



I'm giving this presentation to staff, but this is intended to give all of you a consistent template to train and assist your boards and commissions.

The good news is that, functionally, not much has changed between the old Ethics Code and the new 2007 version.

Needs will vary from board to commission, but this should cover the basics. You'll notice throughout this presentation that I don't intend to spend an excessive amount of time on a line-by-line reading of the code. You need to go through the code on your own. Your members need to do that as well. It's not realistic to expect them to memorize 56 pages of municipal code. This presentation should demystify it for them, not answer every question.

I've listed page numbers often in these slides. I'm expecting that B&C members receiving this presentation will have a copy of the Ethics Code in front of them that you have provided. In particular, the MS Word version of the ordinance passed by the Assembly (AO 2006-140(S-1) As Amended) is the version that I refer to.

It's a good idea for them to physically have a copy in the hands and refer to the specific pages that apply to them. It should make the code and the process a little less intimidating and confusing.

Today's Goals

- Recognize & Take Individual Responsibility.
- Distinguish Between the Law and Ethics
- Familiarize Board/Commission Members with the Code
- Learn How to Approach the Code/Solve a Problem
- Highlight Critical Elements
- Understand Where to Go for Help

It is important to give an overview and set expectations for this presentation. The goals are: provide a method or a guide on how to approach a problem, hit the highlights, and then remind folks where to go for help. You should impress upon them that individuals are ultimately responsible for their own conduct. So, it's their responsibility to understand what's required of them by the Ethics Code. There are resources for help, such as an Ethics Officer and the Ethics Board, but ultimately, it's their personal responsibility to act in accordance with the Ethics Code.

The Big Misnomer

Ethics –versus- Laws

- Ethics are a moral code of behavior.
- AMC 1.15 is an explanation of what activity is legal and what is illegal.

This is an important topic to cover.

We're a diverse community. People come many faiths, cultures, and experiences. Ethics are a personal and moral code of behavior that is reflective of an individual's beliefs, background and experience.

It's not our job to talk to people about ethics in this context. If they want to talk about ethics in general, they should contact a minister, philosopher, psychologist, community elder, or family member.

You may have some ethical expectations of your fellow employees, particularly if you are a manager. That's a separate management issue.

What we need to convey in this presentation is that we are concerned with what is legal and what is illegal as expressly stated by municipal code. That's all.

We hope individuals have a strong code of personal ethics, and we hope that they'll set a higher standard for themselves than what is merely required by the law. However, we are concerned with today in this context is the law.

Who?

Applies to:

- Municipal Employees (MOA and ASD)
- Elected Officials (Mayor, Assembly, School Board, Service Area Boards)
- Appointed Officials (Boards and Commissions)

This is the process of beginning to narrow the scope and talk about who the Ethics Code applies to.

It's important to point out that the Code applies to the Anchorage School District (ASD). Because of the bifurcation of the ASD and the MOA in the Municipal Charter, we often don't think of the ASD as being part of the Municipality. In this instance, it is or they are.

This is the list of who the code applies to. It's important to note who is missing from this list: the public. While they are definitely affected by the code, it doesn't directly apply to them, except in the limited circumstance of filing an ethics complaint against an individual bound by the Code.

However, that doesn't mean the public doesn't have a stake in the code, as we'll see in the next slide.

Why?

- These individuals hold the public's trust;
- Use public funds; and
- Need to do the public's business in public.

That's right. This whole Ethics Code business is about the public.

The individuals whose actions are guided by the Ethics Code are in this situation because they hold the public's trust. They use public resources and funds, and they have a fundamental duty to do the public's business in public and in a fair manner.

Bring this down to scale and personalize it. All of these funds and resources, be they local, state, or federal, are ultimately the tax dollars of you and your neighbors. People governed by the Ethics Code must account for their use of the public's trust and act responsibly.

AMC 1.15 Ethics Code

- 1.15.020 Prohibited Conduct
- 1.15.025 Additional Provisions Employees
- 1.15.030 Additional Provisions Appointees
- 1.15.035 Additional Provisions Elected Officials
- 1.15.040 Forms
- 1.15.050-70 Board of Ethics
- 1.15.110 Definitions

This slide serves to begin the basic familiarization process with the Ethics Code. Page 1 of our version has the complete outline. This is simplified a bit. The other things are still important but not as directly relevant to what a board or commission member needs to know to get through their duties.

Use this slide to reiterate who the code applies to and begin to describe how it is laid out and how a board or commission member with a question should approach the code for an answer. (More on that in the next slide)

Point out that the three groups of people whose actions are governed by the Ethics Code are, in fact, listed here. Repetition helps.

