

STATE OF TENNESSEE
Sumner County



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STATE OF TENNESSEE, SUMNER COUNTY

I, the undersigned County Clerk, do hereby certify that this is a true and correct copy of the original instrument filed in this office. Given under my hand and the seal of office

Board of County Commissioners

RESOLUTION

This 18th day of Sept. 2023

Conalynn Sempster, Clerk by Jennifer Mitchell, PC
SUMNER COUNTY CLERK

No. 2211-05

TITLE A RESOLUTION RESCINDING ACTIONS AND APPROVING AND ADOPTING AN UPDATED ETHICS & CONDUCT POLICY OF SUMNER COUNTY

BE IT RESOLVED by the Sumner County Board of County Commissioners meeting in regular session on this the 14th day of November 2022, that this body does hereby rescind all previous actions and resolutions related to the Code of Ethics Policy of Sumner County and hereby approves and adopts the updated Code of Ethics & Conduct Policy as set forth below:

CODE OF ETHICS & CONDUCT SUMNER COUNTY, TENNESSEE

Section 1. Definitions.

- (1) "County" means County, which includes all boards, committees, commissions, authorities, corporations, or other instrumentalities appointed or created by the county or an official of the county, and specifically including the county election commission and the county health department.
- (2) "Officials and employees" means and includes any official, whether elected or appointed, officer, employee or servant, or any member of any board, agency, commission, authority or corporation (whether compensated or not), or any officer, employee or servant thereof, of the county.
- (3) "Personal interest" means, for the purpose of disclosure of personal interests in accordance with this Code of Ethics & Conduct, 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 matter to be voted upon, regulated, supervised, 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, any personal interest that affects or that would lead a reasonable person to infer that it affects the official's vote on the measure. In addition, the official or employee may, to the extent allowed by law, recuse himself or herself 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 matter other than casting a vote and who has a personal interest in the matter that affects or that would lead a reasonable person to infer that it affects the exercise of the discretion shall disclose, before the exercise of the discretion, when possible, the interest on the attached disclosure form and file the disclosure 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 of an act, that he would be expected to perform, or refrain from performing, in the regular course of his 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.

An official or employee who accepts any gift, money, gratuity or other consideration or favor of any kind from anyone other than the county shall disclose such acceptance on the attached disclosure form and file the disclosure form with the county clerk.

It shall not be considered a violation of this policy for an official or employee to receive entertainment, food, refreshments, meals, health screenings, amenities, foodstuffs, or beverages that are provided in connection with a conference sponsored by an established or recognized

statewide association of county government officials or by an umbrella or affiliate organization of such statewide association of county government officials.

Section 5. Ethics & Conduct Complaints.

To hold itself to the highest standard of personal conduct, the Sumner County Commission now establishes an Ethics & Conduct Committee. A County Ethics & Conduct Committee (the "Ethics & Conduct Committee") with membership consisting of five (5) Commissioners or citizens shall be appointed to one-year terms by the Committee on Committees with confirmation by the county legislative body, to be appointed each year at the same time as internal committees of the county legislative body. The Ethics & Conduct Committee shall convene as soon as practicable after their appointment and elect a chair and a secretary. The records of the Ethics & Conduct Committee shall be maintained by the secretary and filed in the county clerk's office, where they shall be open to public inspection.

It shall be the duty of this Committee to hear complaints by citizens or other officials against any official acting in any capacity on behalf of Sumner County government in the performance of their responsibilities, including members of the County Legislative Body in regular sessions and committees. For members of the County Legislative Body, hearings of complaints will extend to all other public forums where the person has been identified officially as a County Commissioner.

Questions and complaints regarding violations of this Code of Ethics & Conduct or any breach of state law governing ethical conduct should be directed to the chair of the Ethics & Conduct Committee, County Law Director, or Staff Attorney(s). Complaints shall be in writing and signed by the person making the complaint and shall outline in reasonable detail the facts upon which the complaint is based.

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

Violations of the Code of Ethics & Conduct including, but not limited to, the following while performing official duties or being identified in an official position:

- (1) Unauthorized commitments or promises of any kind purporting to bind the County Commission to future obligations;
- (2) Using public office for personal gain;
- (3) Campaigning with principals or school staff in their official capacity as an employee of the school system in any manner, either on or off school property. Political activity by state employees, including principals and teachers, is regulated by the following three (3) statutes: The Little Hatch Act (Tennessee Code Annotated 2-19-201 through 208); Tennessee Code Annotated 8-30-306; and Title 5 United States Code Annotated 1501-1508. No part of the school system, or school property, including the facilities, the name, the staff, the students, or vehicles shall be used for political activities including but not limited to campaigning, political signs, political forum, or promoting political candidates. The restriction on campaigning on school property does not prohibit campaigning during voting if a school is a voting place;
- (4) Any actions subversive of good order, overt acts against peace, or which materially and substantially disrupts the order of business during meetings of the County Legislative Body;
- (5) Profanity, obscene gestures, or any sexual harassment during Commission Meetings or which reflects negatively on the character of the Commission, or its members, during meetings of the County Legislative Body;

For **accusations** of Ethics & Conduct violations, the Accused may:

- (1) Have a representative of choice present during public hearings of inquiry. All expenses related to representation by outside counsel will be borne by the accused, and shall not be the County Law Director or Staff Attorney(s).
- (2) Have adequate time given to present his/her defense. Adequate time will be designated at the beginning of the hearing by the Ethics & Conduct Committee.

