

CODE OF **ETHICS**



EL PASO COUNTY **ETHICS COMMISSION**

Adopted June 16, 2011

As Amended August 4, 2011, October 6, 2011, November 3, 2011, & May 17, 2012

Effective September 1, 2011

Table of Contents

1. Purpose	1
2. Definitions	1
3. Application of Code	5
4. Lobbyist Activity, Registration, & Reporting.....	5
5. Procurement	6
6. Employment Practices	7
7. Outside Employment	8
8. Post Employment Restrictions	9
9. Gifts and/or Benefits.....	9
10. Statement of Financial Interest	10
11. Political Activity	11
12. Reporting Violations of the Code of Ethics.....	12
13. Campaign Contributions.....	12
14. Training.....	13
15. Complaint Filing Procedures	14
16. Complaint Processing	14
17. Confidentiality	14
18. Advisory Opinions	16

1. Purpose

The stability of democracy depends upon the continuing consent of the governed, which in turn depends upon the trust the electorate holds for its government. The Ethics Commission of the County of El Paso, Texas, in concert with elected county officials, as well as leaders of the various county departments, recognizes the need to maintain the public trust and confidence in the workings of county government and thus adopts this Code of Ethics.

2. Definitions

For the purposes of this Code:

2.1. **Business entity** means a sole proprietorship, partnership, firm, corporation, holding company, joint-stock company, receivership, trust, or any other entity recognized by law.

2.2. **County public servant** means a person elected, selected, appointed, or employed, as defined below, even if the person has not yet qualified for, or assumed the duties of office:

2.2.1. **County Officer** means county judge, county commissioner, county attorney, sheriff, county tax assessor-collector, county clerk, district clerk, county treasurer, county auditor, county purchasing agent, and constable, and the 34th Judicial District Attorney when performing an El Paso County governmental function; or

2.2.2. **County Employee** means persons employed by the county or by a [county officer](#); assistant district attorneys of the 34th Judicial District Attorney when performing an El Paso County governmental function; and persons employed in the judicial branch of the county government who are not elected or appointed judges and who are not subject to the Code of Judicial Conduct.

2.2.3. **A person appointed by the commissioners court or by a [county officer](#) to a position on one of the following, whether the position is compensated or not:**

an authority, board, bureau, commission, committee, council, department, district, division, or office of the county including, but not limited to the following:

El Paso County Hospital District Board
El Paso County Civil Service Commission
Emergency Service District 1
Emergency Service District 2
El Paso County Housing Finance Corporation

El Paso County Risk Pool Board
Sheriff's Dept. Civil Service Commission
El Paso Mission Trail Zoning and Planning Commission
El Paso County Housing Authority Board
El Paso County Historical Commission
El Paso County Ethics Commission
El Paso County Revolving Loan Board; or

a multi-jurisdictional board including, but not limited to the following:

Central Appraisal District
E911 Enhanced Communication Board
El Paso Mental Health and Mental Retardation Board of Trustees
Purchasing Board
Tax Increment Reinvestment Zone Number 5 (TIRZ);

Only those persons appointed to the multi-jurisdictional boards by El Paso County are subject to the Code. Persons appointed by other entities are not subject to the Code.

2.2.4. ***An attorney at law, including the 34th Judicial District Attorney or his assistant prosecutors, or a notary public, when participating in the performance of a county governmental function.*** This provision does not include an attorney at law when exercising prosecutorial discretion or the marshalling or allocation of prosecutorial resources, which are state governmental functions.

County governmental functions include the activities regulated by the following Sections: Procurement, Conflict of Interest in Employment Practices, Outside Employment, Post Employment Restrictions, Gifts and/or Benefits, Statement of Financial Interest, Political Activity, Reporting Violations of the Code of Ethics, Training, and Lobbyists.

2.2.5. ***A candidate for nomination or election to an elected county office; or***

2.2.6. ***A person who is performing a governmental function under a claim of right although the person is not legally qualified or authorized to do so.***

2.2.7. ***A person while serving as an appointed review officer on a standing preliminary review committee.***

2.3. ***Days*** - All references to "days" are to calendar days, unless otherwise noted. In computing any period of time prescribed or permitted by this code, the day of the act, event or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday, County holiday, or a day in which the County is otherwise not open for business, in which case the period runs to 5:00 p.m. of the next County business day.