Also, at this juncture you can introduce or reemphasize the idea that the Board of Ethics is the ultimate arbiter of what is, in fact, legal or illegal according to the Code. The designated ethics officers have an advisory role, but ultimately, it's the Board of Ethics' decision as to what is legal and what is not.

How to use the Code

- Step one - See General Section on Prohibited Conduct. AMC 1.15.020
(Pages 4 -5 of AO 2006-140(S-1) as amended)
- Step two – See Specific Section on Appointees to Public Bodies.
AMC 1.15.030
(Pages 16-22 of AO 2006-140(S-1) as amended)

This is the How to Approach a Problem slide. The Ethics Code is written by a menu approach.

There's a basic list of conduct that is illegal for everyone governed by the Ethics Code. That's AMC 1.15.020 (page 4). From there, an individual refers to the specific section that applies to their situation, in this case, AMC 1.15.030 Appointed Members of Boards and Commissions.

So, a board or commission member should first refer to AMC 1.15.020, page 4 which has the basic list of prohibited conduct. That list of 9 prohibited actions can be handed out, or gone through in greater detail, but it's all the basic concepts that you would expect: an individual cannot use their official position for private or personal gain, be that money, influence, or information. Nor can they use their official position to deny another individual their right to use or access a municipal thing of value: voting rights, property, funds, or information.

If that list of 9 prohibited actions answers the question, great. You can stop there. If not, proceed to AMC 1.15.030. (pages 16-22)

Presumption of Public Service

- The Ethics Code and the Municipal Charter presume appointed boards and commissions act in the public interest.
- It's also normal that members will possess other interests (private or financial).

The introduction of AMC 1.15.030, and the relevant Charter provision, serves two basic functions.

First, it's presumed that when Appointed Public Bodies act, their actions are in the public interest. If a member of an appointed body acts in their official capacity to further a private or financial interest, that's when we have a problem. That's the circumstance that the Ethics Code is intended to address.

Second, this is the point when you should remind board and commission members that it's okay that they hold private or financial interests that are different than the public interest. That's natural and expected. It's acknowledged in both the Charter and the Ethics Code.

Take this opportunity to thank them for taking time out of their busy lives to step out of their private world and act in the public interest. We're not really paying them, so thank them for their service. However, they need to be careful and draw a bright line between the two. That's what the Ethics Code helps them do.

Prohibited Conduct

- Public Resources (Personnel or positions, property, funds, and symbols).
- Political Activity (Misrepresentation, Public Funds, and Lobbying)
- Gifts (Limits on gifts to individuals and groups as a result of their official position)

I've chosen to talk about how the Ethics Code works in terms of what actions are expressly prohibited by the Code and what actions are specifically required by the Code. So, it's a "Don't" list and "Do" list. The Code itself isn't exactly organized like this, but this is what makes sense to me as a tool to streamline the things board and commission members have to think about.

So, prohibited conduct. There are three primary categories of "Don'ts."

1) Misuse of Public Resources is pretty straight forward. This is essentially covered back in AMC 1.15.020 that applies to everyone governed by the code. You shouldn't have to spend a lot of time on this. If you need to, go back to page 4 of the Code and review, but it's not that complex.

2) Prohibited Political Activity is an area that generates a lot of questions and we'll deal with it in the next slide.

3) The subject of gifts is pretty straight forward but there are a few basic rules to be wary of. I could have placed this under required actions because there are some, but there are prohibitions. Maybe I just like the symmetry of three prohibitions and three circumstances requiring action.

Prohibited Political Activity

- Look at AMC 1.15.020 – Prohibited Activity
- Go to AMC 1.15.030 L – List of 4 (page 22)
- L. *Political Activity.* A member of an appointed public body shall not:
 - 1. Use official position on an appointed public body to solicit a contribution, endorsement, or other campaign support for any political candidate.
 - 2. Use official position on an appointed public body to discourage or inhibit any person from exercising voter franchise.
 - 3. Permit or engage in political activity in violation of 1.15.025I.
 - 4. Act in a manner to suggest that the member is acting in the member's official capacity or otherwise representing the appointed public body or the municipality, when engaging in political activity during personal time.

Emphasize the process again. Refer to back to AMC 1.15.020 to see if the issue is addressed there, then go to AMC 1.15.030 L (Political Activity) if it's not. I've actually excerpted the pertinent part of the Ethics Code in a slide because the requirements are not that long and are fairly specific. As I said earlier, this is also an area that generates lots of questions.

Points 1 and 2 are straight forward and shouldn't require much discussion. A member of an appointed municipal body cannot use their official position or municipal resources to further a political candidate. They also cannot use their position to disenfranchise a voter.

Point 3 is more complicated. Lets come back to it.

