

Chapter 3.12 **CODE OF ETHICS Revised 4/16**

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3.12.010 Purpose. Revised 4/16

- A. The Pierce County Council recognizes the need for integrity in government and recognizes that the people of Pierce County consider governmental service to be a public trust. Accordingly, it is the purpose of this Chapter to establish ethical standards of conduct for all officials and employees of the County, and for all people dealing with Pierce County government. This Chapter is not to be construed so as to impair the ability of County officials and employees to participate in ceremonial, representational, or informational functions in the pursuit of their official duties.
- B. This Chapter shall be liberally construed in favor of protecting the public's interest in full disclosure of conflicts of interest and promoting ethical standards of conduct for County officials, employees, and persons dealing with Pierce County government.
- C. It is the policy of Pierce County to encourage the full participation and expression of interest of all of the people of Pierce County in the legislative process. The provisions of this Chapter shall be liberally construed to promote full disclosure of lobbying in order to protect the openness and integrity of the legislative process.

(Ord. 2015-88 § 1 (part), 2016; Ord. 2007-118s2 § 1 (part), 2008; Ord. 82-52 § 2 (part), 1982; prior Code § 6.01.010)

3.12.020 Definitions. Revised 4/16

The following words and phrases as used in this Chapter shall, unless the context clearly indicates otherwise, have the meanings as follows:

"Anything of value" means meals, lodging and travel other than that authorized by Chapter 3.92 PCC, entertainment, any real or personal property of any kind or the voluntary rendition of services of any kind or the promise of future employment or personal benefit whether or not such items are in the form of a gift, loan, political contribution or award, but shall not include items excluded from "gifts" under these definitions.

"Business" means any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, consultant, holding company, joint stock company, receivership, trust or any legal entity organized for profit.

"Business with which an individual is associated" means any business in which the person or a member of the person's immediate family:

1. Is a director, officer, partner, employee; or
2. Knowingly owns, directly or indirectly, an interest (a) that exceeds one-tenth of one percent of the outstanding stock of all categories if the business is incorporated, or (b) that exceeds 1 percent of the net worth of an unincorporated business, or (c) that exceeds 1 percent of all debt obligations of the business, incorporated or unincorporated; or
3. Attributes 5 percent or more of the net worth of the individual to ownership of a financial interest in the business.

"Candidate" means any individual who seeks election to public office. Pursuant to RCW 42.17.020, an individual shall be deemed to seek election when he first:

1. Receives contributions or makes expenditures or reserves space or facilities with intent to promote his candidacy for office; or
2. Announces publicly or files for office.

"Compensation" means payment in any form for real or personal property or services of any kind; provided, that "compensation" shall not include per diem allowances or payments made by a sponsoring entity to reimburse a public official for expenses incurred while engaged in the official business authorized by the sponsoring entity.

"Complainant" means any person filing a complaint of a violation of the Code as set forth in PCC 3.12.080.

"Confidential information" means information exempt from public inspection and copying pursuant to RCW 42.17.310, and information required under PCC 3.12.030 and 3.12.080.

"County" means Pierce County.

"De minimus" means small, slight or trifling.

"Elected or appointed official" means any person elected at a general or special election to any executive, legislative or judicial County office and any person who is appointed to fill an elective County office. For purposes of this Code, Superior Court Judges are deemed State officials and are thus excluded from this definition.

"Ethics Commission" or "Commission" means the Commission referred to in the Pierce County Charter, Section 9.50 and established in PCC 3.12.070.

"Executive" means the individual who serves as Chief Executive Officer of Pierce County pursuant to Pierce County Charter, Section 3.20.

"Expenditure" includes a payment, contribution, subscription, distribution, loan, advance, deposit, gift, contract, promise or agreement to make an expenditure. The term "expenditure" also includes a promise to pay, a payment or a transfer of anything of value in exchange for goods,

services, property, facilities or anything of value. For the purposes of this Chapter, agreements to make expenditures, contracts and promises to pay may be reported as estimated obligations until actual payment is made.

"Gift" means anything of value for which no consideration is given, but shall not include the following:

