



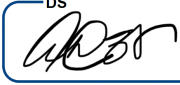


COMMISSION SUMMARY

AGENDA CATEGORY: General Counsel's Office

ITEM NUMBER:


DATE: July 21, 2021

SUBJECT	For Information – Proposed Amendments to the WSSC Code of Regulations, Code of Ethics Chapters 1.70.110 and 1.70.340
SUMMARY	The Board of Ethics has reviewed the WSSC Code of Regulations, Code of Ethics and recommends amendments to two chapters. One amendment is to the confidentiality chapter and the other is to a chapter in the financial disclosure article. The Board of Ethics voted to recommend the changes at its May 12, 2021 and June 9, 2021 meetings. This agenda item is submitted this month for information. It will be presented at the August 18, 2021 Commission meeting with a resolution for approval of the amendments.
SPECIAL COMMENTS	N/A
CONTRACT NO./ REFERENCE NO.	N/A
COSTS	N/A
AMENDMENT/ CHANGE ORDER NO. AMOUNT	N/A
MBE PARTICIPATION	N/A
PRIOR STAFF/ COMMITTEE REVIEW	Carla A. Reid, General Manager  ^{DS} Amanda Stakem Conn, General Counsel  ^{DS} Angelique Dorsey White, Ethics Officer  ^{DS}
PRIOR STAFF/ COMMITTEE APPROVALS	Board of Ethics
RECOMMENDATION TO COMMISSION	N/A
COMMISSION ACTION	

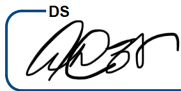


Interoffice Memorandum

July 21, 2020

TO: Commissioners 

THRU: Amanda Stakem Conn, General Counsel

FROM: Angelique Dorsey White, Ethics Officer 

CC: Julianne Montes De Oca, Corporate Secretary
Carla A. Reid, General Manager/CEO

SUBJECT: Board of Ethics Recommendation Regarding Amendments to the Code of Ethics

The WSSC Water Board of Ethics (BOE) met on May 12, 2021 and June 9, 2021 and voted to recommend two amendments to the Code of Regulations, Code of Ethics (Code of Ethics).

Recommended Action

To amend Code of Ethics Chapter 1.70.110 - Confidentiality and Code of Ethics Section V. Financial Disclosure, Chapter 1.70.340 - When to file.

Authority

The Commission has delegated to the BOE the authority to periodically review the adequacy of the Code of Ethics in Chapter 1.70.040(d)(7). The BOE recommendations are based on this review.

Confidentiality Amendment Discussion

The BOE receives, investigates, and resolves complaints alleging that individuals and entities subject to the Code of Ethics have violated its provisions. Pursuant to Code of Ethics Chapter 1.70.090, the BOE has the authority to resolve complaints by:

- 1) dismissing the complaint;
- 2) holding a hearing to decide whether a violation has occurred; or
- 3) agreeing to a pre-hearing settlement with the respondent.

After a hearing, the BOE may take certain actions if it finds that a respondent has violated the Code of Ethics. The BOE may impose an order of compliance or issue a reprimand to the respondent without consulting with WSSC Water management. Additionally, the BOE may recommend to the appropriate level of management other discipline that is authorized by the WSSC Water personnel policy. However, the BOE is not allowed to take direct administrative action in the latter situation.

In accordance with Code of Ethics Chapter 1.70.80(f), the BOE may enter into a pre-hearing settlement with the respondent as an alternative to adjudicating a case through a formal hearing. One important settlement consideration for respondents is being assured of the discipline that will be imposed for the violation. But, the BOE cannot agree to discipline outside of what it can impose directly on a respondent. Accordingly, this creates a challenge to reaching a settlement agreement with employees because it creates a disincentive for a respondent to admit facts related to an ethics violation. Such an admission would expose the employee to unknown discipline by management pursuant to the WSSC Manual of Standard Procedures Chapter 9.40 (Disciplinary Procedures), including suspension or release for serious violations of the Code of Ethics. Accordingly, obtaining an agreement from management regarding specific discipline is critical to settling BOE complaints involving current WSSC employees.

However, due to the confidentiality provisions contained in Code of Ethics Chapter 1.70.110, the BOE cannot discuss pending complaints with management. The recommended amendment to Code of Ethics Chapter 1.70.110 would allow the BOE (or its designee) to discuss details of pending cases with management with regard to discipline in furtherance of settlement discussions with respondents. This proposal has been discussed with Human Resources Director De'Anna Thomas and she is developing an internal process for reviewing these requests with the BOE.

Late Fee for Delinquent Financial Disclosure Filers and Due Date Extension Requests Discussion

Code of Ethics Article V. Financial Disclosure (Chapter 1.70.330) requires that designated employees and members of certain boards file a financial disclosure statement with WSSC Water annually. The statements request information on the filers' personal financial and familial relationships in order to assist the Commission in identifying and managing potential conflicts of interests. These disclosures are also required from an employee within 60 days of leaving the Commission.

Filers who file late or fail to file can have BOE complaints filed against them. However, the BOE has not been able to impose late fees in this situation, unlike the State of Maryland, Montgomery County, and Prince George's County. At the October 21, 2020 Commission meeting, the Commissioners voted to support and sponsor legislation to give the BOE the authority to impose a fee on individuals who file late or fail to file the financial disclosure statements as

required. House Bill 501 reflecting this authority was passed during the 2021 legislative session.

