

Chapter 26

Ethics

“Neither fire nor wind, birth nor death
can erase our good deeds.”^[1]



I. BASIC CONCEPTS

Consider the following. We humans are social beings. We come into the world as the result of others' actions. We survive here in dependence on others. Whether we like it or not, there is hardly a moment of our lives when we do not benefit from others' activities. This interdependence requires us to live in peace and harmony. Ethics is one way to maintain peace and harmony.

We can find examples of ethics in many parts of our daily lives. When we take an aspirin for a headache, we trust that the people who made the aspirin did it according to highest standards possible so that we do not become ill. We trust others to drive according to the rules so that we do not have accidents. We often rely on what people tell us as we go about our lives. Without ethics, we would have chaos.

A. What do we mean by Ethics?

Ethics refers to formal and informal standards of moral conduct that guide our behaviour. These standards are based on core values such as honesty, respect and trust.

Ethical questions are usually about good or bad, right or wrong, just or unjust, worthy or unworthy.

B. Benefits of Ethics

The potential benefits associated with an effective ethics program in an organization are:

- Recruitment and retention of top-quality people
- Fostering a more satisfying and productive working environment
- Building and sustaining an organization's reputation within the community
- Legitimizing open discussion of ethical issues
- Providing ethical guidance and resources for employees as they make difficult decisions
- Aligning the work efforts of staff with the organization's broader mission and vision^[2]

C. Ethical Values

Organizations encourage ethical behaviour through the values that they promote in their policies and procedures. Here is how that happens:

1. Accountability

Accountability is a moral relationship between those who delegate authority and those who receive it. There are three key components to an accountability relationship:

- Delegation – This occurs when one person hands a task over to another person with the expectation that they will get it done.
- Responsibility – This is a sense of obligation to ensure that a task that has been delegated is implemented to the standards expected.
- Legitimacy – This requires that the person who accepts the delegated task acknowledges that the other has the right to hold him accountable.

2. Transparency

Transparency is a vision of “a world in which government, politics, business, civil society and the daily lives of people are free of corruption.”^[3]

Transparency usually means that people behave according to the rules. They have nothing to hide and are willing to have others review their work.

For transparency and good governance to take place, employees must be aware of the ethical standards and values of the organization. A comprehensive ethics education and training programme helps do this.

3. Fairness

Fairness is the absence of bias. To be fair is to:

- Treat people the way you want to be treated
- Tell the truth
- Play by the rules
- Think about how your actions will affect others
- Listen to people with an open mind
- Not blame others for your mistakes
- Not take advantage of other people
- Not to play favourites

4. Responsibility

“A person’s responsibilities need to be guided by good morals and ethics so as to serve people well”. [4]
A responsible person does what needs to be done.

He is reliable, dependable and accountable for his actions. He does not blame others for his own mistakes. He uses good judgment and thinks through the consequences of his actions. He exercises self-control.

5. Respect for Policies and Procedures

Policies and procedures exist for a reason. They provide directions for employees to follow based on the values and objectives of an organization.

They help to establish and maintain orderly operations. When people choose not to follow them, there will likely be disruption and actions against the intentions of the organization.

6. Honesty

Honesty – or telling the truth – is typically considered virtuous behaviour. It has strong positive connotations in most situations. To be honest is to:

- Be truthful, sincere and straightforward
- Not lie, cheat, or steal
- Not intentionally mislead others

7. Information Sharing

In an organization information is generated and gathered by almost everyone. Information is vital to an organization because it aids in decision-making. Examples include: Accurate financial data which helps make decisions on tariff levels; accurate records of construction or rehabilitation which help when it is time to make further repairs. We all need information to do a good job.

However, some people in organizations will guard information closely, thinking that this will build their power or their ability to keep their jobs. This is not ethical behaviour and it hurts both individuals and the organization because:

- Decisions may be based on incorrect information
- Tasks will not be performed
- The organization will be behind schedule to accomplish its goals or objectives
- It may lead to conflicts between groups in the organization

Fortunately, technology provides ways to electronically store and share information which goes a long way in preventing information hoarding.

8. Confidentiality

Every organization holds information of a confidential nature. It may be in the form of personal employee information, customer information, etc.

Information about individual employees or customers can be sensitive. You would not want other people to know your medical record. A customer may not wish his credit card or bank account information made public.

Confidentiality means protecting information that we do not want others to know.

