

Sec. 44.62.310. Government meetings public.

(a) All meetings of a governmental body of a public entity of the state are open to the public except as otherwise provided by this section or another provision of law. Attendance and participation at meetings by members of the public or by members of a governmental body may be by teleconferencing. Agency materials that are to be considered at the meeting shall be made available at teleconference locations if practicable. Except when voice votes are authorized, the vote shall be conducted in such a manner that the public may know the vote of each person entitled to vote. The vote at a meeting held by teleconference shall be taken by roll call. This section does not apply to any votes required to be taken to organize a governmental body described in this subsection.

(b) If permitted subjects are to be discussed at a meeting in executive session, the meeting must first be convened as a public meeting and the question of holding an executive session to discuss matters that are listed in (c) of this section shall be determined by a majority vote of the governmental body. The motion to convene in executive session must clearly and with specificity describe the subject of the proposed executive session without defeating the purpose of addressing the subject in private. Subjects may not be considered at the executive session except those mentioned in the motion calling for the executive session unless auxiliary to the main question. Action may not be taken at an executive session, except to give direction to an attorney or labor negotiator regarding the handling of a specific legal matter or pending labor negotiations.

(c) The following subjects may be considered in an executive session:

(1) matters, the immediate knowledge of which would clearly have an adverse effect upon the finances of the public entity;

(2) subjects that tend to prejudice the reputation and character of any person, provided the person may request a public discussion;

(3) matters which by law, municipal charter, or ordinance are required to be confidential;

(4) matters involving consideration of government records that by law are not subject to public disclosure.

(d) This section does not apply to

(1) a governmental body performing a judicial or quasi-judicial function when holding a meeting solely to make a decision in an adjudicatory proceeding;

(2) juries;

(3) parole or pardon boards;

(4) meetings of a hospital medical staff;

(5) meetings of the governmental body or any committee of a hospital when holding a meeting solely to act upon matters of professional qualifications, privileges or discipline;

(6) staff meetings or other gatherings of the employees of a public entity, including meetings of an employee group established by policy of the Board of Regents of the University of Alaska or held while acting in an advisory capacity to the Board of Regents; or

(7) meetings held for the purpose of participating in or attending a gathering of a national, state, or regional organization of which the public entity, governmental body, or member of the governmental body is a member, but only if no action is taken and no business of the governmental body is conducted at the meetings.

(e) Reasonable public notice shall be given for all meetings required to be open under this section. The notice must include the date, time, and place of the meeting and if, the meeting is by teleconference, the location of any teleconferencing facilities that will be used. Subject to posting notice of a meeting on the Alaska Online Public Notice System as required by AS 44.62.175 (a), the notice may be given using print or broadcast media. The notice shall be posted at the principal office of the public entity or, if the public entity has no principal office, at a place designated by the governmental body. The governmental body shall provide notice in a consistent fashion for all its meetings.

(f) Action taken contrary to this section is voidable. A lawsuit to void an action taken in violation of this section must be filed in superior court within 180 days after the date of the action. A member of a governmental body may not be named in an action to enforce this section in the member's personal capacity. A governmental body that violates or is alleged to have violated this section may cure the violation or alleged violation by holding another meeting in compliance with notice and other requirements of this section and conducting a substantial and public reconsideration of the matters considered at the original meeting. If the court finds that an action is void, the governmental body may discuss and act on the matter at another meeting held in compliance with this section. A court may hold that an action taken at a meeting held in violation of this section is void only if the court finds that, considering all of the circumstances, the public interest in compliance with this section outweighs the harm that would be caused to the public interest and to the public entity by voiding the action. In making this determination, the court shall consider at least the following:

(1) the expense that may be incurred by the public entity, other governmental bodies, and individuals if the action is voided;

(2) the disruption that may be caused to the affairs of the public entity, other governmental bodies, and individuals if the action is voided;

(3) the degree to which the public entity, other governmental bodies, and individuals may be exposed to additional litigation if the action is voided;

(4) the extent to which the governing body, in meetings held in compliance with this section, has previously considered the subject;

(5) the amount of time that has passed since the action was taken;

(6) the degree to which the public entity, other governmental bodies, or individuals have come to rely on the action;

(7) whether and to what extent the governmental body has, before or after the lawsuit was filed to void the action, engaged in or attempted to engage in the public reconsideration of matters originally considered in violation of this section;

(8) the degree to which violations of this section were wilful, flagrant, or obvious;

(9) the degree to which the governing body failed to adhere to the policy under AS 44.62.312 (a).

(g) Subsection (f) of this section does not apply to a governmental body that has only authority to advise or make recommendations to a public entity and has no authority to establish policies or make decisions for the public entity.

(h) In this section,

(1) "governmental body" means an assembly, council, board, commission, committee, or other similar body of a public entity with the authority to establish policies or make decisions for the public entity or with the authority to advise or make recommendations to the public entity; "governmental body" includes the members of a subcommittee or other subordinate unit of a governmental body if the subordinate unit consists of two or more members;

(2) "meeting" means a gathering of members of a governmental body when

(A) more than three members or a majority of the members, whichever is less, are present, a matter upon which the governmental body is empowered to act is considered by the members collectively, and the governmental body has the authority to establish policies or make decisions for a public entity; or

(B) the gathering is prearranged for the purpose of considering a matter upon which the governmental body is empowered to act and the governmental body has only authority to advise or make recommendations for a public entity but has no authority to establish policies or make decisions for the public entity;

(3) "public entity" means an entity of the state or of a political subdivision of the state including an agency, a board or commission, the University of Alaska, a public authority or corporation, a municipality, a school district, and other governmental units of the state or a political subdivision of the state; it does not include the court system or the legislative branch of state government.

Sec. 44.62.312. State policy regarding meetings.

(a) It is the policy of the state that

(1) the governmental units mentioned in AS 44.62.310 (a) exist to aid in the conduct of the people's business;

(2) it is the intent of the law that actions of those units be taken openly and that their deliberations be conducted openly;

(3) the people of this state do not yield their sovereignty to the agencies that serve them;

(4) the people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know;

(5) the people's right to remain informed shall be protected so that they may retain control over the instruments they have created;

(6) the use of teleconferencing under this chapter is for the convenience of the parties, the public, and the governmental units conducting the meetings.

(b) AS 44.62.310 (c) and (d) shall be construed narrowly in order to effectuate the policy stated in (a) of this section and to avoid exemptions from open meeting requirements and unnecessary executive sessions.

Chapter 39.52. ALASKA EXECUTIVE BRANCH ETHICS ACT

Article 01. DECLARATIONS

Sec. 39.52.010. **Declaration of policy.**

- (a) It is declared that
- (1) high moral and ethical standards among public officers in the executive branch are essential to assure the trust, respect, and confidence of the people of this state;
 - (2) a code of ethics for the guidance of public officers will
 - (A) discourage those officers from acting upon personal or financial interests in the performance of their public responsibilities;
 - (B) improve standards of public service; and
 - (C) promote and strengthen the faith and confidence of the people of this state in their public officers;
 - (3) holding public office or employment is a public trust and that as one safeguard of that trust, the people require public officers to adhere to a code of ethics;
 - (4) a fair and open government requires that executive branch public officers conduct the public's business in a manner that preserves the integrity of the governmental process and avoids conflicts of interest;
 - (5) in order for the rules governing conduct to be respected both during and after leaving public service, the code of ethics must be administered fairly without bias or favoritism;
 - (6) no code of conduct, however comprehensive, can anticipate all situations in which violations may occur nor can it prescribe behaviors that are appropriate to every situation; in addition, laws and regulations regarding ethical responsibilities cannot legislate morality, eradicate corruption, or eliminate bad judgment; and
 - (7) compliance with a code of ethics is an individual responsibility; thus all who serve the state have a solemn responsibility to avoid improper conduct and prevent improper behavior by colleagues and subordinates.
- (b) The legislature declares that it is the policy of the state, when a public employee is appointed to serve on a state board or commission, that the holding of such offices does not constitute the holding of incompatible offices unless expressly prohibited by the Alaska Constitution, this chapter and any opinions or decisions rendered under it, or another statute.

Article 02. CODE OF ETHICS

Sec. 39.52.110. **Scope of code.**

- (a) The legislature reaffirms that each public officer holds office as a public trust, and any effort to benefit a personal or financial interest through official action is a violation of that trust. In addition, the legislature finds that, so long as it does not interfere with the full and faithful discharge of an officer's public duties and responsibilities, this chapter does not prevent an officer from following other independent pursuits. The legislature further recognizes that
- (1) in a representative democracy, the representatives are drawn from society and, therefore, cannot and should not be without personal and financial interests in the decisions and policies of government;
 - (2) people who serve as public officers retain their rights to interests of a personal or financial nature; and

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(3) standards of ethical conduct for members of the executive branch need to distinguish between those minor and inconsequential conflicts that are unavoidable in a free society, and those conflicts of interests that are substantial and material.

(b) Unethical conduct is prohibited, but there is no substantial impropriety if, as to a specific matter, a public officer's

(1) personal or financial interest in the matter is insignificant, or of a type that is possessed generally by the public or a large class of persons to which the public officer belongs; or

(2) action or influence would have insignificant or conjectural effect on the matter.

(c) The attorney general, designated supervisors, hearing officers, and the personnel board must be guided by this section when issuing opinions and reaching decisions.

(d) Stock or other ownership interest in a business is presumed insignificant if the value of the stock or other ownership interest, including an option to purchase an ownership interest, is less than \$5,000.

Sec. 39.52.120. Misuse of official position.

(a) A public officer may not use, or attempt to use, an official position for personal gain, and may not intentionally secure or grant unwarranted benefits or treatment for any person.

(b) A public officer may not

(1) seek other employment or contracts through the use or attempted use of official position;

(2) accept, receive, or solicit compensation for the performance of official duties or responsibilities from a person other than the state;

(3) use state time, property, equipment, or other facilities to benefit personal or financial interests;

(4) take or withhold official action in order to affect a matter in which the public officer has a personal or financial interest;

(5) attempt to benefit a personal or financial interest through coercion of a subordinate or require another public officer to perform services for the private benefit of the public officer at any time; or

(6) use or authorize the use of state funds, facilities, equipment, services, or another government asset or resource for partisan political purposes; this paragraph does not prohibit use of the governor's residence for meetings to discuss political strategy and does not prohibit use of state aircraft or the communications equipment in the governor's residence so long as there is no charge to the state for the use; in this paragraph, "for partisan political purposes"

(A) means having the intent to differentially benefit or harm a

(i) candidate or potential candidate for elective office; or

(ii) political party or group;

(B) but does not include having the intent to benefit the public interest at large through the normal performance of official duties.

(c) In addition to other provisions of this section, a public officer who is a member of the Board of Fisheries or the Board of Game may not act on a matter before the board if the public officer has not disclosed in the manner set out in AS 39.52.220 all personal or financial interests in a business or organization relating to fish or game resources.