1. Items from family members or friends; provided, that it is clear beyond a reasonable doubt that the gift was not made as part of any design to gain or maintain influence in the agency of which the recipient is an officer or employee;
2. Items related to the outside business of the recipient that are customary and not related to the recipient's performance of official duties;
3. Items exchanged among officials and employees or a social event hosted or sponsored by a County officer or County employee for coworkers;
4. Payments by a governmental or nongovernmental entity of reasonable expenses incurred in connection with a speech, presentation, appearance, or trade mission made in an official capacity. As used in this subsection, "reasonable expenses" are limited to travel, lodging, and subsistence expenses incurred the day before through the day after the event;
5. Items a County officer or County employee is authorized by law to accept;
6. Payment of enrollment and course fees and reasonable travel expenses attributable to attending seminars and educational programs sponsored by a bona fide governmental or nonprofit professional, educational, trade, or charitable association or institution. As used in this subsection, "reasonable expenses" are limited to travel, lodging, and subsistence expenses incurred the day before through the day after the event;
7. Items from which the recipient receives no personal benefit and which are returned by the recipient to the donor within 30 days of receipt;
8. Campaign contributions;
9. Discounts available to an individual as a member of an employee group, occupation, or similar broad-based group;
10. Awards, prizes, scholarships, or other items provided in recognition of academic, scientific or other achievement;
11. Any symbolic presentation the nature of which is not to financially benefit the recipient; and
12. Relatively inexpensive items of personal property such as a box of candy or a bouquet of flowers which are given as a simple act of human kindness, thoughtfulness and appreciation.

"Governmental body" means any department, office, commission, council, board, administration or other establishment in the administrative, legislative or judicial branch of County government over which County government may lawfully exercise its jurisdiction.

"Hearing Officer" means that person designated in PCC 3.12.060 and 3.12.080 as the proper person to receive complaints of violations of this Ethics Code and to make an initial review of such complaints for the purposes and in the manner as set forth herein.

"Honorarium" means money or thing of value offered to a County officer or County employee for a speech, appearance, article, or similar item or activity in connection with the

County officer's or County employee's official role, but does not include reimbursement of expenses reasonably incurred.

"Immediate family" means spouse (unless a legal separation exists), dependents, and any other individuals residing in the person's household.

"Lobby" and "lobbying" each mean a lobbyist's attempt to influence, by communicating with Councilmembers or Council staff of the Pierce County Council, to develop, adopt, modify or reject legislation, or attempt to influence, by communicating with the Executive or Executive staff, to approve or veto adopted legislation, or part thereof, presented to him or her.

For purposes of this Chapter, the terms "lobby" and "lobbying" do not include any of the following:

1. The act of communicating with the members of an association or organization by that same association or organization;
2. Communications or other actions made by a person related to a quasi-judicial proceeding before the Council;
3. Communications or actions made by a person related to proposed motions to confirm or reject appointments by the Executive;
4. Communications or actions made by a person related to proposed motions to exercise the Council's power of confirmation or removal;
5. Communications or other actions related to proposed employment actions concerning legislative branch employees;
6. Communications or other actions by any County employee acting within the scope of his or her employment with the County; or
7. Communications or other actions by representatives of labor organizations related to existing or proposed collective bargaining agreement(s) with the County or other legislation which could affect specific existing or proposed collective bargaining agreements.

"Lobbyist" means any person who lobbies for compensation.

"Person" means:

1. An individual;
2. A partnership, limited partnership, public or private corporation, or joint venture;
3. A nonprofit corporation, organization, or association, including but not limited to a national, state, or local labor union or collective bargaining organization and a national, state, or local trade or professional association;
4. A federal, state, or local governmental entity or agency, however constituted;
5. A candidate, committee, political committee, bona fide political party, or executive committee thereof; and
6. Any other organization or group of persons, however organized.

"Pierce County employee" means any individual who holds a position listed in PCC 3.08.120 or who is responsible for taking or recommending Pierce County official action of a nonministerial nature with regard to:

1. Contracting or procurement;
2. Administering or monitoring grants or subsidies;
3. Planning or zoning;

4. Inspecting, licensing, regulating or auditing any person;
5. Any other activity where the official action has an economic impact of greater than a de minimus nature on the interests of any person.

"Pierce County personnel" means any employee or elected or appointed official of Pierce County.

"Political contribution" means any advance, conveyance, distribution, transfer of funds or anything of value, including personal and professional services for less than full consideration, loan, payment, pledge, forgiveness of indebtedness, forbearance, gift, deposit, subscription or purchase of a ticket to a testimonial or similar fund-raising affair in connection with a political campaign and any agreement or other obligation to make a political contribution.

"Respondent" means any person who is named by a complainant as allegedly violating this Code. (Ord. 2015-88 § 1 (part), 2016; Ord. 2007-118s2 § 1 (part), 2008; Ord. 82-52 § 2 (part), 1982; prior Code § 6.01.020)

