

SWCD Training Program | *January 2011*

# **Module 4:**

## **Legal Responsibilities & Ethics**



# **Powers & Authorities of Board Members**

- **Board Structure** - Once Supervisors are seated, the Board of Supervisors shall elect Officers: Chair, Vice-Chair, Treasurer and Secretary
  - **Chair** - responsible to preside at meetings, appoint committees including assign their responsibilities and request reports, orient new supervisors, and acts as the ethics supervisor for the SWCD. The BOS must sanction (through proper motion and voting in a business meeting) any authority of the chair to act on behalf of the board.
  - **Vice-Chair** - responsible to act in place of the Chair when necessary, advises the chair on program and policy, and assumes other responsibilities at the request of the Chair or Board.
  - **Treasurer** - responsible to ensure accuracy and completeness of all financial reports, other duties as assigned by the Chair or Board, and establishing and implementing policies and procedures for financial and accounting practices.
  - **Secretary** - responsible to ensure accuracy and completeness of all SWCD Minutes and other official records, and other duties as assigned by the Chair or Board.

- **Alternate Supervisors**

- District business must be conducted by a quorum of the elected/appointed supervisors in the form of motions, seconds and majority votes. Alternate supervisors may not be used to establish a quorum for a meeting or for voting on business during a meeting. *See* Module 13, References, Memorandum re: Instructions for SWCDs (December 5, 2003).
- Alternate supervisors may participate in district committees and subcommittees. This should be expressed in the form of a motion, second and vote during a regular business meeting. Alternate supervisors DO NOT have any power to bind the board to a particular course of action.
- Alternate supervisors may serve out the term of a resigned or removed district supervisor, but only if appointed by the district board at a meeting having a quorum.

- **A committee** can be formed by the Chair or majority vote of the Board
  - Committees can be an effective way for districts to plan and implement their work. Districts may utilize committees to expand the scope of activities and programs and provide special talents and areas of expertise. Committees can be created by simple majority vote of elected/appointed supervisors.
  - Types of committees
    - A "standing committee" is a permanent committee
    - An "ad hoc committee" is a temporary committee
- All committees should have a clear understanding of their purpose, expectations and responsibilities. When forming committees, districts should clearly identify the purpose, outcomes, the desired role of each committee member and the timeline for reporting back to the full board.
- In order to avoid issues with the Open Meetings Act, a committee should include no more than two district supervisors. A district committee can have any number of advisors, representatives of cooperating agencies and associations or interested citizens.
- District supervisors should also make themselves available to serve on current AACD committees. Contact AACD for current committee information.

# **Ethics**

**SWCDs are governed by the Alaska Executive Branch Ethics Act (AS 39.52)**

- Unethical conduct is prohibited, three main concerns: improper gifts, nepotism in procurement, and conflict of interest. All Supervisors, employees, and contractors should become familiar with the Ethics Act statutes, online at: <http://www.law.state.ak.us/pdf/ethics/ethicsstatutes.pdf>.
- In review of ethics matters, the Chair (or acting chair) of the SWCD serves as the ethics supervisor of that SWCD.
- If the SWCD Chair cannot answer a question that arises, contact the Executive Director of the NRCDB, who may ask for the assistance of the Department Ethics Officer if necessary.
- Supervisors are barred from contracting with their SWCD while serving on the Board and two years after the end of their time on the board. This prohibition includes Supervisors' spouse and family. This is confirmed by an Attorney General's Opinion (See Appendix O of the District Operations Manual).
- Please review the Department of Law ethics video available online at: <http://www.law.alaska.gov/doclibrary/ethics.html>

# **AS 39.52 Alaska Executive Branch Ethics Act**

(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.





# Acceptance of Gifts

- Statutes addressing improper or unlawful use of public funds, guidance can be found at AS Title 37: Public Finance
- Gifts valued at over \$150 must be disclosed. (See Appendix, Disclosure Form)
- Acceptance of any personal gifts may lead to a real or perceived conflict of interest and should be avoided





# Abuse of Position & Conflict of Interest



- Conflict of interest can be defined as any situation in which an individual or entity is in a position to exploit a professional or official capacity in some way for their personal or corporate benefit.
- Even the *appearance* of conflict of interest should be avoided however, there may be occasions where this situation may innocently surface. In such circumstances, the potential conflict should be disclosed to the SWCD Board during a publicly noticed meeting, the Chair and/or ethics supervisor of the District shall make a ruling on whether there is indeed a conflict of interest, and that ruling shall be recorded in the Minutes of that meeting.

- **District Supervisors are in a position of trust. Abuse of this position of trust is a serious matter.**
- Examples of improper or abuse of use of a position:
  - Use of position to benefit financially or otherwise;
  - Discrimination in any form, including non-compliance with Equal Employment Opportunity (EEO) requirements;
  - Creation of a hostile work environment;
  - Exploitive behavior; or
  - Improper relationships with subordinates.



- **Employee/supervisor/contractor relationships –**  
Unprofessional conduct/personal relationships are prohibited

- **Nepotism -**

In the business world, nepotism is the practice of showing favoritism toward one's family members or friends in economic or employment terms. For example, granting favors or jobs to friends and relatives, without regard to merit, might be considered nepotism. If nepotism is in question and involves an AACD employee, contact AACD and/or consult the AACD Employee Manual.