Point 4 is, again, straight forward but often comes up for discussion. Members of advisory boards or commissions often see themselves as members of interest groups or advocates for specific activities or municipal functions. Good examples are the Parks and Recreation Commission and the Public Transit Advisory Board. As such, they may be tempted to have that body take an official position on a candidate, or more likely ballot measure. Or they may allow a candidate to use their individual endorsement in a brochure. That's natural, many appointees are prominent members of the community, and it is permissible as long as their official position isn't mentioned.

For example, Jane ProTrail wants to endorse her friend, Joe Sixpack in his bid for the Assembly. Jane may appear in a brochure or mailer, but it CANNOT state along with her name and quote that she is a member of the Parks and Recreation Commission, nor should any photo in this ad display her in Parks and Rec logo wear.

Finally, advisory boards often wish to advocate on municipal ballot measures. To use our earlier examples, it's pretty common that the Parks and Recreation Commission will think that a Parks Bond is a good thing. They're free to advocate on this issue, as individuals. They CANNOT advocate passage of the bond in their role on the Commission. (1.15.025le)

But, wait, you may ask, isn't that what these "advisory" boards are supposed to do? Advise? It takes some reading of 1.15.025le in point three to sort this out.



I'm long-winded, we need to be clear, and I need some more room to write. And 1.15.025I is too hideously long to put in a slide.

Boards and Commissions can adopt a position on an issue in general, such as "the pools need repair and we think a bond is a good way to do it." However, once the Assembly takes their advice and passes a resolution to place that bond issue on the ballot, the Parks and Rec Commission's advocacy work, as a commission, is over. Advocating on a ballot measure, just like a candidate, is prohibited. As individuals, they're still entitled to their opinion.

Back to Point 3 in more detail. Lets refer back to the longer section of AMC 1.15.025I (pages 14-15 have the relevant info for boards and commissions) There are a couple of new provisions here that should be highlighted. There's some new, more explicit restrictions placed by the Assembly in writing this code on appointed boards and commissions.

1.a. is pretty self-evident: no MOA/public money for a candidate for any political office.

1.b. is the part you'll need to spend some time on. This prohibition is essentially the same as what's been in the code in the past, but it's a little more explicit.

1.c. says no endorsement/opposition of candidates even if it uses no funds.

1.d. say no public funds can be used.

1.e. deals with our issue of ballot props: may not "campaign or prepare, publish, broadcast, or distribute" partisan materials. Pretty much covers it.

The question always comes up about lobbying at the state level by advisory boards or commissions. Think back to Public Transportation projects or Parks and Recreation projects. Lobbying is permissible at the state and federal level, but participation in elections with municipal funds or by using a municipal position is not.

Again, they still cannot use MOA /public funds to advocate on state or federal elections. See 1.e.

Gifts AMC 1.15.030 K

- Gifts unrelated to service on public body are not covered by Ethics Code. (page 21)
- Gift from a recognized civic or charitable non-profit for public service require disclosure if greater than \$150 in value.
(form available from Clerk)
- Perishable gifts for immediate consumption or display by body require disclosure when greater than \$150 in value
(form available from Clerk)
- All other gifts shall be reported and redirected for disposition or return.

As I hinted earlier, this code provision on gifts contains both do's and don'ts, even though I've listed it in the don't section.

You can deal with this by just reading through the code. First, ask your audience to turn to page 4 and 5 with you. This is the general prohibitions section in 1.15.020A. Read numbers 8 and 9. Then, ask your audience to turn to page 21 with you.

First off, gifts unrelated to municipal service are not covered by this code.

If a member or an entire MOA body receives a gift in recognition of their service from a civic or charitable group, that gift must be disclosed if it's in excess of \$150 in value. There's form on the clerk's website. I'll be posting it in the boards and commissions page shortly.

If a member or an entire MOA body receives a perishable gift for immediate consumption or display (think food or flowers) and that gift is in excess of \$150 then that gift must be disclosed. Again, the form is on the clerk's website.

Finally, all other gifts need to be reported by the chair (that means through the board and commission staff person to your Ethics Officer, Michael Johnson) and then forwarded for disposition or return.

Required Activity-Disclosure

- Economic Disclosure to Clerk's Office w/in 30 days of Confirmation.
- Interest in a Municipal Contract.
- Voting on Individual Issues.

That covers the "Don'ts." So, here are the "Dos," or required activity.

Within 30 days of confirmation to a board or commission, a member is required by code to file their financial declaration form with the clerk's office. (1.15.030 H or p.19) We send one in every packet that goes out with the Mayor's confirmation letter. It's also available on line. You should have copies available when you give this presentation. On average, about half of the board and commission members actually fill this out. Encourage people to comply with the law. It's a simple and painless form. And if they don't, they are legally subject to potential sanction by the Board of Ethics. If they hold an interest but don't believe that it's substantial, I'd encourage them to go ahead and disclose and state why they don't believe it is.