3.12.030 Ethical Standards and Prohibited Practices Enumerated. Revised 4/16

- A. No County personnel shall, except for compensation as provided by law, use his or her office or position, any confidential information received thereby, or County facilities, supplies, resources, equipment or time, for any private purpose, including, without limitation: commercial purposes, financial gain, or present or future employment. Private purpose includes benefits received by the County personnel, members of his or her immediate family, domestic partners or members of the domestic partner's immediate family, and/or a business with which the County personnel is associated.
- B.
 1. No person shall offer or give anything of value to County personnel, members of their immediate family, domestic partners or members of the domestic partner's immediate family, or business with which they are associated or to any candidate for elected County office, member of his or her immediate family or business with which he is associated based on any agreement or understanding that the vote or official action of any County personnel or any candidate for elected County office would be determined thereby.
 2. No County personnel or candidate for elected County office shall solicit or accept anything of value based on any agreement or understanding that the vote or official action of any County personnel or any candidate for elected County office would be determined thereby.
- C.
 1. No County personnel, which includes elected County officials, or candidate for elected County office shall solicit or encourage, directly or indirectly, any political contribution from any County personnel. No elected County official or candidate for elected County office shall knowingly accept any monetary contribution from County personnel in excess of \$250.00 per candidate per calendar year.
 2. PCC 3.12.030 C.1. shall not apply to contributions by County personnel who are members of the immediate family of the elected official or candidate; provided, further, that each such contribution by County personnel shall be clearly identified by the donor as having been made by County personnel so that the candidate and/or the candidate's political organization can verify that the funds received are not in excess of the \$250.00 per calendar year limitation. This limitation on contributions

- is not intended to prohibit County personnel from voluntarily participating during off-duty hours in political activities on behalf of a candidate for County office.
- D. No County personnel or candidate for County office shall use the power or authority of his or her office or position and/or the prospect of future office or position in a manner intended to induce or coerce any other person to provide, directly or indirectly, anything of value to said personnel, candidate or any other person, other than that which results naturally from the lawful and proper performance of one's official duties.
 - E. No County personnel shall accept anything of value, other than compensation as provided by law, for assisting any person to present a matter to a governmental body, or to any other County personnel.
 - F. No County personnel shall accept anything of value, other than compensation provided by law, for rendering the services for which he or she is legally compensated.
 - G. No County personnel shall accept honoraria for any action or activity which is within the scope and duty of his or her employment by Pierce County.
 - H. No County officer or County employee may receive, accept, take, seek, or solicit, directly or indirectly, anything of value for a matter connected with or related to the officer's or employee's services as such officer or employee unless otherwise provided for by law.
 - I. No former County personnel shall, during the period of one year after leaving County office or employment, disclose or use any information gained by reason of his/her County employment to obtain anything of value for himself or for any other person unless the information is a matter of public knowledge or is available to the public on request.
 - J. No person and no County personnel shall:
 - 1. Use, request, or permit the use of County motor vehicles, equipment, materials, or property, except in the conduct of official business;
 - 2. Use, request, or permit the use of County employee services during County time except in the conduct of official business.
 - K. No County personnel shall use his or her official influence to affect an illegal revaluation of any property in which he or she, the immediate family, domestic partners or members of the domestic partner's immediate family, or a business with which he or she is associated has an interest, except through a lawful appearance at a regularly constituted public hearing.
 - L. No person and no County personnel shall engage in or aid and abet any act of reprisal against any person as a consequence of that person's having made a report of violation to the Ethics Commission. Institution of formal court proceedings shall not be considered an act of reprisal.
 - M. No person and no County personnel shall commit or allow any breach of confidentiality as required by this Code of Ethics in connection with any report or investigation of a violation.
 - N. No person and no County personnel shall knowingly and intentionally induce or coerce or attempt to induce or coerce anyone to violate any provision of this Code of Ethics.
 - O. No person and no County personnel shall knowingly file a false charge or report of violation of this Code of Ethics with the Hearing Officer.

- P. No County personnel or candidate for elected County office may accept gifts with an aggregate value in excess of \$50.00 from a single source in a calendar year or a single gift from multiple sources with a value in excess of \$50.00. For purposes of this Section, "single source" means any person, as defined in PCC 3.12.020, whether acting directly or through any agent or other intermediary, and "single gift" includes any event, item, or group of items used in conjunction with each other or any trip including transportation, lodging, and attendant costs, not excluded from the definition of gift. The value of gifts given to an employee or candidate's family member or guest shall be attributed to the employee or candidate for the purpose of determining whether the limit has been exceeded, unless an independent business, family, or social relationship exists between the donor and the family member or guest.
- Q. **Restrictions on Mailings by Elected or Appointed Officials.**
1. In any year of a general election for an office for which a County elected or appointed official is a candidate, the County elected or appointed official may not mail after April 30 through November 30 immediately following the General Election, either by regular mail or electronic mail, to a constituent at public expense a letter, newsletter, brochure, or other piece of literature, except as follows:
 - a. A County elected or appointed official may mail an individual letter to:
 - (1) An individual constituent who has contacted the County elected or appointed official regarding the subject matter of the letter during the County elected or appointed official's current term of office;
 - (2) An individual constituent who holds governmental office with jurisdiction over the subject matter of the letter; or
 - (3) An individual constituent who has received an award or honor of extraordinary distinction of a type that is sufficiently infrequent to be noteworthy to a reasonable person.
 2. The mailing restriction in PCC 3.12.030 Q.1. does not apply to mailings by an elected or appointed official that are legally required of the elected or appointed official, such as the distribution of a voter's pamphlet, ballots or tax statements.
 3. For purposes of this subsection, "County elected or appointed official" means a County elected or appointed official who is a "candidate," as defined in RCW 42.17A.005, for any public office.
 4. For purposes of this subsection, persons residing outside Pierce County are not considered to be constituents, but students, military personnel, or others temporarily employed outside Pierce County who normally reside in Pierce County are considered to be constituents.
 5. A violation of this subsection constitutes use of public facilities for the purpose of assisting or opposing a campaign under RCW 42.17A.555.
- R. No Pierce County personnel may use or authorize the use of facilities or resources of the County, directly or indirectly, for the purpose of assisting a campaign for election of a person to an office or for the promotion of or opposition to a ballot proposition, except to the extent otherwise authorized by law. Knowing acquiescence by a person with authority to direct, control, or influence the action of the County personnel using public