2.4. **El Paso County Ethics Commission** means the county ethics commission created under Section 161.051(a) of the Texas Local Government Code.

2.5. **Family members** shall include:

FIRST DEGREE	SECOND DEGREE
Person's spouse Mother & spouse Father & spouse Daughter & spouse Son & spouse Mother-in-law Father-in-law Stepdaughter Stepson	Granddaughter & spouse Grandson & spouse Grandmother & spouse Grandfather & spouse Sister & spouse Brother & spouse

2.6. **He, Him, and His** shall also mean she, her, and hers as applicable.

2.7. **Item** means any service, equipment, goods, or other tangible or intangible real or personal property.

2.8. **Lobbyist** means a person who, receives, or is entitled to receive under an agreement under which the person is retained or employed, compensation or reimbursement, not including reimbursement for the person's own travel, food, or lodging expenses or the person's own membership dues, of an amount not less than \$200 in a calendar quarter from another person or entity to communicate directly with a county public officer. A lobbyist also includes a person who, as part of his regular employment, communicates directly with county public servants to influence decisions or actions by the county public servants on behalf of the person or entity by whom he is compensated or reimbursed, whether or not the person receives any compensation for the communication in addition to the salary for that regular employment.

The term Lobbyist does not include:

1. An attorney who communicates directly with a county public servant to the extent that such communication relates to the attorney's representation of a party in a civil or criminal proceeding;

2. A governmental entity or its officers or employees engaged in discussing matters relating to its own governmental interest; or

3. A person who lobbies as an unpaid volunteer or represents only himself.

2.9. **"Lobby" or "Lobbying"** means the [solicitation](#) directly or indirectly by a person in an effort to influence official action or persuade a County Public Servant to favor

or oppose, recommend or not recommend, vote for or against, or to take action or refrain from taking action on an Official Matter. The term lobby or lobbying shall not include a request for information, inquiry or contact about: 1) a general County issue, matter, or procedure; 2) a bid, request for proposals, request for qualifications or request for information made to the County Purchasing Agent or staff.

2.10. **Official Matter** means a contract, bid, award, appointment, regulation, court order, resolution, recommendation or any other action on a public policy issue of a discretionary nature pending or impending before County Commissioners Court or any County board or commission.

2.11. **Political activity** means:

2.11.1. Soliciting support or funds for the re-election of a person occupying an elective office, or for a candidate for an elective office, or for a political party, or for a political group as defined by Texas Election Code Section 251.001, Subsections (12), (13), (14), and (15); and

2.11.2. Advocating passage or defeat of any matter or issue on an election ballot.

2.12. **Private Communication** means communication with any [vendor](#) outside of a posted meeting of the governing body, outside of a regular meeting of a standing or appointed committee, or outside of a negotiation with a [vendor](#) which has been specifically authorized by the governing body.

2.13. **Procurement** means the acquisition of any [item](#) for a public purpose, for consideration, for the benefit of the County of El Paso, its officers, agents, or employees in their official capacities.

2.14. **Review Officer** means the person selected by the Ethics Commission to participate as a member of a standing preliminary review committee. This person must be a practicing attorney or former judge.

2.15. **Solicitation** means the communication with a County Public Servant, by private interview, postal, electronic or telephonic communications or any other means other than public expression at a meeting of County Officers open to the public under Chapter 551 (Open Meetings Act) of the Texas Government Code.

2.16. **Substantial financial interest** means:

2.16.1. A person has a substantial financial interest in a [business entity](#) if:

2.16.1.1. the person owns ten percent (10%) or more of the voting stock or shares of the [business entity](#); owns either ten percent (10%) or more or \$15,000 or

more of the fair market value of the [business entity](#); or

2.16.1.2. funds received by the person from the [business entity](#) exceed ten percent (10%) of the person's gross income for the previous year.

2.16.2. A person has a substantial financial interest in real property if the interest is an equitable or legal ownership with a fair market value of \$2,500 or more.

2.16.3. A local public officer is considered to have a substantial financial interest under this section if a person related to the public officer pursuant to the definition of "[family member](#)" herein, has a substantial financial interest.

2.17. **Vendor** means any person or their representative or employee whose goods and services are purchased under the terms of a purchase order or contractual agreement with the county;

2.18. **Violations**

2.18.1. "**Category One violation**" means a violation of the ethics code adopted by the Commission which it is generally not difficult to ascertain whether the violation occurred or did not occur, including:

the failure to file a statement or report required under the ethics code in a timely manner that complies with applicable requirements;

a misrepresentation in a report required under the ethics code; or

a failure to respond in a timely manner to a written notice under Section 161.156(b) of the Texas Local Government Code.

2.18.2. "**Category Two violation**" means a violation of the ethics code adopted by the Commission that is not a [Category One violation](#).

3. **Application of Code**

The El Paso County Code of Ethics is applicable to all county public servants as defined herein.

4. **Lobbyist Activity, Registration, & Reporting**

4.1. [County Officers](#) and Department Heads shall not permit any [Lobbyist](#), including his representative or employee, to communicate with him regarding any [official matter](#) before being presented with a current lobbyist registration card verifying that the [Lobbyist](#) is registered.

4.2. **Lobbyist Registration**

Upon completion of the required training, [Lobbyists](#) shall register annually on the form prescribed by the Ethics Commission as a [Lobbyist](#) with the County Human Resources Department, and receive a current lobbyist registration card, on or before the date they engage in [lobbying](#) activity with a County Officer or department head. All registrations expire December 31st of each year.

4.3. Reporting

Each County Officer and Department Head shall maintain a daily log of contacts made with any [Lobbyist](#). Logs shall be submitted on or before June 30th and December 31st each year. Logs shall be submitted and made available for review by the Ethics Commission or its designee upon request.

4.3.1. Signs notifying any person regarding the registration requirements for any person [Lobbying](#) a County Officer or Department Head shall be posted in the lobby of each office of the County Officer or Department Head.

4.3.2. The County Ethics Commission shall maintain the [Lobbyist](#) Registration and Sign In Logs for a period of 3 years from the dates of filing.

5. Procurement

5.1. Influencing and Advising Regarding Procurement Decisions

5.1.1. In advising upon, discussing, recommending, and/or granting any County purchases, bids or contracts, [County public servants](#) shall inform themselves about their financial interests, and shall make a reasonable effort to inform themselves about the financial interests of their [family members](#).

5.1.2. [County public servants](#) shall excuse themselves from exercising influence, participating in, discussing, recommending, and/or granting of any County purchases, bids, or contracts if they or a [family member](#) have a [substantial financial interest](#).

5.2. Prohibited Procurement Participation by Decision Makers

5.2.1. [County public servants](#) shall disqualify themselves from participating in any official act regarding a [procurement](#) matter involving a [business entity](#) or real property in which they or a [family member](#) have a [substantial financial interest](#), if:

5.2.1.1. in the case of a substantial interest in a [business entity](#) the action on the matter will have a special economic effect on the [business entity](#) that is distinguishable from the effect on the public; or

5.2.1.2. in the case of substantial interest in real property, it is reasonably foreseeable that an action on the matter will have a special economic effect on the value of the property, distinguishable from its effect on the public.

5.2.2. Any [County public servant](#) to whom Section 5.2 applies shall complete an affidavit and place it on the Commissioners Court Agenda, in a form to be promulgated by the El Paso County Ethics Commission, stating the nature and extent of the [substantial financial interest](#) before the matter is discussed or before any decision regarding it is made.

5.3. **Prohibited Acts**

5.3.1. [County public servants](#) shall not acquire a financial interest at a time when they believe or have reason to believe that it will be directly affected by their official act. [County public servants](#) are prohibited from profiting by any knowledge they acquired solely from their official position with the County, which information is not available to the general public.