The second required activity for board and commission members is to disclose when they, or an immediate family member or unrelated member of their household, wish to compete for an interest in a municipal contract or if they have an interest in a municipal contract at the time of their confirmation. (1.15.030 I) The form is available on line and ultimately should be filed with purchasing and the clerk's office. This is not particularly common. Bart and his staff know this procedure well. The key issue is when the individual or a business they have some ownership wishes to bid. If they are merely an employee of a company wishing to bid, they do not have to disclose this and fill out the form.

Voting on individual issues that come before the board. This deserves its own slide. This is an issue you need to spend some time on.

To Vote or Not to Vote

1. Determine if member holds a "private" or "financial" interest.
2. Disclose immediately on record.
3. If so, is this interest "substantial?"
4. Six point test in code. (AMC 1.15.030 E Page 18)
5. Body votes.
6. If member has a substantial conflict of interest, they should leave the room and not participate in discussion in any way.

I boiled this process down as simply as I could. It's also the most important for your board or commission. These explicit instructions on whether or not to vote are a major change from the old code.

When an issue comes before a board or commission, a member of that body must first determine if they, or an immediate family member, have either a financial or private interest in the matter. Immediate family member is defined in 1.15.110J (Page 51). Can include non-relative tenant of household. Financial interest is pretty straightforward but is defined at 1.15.110I (Page 50). Private interest typically means that the member or someone closely related to them or associated with them (friend, brother-in-law, whatever) might benefit or profit, not only in monetary terms, from a decision of the body.

So, the member decides whether or not they hold a financial or private interest. If they do, they immediately declare that to the rest of the body, before any deliberation on the subject occurs.

Then, the body has a responsibility to immediately decide if the financial or private interest is "substantial," as defined in code. This can be a tricky decision. Therefore, the code provides a six point test for that board or commission, as led by the chair, to walk through in reaching a decision. Some of you may recall that the Assembly has a helpful note card with essentially the same test that they're required to perform. Assembly Chair Coffey will often hold up the card and read directly from it before it makes a ruling. This is a good habit to copy. Perhaps you can print a copy of the 6 point test for your members. At the least, you should ask everyone to flip to page 18 and read through this test aloud during the presentation.

Under the law, this decision is up to the particular body. That's important to note. They hold the decision-making power on the presence or absence of a substantial financial or private interest. If they vote in the affirmative, then the chair of the body should instruct the member with the conflict to immediately leave the room and not participate in the discussion. That's a high standard, but that's the one we need to keep. There are plenty of non-verbal signals available to someone who wishes to interfere with the process. A board or commission should leave themselves above reproach and have the conflicted member leave during discussion and voting on this item.

Where to Go for Help?

- AMC 1.15
- Staff to Board or Commission
- Designated Ethics Officer – Michael Johnson, Mayor's Office 343-7112, johnsonmf@muni.org
- Board of Ethics – Advisory Opinion

That's the end of both my lists of do's and don'ts.

If board or commission can't come to answer on their own, there are places for them to turn to help. First, everyone needs to start with the Ethics Code itself. Many of the answers will be found there without needing to go any farther.

The next place is you, the staff to a given board or commission. They rely on you for answers. That's a good thing.

If you can't figure out the problem, let me (Michael Johnson) or my successor know. Finally, the Board of Ethics can offer an advisory opinion.

Additional Info – Public Mtgs.

- 17.05 Charter Provisions
- AMC 1.25 Open Meetings

There are some issues related to the Ethics Code that are contained elsewhere in the Municipal Charter or Code. The topic that generates the most questions is the public meetings provision and how much notice is required for a meeting.

You have the option of addressing it here if you wish or not. Every board and commission member receives a copy of the code provisions with their confirmation packet from the mayor. If you decide to address it, I'd have printed copies available at least for your chair.

The first point I'd make is that this Code Provision describes the minimum standard required by law. Again, it's the minimum and by no means the ideal. Also, the standard is different for advisory boards and commissions and those that are regulatory, adjudicatory, or an authority board of directors.

It's generally 24 hours for regulatory and adjudicatory boards and 48 hours for advisory boards and commissions. There are plenty of exceptions and you should work through this with your own board. Additionally, pay attention to the code and indications of whether or not the subject of the meeting must be in the notice. This changes according to the type of board and the circumstance.

Finally, the clerk's office is your friend. Talk with Linda Heim at x4314. They maintain the monthly public notice schedule. This schedule is published weekly in the Anchorage Daily News. It is available on the homepage of the Municipal website. It is posted at City Hall and the Permit Center. And it is available on a hotline at 343-4323, 24-hours a day. So, just let Linda know of all your meetings more than a week a head of time and the hard work is done.