of Atlanta and is a registered voter;
- (2) Is not an employee of the Atlanta Board of Education or a relative, as defined in Section 3-101 of this Act, or a business associate of any member of the Board;
- (3) Does not hold any elected or appointed office and is not a candidate for any office in the governments of the United States, the State of Georgia, DeKalb County, Fulton County, or the City of Atlanta;
- (4) Has not provided a financial contribution of more than \$100.00 to, or worked significantly in, the political campaign of any current member of the Board; and
- (5) Is not a relative, as defined in Section 3-101 of this Act, of a person who provided a financial contribution of more than \$100.00 to, or worked significantly in, the political campaign of any current member of the Board.

(c) Duties and powers. The Ethics Commission shall have the following duties and powers:

- (1) To receive and hear complaints of violations by Board members of standards established by this Act or applicable state or federal law;

(2) Upon receipt of a complaint, to conduct investigations as it deems necessary to determine whether any Board member has violated any standards established by this Act or applicable state or federal law. An affirmative vote of three members is required to initiate an investigation. For the purpose of conducting a meeting or hearing, five members shall constitute a quorum and five affirmative votes are required to issue any finding;

(3) To take appropriate action as a result of a violation of the standards established by this Act and applicable state or federal law;

(4) To request funding from the Board in order to conduct a hearing and to use any funds provided to conduct hearings;

(5) To establish policies and procedures for conducting meetings and hearings of the Commission; and

(6) To perform any other function authorized by this Act.

(d) Organization of the Ethics Commission.

(1) Members of the Ethics Commission shall be compensated on a per meeting basis at a rate determined by the Board.

(2) The Ethics Commission shall elect one member to act as chairperson for a term of two years, or until a successor is duly elected. The chairperson shall have the same voting rights as the other Commission members. The Commission shall also elect one member to act as vice chairperson for the same term. If the office of chairperson or vice chairperson is vacated in any manner before the expiration of the term, the Commission shall elect a member to fill the unexpired term.

(3) The Board may remove a Commission member for neglect of duty, misconduct in office, a disability rendering the member unable to discharge the powers and duties of the office as specified in this Act, for no longer qualifying for the position as specified in this Act, or for any reason that would justify the removal of a member of a board of education.

(4) There shall be no scheduled regular monthly or bimonthly meetings of the Commission. The chairperson shall call meetings as the chairperson deems necessary. A meeting can also be called by written notice signed by at least four members of the Commission. All meetings of the Commission shall be open to the public. The purpose of the public meetings shall be to hear and dispose of complaints or to render advisory opinions as set forth in this section.

(5) The Board office will provide staff support to the Ethics Commission.

(6) The Ethics Commission shall be governed by and subject to the provisions of this section. No official action, except as outlined in this section, shall be taken by the Commission. If a Commission member has a conflict of interest involving any matter before the Commission or must otherwise disqualify himself or herself under the conditions of this Act or by law, the remaining Commission members shall choose by majority vote an alternative person who meets all qualifications set out above to hear the complaint.

(e) Complaint and investigation procedures.

(1) Any citizen eligible to vote in the City of Atlanta or any employee of the Atlanta Public School System may file a complaint alleging a violation of the standards established by this Act or other applicable state or federal law by filing it with the executive assistant to the Board. The complaint shall be in writing and verified under oath.

(2) The executive assistant to the Board shall immediately deliver the complaint to the chairperson of the Ethics Commission or a designee and shall also immediately forward a copy of the complaint by certified and regular mail to the Board member against whom the complaint was filed, along with a copy to the superintendent and general counsel. A complaint must be filed within six months of the date of the alleged violation or, in the case of concealment or nondisclosure, within six months of the date the alleged violation should have been discovered after due diligence.

(3) Within 60 days of receipt of a complaint, the Ethics Commission shall conduct and conclude an investigation to determine whether good and sufficient cause exists concerning the complaint. During the investigation, the commission has the power to secure necessary documents. The superintendent shall ensure that school system employees cooperate with any Commission investigation. The investigation shall not be open to the public. The Commission shall not receive live testimony as part of the investigation. If, after conducting an investigation, the Commission by majority vote determines that no good and sufficient cause exists for a determination that a violation exists, the Commission may dismiss the complaint and shall report said dismissal to the Board.