For **violations** of the Code of Ethics & Conduct, the Committee may:

- (1) Refer the matter to the Office of the Law Director for a legal opinion and/or recommendations for action;
- (2) In the case of an official:
 - (1) Refer the matter to the county legislative body for reprimand or public censure if the county legislative body finds such action warranted;
 - (2) Counseling with the County Commission Chairman;
 - (3) Removal of Board or Committee assignments until such member is restored to good standing or permanently replaced;
 - (4) Removal from their assigned seat in the Commission Chambers to an alternate location safely away from others;

- (5) If a County Commissioner, officially request that the member resign his/her position as a County Commissioner;
- (6) If an appointed member of any County Boards or Committees, officially request that the member resign his/her position;
- (3) In the case of an employee, refer the matter to the official responsible for supervision of the employee for possible disciplinary action if the official finds discipline warranted;
- (4) In a case involving possible violation of state statutes, refer the matter to the district attorney for possible ouster or criminal prosecution;

The interpretation that a reasonable person in the circumstances would apply shall be used in interpreting and enforcing this Code of Ethics & Conduct. When a violation of this Code of Ethics & Conduct also constitutes a violation of a personnel policy or a civil service policy, the violation shall be dealt with as a violation of the personnel or civil service provisions rather than as a violation of this Code of Ethics & Conduct.

Section 6. Applicable State Laws.

In addition to the ethical principles set out in this Code of Ethics & Conduct, state laws also provide a framework for the ethical behavior of county officials and employees in the performance of their duties. Officials and employees should familiarize themselves with the state laws applicable to their office or 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 that state law, to the extent they are more restrictive, shall control.

Following is a brief summary of selected state laws concerning ethics in county government. For the full text of these statutes, see the Tennessee Code Annotated (T.C.A.) sections indicated.

Campaign finance – T.C.A. Title 2, Chapter 10. Part One (campaign financial disclosure) requires candidates for public office to disclose contributions and contributors to their campaigns. Part Three (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. § 49-6-2003 applies to the department of education in all counties and prohibits direct and indirect conflicts 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 applies in counties that have adopted the County Purchasing Law of 1957. It prohibits the purchasing agent, members of the county purchasing commission, members of the county legislative body, and other officials of the county from having a direct interest in a contract or purchase order for supplies, materials, equipment, or contractual services used by or furnished to a department or agency of the county government.

Conflict of interest -- T.C.A. § 5-21-121 applies in counties that have adopted the County Financial Management System of 1981. It prohibits the director, purchasing agent, members of the committee, members of the county legislative body, other officials of the county, members of the board of education, members of the highway commission, and employees of the finance department and purchasing department from having a direct interest in the purchase of supplies, materials, equipment, or contractual services for the county. In addition, it requires the disclosure of indirect financial interests by public acknowledgment.

Conflict of interest -- T.C.A. § 5-5-112 governs conflict of interests of members of the county legislative body who are also employees of the county or whose spouse is an employee of the county.

Conflict of interest disclosure statements -- T.C.A. § 8-50-501 and the following sections require 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 applies in counties that have adopted the County Purchasing Law of 1957. It prohibits the purchasing agent, members of the county purchasing commission, members of the county legislative body, and other officials of the county from accepting or receiving, directly or indirectly, from a person, firm, or corporation to which a contract or

purchase order may be awarded, by rebate, gift, or otherwise, money or anything of value whatsoever, or a promise, obligation, or contract for future reward or compensation.

Gifts – T.C.A. § 5-21-121 applies in counties that have adopted the County Financial Management System of 1981. It prohibits the finance director, purchasing agent, and employees in those departments from accepting anything of value, directly or indirectly, from anyone who furnishes supplies, materials or equipment to the county.

Honoraria – 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 article in their official capacity.

Private use of public property – T.C.A. § 54-7-202 applies in counties that are governed by the County Uniform Highway Law. It prohibits the private use of equipment, rock, and other highway materials.

Court sales – T.C.A. § 39-16-405 prohibits judges, clerks of 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.

Sheriff sales - T.C.A. § 8-8-206 prohibits sheriffs and deputy sheriffs from purchasing, either directly or indirectly, any property sold through their own judicial sale no matter which court is involved.

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.

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. § 39-16-101 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 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 elections.

Misuse of official information – T.C.A. § 39-16-404 prohibits a public servant from attaining a benefit or aiding another person in attaining a benefit from information which was obtained in an official capacity and is not available to the public.

Ouster law – T.C.A. § 8-47-101 sets out conduct which is punishable by ouster from office, including misconduct in office and neglect of duty.