(d) In this section, when determining whether a public officer is considered to be performing a task on government time, the attorney general and personnel board shall consider the public officer's work schedule as set by the public officer's immediate supervisor, if any. A public officer other than the governor and lieutenant governor who, during the work days,

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engages in political campaign activities other than minor, inconsequential, and unavoidable campaign activities shall take approved leave for the period of campaigning.

(e) Except for supplying information requested by the hearing officer or the entity with authority to make the final decision in the case, or when responding to contacts initiated by the hearing officer or the individual, board, or commission with authority to make the final decision in the case, a public officer may not attempt to influence the outcome of an administrative hearing by directly or indirectly contacting or attempting to contact the hearing officer or individual, board, or commission with authority to make the final decision in the case assigned to the hearing officer unless the

(1) contact is made in the presence of all parties to the hearing or the parties' representatives and the contact is made a part of the record; or

(2) fact and substance of the contact is promptly disclosed by the public officer to all parties to the hearing and the contact is made a part of the record.

(f) Use of state aircraft for partisan political purposes is permitted under (b) of this section only when the use is collateral or incidental to the normal performance of official duties and does not exceed 10 percent of the total of the use of the aircraft for official purposes and partisan political purposes, combined, on a single trip. A public officer who authorizes or makes any partisan political use of a state aircraft under (b) of this section shall disclose the authorization and use under AS 39.52.210 or 39.52.220 for each trip, and the person who uses the aircraft shall reimburse the state for the proportionate share of the actual cost of the use.

Sec. 39.52.130. **Improper gifts.**

(a) A public officer may not solicit, accept, or receive, directly or indirectly, a gift, whether in the form of money, service, loan, travel, entertainment, hospitality, employment, promise, or in any other form, that is a benefit to the officer's personal or financial interests, under circumstances in which it could reasonably be inferred that the gift is intended to influence the performance of official duties, actions, or judgment. A gift from a person required to register as a lobbyist under AS 24.45.041 to a public officer or a public officer's immediate family member is presumed to be intended to influence the performance of official duties, actions, or judgment unless the giver is an immediate family member of the person receiving the gift.

(b) Notice of the receipt by a public officer of a gift with a value in excess of \$150, including the name of the giver and a description of the gift and its approximate value, must be provided to the designated supervisor within 30 days after the date of its receipt

(1) if the public officer may take or withhold official action that affects the giver; or

(2) if the gift is connected to the public officer's governmental status.

(c) In accordance with AS 39.52.240, a designated supervisor may request guidance from the attorney general concerning whether acceptance of a particular gift is prohibited.

(d) The restrictions relating to gifts imposed by this section do not apply to a campaign contribution to a candidate for elective office if the contribution complies with laws and regulations governing elections and campaign disclosure.

(e) A public officer who, on behalf of the state, accepts a gift from another government or from an official of another government shall, within 60 days after its receipt, notify the Office of the Governor in writing. The Office of the Governor shall determine the appropriate disposition of the gift. In this subsection, "another government" means a foreign government or the government of the United States, another state, a municipality, or another jurisdiction.

(f) A public officer who knows or reasonably ought to know that a family member has received a gift because of the family member's connection with the public office held by the public officer shall report the receipt of the gift by the family member to the public officer's

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designated supervisor if the gift would have to be reported under this section if it had been received by the public officer or if receipt of the gift by a public officer would be prohibited under this section.

Sec. 39.52.140. Improper use or disclosure of information.

(a) A current or former public officer may not disclose or use information gained in the course of, or by reason of, the officer's official duties that could in any way result in the receipt of any benefit for the officer or an immediate family member, if the information has not also been disseminated to the public.

(b) A current or former public officer may not disclose or use, without appropriate authorization, information acquired in the course of official duties that is confidential by law.

Sec. 39.52.150. Improper influence in state grants, contracts, leases, or loans.

(a) A public officer, or an immediate family member, may not attempt to acquire, receive, apply for, be a party to, or have a personal or financial interest in a state grant, contract, lease, or loan if the public officer may take or withhold official action that affects the award, execution, or administration of the state grant, contract, lease, or loan.

(b) The prohibition in (a) of this section does not apply to a state grant, contract, or lease competitively solicited unless the officer

(1) is employed by the administrative unit awarding the grant, contract, or lease or is employed by the administrative unit for which the grant, contract, or lease is let; or

(2) takes official action with respect to the award, execution, or administration of the grant, contract, or lease.

(c) The prohibition in (a) of this section does not apply to a state loan if

(1) the public officer does not take or withhold official action that affects the award, execution, or administration of the loan held by the officer, or an immediate family member;

(2) the loan is generally available to members of the public; and

(3) the loan is subject to fixed eligibility standards.

(d) A public officer shall report in writing to the designated supervisor a personal or financial interest held by the officer, or an immediate family member, in a state grant, contract, lease, or loan that is awarded, executed, or administered by the agency the officer serves.

Sec. 39.52.160. Improper representation.

(a) A public officer may not represent, advise, or assist a person in any matter pending before the administrative unit that the officer serves, if the representation, advice, or assistance is

(1) for compensation, unless the representation, advice, assistance, and compensation are required by statute, regulation, or court rule, or is otherwise customary; or

(2) without compensation, but rendered to benefit a personal or financial interest of the public officer.

(b) This section does not prohibit activities related to collective bargaining.

(c) This section does not preclude a nonsalaried member of a board or commission from representing, advising, or assisting in any matter in which the member has a personal or financial interest regulated by the board or commission on which the member serves, except that the member must act in accordance with AS 39.52.220.

Sec. 39.52.170. Outside employment restricted.

(a) A public employee may not render services to benefit a personal or financial interest or engage in or accept employment outside the agency which the employee serves, if the outside employment or service is incompatible or in conflict with the proper discharge of official duties.

(b) A public employee rendering services for compensation, or engaging in employment outside the employee's agency, shall report by July 1 of each year the outside services or employment to the employee's designated supervisor. During the year, any change in an employee's outside service or employment activity must be reported to the designated supervisor as it occurs.

(c) The head of a principal executive department of the state may not accept employment for compensation outside the agency that the executive head serves.

Sec. 39.52.180. Restrictions on employment after leaving state service.

(a) A public officer who leaves state service may not, for two years after leaving state service, represent, advise, or assist a person for compensation regarding a matter that was under consideration by the administrative unit served by that public officer, and in which the officer participated personally and substantially through the exercise of official action. For the purposes of this subsection, "matter" includes a case, proceeding, application, contract, determination, proposal or consideration of a legislative bill, a resolution, a constitutional amendment, or other legislative measure, or proposal, consideration, or adoption of an administrative regulation.

(b) This section does not prohibit an agency from contracting with a former public officer to act on a matter on behalf of the state.

(c) The head of an agency may waive application of (a) of this section after determining that representation by a former public officer is not adverse to the public interest. The waiver must be in writing and a copy of the waiver must be provided to the attorney general for approval or disapproval.

(d) An individual who formerly held a position listed in this subsection may not engage in activity as a lobbyist under AS 24.45 for a period of one year after leaving that position. This subsection does not prohibit service as a volunteer lobbyist described in AS 24.45.161(a)(1) or a representational lobbyist as defined under regulations of the Alaska Public Offices Commission. This subsection applies to the position of

(1) governor;

(2) lieutenant governor;

(3) head or deputy head of a principal department in the executive branch;

(4) director of a division or legislative liaison within a principal department in the executive branch;

(5) legislative liaison, administrative assistant or other employee of the Office of the Governor or Office of the Lieutenant Governor in a policy-making position;

(6) member of a state board or commission that has the authority to adopt regulations, other than a board or commission named in AS 08.01.010;

(7) member of a governing board and executive officer of a state public corporation.

(e) A former head of a principal department in the executive branch may not, for a period of one year after leaving service as the head of that department, serve on the governing board of a company, organization, or other entity that was regulated by that department or with which the former department head worked as part of an official duty as the department head. A former employee of the Office of the Governor in a policy-making position may not, for a period of one year after leaving employment in that office, serve on the governing board of a company,

organization, or other entity with which the former employee worked as part of an official duty for the Office of the Governor.

(f) In this section, "employee of the Office of the Governor in a policy-making position" means a person who is an employee required, because of the person's position in the Office of the Governor, to file a statement under AS 39.50.020.

Sec. 39.52.190. Aiding a violation prohibited.

It is a violation of this chapter for a public officer to knowingly aid another public officer in a violation of this chapter.

Article 03. DISCLOSURE AND ACTION TO PREVENT VIOLATIONS

Sec. 39.52.210. Declaration of potential violations by public employees.

(a) A public employee who is involved in a matter that may result in a violation of AS 39.52.110 - 39.52.190 shall

(1) refrain from taking any official action relating to the matter until a determination is made under this section; and

(2) immediately disclose the matter in writing to the designated supervisor and the attorney general.

(b) A public employee's designated supervisor shall make a written determination whether an employee's involvement violates AS 39.52.110 - 39.52.190 and shall provide a copy of the written determination to the public employee and to the attorney general. If the supervisor determines that a violation could exist or will occur, the supervisor shall,

(1) reassign duties to cure the employee's potential violation, if feasible; or

(2) direct the divestiture or removal by the employee of the personal or financial interests that give rise to the potential violation.

(c) A designated supervisor may request guidance from the attorney general, in accordance with AS 39.52.240, when determining whether a public employee is involved in a matter that may result in a violation of AS 39.52.110 - 39.52.190.

Sec. 39.52.220. Declaration of potential violations by members of boards or commissions.

(a) A member of a board or commission who is involved in a matter that may result in a violation of AS 39.52.110 - 39.52.190 shall disclose the matter on the public record and in writing to the designated supervisor and to the attorney general. The supervisor shall determine whether the member's involvement violates AS 39.52.110 - 39.52.190 and shall provide a copy of the written determination to the board or commission member and to the attorney general. If a member of the board or commission objects to the ruling of the supervisor, or if the supervisor discloses an involvement requiring a determination, the members present at a meeting, excluding the involved member, shall vote on the matter. If the supervisor or a majority of the members voting determine that a violation will exist if the member continues to participate, the member shall refrain from voting, deliberating, or participating in the matter.

(b) The designated supervisor or the board or commission may request guidance from the attorney general, in accordance with AS 39.52.240, when determining whether a member of a board or commission is involved in a matter that may result in a violation of AS 39.52.110 - 39.52.190.

Sec. 39.52.225. Disclosures in connection with executive clemency.

Before granting executive clemency to an applicant for executive clemency, the governor shall disclose in writing to the attorney general whether granting the clemency would benefit a personal or financial interest of the governor. The attorney general shall publish a written determination whether granting executive clemency to the applicant would violate AS 39.52.110-39.52.190. The written determination of the attorney general is not confidential, but information set out in that determination identifying a person, other than the applicant for clemency, who is a victim or witness in a criminal matter may not be made public.

Sec. 39.52.230. Reporting of potential violations.