(f) Ethics Commission hearings. If the Commission determines that good and sufficient cause exists for a determination that a violation has occurred, or if the Board refers a case against a Board member as provided in Section 2-107 of this Act, a formal public hearing shall be conducted. The Commission shall notify the Board member charged with a violation of the date, time, and place for the hearing by certified and regular mail. At the hearing, the Commission shall hear sworn testimony from all witnesses it deems relevant. The hearing shall be recorded by a certified court reporter. The Commission is authorized to issue subpoenas on behalf of any party and for the appearance of any party or documents as provided by law. Upon conclusion of the hearing, the Commission shall issue written findings of fact and conclusions of law and take, but shall not be limited to taking, one or more of the following actions:

(1) Find that the Board member did not violate any of the standards established by this Act or other applicable state or federal law; upon a finding that an initial complaint was filed without justification or was supported by erroneous information or evidence, the Commission may recommend that the Board reimburse the accused Board member up to \$2,500.00 in actual attorneys' fees and costs;

(2) Censure or reprimand of the member of the Board;

(3) To the extent applicable, file criminal charges against the Board member; or

(4) Recommend removal of the Board member.

Formal hearings shall be open to the public and shall comply with all state and federal open meetings and open records laws.

(g) Actions of the Commission. If the Ethics Commission finds the Board member has:

(1) Violated local, state, and federal laws, policies, rules, and regulations regarding fraud and fraudulent activities;

(2) Breached the confidentiality of privileged information, including statements made in an executive session of the Board;

(3) Engaged in conflicts of interest;

- (4) Used school system contacts and privileges to promote partisan politics or sectarian religious views;
- (5) Voted on or influenced in any way a decision or action by the Board or a school system employee that directly affects the Board member or any of his or her relatives;
- (6) Discussed or otherwise communicated with vendors, individuals, or groups who are soliciting business from the school system regarding the subject of the solicitation or any matter related to the solicitation once the solicitation is issued by the school system and until such time as the Board has rendered a decision on the solicitation; or
- (7) Consistently, intentionally, and willfully violated the procedures, norms, rules, or regulations regarding the prohibition against involvement in the day-to-day operation of the school system, then the Ethics Commission must find that the Board member should be removed from office.
- (h) Notice; rejection or modification of the Commission's action. The Ethics Commission will notify the Board and Board member of its action by sending a certified letter to the chairperson of the Board and the Board member who is the subject of the investigation. Within 30 days of receipt of the notice from the Commission, the Board may reject or modify the action of the Commission, but only by a three-fourths' vote of the Board.
- (i) Suspension and removal of member. If the Ethics Commission finds that the Board member should be removed from office, then the Board member is automatically and immediately suspended from the Board. If the Board accepts, by majority vote, the findings of the Ethics Commission or if, after the 30 day period specified in subsection (h) of this section, the Board has not rejected the findings of the Ethics Commission that the Board member should be removed from office, the Board member is automatically and immediately removed from the Board.
- (j) Civil recovery. The Board of Education shall take appropriate legal action to recover the value of anything received by any person or persons in violation of the standards established by this Act or applicable state or federal law, as determined by the Ethics Commission. A taxpayer, pursuant to applicable law, may take such legal action after a written demand to the Board to bring such action and failure of the Board to initiate the action within 60 days after receipt of the demand.
- (k) Official's liability. No member of the Ethics Commission or any person acting on behalf of the Ethics Commission, operating within the course and scope of this section, shall be liable to any person for any damages arising out of such action.
- (l) Safe harbor. Notwithstanding anything in this Act to the contrary, a Board member may not be found in violation of the provisions of this Act if:
- (1) The Board member, prior to engaging in the conduct, completely disclosed the existence of the issue or matter to the Board at a public meeting;
 - (2) The Board member sought and received a public legal opinion from the legal department; and
 - (3) The Board member acted in reliance on that legal opinion.
- However, a Board member shall nonetheless be subject to an adverse finding upon a determination that the disclosure to the Board was not sufficiently complete or was materially false or misleading. Additionally, citizens who report alleged violations in good faith will not be subject to any reprisal by the individual Board member or the Board as a whole.

SECTION 3-107.

Whistleblower protection.

(a) The Board or school system shall not discharge, threaten, or otherwise discriminate against a complainant or an employee or official acting on behalf of a complainant regarding compensation, terms, conditions, location, or privileges of employment because:

(1) The complainant or employee or official acting on behalf of the complainant reports or is about to report, verbally or in writing, a violation or a suspected violation of this Act or other applicable state or federal law; or

(2) A complainant or employee or official acting on behalf of the complainant is requested by the Ethics Commission to participate in an investigation, hearing, or inquiry held by the Ethics Commission or any related court action;

provided, however, that this section shall not apply to a complainant or an employee or official acting on behalf of a complainant who knowingly makes a false report.

(b) Nothing in this section shall limit or prohibit the school system from taking disciplinary action against a whistleblower as a result of the whistleblower's misconduct that may be revealed, discovered, or uncovered as a result of a report or an attempted report of an ethics violation