BE IT FURTHER RESOLVED that a summary of the Ethics & Conduct Policy is attached as Exhibit A; and

BE IT FURTHER RESOLVED that the form attached as Exhibit B shall be used by all County Officials and employees to disclose potential issues with personal interests; and

BE IT FURTHER RESOLVED that the form attached as Exhibit C shall be used by all County Officials and employees to disclose the acceptance of gifts; and

BE IT FURTHER RESOLVED that any complaint, allegations of misconduct, or question about this policy shall be presented to the Clerk on the appropriate form (attached here as Exhibit D); and

BE IT FURTHER RESOLVED that a copy of the Ethics & Conduct Policy as well as Exhibit A, B, C, and D shall be furnished to the Office of the County Clerk for review by interested parties.

BE IT FURTHER RESOLVED this Resolution replaces Resolution 0705-05 from May 21, 2007; and

BE IT FURTHER RESOLVED that any previous resolutions of this body in conflict with this resolution are hereby repealed; and

BE IT FURTHER RESOLVED, the provisions of this resolution are hereby declared to be severable, and if any provision of this resolution or the application of such provision to any person or circumstance is declared in conflict with state law, such declaration shall not affect the validity of the remaining portions of this resolution.

BE IT FURTHER RESOLVED that this resolution shall become effective upon passage, the public welfare requiring it.

EXHIBIT A

SUMMARY OF SUMNER COUNTY TENNESSEE, CODE OF ETHICS & CONDUCT

Any personal interests in voting or non-voting matters that relate to any county matters are to be disclosed.

A personal interest (of official, employee, spouse or child living in the same household) is a financial interest or an authoritative position with any non-profit or for-profit organization which seeks contracts, donations, or benefits from the county which would be voted on, regulated, supervised, or dealt with in an official capacity.

With a voting matter, the disclosure may disallow the person from voting on a particular matter, if the disclosure shows a conflict of interest. (As set forth below)

With non-voting matters, the disclosure form shall be filled out and filed with the county clerk. (Form Attached)

Any time a disclosure of a personal interest is to be made, a reasonable person standard is used, meaning if any reasonable person would be led to infer that a vote or an opinion of a person is affected, then disclosure is required.

Gifts in Exchange for an Act or Non-Performance of an Act

Any official, employee or spouse or child living in the same household, may not accept any gift, money, gratuity, or other consideration or favor of any kind from anyone other than from the county.

Any gifts that give the appearance of tending to influence are banned from acceptance. An exception to this would be if an official or employee received entertainment, food, refreshments, meals, health screenings, greetings, amenities, or beverages or award (of up to \$100.00 from an affiliated organization).

Questions / Concerns / Complaints

All questions, concerns, and complaints regarding any possible violations of the Code of Ethics & Conduct should be directed to the Chair of the Ethics Committee. Complaints are to be made in writing and signed by the person making the complaint. (A copy of the disclosure/complaint form is attached)

EXHIBIT B

**SUMNER COUNTY CODE OF ETHICS & CONDUCT
CONFLICT OF INTEREST DISCLOSURE STATEMENT**

Instructions: This form is for reporting personal interests required to be disclosed under Section 3 of the Code of Ethics & Conduct of this county. Officials and employees are required to disclose personal interests in matters that affect or would lead a reasonable person to infer that it would affect the exercise of discretion of an official or employee.

1. Date of disclosure: _____

2. Name of official or employee: _____

3. Office and position: _____

4. Description of personal interest (describe below in detail):

Signature of official or employee

Witness Signature

Printed name of witness

EXHIBIT C

**SUMNER COUNTY CODE OF ETHICS & CONDUCT
GIFT DISCLOSURE STATEMENT**

Instructions: This form is for reporting the acceptance of any gift, money, gratuity, or other consideration or favor of any kind from anyone other than the county required to be disclosed under Section 4 of the Code of Ethics & Conduct of this county.

1. Date of disclosure: _____

2. Name of official or employee: _____

3. Office and position: _____

4. Description of gift, money, gratuity, or other consideration or favor (describe below in detail):

Signature of official or employee

Witness Signature

Printed name of witness

EXHIBIT D

SUMNER COUNTY CODE OF ETHICS & CONDUCT
COMPLAINTS OF MISCONDUCT

Instructions: This form is for reporting allegations of violations of the Code of Ethics & Conduct in this county. Please set forth the facts relating to the complaint.

1. Date of disclosure: _____
2. Name of official or employee: _____
3. Office and position: _____
4. Description of complaint or allegations of misconduct (describe below in detail):

Signature of official or employee

Witness Signature

Printed name of witness

STATE OF TENNESSEE, SUMNER COUNTY

I, the undersigned County Clerk, do hereby certify that this is a true and correct copy of the original instrument filed in this office. Given under my hand and the seal of office

This 18th day of Sept. 2023

Carolyn Sempleton Clerk by *Jennay Mitchell, cc*
SUMNER COUNTY CLERK

CERTIFICATION OF ACTION

[Signature]

COUNTY EXECUTIVE

Carolyn Sempleton

COUNTY CLERK

11/18/2022

DATE

Ayes 17 Nays 3 Abs 0

APPROVED:

REJECTED: