

FREQUENTLY ASKED QUESTIONS

Who may file a complaint?

- Anyone who believes an individual governed by the Forsyth County Code of Ethics Ordinances has committed an unethical act

What is the deadline to file an ethics complaint?

- Within six (6) months of the date of the alleged violation or, in the case of concealment or nondisclosure, within six (6) months of the date the alleged violation should have been discovered after due diligence

What must be included in a properly filed ethics complaint?

(Note: Complaint and Affidavit forms available on County's website)

- 1. Affidavits (of complainant and/or witnesses)
 - Must be based on personal knowledge
 - Must set forth such facts as would be admissible in evidence
 - Must show that the individual submitting the affidavit is competent to testify to the matters stated therein
 - All documents referred to in the affidavit must be attached to it.
- 2. Complainant's information:
 - Full legal name
 - Current valid mailing address
 - Phone number, and,
 - If applicable, email address
- 3. The following statement followed by the notarized signature of the person filing the complaint indicating verification of same:
 - "I have read the ethics complaint and aver that the facts contained therein are true to the best of my knowledge and belief."

Where is the complaint filed?

- The complaint should be submitted to the following address:
Ethics Panel Clerk
110 East Main Street, Suite 230
Cumming, GA 30040

What happens when a complaint is filed?

- The ethics panel clerk delivers a copy of the complaint to the county official/employee against whom the complaint was filed.
- The ethics panel clerk makes an initial determination whether the complaint is technically deficient (whether it contains all of the required elements). (Note: The ethics panel may also consider whether the complaint is technically deficient at the investigatory review, as not all deficiencies may be readily apparent to the clerk.)
- If the complaint is deficient, the ethics panel clerk shall notify the complainant of what deficiencies exist.

- Any deficiencies must be corrected within seven (7) days from complainant's receipt of this notice, or the ethics panel clerk will dismiss the complaint on technical grounds.
- If the complaint is not technically deficient, an investigatory review will be scheduled with an ethics panel within sixty (60) days of the County's receipt of the non-deficient ethics complaint.

May the county official/employee against whom the complaint was filed submit a reply to the complaint?

- Yes, as long as the reply is submitted within thirty (30) days from the date the complaint was received by the county official/employee. (Note: This deadline may be extended by the ethics panel upon good cause shown.)

What must be included in a properly filed response?

- Affidavits
 - Must be based on personal knowledge
 - Must set forth such facts as would be admissible in evidence
 - Must show affirmatively that the individual submitting the affidavit is competent to testify to the matters stated therein
 - All documents referred to in the affidavit must be attached to the affidavit.

May the person making the complaint or the official/employee against whom the complaint was made submit any additional documentation?

- No, not at this stage of the process.

How does an ethics panel make a decision?

- Any decision by an ethics panel requires an affirmative vote of at least two members of the ethics panel.

Are the complaining party and respondent invited to attend the investigatory review?

- Yes, the parties will be notified of the time, date and location of the investigatory review and are invited to attend.

Must the complaining party and respondent attend the investigatory review?

- No.

Is the complaining party and/or the respondent authorized to speak at the investigatory review?

- No.

Will the investigatory review be postponed if either the complaining party or respondent is unable to attend?

- No. As the Ethics Ordinance does not anticipate that either party may speak or address the panel during the investigatory review, there is no need to postpone in the event of an absence.

If the complaining party or respondent do not attend the investigatory review, will this be considered by the Ethics Panel when making its decision?

- No, a party's decision to attend or not attend the investigatory review will not impact or influence the outcome of the investigatory review, and no inference may be made by the panel based on an individual's decision not to attend.

On what does the Ethics Panel base its decision at the investigatory review?

- The written documentation (complaint and response) filed by the complaining party and respondent and the requirements of the Forsyth County Ethics Ordinance

What are the possible outcomes of an investigatory review?

- (1) If there is specific, substantiated evidence from a credible source(s) to support a reasonable belief that there has been a violation of the Code of Ethics, a formal evidentiary hearing shall be scheduled to further review and investigate the complaint.
- (2) If there is not substantiated evidence from a credible source(s) to support a reasonable belief that there has been a violation of the Code of Ethics, then the ethics panel may dismiss the complaint without further proceedings.

May the complaining party re-file the complaint if it is dismissed on the merits at the investigatory review?

- No

If a formal evidentiary hearing is scheduled, are the complaining party and respondent invited to attend?

- Yes, the parties will be notified of the time, date and location of the hearing and are invited to attend.

Will the complaining or responding party be given an opportunity to speak at the formal evidentiary hearing?

- Yes.

May the complaining or responding party call witnesses to testify at the formal evidentiary hearing?

- Yes.

What are the possible outcomes of a formal public hearing?

- (1) A finding that clear and convincing evidence shows a violation of the Code of Ethics, or
- (2) A finding that clear and convincing evidence does not exist to show a violation of the Code of Ethics, in which case the complaint will be dismissed.

What disciplinary action/remedies may result if an ethical violation is found?

- **If the individual found to have violated the Ethics Ordinance is an employee:**
 - Written warning or reprimand;
 - Suspension without pay;
 - Termination of employment; and/or
 - Repayment to the County of any unjust enrichment.

- **If the individual found to have violated the Ethics Ordinance is a County official:**
 - Written warning, censure, or reprimand;
 - Removal from office to the extent provided by state law; and/or
 - Repayment to the County of any unjust enrichment.

- **Upon direction of the ethics panel, the following may also occur (at the option of the panel):**
 - A petition may be filed with a court (with proper venue/jurisdiction) for injunctive relief, or any other appropriate relief

 - Recommendation to the Board of Commissioners to cancel/rescind a contract/bid/change order involved in the violation
 - (Note: The Board of Commissioners shall retain discretion to determine whether such a cancellation/rescission would be in the best interest of the County and shall not be bound in any way by a recommendation of an ethics panel.)

 - Forward the ethics panel's findings of facts and conclusions of law to the County's district attorney's office for appropriate action.

What if the complaining party or respondent is not satisfied with decision of the ethics panel? What steps may that individual take to appeal that decision?

- The individual may seek judicial review by filing a writ of certiorari with the Forsyth County Superior Court within thirty (30) days from the date the ethics panel rendered its written decision.

What will the court use as the basis of its review?

- The record from the procedure described above (no party entitled to a de novo appeal)

What if a request for judicial review not filed by the 30 day deadline?

- The decision shall be final upon all parties.

How do these appellate rights affect an individual's right to appeal an adverse employment action?

- These appellate rights shall be in lieu of any right to appeal an adverse employment action under the county civil service system, to the extent the county official or employee may be subject to the civil service system.