Ethics in South Carolina

Ethics, Government Accountability, and Campaign Reform Act of 1991
Applies to public officials, public members, and public employees
Enforced by the South Carolina Ethics Commission
Formal v. Informal Advisory Opinions
## Complaints and Investigations

<table>
<thead>
<tr>
<th>Step</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Complaint is Filed</td>
<td>Must be verified and sent to respondent within 10 days</td>
</tr>
<tr>
<td>Finding of Facts Sufficient</td>
<td>If true, the facts included in the complaint constitute a violation of the Ethics Act. Finding made by Commission staff</td>
</tr>
<tr>
<td>Investigation Occurs</td>
<td>Cannot contact members of the Commission during investigation. Confidential, unless full waiver</td>
</tr>
<tr>
<td>Finding of Probable Cause</td>
<td>More likely than not that a violation of the Ethics Act occurred. Becomes public record</td>
</tr>
<tr>
<td>Hearing</td>
<td>May be settled prior to hearing. Commission determines outcome</td>
</tr>
</tbody>
</table>

## Discipline

- If found guilty of an alleged violation, the Commission may:
  - Recommend administrative action or disciplinary action
  - Issue a public warning or reprimand
  - Order restitution
  - Levy a civil penalty of not more than $2,000 per violation
- Any criminal activity is subject to prosecution by the Attorney General’s Office:
  - If found guilty of a violation, the respondent is guilty of a misdemeanor and subject to a fine of up to $5,000, imprisonment for not more than 1 year, or both
  - Bribery is a felony and carries the penalty of a $10,000 fine, 10 years in prison, or both
Campaigning

Initial Report within 10 days after spending or receiving the first $500 of campaign funds

Pre-Election Report No later than 15 days prior to each election; filed whether there has been financial campaign activity or not

Quarterly Reports
- January 10
  - Oct 1 – Dec 31
  - April 10
  - Jan 1 – Mar 31
  - July 10
  - April 1 – June 30
  - October 10
  - July 1 – Sept 30

Final Report After the campaign account is closed; must be a ZERO balance and no outstanding debts

Filing Campaign Disclosures
In an election campaign, board members may not use:

S.C. Code Ann. § 8-13-765

For purposes of influencing the outcome of an election, no person may use or authorize the use of:

S.C. Code Ann. § 8-13-1346
Predominant purpose of public school property during the school day is public education of children.

General public is invited and predominant purpose is to provide entertainment.

“A person knowingly sending an e-mail which contains campaign material to a public employee on his government computer is in violation of the Ethics Reform Act.”

SC Ethics Advisory Opinion 2003-003
**Statements of Economic Interest**

**What must be included on an SEI?**

- Governmental income of the board member or his/her immediate family of substantial value (> $500 in a year)
- Private source and type of any income received by the board member or his/her immediate family
- Real property owned by the board member or his/her immediate family with $200 of public improvements, adjacent to public land with such improvements, or reasonably expected to be subject of a conflict of interest
- Organizations which paid for or reimbursed actual expenses of the board member for speaking before a public or private group
- Source and a brief description of any gifts, including transportation, lodging, food, or entertainment received if there is reason to believe they would not have been given the item but for the individual's position as a board member OR it is from a person or business who has or is seeking to obtain a contractual relationship with the district or board
- Identity of every business or entity which the board member or his/her immediate family holds or controls securities or interests constituting 5% or more of the total issued and outstanding securities and interests which equal >$100,000
- Creditor to whom the board member or his/her immediate family owed a debt >$500 if the creditor is seeking/has sought a business or financial arrangement with the board
- Lobbyist who is an immediate family member of the board member or lobbyist who is an individual with whom/business with which the board member or his/her immediate family is associated
- Individual or business which contracts with the board or district and also provides compensation to board member

**Are you playing by the rules?**

- ETHICS
“Gift” Includes:

- Rebate or Discount
- Entertainment
- Travel
- Food or Beverage
- Lodging

S.C. Code Ann. § 8-13-100(16)

“Anything of Value”

- Gift
- Money/Items of Value
- Offer of employment
- Investment
- Agreement/Contract
- Loan/Forgiveness of a loan

S.C. Code Ann. § 8-13-100(1)(a)
“Anything of Value” does not include:

- Printed or promotional material < $10 OR available similarly to the public
- Plaque or trophy < $150
- Honorary degrees
- Campaign contribution made in accordance with the SC Ethics Act

Disclose ANY gift received as a result of public office—without reference to a dollar value—on the Statement of Economic Interest

SC Ethics Advisory Opinion 2002-003
A board member cannot knowingly:

- Use his office to obtain an economic interest for himself, a family member, or an individual or business with which he is associated

  S.C. Code Ann. § 8-13-700

- Influence a governmental decision in which he, a family member, or an individual or business with which he is associated has an economic interest
“Business”

- Corporation
- Non-Profit
- Self-Employed Individual

“Business with which he is associated”

- Board Member or Immediate Family Member
- Director/Officer
- Owner/Employee
- Stockholder

S.C. Code Ann. § 8-13-100(3)-(4)

**FAMILY MEMBER**
- Spouse
- Parent, Grandparent
- Brother, Sister
- Child, Grandchild
- Father-, Son-, Daughter-, Brother-, or Sister-in-law
- Member of immediate family

**IMMEDIATE FAMILY MEMBER**
- Child residing in board member’s household
- Spouse of the board member
- Individual claimed by the board member OR his/her spouse as a dependent for income taxes
Recusal Procedure

When there is advance notice, prepare a **written statement** describing the matter requiring action and the nature of the potential conflict.

Give a copy to the presiding officer who will have the statement printed in the minutes.

During the meeting, the presiding officer will require the member to be excused from any VOTES, DELIBERATIONS, or OTHER ACTIONS on the matter.

Presiding officer will ensure the disqualification and the cause are noted in the minutes.

S.C. Code Ann. § 8-13-700(B)(1),(4)

Honorable Mentions
Confidentiality Restrictions

S.C. Code Ann. § 8-13-725

A board member may not use or disclose confidential information gained in the course of or by reason of his official responsibilities in a way that would affect an economic interest held by him, a member of his immediate family, an individual with whom he is associated, or a business with which he is associated.

A board member may not willfully examine, or aid and abet in the willful examination of, records of an individual in the possession of or within the access of the district if the purpose of the examination is improper or unlawful.

“Official Responsibility” means:

Direct administrative or operating authority whether intermediate or final, and whether exercisable personally or through subordinates, to approve, disapprove, or otherwise direct government action.
**Ballot Measure**

- Questions or issues on which VOTERS can cast a vote

**Non-Ballot Measure**

- Questions or issues on which only members of the GENERAL ASSEMBLY can vote

---

**Board Members Can**

- Describe
- Explain rationale
- Answer questions
- Develop and distribute facts
- Remind public to vote

**Board Members Cannot**

- Have staff promote or advocate during “the school day”
- Have staff display signs or materials
- Use district resources to print, copy, email, or mail materials advocating for a position
- Hold rallies on district property
- Use students to advocate