Many organizations have security procedures to protect sensitive information. As an employee you have a moral obligation to follow those procedures. If you come across confidential information, you should not share it with others.

D. Implementing Ethical Standards

Policies and procedures can enforce preferred behaviours. Ethical standards and values are usually included in policies and procedures throughout the organization. These include fair employee performance appraisals, accurate reports, etc.

Policies and procedures usually seek to avoid ethical dilemmas such as conflicts-of-interest or violation of an employee's individual rights.

Policies and procedures often include:

- Internal checks and balances including financial controls, auditing
- Compliance monitoring
- External auditing
- Consequences for unethical behaviour

In order for policies, procedures and ethical standards to be effective, they need to be documented and made available to employees. Employee training reinforces these messages.

E. Special Considerations

People often pattern their behaviour on the actions of others. What people see their organizational leaders, managers, and coworkers do on the job can influence their own views of what is acceptable or unacceptable behaviour.

These behaviours may or may not be ethical. This means that employees may see things that are wrong and want to do something about it.

The Whistle-blower

A whistle-blower is a person inside an organization who brings wrongdoing to the attention of management, the governing body or even agencies outside an organization. Wrongdoing can include violations of laws, regulations or ethical standards.

This can be the most difficult situation an employee ever faces. If he does nothing, unethical behaviours will continue and he becomes part of the unethical system. If he “blows the whistle” and alerts management, he will most likely be criticized by those responsible for the unethical behaviour. That is why many organizations have policies to protect the whistle-blower, assuring employees that they will not be punished if they report unethical behaviour.

Corruption and Ethics

If an organization operates according to ethical standards, it will have very little, if any, corruption. There is nothing ethical about taking bribes or extorting money from others.

Corrupt practices divert the resources of an organization from their intended purpose to an individual(s). Stealing money is bad, of course. Corruption violates trust and weakens the organization – just for someone's personal gain.

An Ethics program in an organization can help to control or eliminate corruption as people develop a higher sense of right and wrong and realize the results of their ethical – and non-ethical - behaviours.

II. ANALYSIS

How ethical are you? How ethical is your organization? Ask yourself these questions:

- Do you hire people based on their qualifications and experience or do you hire them because of personal relationships?
- Do you treat people fairly?
- Do people in your organization misuse the office and other resources for personal gain?
- Do you have a fair and transparent compensation system?
- Do you enforce the same rules for everyone?
- Do personal relationships influence the ways in which decisions are made?
- Do people in your organization delay services to customers in hopes of getting them to pay a bribe to get faster service?
- Do you have a problem with falsification of records?
- Do people hoard information and not share it with others?

Depending on your answers to these questions, you may want to take action to improve the level of ethical behaviour in your organization.

III. EXAMPLES

The Water Integrity chapter covers related ideas.

The examples in this section show methods and approaches to improve ethics in government and society.

The Ethics Act for the State of Alaska's Executive Branch, USA

The Executive Branch of Alaska's government includes the office of Governor and Lieutenant Governor, both elected officials. "This branch is responsible for implementing and administering the public policy enacted and funded by the legislative branch".^[5]

The Executive Branch operates under a Code of Ethics as established by the Alaska Executive Branch Ethics Act because:

- "As public servants, we owe the public a duty to behave ethically
- As individuals, we want to do what's right; and
- Penalties for violating the Ethics Act can be severe".^[6]

The Ethics Act requires employees not to:

- "Misuse your official position
- Accept improper gifts
- Improperly use or disclose information
- Improperly influence state grants, contracts, leases, or loans
- Improperly represent others
- Hold improper outside employment
- Hold improper employment after leaving state service
- Aid in a violation of the Ethics Act"^[7]

Excerpts from the Ethics Act are provided at the end of this chapter.

The Water Dialogues – South Africa "Enhancing delivery through dialogue"

The Water Dialogues - South Africa (WD-SA) is a national multi-stakeholder dialogue process and research project to analyze the role of the public and private sector in the delivery of universal water and sanitation in the country. Excerpts from the Ethics Act are provided in Appendix B.