resources in violation of this section constitutes a violation of this section. Facilities of the County include, but are not limited to, use of stationery, postage, machines and equipment, use of County employees during working hours, vehicles, office space, publications, and clientele lists of persons served. This provision is not intended to replace or supercede requirements or prohibitions of Chapter 42.17A RCW et seq., which may otherwise apply to County employees and/or officials.

(Ord. 2015-88 § 1 (part), 2016; Ord. 2010-63s § 1, 2010; Ord. 2007-118s2 § 1 (part), 2008; Ord. 2007-108 § 2 (part), 2007; Ord. 2003-50 § 1, 2003; Ord. 93-21 § 1 (part), 1993; Ord. 82-52 § 2 (part), 1982; prior Code § 6.01.030)

3.12.035 Advisory Opinions. Revised 4/16

- A. Any person subject to or affected by PCC 3.12.030 of this Code of Ethics may request a written advisory opinion. The request must be in writing and shall explain all the pertinent facts and circumstances. Advisory opinions are intended to assist the person seeking advice and to guide future conduct.
- B. The Commission retains the sole discretion to determine in which cases an advisory opinion will be issued. Factors the Commission may consider when determining in which cases an advisory opinion will be issued include, but are not limited to, whether the issue presented is one of general application, one that has been recently addressed by the Commission, or one that is likely to be the subject of controversy or dispute.
- C. No advisory opinion issued by the Commission shall be binding or limit the Commission's ability to conduct further proceedings in accordance with this Chapter.

(Ord. 2015-88 § 1 (part), 2016; Ord. 2007-118s2 § 1 (part), 2008)

3.12.040 Financial Disclosure. Revised 4/16

The County personnel set forth in PCC 3.12.040 A. are required to file with the County Human Resources Director by April 15 of each year for the preceding calendar year a copy of the report required to be filed by RCW 42.17A.700, as enacted or hereafter amended, and commonly referred to as Form F-1, which bears an original or electronic signature of the person filing the report.

- A. Council Administrators, the District Court Administrator, the Superior Court Administrator, the Executive's Chief of Staff or equivalent, all Executive department directors, and appointees to Executive department director positions shall comply with the financial disclosure requirements of this Section.

(Ord. 2015-88 § 1 (part), 2016; Ord. 2007-118s2 § 1 (part), 2008; Ord. 82-52 § 2 (part), 1982; prior Code § 6.01.040)

3.12.050 Administration of Reports. Revised 4/16

With respect to those reports required to be filed under PCC 3.12.040, the County Auditor shall:

- A. Provide forms for reports, statements, notices and other forms required, and furnish the same to persons required to file such statements and reports;
- B. Accept and file any information voluntarily supplied that exceeds the requirements;

- C. Make statements and reports filed available during regular office hours for public inspection and copying upon written and signed request, and make copying facilities available at a charge not to exceed actual cost;
 - D. Compile and maintain an index of all reports and statements filed to facilitate public access to such reports and statements;
 - E. Preserve statements and reports filed for a period consistent with the period provided in RCW 42.17A.150, as enacted or hereafter amended; and
 - F. Post an index of statements and reports filed on the Auditor's website.
- (Ord. 2015-88 § 1 (part), 2016; Ord. 2007-118s2 § 1 (part), 2008; Ord. 82-52 § 2 (part), 1982; prior Code § 6.01.050)

3.12.054 Lobbyist Registration and Reporting. Revised 4/16

- A. All lobbyists shall comply with the registration and reporting requirements set forth in RCW 42.17A.600 et seq. regarding their County lobbying activities as defined in this Code of Ethics.
- (Ord. 2015-88 § 1 (part), 2016; Ord. 2007-118s2 § 1 (part), 2008)