5.4. **Private Communication with Vendors by Members of Commissioners Court, County Elected Officials/Department Heads, or the El Paso County Hospital District Board of Managers**

No member of the El Paso County Commissioners Court, County Elected Officials/Department Heads or the El Paso County Hospital District Board of Managers shall permit any [vendor](#), its [lobbyists](#), representative, or employee to communicate with him privately regarding any [procurement](#) of items by the County or the Hospital District from the date that the bid, RFP, or RFQ is released. No [private communication](#) regarding the purchase shall be permitted by a member of the commissioner's court, a county elected official/department head, or the hospital district board of managers until the [procurement](#) process is complete and a purchase order is granted or a contract is entered into. Members of the commissioners' court, county elected officials/department heads and the board of managers shall make a reasonable effort to inform themselves regarding [procurements](#) and shall have a duty to inquire of [vendors](#), their [lobbyists](#), representatives, or employees, the nature of the [private communication](#) being sought prior to engaging in any communication. This prohibition against [private communication](#) with [vendors](#), their [lobbyists](#), representatives, or employees, shall apply to commissioner's court approval of hospital district purchases.

5.5. **Training Verification**

A [county officer](#) must verify that a [vendor](#) involved in a single [procurement](#) exceeding \$50,000 or a [lobbyist](#) has completed the training requirement pursuant to this code prior to considering a [vendor's procurement](#) submission.

6. **Employment Practices**

6.1. County elected officials and department heads shall ensure that hiring decisions are not made on the basis of race, gender, religion, national origin, sexual orientation, age, or disability.

6.2. County elected officials and department heads shall not advocate the employment, appointment, promotion, transfer or advancement to a paid County position of

a [family member](#). Neither shall they supervise nor manage a [family member](#), unless the employee was employed prior to the election or appointment of the department head.

7. Outside Employment

7.1. [County Public Servants](#) shall not accept other employment or engage in outside activities incompatible with the full and proper discharge of their duties and responsibilities with the county, or which might impair their independent judgment in the performance of their public duty. Consequently, a [county public servant](#) shall not:

7.1.1. accept other employment or engage in a business or professional activity that the [county public servant](#) might reasonably expect would require or induce the [county public servant](#) to disclose confidential information acquired by reason of the official position;

7.1.2. accept other employment or compensation that could reasonably be expected to impair the [county public servant's](#) independence of judgment in the performance of the [county public servant's](#) official duties.

7.2. It shall be a defense to a complaint filed under this section if a [county public servant](#) receives approval from his authorized supervisor pursuant to the El Paso County Civil Service Rules, or other El Paso County or departmental policy.

8. Post Employment Restrictions

8.1. Elected Officials and Department Heads are prohibited from knowingly conducting County business with a former elected official or department head that was separated from office or employment in the previous two years in which the former official is currently compensated as a representative of another person or entity. This prohibition includes any business matter in which the former elected official or department head was either personally involved or that was within his responsibility while an elected official or department head.

8.2. Non-elected Department Heads are prohibited from knowingly hiring any person who has served as a county elected official in the previous year.

8.3. This does not prohibit the practice of law before any court within El Paso County.

9. Gifts and/or Benefits

9.1. A [County public servant](#), his [family members](#), or any business organization in which he has a [substantial financial interest](#), may not solicit or accept a prohibited gift or benefit valued at more than Fifty and No/100 Dollars (\$50.00).

9.2. For purposes of this Code, a “prohibited gift or benefit” refers to anything of value including but not limited to:

9.2.1. Loans;

9.2.2. Travel;

9.2.3. Entertainment;

9.2.4. Meals and beverages; and

9.2.5. Gifts of tickets or free admission to a professional or intercollegiate sporting event or artistic or cultural event.

9.3. A prohibited gift does not include:

9.3.1. The [solicitation](#) or acceptance of contributions to a political campaign if such contribution is subject to reporting under state law.

9.3.2. A gift or other benefit conferred on account of kinship or a personal, professional, co-worker, or business relationship independent of the public duties of the recipient, unless the donor has a [substantial financial interest](#) in a business relationship or real estate purchase or sale with the County and the recipient is in a position to influence any decisions related to the interest.

9.3.3. Commercially reasonable loans made in the ordinary course of the lender's business.

9.3.4. Awards, such as plaques, certifications, trophies or similar mementos, publicly presented in recognition of or in conjunction with public service.

9.3.5. Gifts do not include items for which the County reimburses or items which are received but are donated to a charitable organization within 30 [days](#). If the gift is a perishable item, such as flowers, fruit, or candy, it may be placed on a public counter and shared with employees and the public.

9.3.6. Invitations or tickets to fundraising dinners or public charitable benefit events.

9.3.7. Reasonable entertainment, meals or refreshments furnished in connection with local public events, appearances or ceremonies related to official county business, if furnished by the sponsor of such public event, appearances or ceremonies.

9.3.8. Registration, transportation, lodging and meal expenses in connection with a conference or similar event in which the [County public servant](#) renders services, such as addressing an audience, engaging in a seminar, or serving as an officer or committee member of an organization, to the extent that those services are more than merely perfunctory. Any materials received in conjunction with the event shall become property of the County.

9.3.9. Persons seeking guidance regarding the applicability of the Code to a particular transaction may seek an advisory opinion from the Commission prior to the transaction. However, such advisory opinion shall not be binding on the Commission should the actual facts of the matter differ from the information presented to the Commission.

9.3.10. A gift that was not personal to the County Public Servant and was a gift to the County for a County public purpose that was accepted by the Commissioners Court pursuant to Texas Local Government Code Section 81.032.

10. Statement of Financial Interest

10.1. **Report.** Those who make decisions involving public personnel, property, resources, and funds exercise substantial influence and discretion in the performance of their public duties. In the interest of full disclosure of their financial interest, elected officials, appointed officials, department heads and the purchasing agent shall file with the County Ethics Commission a signed, sworn financial disclosure statement within 30 days of the application for such office, taking office, appointment or selection, a signed, sworn financial disclosure statement making known:

10.1.1. The name, address, and industry of any entity for whom that person is employed or self employed;

10.1.2. The name, address, and industry of boards of directors of corporations on which the person serves, whether organized for profit or not, and whether such service is for compensation or not;

10.1.3. The name, address, and industry of any business in which the person has partnership or joint venture interest; and

10.1.4. The name, address, and industry of any business in which the person has a [substantial financial interest](#).

10.1.5. The Commission shall develop a form report for the purposes of this section.

10.1.6. There is no requirement to disclose the extent of financial involvement in any business interest. However, the county judge, a county commissioner, and the county attorney may provide a copy of their most current financial disclosure report filed pursuant to Chapter 159 of the Local Government Code in lieu of the financial disclosure statement required by this Code. The district attorney may provide a copy of his most current financial disclosure report filed pursuant to Chapter 572 of the Texas Government Code in lieu of the financial statement required by this Code.

10.2. **Time for Filing.** Each person subject to this provision shall file a signed and sworn updated financial disclosure statement with the County Ethics Commission by April 30th of each year in office or employed.

10.3. **Notice.** Each candidate for elected office and each candidate for a department head position shall be provided with a notice of the financial disclosure requirements at the time of application for such office or employment.

10.4. **Delinquent Reports.** Within 60 [days](#) after the effective date of this Code of Ethics, and no later than July 1 of each year thereafter, the County Ethics Commission shall prepare a delinquent report naming each person subject to this filing requirement who has not filed the required statement. Such report shall be submitted as an agenda [item](#) to the Commissioners Court at its next regular meeting. Another notice of the financial disclosure requirements shall be sent to each person who has not filed the required statement.

10.5. **Publication.** The County Ethics Commission shall submit all financial disclosure statements and delinquent reports to the County Information Technology Department for posting on the County website. The reports shall be easily accessible on the County website.

11. Political Activity

11.1. **County Time and Equipment.** Non-elected [county public servants](#) shall not engage in political activities during any hours he is paid to actually work for the

county. Non-elected [County public servants](#) may take accrued vacation or compensatory time leave or leave without pay for political purposes if approved according to County policy.

11.1.1. [County public servants](#) shall not utilize county equipment or supplies of any kind for political purposes.

11.2. **Abuse of Official Discretionary Authority.** [County public servants](#) shall not directly or indirectly, use or threaten to use their official discretionary authority in a manner to:

11.2.1. reward or coerce any person to participate in political activities, an election campaign, or fundraising effort; or

11.2.2. discourage, restrain, deter, prevent, interfere with, or discriminate against any person who chooses to participate in political activities, an election campaign of another, or fundraising effort.

12. Reporting Violations of the Code of Ethics

12.1. **Duty to Cooperate.** [County public servants](#) and all others who are subject to this Code have a duty to cooperate in investigations, inquiries, and hearings conducted by the Ethics Commission.