Recognizing the potential for conflict amongst stakeholders, all members of the WD-SA agreed to a Code of Conduct that required them to abide by the following principles in their behaviour and interactions:

- Openness and transparency
- Mutual respect
- Confidentiality
- Accountability
- Innovative
- Collective interest
- Ownership of the results
- Approach
- Open minds, co-operation, and a spirit of serious inquiry
- Sensitive to the distinction between facts and perceptions, and to complexity

- Multi-stakeholder process
- Dynamic and forward-looking
- Respect for minority views
- Commitment to the process

The overall goal of the WD-SA is a constructive dialogue that identifies, critically analyses and evaluates different approaches to service delivery. Certain of its objectives illustrate ethical values:

- Set-up and manage The Water Dialogues–South Africa project so that it is fair, transparent, participatory and accountable.
- Strengthen multi-stakeholder dialogue on water supply and sanitation in South Africa by establishing a forum in which parties are able to participate equally and effectively.
- Plan and conduct research in alignment with the international process so that findings can be shared and lessons drawn from all the national processes.
- Document lessons on process and content.
- Strengthen the participation of civil society organizations in sector processes

Contact: The Water Dialogues- South Africa, waterdialogues@mail.ngo.za



IV. LESSONS LEARNED

In recent years, water sector organizations are focusing more on ethics using the idea of an “integrity pact” between the utility, its customers, local government, contractors and other stakeholders.

In an organization there are some ethics you need to follow. You need to avoid doing certain things if you want to be seen as an honest person with great integrity, who is trustworthy and fit to take on any responsibility given to you.

Ensure that you are not one of those that are active in spreading gossip because the source always comes to light eventually and gossip only creates trouble and diverts attention from the job at hand.

Calling in sick when you aren’t sick is not honest. It is irresponsible and insensitive to your colleagues.

Avoid personal use of office property such as the telephone, email and instant messages.

Blaming others when you make a mistake is a bad habit. Making mistakes is human nature and everybody understands this. When you make a mistake, admit it the moment you realize that you have done so. People will respect you for this.

If you disclose business information that can harm your employer, it is not only a breach of your employment contract; it can also badly affect your future prospects.

Though your employer provides you with items necessary to your job, such as office supplies, you should not use them for personal purposes - this amounts to stealing.

V. EXERCISE

You may find the exercise in Appendix A as an interesting way to think about ethical questions.

References

- [1] Siddhartha Buddha
- [2] Magazine Article: Joshua Joseph, "Ethical Benefits", Ethics in the Workplace, October 2000, page 1
- [3] Transparency International, http://www.transparency.org/publications/publications/annual_reports/annual_report_2010
- [4] The New Science of Politics: Max Weber, Introduction, pp 98-99.
- [5] Handbook on Alaska State Government, State of Alaska Legislative Affairs Agency, 2004, page 4
- [6] Ethics for Alaska's Executive Branch - A Self-Guided Training Tool, PowerPoint presentation
- [7] Ibid



Other Resources:

- 1 Wisdom Quotes, www.wisdomquotes.com, 2009
- 2 Magazine Article: Joshua Joseph, "Ethical Benefits", Ethics in the Workplace, October 2000, page 1
- 3 Open 2, "Management and Organization", http://www.open2.net/moneyandmanagement/management_organization/corporate_ethics2.html
- 4 ICMA, "Code of Ethics", <http://www.icma.org>, 2009.
- 5 Intergroup and intragroup aspects of leadership in social dilemmas: De Cremer, D., and Van Vugt, M. (2002), A relational model of cooperation, 126-136
- 6 The New Science of Politics: Max Weber, Introduction, pp98-99.
- 7 Information Commissioner, "National Health Information Sharing Guarantee" www.informationcommissioner.gov.uk, September 2009
- 8 Business Ethics: A Quiz with Many Right Answers <http://www.articlesbase.com/advice-articles/business-ethics-a-quiz-with-many-right-answers-494313.html>



Chapters in this book that might add to your understanding of Ethics: Water Integrity, Leadership and commitment

Appendix A

Ethics Questions

Here are some “ethics questions” to do yourself or in a group setting. Read each story and choose an answer – then discuss why you think this is the answer. Think about how to improve the situation. You will find what the authors view as correct answers at the end of this chapter.

1. Political Favors

Charles was recently elected to the City Council. Charles has a friend, Frank, who is the star of the local professional football team. Frank tells Charles that he really wants to see a new ordinance passed. Frank promises Charles that if he votes in favor of the new ordinance, Frank will give a pair of excellent sports tickets to anyone Charles chooses. Which of the following will Charles do if he acts ethically?

- Accept Frank’s offer and take the tickets for himself, so long as Frank got the tickets for free.
- Accept Frank’s offer and ask him to give the tickets to a friend, so long as the friend is not a relative.
- Accept Frank’s offer but ask Frank to give the tickets to his favorite charity.
- Do not accept Frank’s offer and do not ask Frank to give the tickets to anyone else.