A person may report to a public officer's designated supervisor, under oath and in writing, a potential violation of AS 39.52.110 - 39.52.190 by the public officer. The supervisor shall provide a copy of the report to the officer who is the subject of the report and to the attorney general, and shall review the report to determine whether a violation may exist. The supervisor shall act in accordance with AS 39.52.210 or 39.52.220 if the supervisor determines that the matter may result in a violation of AS 39.52.110 - 39.52.190.

Sec. 39.52.240. Advisory opinions.

(a) Upon the written request of a designated supervisor or a board or commission, the attorney general shall issue opinions interpreting this chapter. The requester must supply any additional information requested by the attorney general in order to issue the opinion. Within 60 days after receiving a complete request, the attorney general shall issue an advisory opinion on the question.

(b) The attorney general may offer oral advice if delay would cause substantial inconvenience or detriment to the requesting party.

(c) The designated supervisor or a board or commission shall make a written determination based on the advice of the attorney general. If the advice of the attorney general provides more than one way for a public officer to avoid or correct a problem found under AS 39.52.110 - 39.52.190, the designated supervisor or the board or commission shall, after consultation with the officer, determine the alternative that is most appropriate and advise the officer of any action required of the officer to avoid or correct the problem.

(d) A public officer is not liable under this chapter for any action carried out in accordance with a determination made under AS 39.52.210 - 39.52.240 if the officer fully disclosed all relevant facts reasonably necessary to the determination.

(e) The attorney general may reconsider, revoke, or modify an advisory opinion at any time, including upon a showing that material facts were omitted or misstated in the request for the opinion.

(f) A person may rely on an advisory opinion that is currently in effect.

(g) A request for advice made under (a) of this section is confidential.

(h) The attorney general shall post on the Alaska Online Public Notice System (AS 44.62.175), with sufficient deletions to prevent disclosure of the persons whose identities are confidential under (g) of this section, the advisory opinions issued under this section that the attorney general determines to be of major import because of their general applicability to executive branch officers.

Sec. 39.52.250. Advice to former public officers.

(a) A former public officer may request, in writing, an opinion from the attorney general interpreting this chapter. The attorney general shall give advice in accordance with AS 39.52.240(a) or (b) and publish opinions in accordance with AS 39.52.240(h).

(b) A former public officer is not liable under this chapter for any action carried out in accordance with the advice of the attorney general issued under this section, if the public officer fully disclosed all relevant facts reasonably necessary to the issuance of the advice.

Sec. 39.52.260. **Designated supervisor's report and attorney general review.**

(a) A designated supervisor shall quarterly submit a report to the attorney general which states the facts, circumstances, and disposition of any disclosure made under AS 39.52.210 - 39.52.240.

(b) The attorney general shall review determinations reported under this section. The attorney general may request additional information from a supervisor concerning a specific disclosure and its disposition.

(c) The report prepared under this section is confidential and not available for public inspection unless formal proceedings under AS 39.52.350 are initiated based on the report. If formal proceedings are initiated, the relevant portions of the report are public documents open to inspection. The attorney general shall, however, make available to the public a summary of the reports received under this section, with sufficient deletions to prevent disclosure of a person's identity.

(d) The attorney general shall submit to the personnel board a copy of the quarterly reports received from designated supervisors under (a) of this section together with a report on the attorney general's review conducted under (b) of this section.

Sec. 39.52.270. **Disclosure statements.**

(a) A public officer required to file a disclosure statement under this chapter shall meet the requirements of this subsection in making the disclosure. When the public officer files a disclosure statement under this chapter, the public officer signing the disclosure shall certify that, to the best of the public officer's knowledge, the statement is true, correct, and complete. The disclosure must state that, in addition to any other penalty or punishment that may apply, a person who submits a false statement that the person does not believe to be true is punishable under AS 11.56.200 - 11.56.240.

(b) A designated supervisor who receives a disclosure statement under AS 39.52.110 - 39.52.220 shall review it. If the designated supervisor believes that there is a possibility that the activity or situation reported in a disclosure statement filed under AS 39.52.110 - 39.52.190 may result in a violation of this chapter, the designated supervisor shall take appropriate steps under AS 39.52.210 - 39.52.240. Failure of the designated supervisor to proceed under AS 39.52.210 - 39.52.240 does not relieve the public officer of the public officer's obligations under those statutes.

(c) In this section, "disclosure statement" means a report or written notice filed under AS 39.52.110 - 39.52.220.

Article 04. COMPLAINTS; HEARING PROCEDURES

Sec. 39.52.310. **Complaints.**

(a) The attorney general may initiate a complaint, or elect to treat as a complaint, any matter disclosed under AS 39.52.210, 39.52.220, 39.52.250, or 39.52.260. The attorney general

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may not, during a campaign period, initiate a complaint concerning the conduct of the governor or lieutenant governor who is a candidate for election to state office.

(b) A person may file a complaint with the attorney general regarding the conduct of a current or former public officer. A complaint must be in writing, be signed under oath, and contain a clear statement of the details of the alleged violation.

(c) If a complaint alleges a violation of AS 39.52.110 - 39.52.190 by the governor, lieutenant governor, or the attorney general, the matter shall be referred to the personnel board. The personnel board shall return a complaint concerning the conduct of the governor or lieutenant governor who is a candidate for election to state office as provided in (j) of this section if the complaint is initiated during a campaign period. The personnel board shall retain independent counsel who shall act in the place of the attorney general under (d) - (i) of this section, AS 39.52.320 - 39.52.350, and 39.52.360(c) and (d). Notwithstanding AS 36.30.015(d), the personnel board may contract for or hire independent counsel under this subsection without notifying or securing the approval of the Department of Law.

(d) The attorney general shall review each complaint filed, to determine whether it is properly completed and contains allegations which, if true, would constitute conduct in violation of this chapter. The attorney general may require the complainant to provide additional information before accepting the complaint. If the attorney general determines that the allegations in the complaint do not warrant an investigation, the attorney general shall dismiss the complaint with notice to the complainant and the subject of the complaint.

(e) The attorney general may refer a complaint to the subject's designated supervisor for resolution under AS 39.52.210 or 39.52.220.

(f) If the attorney general accepts a complaint for investigation, the attorney general shall serve a copy of the complaint upon the subject of the complaint, for a response. The attorney general may require the subject to provide, within 20 days after service, full and fair disclosure in writing of all facts and circumstances pertaining to the alleged violation. Misrepresentation of a material fact in a response to the attorney general is a violation of this chapter. Failure to answer within the prescribed time, or within any additional time period that may be granted in writing by the attorney general, may be considered an admission of the allegations in the complaint.

(g) If a complaint is accepted under (f) of this section, the attorney general shall investigate to determine whether a violation of this chapter has occurred. At any stage of an investigation or review, the attorney general may issue a subpoena under AS 39.52.380.

(h) A violation of this chapter may be investigated within two years after discovery of the alleged violation.

(i) The unwillingness of a complainant to assist in an investigation, the withdrawal of a complaint, or restitution by the subject of the complaint may, but need not in and of itself, justify termination of an investigation or proceeding.

(j) The personnel board shall return a complaint concerning the conduct of the governor or lieutenant governor who is a candidate for state office received during a campaign period to the complainant unless the governor or lieutenant governor, as appropriate, permits the personnel board to assume jurisdiction under this subsection. If the personnel board receives a complaint concerning the conduct of the governor or lieutenant governor who is a candidate during the campaign period, the personnel board shall immediately notify the subject of the complaint of the receipt of the complaint, of the suspension of the personnel board's jurisdiction during the campaign period, and of the candidate's right to waive the suspension of jurisdiction under this subsection. The candidate may, within 11 days after the personnel board mails or otherwise sends notice of the complaint to the candidate, notify the personnel board that the candidate chooses to have the personnel board proceed with the complaint under this section. If the

candidate does not act within that time or if the candidate notifies the personnel board that the candidate is not waiving the suspension of jurisdiction, the personnel board shall return the complaint to the complainant with notice of the suspension of jurisdiction under this subsection and of the right of the complainant to file the complaint after the end of the campaign period.

(k) A campaign period under this section begins on the later of 45 days before a primary election in which the governor or lieutenant governor is a candidate for state office or the day on which the individual files as a candidate for state office and ends at the close of election day for the general or special election in which the individual is a candidate or on the day that the candidate withdraws from the election, if earlier. For a candidate who loses in the primary election, the campaign period ends on the day that results of the primary election showing that another individual won the election are certified.

Sec. 39.52.320. Dismissal before formal proceedings.

If, after investigation, it appears that there is no probable cause to believe that a violation of this chapter has occurred, the attorney general shall dismiss the complaint. The attorney general shall communicate disposition of the matter promptly to the complainant under AS 39.52.335(c) and to the subject of the complaint.

Sec. 39.52.330. Corrective or preventive action.

After determining that the conduct of the subject of a complaint does not warrant a hearing under AS 39.52.360, the attorney general shall recommend action to correct or prevent a violation of this chapter. The attorney general shall communicate the recommended action to the complainant and the subject of the complaint. The subject of the complaint shall comply with the attorney general's recommendation.

Sec. 39.52.335. Summary of disposition of complaints and review by personnel board.

(a) When the attorney general initiates or receives a complaint under AS 39.52.310, the attorney general shall immediately forward a copy of the complaint to the personnel board.

(b) Each month, the attorney general shall file a report with the personnel board concerning the status of each pending complaint and the resolution of complaints that have been closed since the previous report.

(c) If a complaint is dismissed under AS 39.52.320 or resolved under AS 39.52.330, the attorney general shall promptly prepare a summary of the matter and provide a copy of the summary to the personnel board and the complainant. The summary is confidential unless the

(1) dismissal or resolution agreed to under AS 39.52.320 or 39.52.330 is public; or

(2) superior court makes the matter public under (h) of this section.

(d) Within 15 days after receipt of a summary under this section, a complainant may file comments with the personnel board regarding the disposition of the complaint.

(e) At its next regular meeting that begins more than 15 days after receipt of a summary under this section, the personnel board shall review the summary and comments, if any, filed by the complainant. The personnel board may compel the attendance of the subject of the complaint or the complainant at the meeting and may compel the production of documents. Attendance may be by teleconference. The attorney general or the attorney general's designee shall be available to respond to questions from the personnel board concerning the disposition of the complaint.

(f) After review of the summary, the personnel board may issue a report on the disposition of the complaint. If the matter is confidential and the board determines that

publication of the name of the subject is in the public interest, the report may include a recommendation that the matter be made public.

(g) If the summary is confidential under (c) of this section,
(1) comments filed by the complainant, if any, are confidential;
(2) the personnel board shall conduct the review of the summary in executive session;
and

(3) the personnel board report, if any, is confidential; the personnel board shall make available to the public an expurgated copy of a confidential report with sufficient deletions and editing to prevent disclosure of the identity of the persons involved in the matter.

(h) If the disposition of a complaint is not made public and the personnel board report under (f) of this section includes a recommendation that the matter be made public, an interested party may file an action against the state in superior court requesting that the court make public the complaint, the attorney general's disposition of the complaint, and the personnel board report. The court may order the matter or portions of the matter made public if the court determines that

(1) the dismissal or resolution of the complaint was clearly contrary to the requirements of this chapter;

(2) one or more of the allegations in the information to be released is supported by substantial evidence;

(3) the matter concerns the public interest; and

(4) release of the information will not infringe on any protected rights or liberties of the subject.

Sec. 39.52.340. Confidentiality.

(a) Except as provided in AS 39.52.335, before the initiation of formal proceedings under AS 39.52.350, the complaint and all other documents and information regarding an investigation conducted under this chapter or obtained by the attorney general during the investigation are confidential and not subject to inspection by the public. In the case of a complaint concerning the governor, lieutenant governor, or attorney general, all meetings of the personnel board concerning the complaint and investigation before the determination of probable cause are closed to the public. If, in the course of an investigation or probable cause determination, the attorney general finds evidence of probable criminal activity, the attorney general shall transmit a statement and factual findings limited to that activity to the appropriate law enforcement agency. If the attorney general finds evidence of a probable violation of AS 15.13, the attorney general shall transmit a statement to that effect and factual findings limited to the probable violation to the Alaska Public Offices Commission. The attorney general and all persons contacted during the course of an investigation shall maintain confidentiality regarding the existence of the investigation.

(b) It is not a violation of this section for a person to contact an attorney or to participate in a criminal investigation.

(c) The subject of the complaint may, in writing, waive the confidentiality protection of this section.

Sec. 39.52.350. Probable cause for hearing.

(a) If the attorney general determines that there is probable cause to believe that a knowing violation of this chapter or a violation that cannot be corrected under AS 39.52.330 has occurred, or that the subject of a complaint failed to comply with a recommendation for corrective or preventive action, the attorney general shall initiate formal proceedings by serving a copy of an accusation upon the subject of the accusation. The accusation shall specifically set out

the alleged violation. After service, the accusation is a public document open to inspection. Except as provided in AS 39.52.370(c), all subsequent proceedings are open to the public.

(b) The subject of the accusation shall file an answer with the attorney general within 20 days after service of the accusation, or at a later time specified by the attorney general. If the subject of the accusation fails to timely answer, the allegations are considered admitted.

(c) If the subject of the accusation denies that a violation of this chapter has occurred, the attorney general shall refer the matter to the personnel board, which shall notify the chief administrative law judge (AS 44.64.010), who shall appoint an administrative law judge to serve as a hearing officer to conduct a hearing.

(d) If the subject of the accusation admits a violation of this chapter, the attorney general shall refer the matter to the personnel board to impose penalties under AS 39.52.410, 39.52.440, and 39.52.450, as appropriate.

Sec. 39.52.360. Hearings.

(a) The hearing officer may convene a prehearing conference to set a time and place for the hearing, and for stipulation as to matters of fact and to simplify issues, identify and schedule prehearing matters, and resolve other similar matters before the hearing.

(b) The hearing officer may administer oaths, hold hearings, and take testimony. Upon application by a party to the hearing, the hearing officer may issue subpoenas under AS 39.52.380.

(c) The attorney general shall present the charges before the hearing officer. At a hearing, the attorney general has the burden of demonstrating by a preponderance of the evidence that the subject of the accusation has, by act or omission, violated this chapter.

(d) The parties to a hearing are the attorney general and the subject of the accusation. The subject of an accusation may be represented by counsel. Each party has an opportunity to be heard and cross-examine witnesses, who shall testify under oath.

(e) The Administrative Procedure Act does not apply to hearings under this section, except as provided in AS 39.52.380.

(f) Technical rules of evidence do not apply, but the hearing officer's findings must be based upon reliable and relevant evidence. All testimony and other evidence taken at the hearing must be recorded and the evidence maintained. Copies of transcripts of the hearing record are available to the subject of the accusation at the subject's expense; however, upon request, a copy of the recording of the hearing must be furnished without charge to the subject of the accusation.

(g) At the conclusion of the formal hearing, the hearing officer may direct either or both parties to submit proposed findings of fact, conclusions of law, and recommendation to be filed within 10 days after the conclusion of the hearing.

(h) Within 30 days after the conclusion of a formal hearing, the hearing officer shall serve a written report on the personnel board and the parties, unless the personnel board grants an extension of time. The report must contain the officer's findings of fact, conclusions of law, and recommendation. The hearing officer shall submit the record to the personnel board.

Sec. 39.52.370. Personnel board action.

(a) Within 10 days after receipt of the hearing officer's report, either party may protest the officer's findings of fact, conclusions of law, and recommendation, and, if a protest is filed, shall serve a copy on the other party. Oral argument before the personnel board must be provided only if requested by either party. The board chair shall set the deadline for submission of requests for oral argument, and set the dates for submission of briefs and oral argument before the board, if requested.

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(b) The board may issue subpoenas under AS 39.52.380, and may, for good cause shown, augment the hearing record, in whole or in part, or hold a hearing de novo.

(c) The personnel board shall review each report submitted by a hearing officer and shall either adopt or amend the findings of fact, conclusions of law, and recommendation of the officer. Deliberations of the personnel board must be conducted in sessions not open to the public.

(d) If the personnel board determines that a violation occurred, it may impose the penalties in AS 39.52.410, 39.52.440, and 39.52.450, as appropriate. If the board determines that no violation occurred, the board shall issue a written order of dismissal.

(e) The personnel board secretary shall promptly notify the parties and the public officer's designated supervisor of the board's action.

(f) The subject of the accusation may appeal the personnel board's decision by filing an appeal in the superior court as provided in the Alaska Rules of Appellate Procedure.

Sec. 39.52.380. Subpoenas.

(a) As provided in AS 39.52.310(g), 39.52.360(b), and 39.52.370(b), the attorney general, independent counsel retained under AS 39.52.310(c), a hearing officer, the subject of an accusation, and the personnel board may summon witnesses and require the production of records, books, and papers by the issuance of subpoenas.

(b) Subpoenas must be served in the manner prescribed by AS 44.62.430 and Rule 45 of the Alaska Rules of Civil Procedure. Failure or refusal to obey a subpoena issued under this chapter is punishable as contempt in the manner provided by law and court rule. The superior court may compel obedience to the subpoena in the same manner as prescribed for obedience to a subpoena issued by the court.

Sec. 39.52.390. Service.

Service of an accusation must be accomplished in accordance with Rule 4 of the Alaska Rules of Civil Procedure. Service of any other pleading, motion, or other document must be accomplished in accordance with Rule 5 of the Alaska Rules of Civil Procedure.

Article 05. ENFORCEMENT; REMEDIES

Sec. 39.52.410. Violations; penalties for misconduct.

(a) If the personnel board determines that a public employee has violated this chapter, it
(1) shall order the employee to stop engaging in any official action related to the violation;

(2) may order divestiture, establishment of a blind trust, restitution, or forfeiture; and

(3) may recommend that the employee's agency take disciplinary action, including dismissal.

(b) If the personnel board determines that a nonsalaried member of a board or commission has violated this chapter, it (1) shall order the member to refrain from voting, deliberating, or participating in the matter; (2) may order restitution; and (3) may recommend to the appropriate appointing authority that the member be removed from the board or commission. A violation of this chapter is grounds for removal of a board or commission member for cause. If the personnel board recommends that a board or commission member be removed from office, the appointing authority shall immediately act to remove the member from office.

(c) If the personnel board determines that a former public officer has violated this chapter, it shall

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(1) issue a public statement of its findings, conclusions, and recommendation; and
(2) request the attorney general to exercise all legal and equitable remedies available to the state to seek whatever relief is appropriate.

(d) If the personnel board finds a violation of this chapter by a public officer removable from office only by impeachment, it shall file a report with the president of the Senate, with its finding. The report must contain a statement of the facts alleged to constitute the violation.

Sec. 39.52.420. Disciplinary action for violation.

(a) In addition to any other cause an agency may have to discipline a public employee, an agency may reprimand, demote, suspend, discharge, or otherwise subject an employee to agency disciplinary action commensurate with the violations of this chapter. This section does not prohibit the review of a disciplinary action in the manner prescribed by an applicable collective bargaining agreement or personnel statute or rule.

(b) An agency may initiate appropriate disciplinary action in the absence of an accusation under this chapter or during the pendency of a hearing or personnel board action.

Sec. 39.52.430. Actions voidable.

(a) In addition to any other penalty provided by law, a state grant, contract, or lease entered into in violation of this chapter is voidable by the state. In a determination under this section of whether to void a grant, contract, or lease, the interests of third parties who could be damaged may be taken into account. The attorney general shall give notice of intent to void a state grant, contract, or lease under this section no later than 30 days after the personnel board's determination of a violation under this chapter.

(b) In addition to any other penalty provided for by law, the state may require a state loan received in violation of this chapter to become immediately payable.

(c) Any state action taken in violation of this chapter is voidable, except that the interests of third parties and the nature of the violation may be taken into account. The attorney general may pursue any other available legal and equitable remedies.

(d) The attorney general may recover any fee, compensation, gift, or benefit received by a person as a result of a violation of this chapter by a current or former public officer. Action to recover under this subsection must be brought within two years after discovery of the violation.

Sec. 39.52.440. Civil penalties.

The personnel board may impose on a current or former public officer civil penalties not to exceed \$5,000 for a violation of this chapter. A penalty imposed under this section is in addition to and not instead of any other penalty that may be imposed according to law.

Sec. 39.52.450. Payment of twice the financial benefit.

The personnel board may, in addition to the civil penalties described in this chapter, require a current or former public officer who has financially benefited a person in violation of this chapter to pay to the state up to twice the amount that the person realized from the violation.

Sec. 39.52.460. Criminal sanctions additional.

To the extent that violations under this chapter are punishable in a criminal action, that sanction is in addition to the civil remedies set out in this chapter.

Article 06. GENERAL PROVISIONS

Sec. 39.52.910. **Applicability.**

(a) Except as specifically provided, this chapter applies to all public officers within executive-branch agencies, including members of boards or commissions. This chapter does not apply to

(1) a former public officer of an executive-branch agency unless a provision specifically states that it so applies;

(2) legislators covered by AS 24.60; or

(3) the University of Alaska and an employee of the University of Alaska as to activities or employment under a contract between the employee and the university described in AS 14.40.210(a)(4).

(b) The provisions of this chapter supersede the common law on conflicts of interests that may apply to a public officer of an executive-branch agency and any personnel rules relating to conflicts of interests, excluding nepotism, adopted under AS 39.25. However, nothing in this chapter precludes a prosecution under an applicable criminal statute nor prevents enforcement of any other state law that imposes a stricter standard of ethical conduct on public officers.

(c) The provisions of this chapter are not subject to negotiation by collective bargaining under AS 23.40.