12.2. **Coercion Prohibited.** In addition to the protections afforded by [Section 161.157 of the Texas Local Government Code](#), a [county public servant](#) shall not directly or indirectly, use or threaten to use, any official authority or any influence in any manner whatsoever, which tends to discourage, restrain, deter, prevent, interfere with, coerce, discriminate, or retaliate against any person who, in good faith, reports, discloses, divulges, participates in, or otherwise brings to the attention of the Ethics Commission or any other agency or office, any facts or information relative to an actual or suspected violation of this Code or other state, federal, or local laws.

12.3. **Frivolous and Bad-Faith Complaints.** Frivolous and bad-faith complaints may result in a civil penalty pursuant to Section 161.205 of the Texas Local Government Code. Frivolous and bad-faith complaints are complaints that are groundless and brought in bad faith or are groundless and brought for the purpose of harassment.

13. Campaign Contributions

If a member of commissioners court, or candidate for a seat on commissioners court, accepts political campaign contributions of Two Thousand, Five Hundred and No/100 Dollars (\$2,500.00) or more, including in-kind contributions, from any one person or entity within a twelve month period, he shall report the amounts, the donor, and the dates of said contributions by an item on the agenda of the El Paso County Commissioners Court within 30 [days](#) of the date of said cumulative contribution. The report shall also be placed upon the El Paso County web page.

14. Training

In compliance with Section 161 of the Texas Local Government Code, training on this Code, the role and functions of the Ethics Commission, and the plain language materials available will be accessible in an online format to persons covered by the Code, [Vendors](#), and [Lobbyists](#) on an ongoing basis, subject only to limitations due to technical resources. No person or entity required to complete training will have to do so more than once per year.

14.1. **County Public Servants.** [County public servants](#) must participate in regular training to learn about the County's ethics standards and expectations and this Code of Ethics.

14.1.1. All newly hired, appointed, and elected [county public servants](#) will complete training on these subjects in new hire orientation;

14.1.2. All other [county public servants](#) will complete training on these subjects upon the implementation of this Code and any major changes to the Code; and

14.1.3. All [county public servants](#) will complete training on these subjects biennially thereafter.

14.2. **Vendors.** Any [vendor](#) involved in a single [procurement](#) exceeding \$50,000 must complete training on the El Paso County Code of Ethics. This training must be completed prior to submitting a bid or proposal, responding to a request for qualifications or proposals, or otherwise contracting with the county. The training must be completed by an officer, principal, or other person with the authority to bind the [vendor](#). The certification of completed training on the Ethics Code issued by the County Human Resources Department is valid for twelve (12) months from the date of completion. A list of those [Vendors](#) with a current certification of completion and the corresponding date of expiration shall be maintained on the El Paso County website under the Purchasing Department's Current List of Training Certified Bidders. This training requirement does not apply to emergency purchases.

14.3. **Lobbyists.** A [lobbyist](#) intending to meet with and/or lobby a [County Officer](#) or Department Head shall complete the annual ethics code training and registration prior to meeting with and/or [lobbying](#) a [County Officer](#) or Department Head.

15. Complaint Filing Procedures

15.1. **WHO MAY FILE A COMPLAINT?** An individual who is 18 years of age or older may file a sworn complaint.

15.2. **HOW TO FILE A COMPLAINT.** The complaint must be filed in accordance with the rules of the Commission. The complaint must be filed with the Commission using the form adopted by the Commission which is attached as an appendix and can be obtained on the [County of El Paso Ethics Commission](#) web page.

15.3. **WHERE TO FILE A COMPLAINT.** The complaint shall be submitted to the address listed on the complaint form.

15.4. **DEADLINE TO FILE A COMPLAINT.** A complaint shall be filed within 180 [days](#) of the date the alleged conduct is discovered. The Standing Preliminary Review Committee may waive the 180 day filing deadline for good cause shown. In no event, may a complaint be filed later than 2 years from the date of the alleged conduct.

15.4.1. For purposes of this section, a complaint is filed on the date it is hand-delivered to the Commission or on the date that it is deposited in the mail or with a common or contract carrier, properly addressed, with postage prepaid.