The proposed amendment to Code of Ethics Chapter 1.70.340 enacts Md. Code Ann., Pub. Util. § 19-107(b), which allows the BOE to assess late fees as discipline for a respondent found to have filed late or failed to file the financial disclosure statements as required. Additionally, the proposed amendment establishes a formal process for filers to request an extension of the deadline to file their disclosure statement.

Should you have any questions regarding the recommended amendments, please feel free to contact Ethics Officer Angelique Dorsey White at 301-206-8004.

WSSC CODE OF REGULATIONS

2021

BY amending
Title I: Governance
Subtitle III: Ethics
Article II. Administration
Chapter 1.70.110

1.70.110 Confidentiality

- (a) Except as provided in subsections (b) and (c) of this section, after a complaint is filed:
- (1) The proceedings, meetings, and activities of the Board and its employees relating to the complaint are confidential; and
 - (2) Information relating to the complaint, including the identity of the complainant and respondent, may not be disclosed by the:
 - (i) Board or the Ethics Office;
 - (ii) General Counsel's Office;
 - (iii) Complainant; or
 - (iv) Respondent.
- (b) Except as provided in subsection (c) of this section, the restrictions in subsection (a) of this section apply unless:
- (1) The matter is referred for criminal prosecution under WSSC 1.70.120; or
 - (2) The Board finds a violation of these regulations.
- (c)
- (1) The Board may release information relating to a complaint to WSSC's Inspector General.
 - (2) The Board may release any information at any time if the respondent agrees in writing to the release.
 - (3) On request of the respondent, the Board at any time shall disclose the identity of the complainant to the respondent.
 - (4) THE BOARD OR ITS DESIGNEE MAY DISCUSS A COMPLAINT WITH WSSC MANAGEMENT TO THE EXTENT NECESSARY TO RESOLVE AN INVESTIGATION OR IMPLEMENT A SETTLEMENT.**

WSSC CODE OF REGULATIONS

2021

BY amending
Title I: Governance
Subtitle III: Ethics
Article V. Financial Disclosure
Chapter 1.70.340

1.70.340 When to File

- (a) Financial disclosure statements shall be filed on or before April 30th of each year. Statements due April 30th of each year shall be for the period commencing January 1st and ending December 31st of the preceding year.
- (b) A person who is appointed or hired on or after April 30th of any year to fill a position for which a disclosure statement is required shall file within 30 days of employment. The disclosure statement shall cover the previous year whether or not employed by WSSC during the previous year.
- (c) A person who leaves a position for which a disclosure statement is required shall file the statement within 60 days after leaving the position. The disclosure statement shall cover the year preceding the year in which the person left the position, unless a disclosure statement covering that year has already been filed. In addition, the disclosure statement shall cover the portion of the current year in which the person held the position.

(D)(1) A PERSON REQUIRED TO SUBMIT A FINANCIAL DISCLOSURE STATEMENT UNDER THIS CHAPTER MAY SUBMIT A REQUEST FOR AN EXTENSION OF THE FILING DUE DATE TO THE ETHICS OFFICE.

(2) TO BE CONSIDERED, THE REQUEST FOR EXTENSION MUST BE FILED WITH THE ETHICS OFFICE ON OR PRIOR TO THE DATE THAT THE FINANCIAL DISCLOSURE STATEMENT IS DUE.

(3) THE ETHICS OFFICER MAY GRANT A FILING EXTENSION UP TO 30 CALENDAR DAYS UPON GOOD CAUSE SHOWN.

(4) IF THE ETHICS OFFICER DENIES THE REQUEST, THE PERSON MAY, WITHIN 10 DAYS AFTER THE DATE THAT THE DENIAL IS ISSUED, SUBMIT A REQUEST IN WRITING ASKING THE BOARD OF ETHICS TO REVIEW THE DENIAL.

(5) ANY ADDITIONAL REQUESTS FOR EXTENSION BEYOND THE INITIAL REQUEST SHALL BE SUBMITTED TO THE BOARD OF ETHICS AS A WAIVER REQUEST UNDER WSSC CODE OF ETHICS CHAPTER 1.70.070.

(E)(1) IF A COMPLAINT IS FILED AGAINST A PERSON FOR NOT TIMELY FILING A STATEMENT UNDER THIS CHAPTER, AND THE BOARD FINDS A VIOLATION, THE BOARD MAY IMPOSE A FEE OF \$5.00 FOR EACH LATE DAY, NOT TO EXCEED A TOTAL OF \$500.

(2) IF A PERSON FAILS TO SUBMIT A FINANCIAL DISCLOSURE STATEMENT PRIOR TO THE EXPIRATION OF AN EXTENSION GRANTED UNDER SUBSECTION (D) OF THIS CHAPTER, THE BOARD MAY INCLUDE THE TIME GRANTED IN THE EXTENSION IN CALCULATING THE LATE FEE TO BE IMPOSED.

Legal Review of Regulations

As requested, proposed amendments to the following Regulations have been reviewed as required by Chapter 1.42 of the WSSC Manual of Standard Procedures:

1. Title 1. Governance
Subtitle III. Ethics
Article II. Administration
Chapter 1.70.110 Confidentiality
2. Title 1. Governance
Subtitle III. Ethics
Article V. Financial Disclosure
Chapter 1.70.340 When to File

Legal Sufficiency Review:

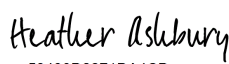
The amendments to the regulations listed above have been reviewed and determined to be legally sufficient.

If not legally sufficient, details provided below

N/A

1. Approval Authority

The Commission has the authority to adopt this Regulation.

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Heather L. Ashbury
Associate General Counsel II

Jul 6, 2021 | 4:37 PM EDT

Date