(d) Nothing in this chapter

(1) supersedes AS 39.90.020; or

(2) precludes an immediate family member of a public employee from employment in the same agency or administrative unit as that public employee, so long as the public employee does not have authority to take or withhold official action affecting the terms or conditions of the immediate family member's employment in a manner that violates state law.

Sec. 39.52.920. **Agency policies.**

Subject to the review and approval of the attorney general, an agency may adopt a written policy that, in addition to the requirements of this chapter, limits the extent to which a public officer in the agency or an administrative unit of the agency may

(1) acquire a personal interest in an organization or a financial interest in a business or undertaking that may benefit from official action taken or withheld by the agency or unit;

(2) have a personal or financial interest in a state grant, contract, lease, or loan administered by the agency or unit; or

(3) accept a gift.

Sec. 39.52.930. **Cooperation.**

All agencies and instrumentalities of the state shall cooperate fully with the attorney general and the personnel board in the performance of their duties under this chapter.

Sec. 39.52.940. **Construction.**

This chapter shall be construed to promote high standards of ethical conduct in state government.

Sec. 39.52.950. **Regulations.**

The attorney general may adopt regulations under the Administrative Procedure Act necessary to interpret and implement this chapter.

Sec. 39.52.960. Definitions.

In this chapter, unless the context requires otherwise,

(1) "administrative unit" means a branch, bureau, center, committee, division, fund, office, program, section, or any other subdivision of an agency;

(2) "agency" means a department, office of the governor, or entity in the executive branch, including but not limited to the University of Alaska, public or quasi-public corporations, boards or commissions, and the Alaska Railroad Corporation;

(3) "benefit" means anything that is to a person's advantage or self-interest, or from which a person profits, regardless of the financial gain, including any dividend, pension, salary, acquisition, agreement to purchase, transfer of money, deposit, loan or loan guarantee, promise to pay, grant, contract, lease, money, goods, service, privilege, exemption, patronage, advantage, advancement, or anything of value;

(4) "board or commission" means a board, commission, authority, or board of directors of a public or quasi-public corporation, established by statute in the executive branch, including the Alaska Railroad, but excluding members of a negotiated regulation making committee under AS 44.62.710 - 44.62.800;

(5) "business" includes a corporation, company, firm, partnership, sole proprietorship, trust or foundation, or any other individual or entity carrying on a business, whether operated for profit or non-profit;

(6) "child" includes a biological child, an adoptive child, and a stepchild;

(7) "compensation" means any money, thing of value, or economic benefit conferred on or received by a person in return for services rendered or to be rendered by the person for another;

(8) "designated supervisor" or "supervisor" means

(A) the commissioner of each department in the executive branch, for public employees within the department;

(B) the president of the University of Alaska, for university employees;

(C) the attorney general, for the governor and lieutenant governor;

(D) the executive director of a board or commission for the staff of the board or commission;

(E) the chair or acting chair of the board or commission, for the members and the executive director of a board or commission; and

(F) the governor, for commissioners and for other public officers not included in (A) - (E) of this paragraph; or

(G) a public officer designated by a commissioner, the university president, or the governor to act as the supervisor if the name and position of the officer designated has been reported to the attorney general;

(9) "financial interest" means

(A) an interest held by a public officer or an immediate family member, which includes an involvement or ownership of an interest in a business, including a property ownership, or a professional or private relationship, that is a source of income, or from which, or as a result of which, a person has received or expects to receive a financial benefit;

(B) holding a position in a business, such as an officer, director, trustee, partner, employee, or the like, or holding a position of management;

(10) "gain" includes actual or anticipated gain, benefit, profit, or compensation;

(11) "immediate family member" means

(A) the spouse of the person;

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(B) another person cohabiting with the person in a conjugal relationship that is not a legal marriage;

(C) a child, including a stepchild and an adoptive child, of the person;

(D) a parent, sibling, grandparent, aunt, or uncle of the person; and

(E) a parent or sibling of the person's spouse;

(12) "instrumentality of the state" means a state agency or administrative unit, whether in the legislative, judicial, or executive branch, including such entities as the University of Alaska, the Alaska Railroad, and any public or quasi-public corporations, boards, or commissions; the term includes municipalities;

(13) "nonsalaried member of a board or commission" means a member of a board or commission who is not a public employee by virtue of membership on a board or commission; receipt of per diem, nominal compensation for attendance at meetings, and travel expense reimbursement does not make a member of a board or commission a public employee for purposes of this chapter;

(14) "official action" means advice, participation, or assistance, including, for example, a recommendation, decision, approval, disapproval, vote, or other similar action, including inaction, by a public officer;

(15) "organization" includes a group, association, society, political party, or other entity made up of two or more persons, whether operated for profit or nonprofit;

(16) "parent" includes a biological parent, an adoptive parent, and a step-parent of the public officer;

(17) "person" includes a natural person, a business, and an organization;

(18) "personal interest" means an interest held or involvement by a public officer, or the officer's immediate family member or parent, including membership, in any organization, whether fraternal, nonprofit, for profit, charitable, or political, from which, or as a result of which, a person or organization receives a benefit;

(19) "personnel board" or "board" means the personnel board established in AS 39.25.060;

(20) "public employee" or "employee" means a permanent, probationary, seasonal, temporary, provisional, or nonpermanent employee of an agency, whether in the classified, partially exempt, or exempt service;

(21) "public officer" or "officer" means

(A) a public employee;

(B) a member of a board or commission; and

(C) a state officer designated by the governor to act as trustee of the trust or a person to whom the trustee has delegated trust duties; in this paragraph, "trust" has the meaning given in AS 37.14.450;

(22) "source of income" means an entity for which service is performed for compensation or which is otherwise the origin of payment; if the person whose income is being reported is employed by another, the employer is the source of income; if the person is self-employed by means of a sole proprietorship, partnership, professional corporation, or a corporation in which the person, the person's spouse or child, or a combination of them, holds a controlling interest, the "source" is the client or customer of the proprietorship, partnership, or corporation; if the entity which is the origin of payment is not the same as the client or customer for whom the service is performed, both are considered the source.

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ALASKA ADMINISTRATIVE CODE
TITLE 9.
CHAPTER 52.
EXECUTIVE BRANCH ETHICS

9 AAC 52.010. APPEARANCE OF IMPROPRIETY. An appearance of impropriety does not establish that an ethical violation exists.

(Eff. 4/24/94, Register 130)

Authority: AS 39.52.110
AS 39.52.950

9 AAC 52.020. IMPROPER MOTIVATION. A public officer may not take or withhold official action on a matter if the action is based on an improper motivation.

(Eff. 4/24/94, Register 130)

Authority: AS 39.52.110
AS 39.52.950

9 AAC 52.030. WHEN MEMBERSHIP IS SIGNIFICANT. (a) If a public officer is required by statute to be a member of a class and the public officer takes or withholds official action in a matter that affects all members of that class, the action is not a violation of the Ethics Act or this chapter unless the officer receives significant financial or personal benefit from the action or takes or withholds the action based on an improper motivation.

(b) A public officer's interest in a matter by reason of the officer's membership in a large organization or class is significant if the officer or an immediate family member of the officer has a significant personal or financial interest in the matter.

(Eff. 4/24/94, Register 130)

Authority: AS 39.52.110
AS 39.52.950

9 AAC 52.035. PERSONAL GAIN. For purposes of AS 39.52.120(a), gain is personal gain if it is

(1) a benefit to the public officer's personal interest or financial interest; or

(2) actual or anticipated gain, benefit, profit, or compensation to the public officer or the officer's immediate family member.

(Eff. 12/22/10, Register 196)

Authority: AS 39.52.120
AS 39.52.950

9 AAC 52.040. UNWARRANTED BENEFITS OR TREATMENT. (a) As used in AS 39.52.120 (a), "unwarranted benefits or treatment" includes

(1) a deviation from normal procedures for the award of a benefit, regardless of whether the procedures were established formally or informally, if the deviation is based on the improper motivation; and

(2) an award of a benefit if the person receiving the benefit was substantially less qualified, in light of the formal or informal standards set out for the award, than another person who was or reasonably should have been considered for the award if the award is based on an improper motivation.

(b) A public officer may not grant or secure an unwarranted benefit or treatment, regardless of whether the result is in the best interest of the state.

(c) Subject to the requirements of AS 39.52.110, 39.52.120, 39.52.150, and AS 39.90.020, neither the Ethics Act nor this chapter prohibits a public officer from

(1) considering a person who has a relationship with an officer for a state contract or job if the person is considered on an equal basis with other applicants; or

(2) considering an individual's political affiliation or political support in determining whether to appoint the individual to a state board or commission or to hire the individual for an exempt or partially exempt state job.

(3) accepting money to reimburse the public officer for reasonable expenses incurred for professional legal services to defend against a complaint brought under AS 39.52.310 - 39.52.390, if

(A) the public officer is exonerated of a violation of the Ethics Act for which payment is made;

(B) the complaint concerns conduct that occurred during the public officer's employment or service as a public officer;

(C) the public officer executes a written agreement to repay any money requested and paid in advance of exoneration if the public officer is not exonerated of the violation; and

(D) the public officer repays any money paid in advance if the public officer is not exonerated of the violation; or

(4) approving money to reimburse another public officer for reasonable expenses incurred for professional legal services to defend against a complaint brought under AS 39.52.310 - 39.52.390, entering into an agreement to pay those expenses on behalf of another public officer, or authorizing payment to secure those professional legal services on behalf of another public officer, if

(A) the complaint concerns conduct that occurred during the public officer's employment or service as a public officer;

(B) the payment is made by a state agency that has money appropriated that may be lawfully used for the purpose of paying the expenses; and

(C) the public officer whose expenses are paid

(i) has been exonerated of a violation of the Ethics Act for which payment is made; or

(ii) has executed a written agreement to repay any money paid in advance of exoneration, if the public officer is not exonerated of the violation.

(d) For purposes of (c)(3) and (4) of this section,

(1) exoneration of a violation of the Ethics Act

(A) occurs when an allegation in a complaint brought against a public officer under AS 39.52.310 - 39.52.390 is

(i) dismissed under AS 39.52.310(d), 39.52.320, or 39.52.370(d);

(ii) resolved with only preventive action recommended under AS 39.52.330 to avoid a potential violation; or

(iii) dismissed after appeal under AS 39.52.370(f); and

(B) does not include the dismissal or resolution of an allegation in a complaint when corrective action is required under AS 39.52.330;

(2) expenses are reasonable if, based on an evaluation of the complexity of the alleged claim, the attorney's fee or hourly rate, the hours expended, the relationship between the amount of work performed and the significance of the alleged claim, and other relevant factors, the expenses were necessarily incurred to defend against an allegation in a complaint brought under AS 39.52.310 - 39.52.390; those expenses may

(A) include attorney's fees, fees incurred for professional legal services customarily performed by an attorney but delegated to and performed by an investigator, paralegal, or law clerk, and related costs; and

(B) be apportioned by alleged violation if a complaint alleges more than one violation, but only if the public officer provides clear documentation that the expenses paid were limited to the alleged violation for which the public officer is exonerated; and

(3) payment under this section may be made to or on behalf of a current public officer or a former public officer who was the subject of a pending complaint when the officer left state service or becomes the subject of a complaint after leaving state service.