3.12.060 Hearing Officer. Revised 4/16

- A. There is established the position of "Hearing Officer" whose function will be to receive written complaints of alleged violations of this Ethics Code, and to investigate the complaints within a reasonable amount of time in order to determine whether there is probable cause to believe that a violation of this Code has occurred, all as set forth in PCC 3.12.080.
- B. The Hearing Officer shall be selected by the Ethics Commission by majority vote for a one-year contract. The Hearing Officer's contract may be renewed by a majority vote of the Commission. The Hearing Officer shall be a member in good standing with the Washington State Bar Association, shall have been licensed to practice law in the State of Washington for a minimum of five years, and shall have prior investigative or judicial experience. If an individual with prior investigative or judicial experience is unavailable to serve, this requirement may be waived. Because of its sensitive position, the Hearing Officer must avoid even the appearance of a conflict of interest. Therefore, the Hearing Officer shall be bound by the same restrictions as are set forth in PCC 3.12.070 for members of the Ethics Commission.
- C. The Hearing Officer shall be compensated for the time devoted to the performance of his or her official duties at a rate to be negotiated between the Ethics Commission and the Hearing Officer, subject to the approval of the Executive. The Hearing Officer shall be reimbursed for reasonable and necessary expenses incurred in the performance of his or her official duties.
- D. Whenever a Hearing Officer selected under this Code is either temporarily or permanently unable to perform the duties of this position, or if there exists the appearance of or an actual conflict of interest with the duties, the Commission shall select a temporary replacement or permanent successor in the manner provided for in PCC 3.12.060 B.

(Ord. 2015-88 § 1 (part), 2016; Ord. 2007-118s2 § 1 (part), 2008; Ord. 82-52 § 2 (part), 1982; prior Code § 6.01.055)

3.12.070 Ethics Commission. Revised 4/16

- A. There is established an "Ethics Commission" composed of five members appointed by the County Executive and subject to confirmation by a majority of the Council. These members shall serve without pay.
- B. At least one member of the Commission shall be licensed to practice law in the State of Washington and all members shall be registered voters in the State of Washington.
- C. At least three members of the Commission shall be employed in or retired from the private sector.
- D. The original members shall be appointed within 60 days after adoption of the ordinance codified in this Chapter. Two of the original five members shall serve initial terms of two years and one of the original members shall serve an initial term of one year, as determined by the drawing of lots. Thereafter, members of the Commission shall be appointed to three-year terms. Members shall serve until his or her successor is appointed or for 60 days following the expiration of the term, whichever is sooner.
- E. No member of the Commission, during his or her tenure, shall:
 - 1. Hold or campaign for elective office;
 - 2. Be an officer of any political party or political committee;
 - 3. Make contributions, or permit his or her name to be used in support of, or in opposition to, any candidate for County office;
 - 4. Lobby or employ or assist a lobbyist.
- F. No person shall be eligible for appointment to more than two consecutive three-year terms, except as provided in PCC 3.12.070 G.
- G. An individual appointed to fill a vacancy occurring other than by the expiration of a term of office shall be appointed for the unexpired term of the member he or she succeeds, and shall be eligible for appointment to two consecutive full three-year terms thereafter. Any vacancy occurring on the Commission shall be filled within 60 days in the manner in which that position was originally filled. A vacancy shall not impair the powers of the remaining members to exercise all the powers of the Commission.
- H. The Commission may select a presiding officer in the manner it deems appropriate.
- I. Three members of the Commission shall constitute a quorum and a vote of three members is required for any action or recommendation of the Commission. The Commission shall meet as frequently as it deems necessary; provided, that five days' advance written and/or electronic notice is given to each Commission member and to any person who has filed a request to be notified of such meetings.
- J. In addition to the duties prescribed by the Code of Ethics, the Commission shall have the following powers:
 - 1. Following a determination of probable cause by the Hearing Officer, act as the primary investigative body for violations of the provisions of this Chapter;
 - 2. Preserve all files, statements, correspondence and records of proceedings for a period of seven years.

3. To adopt procedures to govern the conduct of the Commission.
 4. To conduct investigations and hold hearings.
 5. To advise the Executive as to budget requirements and make expenditures in accordance with the annual budget.
 6. To request the services of the Prosecuting Attorney.
 7. To consider questions of ethical conduct if in the public interest, and to issue advisory opinions.
 8. To make recommendations to the County Executive and the County Council for amendments to this Chapter and for such other legislation affecting the subject matter of this Chapter as the Commission may deem necessary or desirable.
 9. To provide through coordination with the Human Resources Department, a continuing program of education, assistance, and information regarding ethical conduct to all County officers and employees.
- K. When, in the judgment of the Executive, a member of the Ethics Commission has violated any provision of this Ethics Code or other law or has engaged in any of the activities prohibited in PCC 3.12.070 E., the Executive may recommend to the County Council that the member be removed. Upon concurrence of a majority of the Council the member shall be removed from the Commission, a vacancy declared and a new member appointed.
- L. Members of the Ethics Commission shall not discuss any hearing or investigation regarding a violation or alleged violation of this Code of Ethics, nor divulge the identity of any complainant or respondent except through the process prescribed by this Code.
- M. All meetings of the Ethics Commission shall comply with the Open Public Meetings Act, Chapter 42.30 RCW.
- N. The County shall provide \$10,000.00 annually to the Commission, through the annual budget process, to cover the costs of staff assistance.