2. Insider Information

Larry is a member of the local Land and Zoning Commission. Through this position, Larry learns that Mega Market is planning to open a new store on High Street. The plan is confidential and Larry only knows about it because he is on the Commission. Once the plan is made public, other property on High Street will increase in value. Which of the following can Larry do?

- Buy property on High Street (after all, it won’t hurt anyone).
- Tell his neighbor about Mega Market’s plan.
- Encourage his business partners to buy property on High Street without explaining why.
- None of the above.

3. Casting Your Vote?

Cindy is a member of City Council. The Council is considering giving tax breaks only to businesses located on Main Street. Cindy’s business is the only one on Main Street right now, though the Council hopes this new ordinance will attract others. Can Cindy still vote on the ordinance?

- Yes.
- No.

4. Contracting

City Hall needs to be re-painted. Pete is the only painter in town. He’s also the mayor. Pete wants to offer to do the painting for \$800. That’s a little less than he would ordinarily charge for a job that size, but he wants to give the City a good deal. Other companies in nearby towns might charge less. The City Council unanimously agrees that Pete should do the painting. Can Pete accept the job?

- Yes since the City Council approved it.
- Yes since it’s a fair price.
- No because he’s giving a discount to the City that he doesn’t give to others.
- No because he’s charging more than other contractors might charge.

5. Transparency in Hiring

Jean is a supervisor at the city’s public works department. As part of her job, she is on a panel that hires public works employees. A new vacancy has just opened up, and two of Jean’s family members are thinking about applying for it. One potential candidate is Jean’s husband Harold. Another potential candidate is Irvin, her sister-in-law’s husband. Which of the following is true?

- a. If Harold or Irvin apply for the position, Jean must notify the panel about her relationships with them and not participate in the panel.
- b. Jean must decline to participate if Harold applies, but does not have to decline if only Irvin applies.
- c. Jean can participate in the panel, but cannot vote in favor of either Harold or Irvin.

6. Lobbying

Sally was an elected member of the School Board for several years, but decided not to run for reelection and has not been on the board for two years now. The Board has a rule that its members may not engage in lobbying for one year after their terms expire. Sally still has several friends on the School Board and regularly discusses school-related issues with them. The School Board is going to consider buying new computers for the schools at an upcoming meeting. Banana Computer Company wants to hire Sally as a lobbyist to convince her friends on the School Board to buy the new computers from Banana. Can Sally accept the lobbyist job?

- a. Yes because Sally isn’t on the School Board anymore.
- b. Yes because it’s been more than a year since Sally was on the School Board and this complies with the rules.
- c. No because Sally used to be on the School Board.
- d. No because Sally still has friends on the School Board.

Each question below has only one WRONG answer. Pick the answer that is wrong.

7. Code of Ethics

Following my employer’s Code of Ethics:

- a. Could be important to my success.
- b. Will make me a better leader.
- c. Is a waste of time.
- d. Requires a certain level of consciousness and some attention to detail.

8. Gifts

Accepting gifts from vendors:

- a. May be fine within the limits set by the organization.
- b. Should under no conditions affect my willingness to buy from them.
- c. It is a great idea to get as much as you can!
- d. Should probably be disclosed to the ethics office or your supervisor, particularly if it is expensive.

9. Ethical Workplace

Keeping the workplace ethical:

- a. Makes it a better place to work.
- b. Is hopeless.
- c. Requires clarity around ethical standards.
- d. Means top management has to do it.
- e. Leads to a more profitable company.

Answers to Ethics Questions	
Question	Answer
1	D
2	D
3	B
4	D
5	A
6	B
7	C
8	C
9	B

Appendix B

Alaska Executive Branch Ethics Act - Excerpts

<http://www.law.state.ak.us/doclibrary/ethics.html>

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 behaviours 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 behaviour by colleagues and subordinates.

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 (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.

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

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.

(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

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.

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.

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.

(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.

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.

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.

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.
- (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.
- (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.

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. 39.52.340. 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.

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.

Sec. 39.52.360. Hearings

(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.

(h) Within 30 days after the conclusion of a formal hearing, the hearing officer shall serve a written report ... (that) must contain the officer's findings of fact, conclusions of law, and recommendation.

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 non salaried 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

(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.

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.