(Eff. 4/24/94, Register 130; am 12/22/10, Register 196)

Authority: AS 39.52.120

AS 39.52.950

9 AAC 52.045. TRANSPORTATION OF FAMILY MEMBERS OF GOVERNOR AND LIEUTENANT GOVERNOR. (a) The use or authorization of use of state money or other state resources for transportation of a family member of the governor or lieutenant governor does not violate AS 39.52.120(a) or (b)(3) if transportation is provided to an event at which the family member's presence benefits the state. The presence of a family member of the governor or lieutenant governor benefits the state if the family member's presence

(1) is required for official action of the state; or

(2) has a public purpose related to the governor's or lieutenant governor's official duties, including

(A) attending a state-sponsored event that the family of the governor or lieutenant governor customarily attends;

(B) attending an event at which the family member serves as an officially designated representative of the state; or

(C) accompanying, as an invited guest, the governor or lieutenant governor to an event related to issues important to the state when the family member's attendance is appropriate for the event, such as youth- or family-related events.

(b) For purposes of AS 39.52.120(a) and (b)(3) and (a) of this section, transportation of a family member to attend a political or campaign event held for partisan political purposes does not benefit the state.

(c) For purposes of AS 39.52.120(a) and (b)(3), the use or authorization of use of state money or other state resources for transportation of a family member that does not benefit the state is presumed insignificant if the governor or lieutenant governor pays the state the cost of the family member's transportation. Except for transportation by state aircraft for partisan political purposes under AS 39.52.120(f), the agency that authorized or paid for the travel shall determine the cost of the transportation based on either

(1) the actual fare paid; or

(2) the fare for equivalent commercial transportation, if the travel was by state aircraft, vessel, or vehicle.

(d) In this section,

(1) "child" has the meaning given in AS 39.52.960;

(2) "family member" means a spouse or minor child of the governor or lieutenant governor;

(3) "for partisan political purposes" has the meaning given in AS 39.52.120(b)(6).

(Eff. 12/22/10, Register 196)

Authority: AS 39.52.120

AS 39.52.950

9 AAC 52.050. USE OF STATE TIME, PROPERTY, EQUIPMENT, OR OTHER FACILITIES. (a) Unless the attorney general has issued a general opinion against the use or advised the public officer against the use, a public officer who uses state time, property, equipment, or other facilities to benefit the officer, an immediate family member of the officer, the officer's personal or financial interest, or another person does not violate AS 39.52.120(a) or (b)(3) if the officer's designated supervisor determines that the use is insignificant.

(b) For purposes of determining whether a public officer has violated AS 39.52.120(a) or (b)(3), the use of a state cellular telephone to benefit the officer, an immediate family member of the officer, the officer's personal or financial interest, or another person is presumed insignificant if

(1) the cellular telephone service plan provides, for a set monthly fee, an allowance of usable minutes or an unlimited number of usable minutes;

(2) the use does not exceed

(A) the greater of 30 minutes or five percent of the allowed minutes under the applicable service plan per month, for a plan that provides an allowance of usable minutes;

(B) the greater of 30 minutes or five percent of the total minutes used in a month under the applicable service plan, for a plan that provides an unlimited number of usable minutes; and

(3) the public officer reimburses the state in full for use that results in a separate charge; charges for minutes exceeding an allowance of usable minutes are presumed to have been incurred to benefit the officer, an immediate family member of the officer, the officer's personal or financial interest, or another person.

(c) For purposes of determining whether a public officer has violated AS 39.52.120(a) or (b)(3), the use of a portable state computer to benefit the officer, an immediate family member of the officer, the officer's personal or financial interest, or another person is presumed insignificant if the use

(1) is for electronic mail communications, Internet access, or entertainment;

(2) does not occur during scheduled work hours; and

(3) occurs at no cost to the state.

(d) For purposes of determining whether a public officer has violated AS 39.52.120(a) or (b)(3), the use of a state personal digital assistant to benefit the officer, an immediate family member of the officer, the officer's personal or financial interest, or another person is presumed insignificant if, when the device is used as a

(1) cellular telephone, the use complies with (b) of this section;

(2) computer, the use complies with (c) of this section.

(e) Nothing in this section exempts a public officer from compliance with other state requirements applicable to state computing and information technology resources.

(Eff. 4/24/94, Register 130; am 12/22/10, Register 196)

Authority: AS 39.52.110

AS 39.52.120

AS 39.52.950

9 AAC 52.060. GIFTS. (a) As used in the Ethics Act and this chapter, a gift is a transfer or loan of property or provision of services to a public officer for less than full value. Unless rebutted by other evidence, an occasional gift worth \$50 or less is presumed not to be given under circumstances in which it could be reasonably inferred that the gift is intended to influence an officer's performance of official duties, actions, or judgment.

(b) For purposes of AS 39.52.130, travel or lodging of any value received by a public officer in connection with a trip that the public officer takes as part of the officer's official duties is not an improper gift if the monetary value of the travel or lodging is comparable to the cost that the state would have had to pay for the travel or lodging and

(1) the head of the officer's agency determines that the gift is to the state, not to the officer; or

(2) the travel or lodging is incidental transportation by or hospitality at the residence of an individual.

(c) An offer to a state agency by a person or governmental agency other than the state to pay travel expenses for one or more public officers to carry out official responsibilities does not result in a gift to the individual traveling public officer within the meaning of AS 39.52.130 if an authorized supervising public officer approves acceptance of the offer in advance in writing. A payment of expenses exceeding travel expenses or any other gift that a traveling officer receives is subject to the provisions of AS 39.52.130 and (a) and (b) of this section. In this subsection,

(1) "travel expenses" means the costs of transportation, lodging, or meals comparable to what the state would pay for the traveling public officer to carry out the associated official responsibilities; and

(2) "authorized supervising public officer" means

(A) the head of the agency; or

(B) a public officer delegated the authority by the head of the agency to accept offers to pay travel expenses, if the public officer having delegated authority will not participate in the travel.

(Eff. 4/24/94, Register 130; am 12/22/10, Register 196)

Authority: AS 39.52.130

AS 39.52.950

9 AAC 52.070. INFORMATION DISSEMINATED TO THE PUBLIC. (a) For purposes of AS 39.52.140, information has been disseminated to the public if it has been distributed to the public through

- (1) a newspaper or other printed publication;
- (2) broadcast media;
- (3) a press release;
- (4) a newsletter;
- (5) a legal notice;
- (6) a nonconfidential court filing;
- (7) a published report;
- (8) an agency's website;
- (9) posting on the Alaska Online Public Notice System established under AS 44.62.175;
- (10) a public speech; or
- (11) public testimony before the legislature or an agency.

(b) Information that is available to the public but that has not been distributed as described in (a) of this section has not been disseminated to the public.

(Eff. 4/24/94, Register 130; am 12/22/10, Register 196)

Authority: AS 39.52.140

AS 39.52.950

9 AAC 52.080. STATE GRANTS, CONTRACTS, LEASES, AND LOANS. (a) For purposes of AS 39.52.150 (b), a state grant, contract, or lease is competitively solicited if the grant, contract, or lease

(1) is awarded by competitive sealed bidding under AS 36.30.100 - 36.30.190 or competitive sealed proposals under AS 36.30.200 - 36.30.270; or

(2) is awarded by procedures substantially similar to competitive sealed bidding or competitive sealed proposals and AS 36.30 does not apply to the awarding of the grant, contract, or lease.

(b) If a state grant, contract, lease, or loan is awarded by or for a public corporation, board, or commission within a department but not by or for the office of the commissioner of that department, then an employee of the office of the commissioner in that department is not considered to be employed by the administrative unit awarding the grant, contract, lease, or loan.

(c) For purposes of AS 39.52.150 (b)(1), if the public officer was not employed by the administrative unit at the time a state grant, contract, or lease was competitively solicited, the officer's subsequent employment by that administrative unit does not constitute a violation of AS 39.52.150 unless the officer takes or withholds official action with respect to the administration of the grant, contract, or lease.

(d) For purposes of AS 39.52.150 (c), a loan is not subject to fixed eligibility standards if the award of the loan is subject to review for adequacy of security or other discretionary judgment concerning repayment ability.

(Eff. 4/24/94, Register 130)

Authority: AS 39.52.150

AS 39.52.950

9 AAC 52.090. OUTSIDE EMPLOYMENT OR SERVICE. For purposes of AS 39.52.170, a public employee's outside employment or service, including volunteer service, is incompatible or in conflict with the proper discharge of official duties if the employee's designated supervisor reasonably determines that the outside employment or service

(1) takes time away from the employee's official duties;

(2) limits the scope of the employee's official duties; or

(3) is otherwise incompatible or in conflict with the proper discharge of the employee's official duties.

(Eff. 4/24/94, Register 130)

Authority: AS 39.52.170

AS 39.52.950

9 AAC 52.100. RESTRICTIONS ON EMPLOYMENT AFTER LEAVING STATE SERVICE. (a) For purposes of AS 39.52.180 (a), "matter" does not include the general formulation of policy by a public official.

(b) For purposes of AS 39.52.180 (a), routine processing of documents, general supervision of employees without direct involvement in a matter, or ministerial functions not involving the merits of a matter under consideration by an administrative unit do not constitute

personal or substantial participation in a matter by a public officer.

(Eff. 4/24/94, Register 130)

*Authority: AS 39.52.180
AS 39.52.950*

9 AAC 52.110. ETHICS FILES. (a) A designated supervisor shall maintain an ethics file containing Ethics Act reports, advisory opinions, advisory opinion requests, complaints, disclosures, and determinations relevant to that supervisor's agency or administrative unit.

(b) A designated supervisor shall segregate confidential material from other ethics file material that is available for public inspection.

(c) An executive director of a board or commission may maintain the ethics file of the chair of the board or commission. The ethics file of the chair of a board or commission may be combined with the ethics file of the designated supervisor of the staff of the board or commission.

(Eff. 4/24/94, Register 130)

*Authority: AS 39.52.210 AS 39.52.230
AS 39.52.220 AS 39.52.950*

9 AAC 52.120. DECLARATION OF POTENTIAL VIOLATION BY MEMBER OF A BOARD OR COMMISSION. (a) A declaration by a member of a board or commission of the facts and circumstances about a matter that may result in a violation of AS 39.52.110 - 39.52.190 or this chapter may serve as the disclosure in writing to the designated supervisor required by AS 39.52.220 if

(1) the declaration is made at a recorded public meeting of each board and commission on which the member serves;

(2) a tape or transcript of each meeting is preserved in accordance with the records retention schedule of the board or commission; and

(3) a method for identifying each portion of tape or transcript containing the declaration is used and the identifications are preserved.