16. Complaint Processing

All complaints filed pursuant to this Code will be processed through the multi-step procedures (Preliminary Review and/or Formal Hearing) in the manner prescribed in the Ethics Commission Rules & Procedures.

17. Confidentiality

17.1. Confidentiality Of Records & Proceedings

17.1.1. **Texas Public Information Act** – Unless a Standing Preliminary Review Committee issues an order following either a preliminary review or preliminary review hearing that a violation other than technical or de minimis has occurred, the Texas Public Information Act does not apply to documents or any additional evidence relating to the processing of a complaint during the preliminary review phase, preliminary review hearing, or preliminary review phase resolution of a sworn complaint.

17.1.2. **Texas Open Meetings Act** – The Texas Open Meetings Act does not apply to the processing of a complaint during the preliminary review phase, preliminary review hearing, or preliminary review phase resolution of a sworn complaint, but it does apply once a formal hearing is ordered.

17.2. Confidentiality

17.2.1. Confidential Information.

17.2.1.1. Except as provided in the exceptions outlined below, proceedings at the preliminary review hearing phase, including the sworn complaint, documents and any additional evidence relating to the processing of a complaint during the preliminary review phase, preliminary review hearing, or preliminary review phase resolution of a sworn complaint are confidential and may not be disclosed to anyone, including members of the El Paso County Commissioners Court, by the Commission, a Standing Preliminary Review Committee, or the Commission's staff.

17.2.1.2. A person commits an offense if the person distributes information considered confidential under the terms of this chapter.

17.2.1.3. A person who obtains access to confidential information under this chapter commits an offense if that person knowingly:

17.2.1.3.1. uses the confidential information for a purpose other than the purpose for which the information was received or for a purpose unrelated to this chapter, including [solicitation](#) of political contributions or [solicitation](#) of clients;

17.2.1.3.2. permits inspection of the confidential information by a person who is not authorized to inspect the information; or

17.2.1.3.3. discloses the confidential information to a person who is not authorized to receive the information.

17.2.2. **Exceptions To Confidentiality:**

17.2.3. A person who intends to file or who has filed a sworn complaint with the Ethics Commission may discuss with the press or the public the fact that he intends to or has filed a complaint and the contents of the complaint.

17.2.4. The Commission must give notice of a sworn complaint to the respondent no later than the 14th day after the Commission receives the complaint, and as part of that notice, the Commission must identify the complainant and the nature of the complaint.

17.2.5. The respondent to a sworn complaint filed with the Commission may discuss with the press or the public the fact that the complaint has been filed and the contents of the complaint.

17.2.6. A document or statement that was previously public information remains public information.

17.2.7. An order issued by a Standing Preliminary Review Committee determining that a violation other than technical or de minimis has occurred.

17.2.8. Disclosure of confidential information by Commission staff to the complainant, respondent, or a witness, during the course and scope of investigating a sworn complaint under the following circumstances:

17.2.8.1. A Commission authorized release of necessary information based on a Commission staff members' objectively reasonable determination that disclosure is necessary to conduct the investigation; or

17.2.8.2. The Commission discloses confidential information in making a referral to a law enforcement agency or a prosecuting attorney regarding an offense.

17.3. Tampering With Commission Records

17.3.1. A person commits an offense if the person intentionally:

17.3.1.1. destroys, mutilates, or alters information obtained under this chapter; or

17.3.1.2. removes information obtained under this chapter without permission as provided by this chapter.

17.3.2. Violation of this Article is a misdemeanor and is punishable by fine and/or confinement in the County Jail pursuant to Section 161.173 of the Local Government Code. Additionally, violations may result in civil action, a finding of official misconduct, and disciplinary action, up to and including termination of employment.

17.3.3. If conduct that constitutes an offense under this section also constitutes an offense under the Penal Code, including Section 37.10 or 39.06 of that code, the person may be prosecuted under this section or the Penal Code, as applicable.

18. Advisory Opinions

Upon the request of any person covered by the Ethics Code, the Commission or its designee may issue a written ethics advisory opinion regarding the application of the Ethics Code to a specified existing or hypothetical factual situation. The Commission or its designee may not issue an opinion that includes the name of any person who may be affected by the opinion. The name of the person requesting the opinion shall be confidential.