(Ord. 2015-88 § 1 (part), 2016; Ord. 2007-118s2 § 1 (part), 2008; Ord. 2004-7s § 2 (part), 2004; Ord. 2000-79 § 1 (2000; Ord. 93-21 § 1 (part), 1993; Ord. 82-52 § 2 (part), 1982; prior Code § 6.01.060)

3.12.080 Enforcement Procedures. Revised 4/16

- A. Any person who has personal knowledge of a violation of this Ethics Code may file a complaint of the violation with the Hearing Officer. Complaints shall be submitted on a form prepared by the Ethics Commission and shall be delivered to the Hearing Officer at a location to be determined by the Hearing Officer in a sealed blank envelope. Complaints must be submitted within two years of the alleged violation and may not be submitted if a complaint has been filed in another forum regarding the same allegation(s). The Commission shall dismiss any complaint or portion of a complaint which has not been filed in accordance with these provisions. Complaints shall include, but not be limited to, the following:
1. Identity of complainant;
 2. Identity of alleged Ethics Code violator;
 3. Detailed description of activity constituting violation including dates and locations

- of violations;
 - 4. Section of Ethics Code believed to be violated, if known;
 - 5. Identity of other persons with knowledge regarding alleged violation, if known;
 - 6. A statement by the complainant that he or she will maintain confidentiality regarding the fact that a complaint has been filed with the Ethics Commission, and that he or she understands that failure to maintain such confidentiality may jeopardize the process and result in an invalidation of the complaint. Breach of confidentiality by a complainant regarding the fact that a complaint has been filed constitutes a Class 1 civil infraction as defined by Chapter 1.16 PCC;
 - 7. All available documentation or other evidence to demonstrate the reason(s) for believing that a violation has occurred.
- B. If a complainant breaches confidentiality regarding the fact that a complaint has been filed, the complaint may be dismissed as provided in PCC 3.12.090 C. unless the subject of the complaint files a request with the Commission to complete the investigation.
- C. Upon receipt of the above-described complaint, the Hearing Officer shall conduct such investigation of the allegations contained therein as he or she deems necessary and appropriate in order to make an initial determination as to whether probable cause exists to believe that a violation of this Ethics Code has occurred.
- D. If the Hearing Officer is satisfied that there is no probable cause to believe that a violation of this Ethics Code has occurred, he or she shall:
- 1. So notify the complainant and any elected official who is the subject of the complaint in writing. When the subject of the complaint is not an elected official, the Hearing Officer may, in his/her discretion, notify the subject of the complaint. Written correspondence shall be deemed received within three days of the postmarked date;
 - 2. Prepare written findings and conclusions regarding the complaint stating the factual basis for the findings and the legal basis for the conclusions;
 - 3. File the findings, conclusions and a notice of no probable cause with the Ethics Commission;
 - 4. If he or she believes a criminal act of a type not covered by the Ethics Code was committed, submit his or her file to the appropriate law enforcement authorities;
 - 5. Take no further action other than as specified above and maintain confidentiality regarding his or her investigation.
- E. In the event complainant believes that the Hearing Officer did not fairly review his or her complaint prior to determining no probable cause, complainant may file, by mailing to the Ethics Commission, a request for reconsideration with the Chair of the Commission. A statement that the Hearing Officer did not make a fair review because of reasons of conflict of interest, bias or prejudice must be attached to the request for reconsideration.
- 1. The statement must set forth facts and reasons for the belief that the conflict of interest, bias or prejudice exists.
 - 2. The statement shall be postmarked no more than 20 calendar days after complainant is deemed to receive notice of the Hearing Officer's original finding of no probable cause.
 - 3. The Chair shall rule on the adequacy of the statement prior to referring the statement