(b) A member of a board or commission who takes or withholds an action that violates the Ethics Act or this chapter will not be held liable under the Ethics Act for the action if

(1) the action is taken or withheld in accordance with a determination by the chair as designated supervisor or the board under the procedures set out in AS 39.52.220;

(2) the member fully discloses all facts reasonably necessary to the determination of the chair or the board; and

(3) the attorney general has not advised the member, chair, board, or commission that the action violates the Ethics Act or this chapter.

(Eff. 4/24/94, Register 130)

Authority: AS 39.52.220 AS 39.52.950

AS 39.52.240 (d)

9 AAC 52.130. DESIGNATED SUPERVISOR'S REPORT. a) A designated supervisor shall submit the quarterly report described in AS 39.52.260 during the 30 days following the end of each calendar quarter.

(b) An executive director of a board or commission may file a quarterly report on behalf of the chair of the board or commission. The quarterly report filed on behalf of a chair and the quarterly report of a designated supervisor of the staff of a board or commission may be combined into one report.

(c) If a board or commission does not meet during a calendar quarter, and the designated supervisor of the board or commission notifies the attorney general that no meeting, or activity reportable under the Ethics Act or this chapter, occurred during the calendar quarter, then neither the chair nor the designated supervisor of the staff must file a report for the board or commission for the quarter.

(Eff. 4/24/94, Register 130; am 12/22/10, Register 196)

Authority: AS 39.52.260

AS 39.53.950

9 AAC 52.135. DESIGNATED SUPERVISOR'S DETERMINATION OF VIOLATION. If, upon review of an ethics disclosure, a designated supervisor determines that a violation of AS 39.52.110 - 39.52.190 may have or has occurred, the designated supervisor shall

(1) in the case of a public employee, refer the matter for investigation and appropriate disciplinary action in accordance with AS 39.52.420 and, following any disciplinary action, to the attorney general for review under AS 39.52.310, unless the significance of the identified violation warrants immediate review by the attorney general; and

(2) in the case of a board or commission member, refer the matter to the attorney general for review under AS 39.52.310.

(Eff. 12/22/10, Register 196)

Authority: AS 39.52.210

AS 39.52.310

AS 39.52.950

AS 39.52.220

AS 39.52.420

9 AAC 52.140. COMPLAINTS. (a) The attorney general will, in the attorney general's discretion, conduct a preliminary ethics investigation before initiating or accepting a complaint. A preliminary ethics investigation and information discovered in the course of a preliminary ethics investigation is confidential to the same extent as information discovered in an ethics investigation conducted after the acceptance of a complaint.

(b) The attorney general will, in the attorney general's discretion, refer a complaint to the subject's designated supervisor under AS 39.52.310 (e) and, at the same time, accept the complaint for an ethics investigation under AS 39.52.310 (f) and (g).

(c) If the attorney general refers a complaint under AS 39.52.310 (e) and the designated supervisor determines that a violation of the Ethics Act or this chapter has occurred, the designated supervisor shall forward those findings to the attorney general for review under AS 39.52.310 - AS 39.52.350.

(d) If an ethics complaint does not allege a violation of the Ethics Act or this chapter by the governor, lieutenant governor, or attorney general but, in the course of an ethics investigation, evidence of a potential violation by the governor, lieutenant governor, or attorney general is discovered, then the attorney general will refer the matter to the personnel board. The personnel board shall retain independent counsel in the same manner as if the complaint initially alleged those violations.

(e) If a complaint against a public officer alleges more than one violation of the Ethics Act, the attorney general may take action under AS 39.52.310, 39.52.320, 39.52.330, and 39.52.350 regarding each alleged violation separately.

(Eff. 4/24/94, Register 130; am 12/22/10, Register 196)

<i>Authority:</i>	<i>AS 39.52.310</i>	<i>AS 39.52.330</i>	<i>AS 39.52.950</i>
	<i>AS 39.52.320</i>	<i>AS 39.52.350</i>	

9 AAC 52.150. PERSONNEL BOARD NOTIFICATION. If independent counsel appointed under AS 39.52.310 (c) recommends action under AS 39.52.330, the independent counsel shall notify the personnel board that action to correct or prevent a violation of the Ethics Act or this chapter has been recommended.

(Eff. 4/24/94, Register 130)

<i>Authority:</i>	<i>AS 39.52.330</i>
	<i>AS 39.52.950</i>

9 AAC 52.160. CONFIDENTIALITY. (a) The attorney general will keep confidential the information obtained in the course of an ethics investigation that is not relevant to an accusation or subsequent ethics proceedings.

(b) The attorney general will, in the attorney general's discretion, forward information obtained in the course of an ethics investigation to the subject's designated supervisor or other appropriate superior for potential disciplinary action under AS 39.52.420. Information forwarded under this subsection remains confidential, and the subject's designated supervisor or other appropriate superior may share the information only with a person who needs to know the information to consider potential disciplinary action.

(c) A subject may not partially waive the confidentiality protection of AS 39.52.340 or this chapter.

(d) Nothing in AS 39.52.340 or this section prevents a person from disclosing to a third person information the person learned independent of the investigation conducted by the attorney general, unless prohibited by other laws.

(e) Nothing in this section prevents either the attorney general from withholding or a person from objecting to the release of information or materials in the possession of the attorney general on a legal ground other than one provided by AS 39.52.340.

(f) If, after an ethics investigation, the attorney general does not initiate formal proceedings, then information and material discovered in the course of the ethics investigation, as well as the existence of the ethics investigation, must remain confidential unless disclosure is otherwise permitted under the Ethics Act or this chapter.

(g) If the attorney general determines that a crime may have been committed or may be committed, the attorney general will, in the attorney general's discretion, release information obtained in a confidential ethics matter to an appropriate law enforcement agency.

(Eff. 4/24/94, Register 130)

*Authority: AS 39.52.340 AS 39.52.950
AS 39.52.420*

9 AAC 52.170. CIVIL PENALTIES FOR MULTIPLE VIOLATIONS. If one act violates more than one provision of the Ethics Act, a civil penalty may be imposed for each provision violated. A civil penalty may be imposed each time a provision of the Ethics Act is violated.

(Eff. 4/24/94, Register 130)

*Authority: AS 39.52.440
AS 39.52.950*

9 AAC 52.180. ATTORNEY GENERAL REVIEW OF AGENCY POLICIES. The attorney general will approve a written policy described in AS 39.52.920 if it is consistent with and furthers the purposes of the Ethics Act and this chapter. As a condition of approval, the

attorney general will require that the policy be distributed to employees of the agency and to new employees of the agency upon employment, and require that the policy be centrally posted in the agency's offices.

(Eff. 4/24/94, Register 130)

Authority: AS 39.52.920

AS 39.52.950

9 AAC 52.990. DEFINITIONS. (a) In AS 39.52.410, "blind trust" means a trust established under AS 39.50.040.

(b) In the Ethics Act and in this chapter

(1) "board or commission" has the meaning given in AS 39.52.960 and does not include an entity created under only a federal statute or other non-state action;

(2) "Ethics Act" means Alaska Executive Branch Ethics Act (AS 39.52);

(3) "executive director" includes an executive secretary to a board or commission under AS 08 or the marine pilot coordinator under AS 08.62.050;

(4) "improper motivation" means a motivation not related to the best interests of the state, and includes giving primary consideration to a person's

(A) kinship or relationship with a public officer;

(B) financial association with a public officer;

(C) potential for conferring a future benefit on a public officer; or

(D) political affiliation;

(5) "person" has the meaning given in AS 39.52.960 and includes governmental entities;

(6) repealed 12/22/2010;

(7) "public employee" has the meaning given in AS 39.52.960 and includes a permanent employee of an agency on non-seasonal leave without pay status, but does not include an individual on layoff status, a seasonal employee of an agency during the period of time that the employee is not employed by the agency, or a temporary employee of an agency during the period of time that the employee is not employed by the agency;

(8) "state contract" includes employment with the state, regardless of whether that

employment is evidenced by a written agreement, but does not include a license or other authorization from the state to do business or to perform a particular activity in the state; and

(9) "subject" means an individual who either

(A) is being investigated for a potential violation of the Ethics Act or this chapter; or

(B) is the individual against whom a complaint is filed under the Ethics Act or this chapter.

(Eff. 4/24/94, Register 130; am 12/22/10, Register 196)

Authority: AS 39.52.120 AS 39.52.950
AS 39.52.410 AS 39.52.960

ETHICS DISCLOSURE FORM

CONFIDENTIAL

Notification of Potential Violation Board or Commission Member

TO: _____, Designated Ethics Supervisor
(Board or Commission)

In accordance with AS 39.52.220(a), I am notifying you of a situation which may result in a violation of the Code of Ethics. I am requesting your determination regarding a possible violation of:

- _____ AS 39.52.120, Misuse of Official Position
- _____ AS 39.52.130, Improper Gifts
- _____ AS 39.52.140, Improper Use or Disclosure of Information
- _____ AS 39.52.150, Improper Influence in State Grants, Contracts, Leases or Loans
- _____ AS 39.52.160, Improper Representation
- _____ AS 39.52.180, Restrictions on Employment after Leaving State Service
- _____ AS 39.52.190, Aiding a Violation Prohibited

The situation is as follows (please use a separate sheet for additional space): _____

I certify to the best of my knowledge that my statement is true, correct, and complete. In addition to any other penalty or punishment that may apply, the submission of a false statement is punishable under AS 11.56.200 - AS 11.56.240.

(Member Signature)

(Date)

(Printed Name)

Note: Under AS 39.52.220, if the designated ethics supervisor or a majority of the board or commission, not including the disclosing member, determines that a violation of AS 39.52.110 – 39.52.190 will exist if the member continues to participate, the member shall refrain from voting, deliberating, or participating in the matter. A member will not be held liable under the Ethics Act for actions in accordance with such a determination so long as the member has fully disclosed all facts reasonably necessary to the determination and the attorney general has not advised the member, chair, or board or commission that the action is a violation. Disclosures and determinations must be forwarded to the State Ethics Attorney, Office of the Attorney General, Department of Law, 1031 West 4th Avenue, Suite 200, Anchorage, Alaska 99501-1994.

Ethics Disclosure Form

CONFIDENTIAL REQUEST FOR ETHICS DETERMINATION
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TO: _____, Designated Ethics Supervisor

(My Department, Agency, Board, Commission)

I request advice regarding the application of the Executive Branch Ethics Act (AS 39.52.010 – .960) to my situation. The situation involves the following:

I have provided additional information in the attached document(s).

I believe the following provisions of the Ethics Act may apply to my situation:	
_____	AS 39.52.120, Misuse of Official Position
_____	AS 39.52.130, Improper Gifts
_____	AS 39.52.140, Improper Use or Disclosure of Information
_____	AS 39.52.150, Improper Influence in State Grants, Contracts, Leases or Loans
_____	AS 39.52.160, Improper Representation
_____	AS 39.52.170, Outside Employment Restricted
_____	AS 39.52.180, Restrictions on Employment after Leaving State Service
_____	AS 39.52.190, Aiding a Violation Prohibited

I understand that I should refrain from taking any official action relating to this matter until I receive your advice. If the circumstances I described above may result in a violation of AS 39.52.110 - .190, I intend that this request serve as my disclosure of the matter in accordance with AS 39.52.210 or AS 39.52.220.

I certify to the best of my knowledge that my statement is true, correct, and complete. In addition to any other penalty or punishment that may apply, the submission of a false statement is punishable under AS 11.56.200 - AS 11.56.240.

(Signature)

(Date)

(Printed Name)

(Position Title)

(Location)

(Division/Agency/Board/Commission)

CONFIDENTIAL

ETHICS SUPERVISOR DETERMINATION FORM

(Board or Commission Member)

Board or Commission: _____

Member Disclosing Potential Ethics Violation: _____

I have determined that the situation described on the attached ethics disclosure form

_____ does or would violate AS 39.52.110 - .190. Identify applicable statute below.

_____ does not or would not violate AS 39.52.110 - .190.

Signature of Designated Ethics Supervisor (Chair)

Printed Name of Designated Ethics Supervisor

Date: _____

COMMENTS (Please attach a separate sheet for additional space): _____

Note: Disclosure Form must be attached. Under AS 39.52.220, if the designated ethics supervisor or a majority of the board or commission, not including the disclosing member, determines that a violation of AS 39.52.110-39.52.190 will exist if the member continues to participate, the member shall refrain from voting, deliberating, or participating in the matter. A member will not be held liable under the Ethics Act for action in accordance with such a determination so long as the member has fully disclosed all facts reasonably necessary to the determination and the attorney general has not advised the member, chair, or board or commission that the action is a violation. Disclosures with determinations must be forwarded to the State Ethics Attorney, Office of the Attorney General, Department of Law, 1031 W. 4th Avenue, Suite 200, Anchorage, AK 99501-1994.

ETHICS DISCLOSURE FORM

Notification of Receipt of Gift

To: _____, Designated Ethics Supervisor

In accordance with AS 39.52.130(b), I am providing notice of my receipt of a gift given to me or a member of my family with a value in excess of \$150.00.

1. Is the gift connected to your position as a state officer, employee or member of a state board or commission?
Yes _____ No _____
2. Can you take or withhold official action that may affect the person or entity that gave you the gift?
Yes _____ No _____

If you answer "No" to both questions, you do not need to report this gift. If the answer to either question is "Yes," or if you are not sure, you must complete this form and provide it to your designated ethics supervisor.

The gift is _____

I received it from _____

Describe event, occasion or other circumstance, if any (*attach additional page, if necessary*): _____

My estimate of its value is \$ _____

The date of receipt was _____

The gift was received by a member of my family: Yes _____ No _____ Who? _____

If you checked "Yes" to question 2 above, explain the official action you may take that affects the giver (*attach additional page, if necessary*): _____

I certify to the best of my knowledge that my statement is true, correct, and complete. In addition to any other penalty or punishment that may apply, the submission of a false statement is punishable under AS 11.56.200 - AS 11.56.240.

(Signature)

(Date)

(Printed Name)

(Position Title)

(Location)

(Division/Agency/Corporation/Board/Commission)

(Designated Ethics Supervisor)

Approved: _____
(Initials)

(Date)

Designated Ethics Supervisor: If action is necessary under AS 39.52.210 or AS 39.52.220, please attach explanation.

revised 12/08

ETHICS DISCLOSURE FORM

Notification of Receipt of Gift from Another Government

To: Director of Administrative Services, Office of the Governor

In accordance with AS 39.52.130(e), I am providing notice of my receipt of a gift accepted on behalf of the state given to me or a member of my family from another government.

The gift is _____

My estimate of its value is \$ _____

I received it from _____

The date of receipt was _____

I received this gift under the following circumstances:

I can take or withhold the following official action that affects the giver:

The gift was received by a member of my family ☐ Yes ☐ No

I certify to the best of my knowledge that my statement is true, correct, and complete. In addition to any other penalty or punishment that may apply, the submission of a false statement is punishable under AS 11.56.200 - AS 11.56.240.

(Signature)

(Date)

(Printed Name)

(Position Title)

(Location)

(Division/Agency/Corporation/Board/Commission)

Designated Ethics Supervisor: Reviewed: _____ (Initials) _____ (Date)

(Director of Administrative Services, Office of the Governor)

(Date)

Determination of appropriate disposition: _____

A copy of this disclosure showing disposition should be returned to the designated ethics supervisor for forwarding to the gift recipient.

ETHICS DISCLOSURE FORM

Grants/Contracts/Leases/Loans Notification

To: _____, Designated Ethics Supervisor

In accordance with AS 39.52.150(d), I am reporting a personal or financial interest in a state grant, contract, lease, or loan (circle one) held by me or a family member and awarded, executed, or administered by the agency that I serve.

The grant, contract, lease, loan was awarded by:

on _____ (date).

Description of the state grant, contract, lease, or loan:

Recipient(s) of the state grant, contract, lease, or loan:

My financial or personal interest in the state grant, contract, lease, or loan:

Official action I can take regarding the state grant, contract, lease or loan:

I certify to the best of my knowledge that my statement is true, correct, and complete. In addition to any other penalty or punishment that may apply, the submission of a false statement is punishable under AS 11.56.200 - AS 11.56.240.

(Signature)

(Date)

(Printed Name)

(Position Title)

(Location)

(Division/Agency/Corporation/Board/Commission)

(Work Supervisor's Signature)

(Date)

(Designated Ethics Supervisor's Signature)

Approved: _____ (initials) _____
(Date)

If action is necessary under AS 39.52.210 or AS 39.52.220 please attach explanation.

(12/98)

ETHICS DISCLOSURE FORM

Outside Employment or Services Notification

To: _____, Designated Ethics Supervisor
(Department or Agency)

In accordance with AS 39.52.170(b), I am providing notice of my employment or provision of services for compensation outside the _____ (agency).

Note: You are not required to disclose volunteer work unless it is a potential conflict with your state duties or you receive any type of compensation, including travel or meals.

This employment or service consists of the following (describe in detail, attach separate sheet as needed):

Hours and days of the week _____

If you work as an independent contractor or a consultant, please attach a list of your clients.

Note: If your outside job duties are the same or similar to your State service, or if you will be dealing with people or entities with whom you deal or may deal as part of your official duties, you must explain why no potential conflict exists between your outside employment and your official duties. If a potential conflict exists, you must refrain from taking any action until it is approved by your designated ethics supervisor. See AS 39.52.210.

I certify that I will not use or allow the use of any State owned/operated facilities, supplies, equipment, vehicles, or personnel time and effort for any employment outside State service, and that my outside duties will not affect my usual State duties or duty hours in this Department. I certify to the best of my knowledge that my statement is true, correct, and complete. In addition to any other penalty or punishment that may apply, the submission of a false statement is punishable under AS 11.56.200 - AS 11.56.240.

(Signature)

(Date)

(Printed Name)

(Division, Agency)

(Position Title)

(Location)

Recommendation: _____ Approve _____ Disapprove (attach reasons for disapproval recommendation)

(Work Supervisor's Signature)

(Date)

(Printed Name)

_____ Approved _____ Disapproved*

(Designated Ethics Supervisor's Signature)

(Date)

**Designated Ethics Supervisor:* Provide a copy of the approval or disapproval to the employee. If the employment is disapproved or other action is necessary under AS 39.52.210, attach a determination stating the reasons. A copy of the determination must be sent to the attorney general with your quarterly report at the following address: State Ethics Attorney, Office of the Attorney General, Department of Law, 1031 West 4th Avenue, Suite 200, Anchorage, Alaska 99501.

2/2009

**STATE OF ALASKA
DECLARATION OF FAMILIAL RELATIONSHIPS
AND NEPOTISM WAIVER**

To: Commissioner

Date:

Department of

A. Declaration

The department is reporting the appointment (or change in position) of an individual who has a familial relationship with a current employee(s) of the department (or agency). Familial relationship includes immediate family members including another person cohabiting in a conjugal relationship that is not a legal marriage and those individuals who are related by blood or marriage within and including the second degree of kindred as indicated on the attached chart.

NEW EMPLOYEE OR EMPLOYEE CHANGING POSITIONS		
Name (Last, First, MI):		Division/Section:
Location:	Class Title:	PCN:

CURRENT EMPLOYEE(S)		
Name:	Relationship:	Division/Section:
Location:	Class Title:	PCN:
Name:	Relationship:	Division/Section:
Location:	Class Title:	PCN:

B. NEPOTISM WAIVER

When a familial relationship exists, an approved Nepotism Waiver is required prior to a final job offer being made to a classified or partially exempt position. A Nepotism Waiver will not be approved if there is an employment or direct supervisory relationship between the named individual and the current employee(s) or the employee otherwise has the authority to take or withhold official action affecting the terms or conditions of the immediate family member's employment in a manner that violates state law.

<i>I certify that there will not be an employment or direct supervisory relationship between the named individual and the current employee(s).</i>		
Signature of Appointing Authority:	Printed Name:	Date:

C. In accordance with AAM 100.050 and/or 2 AAC 07.950(c) your declaration is:

☐ **Approved***

☐ **Not Approved**

☐ **Acknowledged****

Comments:	
Signature of Commissioner or his/her Designee:	Date:

*Note that approval is for this specified position only. Any change in duties, working relationships, status or position of either employee(s) will require a new approval. Any change in position or working conditions which creates an employment or direct supervisory relationship voids this approval.

**Exempt appointments/position changes only.

**STATE OF ALASKA
DECLARATION OF FAMILIAL RELATIONSHIPS
AND NEPOTISM WAIVER**

Family Relationships

	Applies To:		
	Partially Exempt, Classified and Exempt		Partially Exempt & Classified
	Nepotism Statute	Executive Ethics Act	Personnel Rules
Family Relationship	AS 39.90.020	39.52.960(11)	2 AAC 07.999(37) 2 AAC 07.950
Spouse	X	X	X
Biological Child	X	X	X
Adoptive Child		X	
Step Child		X	X
Parent	X	X	X
Step Parent			X
Parent-in-law		X	X
Step Parent-in-law		X	X
Sibling	X	X	X
Half sibling	X		X
Step Sibling			X
Sibling-in-law			X
Sibling of Spouse		X	X
Grand parent	X	X	X
Step Grand parent			X
Grandparent-in-law			X
Aunt or Uncle		X	
Step Aunt or Uncle			
Aunt or Uncle in law			
Cousin			
Conjugal Relationship		X	
Grand Child	X		X
Step Grandchild			X

Under no circumstances may an individual be appointed to a classified, partially exempt or exempt position if an employment or direct supervisory relationship will exist with an immediate family member or an individual who is related by blood or marriage within and including the second degree of kindred.