- to the Commission. If adequate, the Commission shall then review the original complaint, the statement, any other written materials which were considered by the Hearing Officer, and the Hearing Officer's findings and conclusions, to determine if probable cause exists. If the Commission finds that probable cause does exist, the Commission shall:
- a. Prepare and file its own written findings and conclusions;
 - b. Proceed as set forth in PCC 3.12.080 F.
4. Should it appear to the satisfaction of four members of the Commission at any time that any of the statements presented to it pursuant to this Section are presented in bad faith or solely for the purpose of harassing a respondent or prolonging the investigation, the Commission shall order the complainant submitting them to pay to the Commission and the respondent the amount of reasonable expenses which the filing of the statement caused it to incur, including reasonable attorneys fees, and shall declare no violation has occurred.
- F. If the Hearing Officer finds probable cause to believe an Ethics Code violation has occurred, he or she shall:
1. Prepare written findings and conclusions regarding the complaint stating the factual basis for the findings and the legal basis for the conclusions;
 2. File the findings and conclusions and a notice of probable cause with the Ethics Commission;
 3. Submit his or her file to the appropriate law enforcement authorities if he or she believes a criminal act of a type not covered by the Ethics Code was committed;
 4. Take no further action other than as specified above and maintain confidentiality regarding the complaint, the investigation and findings.
 5. The Hearing Officer may determine that there is probable cause for some violations of the Ethics Code, but no probable cause for other alleged violations. To the extent that the Hearing Officer finds no probable cause, the Hearing Officer shall proceed under PCC 3.12.080 D. regarding the alleged violations.
- G. Except as set forth in this Section, the Hearing Officer and the Commission shall keep in strict confidentiality the fact that a complaint has been received, the contents of the complaint, the identity and identifying information, including address and contact information, of the party making the complaint, the results of the investigation and the Hearing Officer's findings and conclusions.
- H. Upon receipt of the Hearing Officer's findings of probable cause, the Commission may choose between the two courses of action as follows:
1. Refer the matter to the office of the Pierce County Prosecutor for criminal prosecution; provided, that upon a determination that the proof beyond a reasonable doubt necessary for criminal conviction is not available, the office of the County Prosecutor may refer the matter back to the Commission for proceedings consistent with the civil burden of proof; e.g., a simple preponderance of the evidence; or
 2. Retain the matter for its own formal investigation with a view toward the ultimate imposition of a civil penalty or penalties in the event it is determined an actual violation has occurred.

- I. Should the Commission decide to retain the matter for its own formal investigation pursuant to PCC 3.12.080 H.2., the Commission shall notify, in writing, the complainant, and the respondent, of its decision to pursue a formal investigation by way of holding a hearing to determine if a violation has occurred.
 - J. Respondents shall be informed as to their rights to have the hearing either open or closed to the public pursuant to the requirements of RCW 42.30.110(1)(f) and (2).
 - K.
 - 1. Hearings shall be conducted in accordance with procedures adopted by the Commission. Hearings conducted by the Commission shall be informal with technical rules of evidence not applying to the proceedings except the rules of privilege recognized by law. The respondent may be represented by legal counsel and/or by his or her bargaining representative and may present and cross-examine witnesses and give evidence before the Commission. The Commission may call witnesses on its own motion and compel the production of any documents or materials, including electronic, paper, or other evidence needed. To that end the Ethics Commission shall issue subpoenas and subpoenas duces tecum at the request of the Commission or the person complained against. All testimony shall be under oath administered by a member of the Commission. The Commission may adjourn its hearing from time to time in order to allow for the orderly presentation of evidence.
 - 2. Upon motion of respondent or upon its own motion, the Commission may temporarily stay or permanently suspend its investigation when, in its informed discretion, the manifest needs of justice and fairness will be better served thereby.
 - 3. Commission shall prepare an official record of the hearing, including all testimony which shall be recorded manually or by mechanical device, and exhibits; provided, the Commission shall not be required to transcribe such records unless an individual entitled to knowledge of the contents of the record presents a request accompanied by payment of the cost of transcription.
 - L. Within 30 calendar days after the conclusion of the hearing, the Commission shall, based upon a preponderance of the evidence, make and fully record, in its permanent records, findings of fact, conclusions of law, and an order containing the final disposition including where appropriate the civil sanction(s) imposed. A copy of the findings, conclusions and order shall, within a reasonable time thereafter, be served by certified mail to the complainant and to the respondent at addresses provided by both persons to the Commission or by personal service.
 - M. Any person found, by final written order of the Commission, to be in violation of this Code of Ethics may seek judicial review of the Commission's decision in the manner and form as provided by RCW 42.17A.755(6) (Laws of Washington, 2010 c204 s. 1003).
 - N. If no appeal is perfected within the 30 calendar days following the date of service on Respondent of the Commission's final order, and voluntary compliance with the order does not occur, the County Prosecutor shall petition in Superior Court for enforcement of the Commission's order in a manner patterned after that which is currently provided for enforcement of orders entered by the State Public Disclosure Commission in RCW 42.17A.760 (Laws of Washington, 2010 c204 s. 1003).
- (Ord. 2015-88 § 1 (part), 2016; Ord. 2007-118s2 § 1 (part), 2008; Ord. 93-21 § 1 (part), 1993;

Ord. 82-52 § 2 (part), 1982; prior Code § 6.01.070)

3.12.085 Breach of Confidentiality – Civil Infraction. Revised 4/16

Any complainant who breaches confidentiality regarding the fact that a complaint has been filed with the Ethics Commission shall be subject to a Class 1 civil infraction citation pursuant to Chapter 1.16 PCC. (Ord. 2015-88 § 1 (part), 2016; Ord. 93-21 § 1 (part), 1993)

3.12.086 Exemption from Public Disclosure. Revised 4/16

In accordance with the confidentiality requirements of this Chapter, the identity and identifying information of a complainant under this Chapter is exempt from public disclosure, as provided in RCW 42.56.240 and in accordance with RCW 42.52.420. (Ord. 2015-88 § 1 (part), 2016)

3.12.090 Civil Penalties – Other Sanctions Preserved. Revised 4/16

- A. Whenever the Commission determines that a violation of any provision of this Code has occurred, it may issue an order to the violator to comply with any one or more of the following requirements:
 - 1. To cease and desist violation of this Chapter;
 - 2. To file any reports or other documents or information required by this Chapter;
 - 3. To pay a civil penalty of not more than \$5,000.00, or an amount not exceeding three times the economic value of anything received or sought in violation of this Chapter, whichever is greater; and
 - 4. To pay any damages sustained by the County which are caused by the conduct constituting the violation.
- B. Violators shall be subject to the penalties as set forth in this Code of Ethics, but may be subject to other liabilities to the extent that their conduct violates other provisions of the law, including without limitation, RCW 9A.68.010 through 9A.68.050 (Bribery and Corrupt Influence) and RCW 9A.80.010 (Abuse of Office), and to such extent criminal penalties shall be imposed in accordance with State law.
- C. In addition to the above sanctions, should the complainant violate the confidentiality provisions of PCC 3.12.030 M. or PCC 3.12.080, the Ethics Commission shall order dismissal of the complaint unless otherwise requested by the subject of the complaint.
- D. Any sanction imposed under this Chapter is in addition to and not in lieu of any other penalty or sanction that may be imposed according to law or equity, including removal or recall from office, employee disciplinary action, or injunctive relief to ensure that any violation of this Chapter cease and desist and/or that any statement or other information required by this Code of Ethics be filed.

(Ord. 2015-88 § 1 (part), 2016; Ord. 2007-118s2 § 1 (part), 2008; Ord. 93-21 § 1 (part), 1993; Ord. 82-52 § 2 (part), 1982; prior Code § 6.01.080)

3.12.100 Criminal Penalties. Revised 4/16

- A. A misdemeanor, as used in this Section, is punishable by imprisonment in the County jail for not more than 90 days, or by a fine of not more than \$1,000.00, or by both.

B. Any person or County personnel who knowingly violates any provision of subsections D., M., and/or O. of PCC 3.12.030 (Ethical Standards and Prohibited Practices Enumerated) shall be guilty of a misdemeanor.
(Ord. 2015-88 § 1 (part), 2016; Ord. 2007-118s2 § 1 (part), 2008; Ord. 82-52 § 2 (part), 1982; prior Code § 6.01.090)

3.12.110 Miscellaneous Administrative Provisions. Revised 4/16

It shall be the responsibility of all elected or appointed officials to distribute this Code of Ethics to each employee under his or her official authority. Distribution must be made within 90 days of the adoption hereof. Each employee receiving a copy shall initial a list indicating receipt of the Code. The Human Resources Department shall be responsible for maintaining the lists as public documents. The responsibility for making the Ethics Code available shall be continuous, including providing notice of the Code to all new employees and to require written indication of receipt. (Ord. 2015-88 § 1 (part), 2016; Ord. 2007-118s2 § 1 (part), 2008; Ord. 2004-7s § 2 (part), 2004; Ord. 82-52 § 2 (part), 1982; prior Code § 6.01.100)

3.12.120 Limitation on Actions. Revised 4/16

A. Prosecutions for misdemeanors as set forth in this Code of Ethics must be commenced within one year after the date when the violation occurred.
B. Any other action brought under the provisions of this Ethics Code must be commenced within two years after the date when the violation occurred. For purposes of this limitation, the filing of a complaint with the Hearing Officer shall be deemed to have "commenced" an action.
(Ord. 2015-88 § 1 (part), 2016; Ord. 82-52 § 2 (part), 1982; prior Code § 6.01.110)

3.12.130 Severability. Revised 4/16

If any provision of this Chapter or its application to any person or circumstance is held invalid, the remainder of the Chapter or the application of the provision to other persons or circumstances shall not be affected. (Ord. 2015-88 § 1 (part), 2016; Ord. 89-155 § 5, 1989)