

# City of North Little Rock Ethical Standards

C. Jason Carter  
City Attorney



# Intro

- \* Ethical standards are intended to maintain trust and professionalism within our organization.
- \* Approved ethical codes are required under federal government contracts.
- \* Includes general expectations of public employment and important obligations under the law.
- \* Notes about legal authorities in this brief:
  - \* Title 5 citations are criminal laws.
  - \* Title 14 citations specifically regulate local government.
  - \* Title 21 citations are state ethics laws.
  - \* Title 25 citations pertain to the freedom of information.
  - \* 42 USC § 1983 is a federal law.



# Ethical Standards

1. Employees *will* put forth honest effort in the performance of their duties.
2. Employees *will* safeguard and conserve public money and property.
3. Employees *will* report fraud, waste and abuse.
4. Employees *will* treat all persons respectfully and equally.
5. Employees *will* preserve public trust.

..... *continued*



# Ethical Standards

6. Employees *will not* use their position to seek an unauthorized benefit for themselves or another person.
7. Employees *will neither* solicit *nor* accept gifts or additional compensation for performance of their duties.
8. Employees *will not* tamper with or conceal public records.
9. Employees *will not* have any financial interest in any contract with the City, unless properly disclosed and authorized.
10. Employees *will not* disclose confidential information or use such information for personal gain.



# 1. Employees will put forth honest effort in the performance of their duties.

## What it means:

- \* As government employees, we are paid by the people we serve. We certainly expect other government workers to put in an honest day's work for their salary. We should do the same.
- \* Officers of the City can be removed for *nonfeasance*; meaning, officers who understand their tasks and fail or refuse to perform them. See [Ark. Code Ann. § 14-42-109](#).

## 2. Employees will safeguard and conserve public money and property.

### What it means:

- \* Citizens depend on us to protect the money and property that is entrusted to our care.
- \* We have an obligation to use proper accounting and control measures to avoid financial loss.
- \* We have an obligation to use sound security procedures to avoid property loss.
- \* We must not be wasteful.
- \* We have an obligation to only use public money and property for the public good. See [Art. 12, § 5 of the Constitution of Arkansas](#).

# 3. Employees will report fraud, waste and abuse.

## What it means:

- \* No one wants a government that is fraudulent, wasteful or abusive.
- \* This community depends on our employees to operate the government honestly and fairly - and report when others fail.
- \* The law gives protection to any employee who reports fraud, waste or abuse to an appropriate authority. See [Ark. Code Ann. § 21-1-603](#).

## 4. Employees will treat all persons respectfully and equally.

### What it means:

- \* Our nation is founded on the belief that the government should not favor one person over another based on age, gender, race, or other conditions recognized by the law.
- \* The [Arkansas Constitution](#) mandates equal treatment for citizens.
- \* As government employees, we must afford equal treatment to all persons, regardless of our personal beliefs.
- \* Unconstitutional bias can result in personal liability for government employees. See [42 U.S.C. § 1983](#).



## 5. Employees will protect the public trust.

### What it means:

- \* The public depends on government employees to be truthful and honest.
- \* Employees must conduct themselves in a manner that avoids the appearance of conflicting loyalties.
- \* Employees must avoid making unauthorized promises and other misrepresentations to the public.
- \* “Public servants must never forget that they serve the public.” *Clark v. Arkansas*, 308 Ark. 84 (1992).

## 6. Employees will not use their position to seek an unauthorized benefit for themselves or another person.

### What it means:

- \* Employees must not manipulate public authority to manufacture private gain for themselves or others.
- \* **Violation of this standard may result in prosecution!**
- \* [Ark. Code Ann. § 5-52-101](#). Abuse of public trust. Class D felony.
- \* [Ark. Code Ann. § 14-42-108](#). Prohibited actions by municipal officials or employees. Unclassified misdemeanor, mandated removal, and ineligible for future employment.
- \* [Ark. Code Ann. § 21-8-304\(a\)](#). Prohibited activities. Class B misdemeanor.

## 7. Employees will neither solicit nor accept gifts or additional compensation for performance of their duties.

### What it means:

- \* Employees must accept their pay and benefits as full compensation for duties. NO GIFTS! NO TIPS!
- \* **Violation of this standard may result in prosecution!**
- \* [Ark. Code Ann. § 5-52-104](#). Soliciting unlawful compensation. Class A misdemeanor.
- \* [Ark. Code Ann. § 21-8-801](#). Prohibited acts generally. Class A misdemeanor.

## 8. Employees will not tamper with or conceal public records.

### What it means:

- \* The integrity of public documents is paramount to maintaining public trust.
- \* **Violation of this standard may result in prosecution!**
- \* [Ark. Code Ann. § 5-54-121](#). Tampering with a public record. Class B/C felony for court records. Class D felony for all others.
- \* [Ark. Code Ann. § 25-19-105](#). Examination and copying of public records. Class C misdemeanor.

## 9. Employees will not have any financial interest in any contract with the City, unless properly disclosed and authorized.

### Comment:

- \* There are many concerns about public employees who have a financial interest in governmental contracts.
  - \* The Fair Labor Standards Act and proper overtime pay.
  - \* Manipulation of price and competition.
- \* Financial conflicts may be resolved through proper disclosure, authorization and control measures.
- \* **Violation of this standard may result in prosecution!**
- \* [Ark. Code Ann. § 14-42-107](#). Interest in offices or contracts prohibited. Unclassified violation.
- \* May be federally prosecuted as public corruption – the FBI's #1 priority.

# 10. Employees will not disclose confidential information or use such information for personal gain.

## Comment:

- \* Employees may become aware of confidential information that could be used, or disclosed, for profit. To do so is a crime.
- \* **Violation of this standard may result in prosecution!**
- \* [Ark. Code Ann. § 5-52-106](#). Misuse of confidential information. Class A misdemeanor.
- \* [Ark. Code Ann. § 21-8-801\(a\)\(2\)](#). Prohibited acts generally. Class A misdemeanor.
- \* [Ark. Code Ann. § 21-8-304\(b\)](#). Prohibited activities. Class B misdemeanor.

# Summary

## Ethical standards

- Ensure the professionalism of our organization.
- Preserve the public trust.
- Reinforce expectations of officers and employees.
- Avoid violations of the law.

If it would be embarrassing to read on  
the front page of the paper ...

***Don't do it.***



# *ETHICAL STANDARDS*

## Employees will .....

1. Put forth honest effort in the performance of their duties.
2. Safeguard and conserve public money and property.
3. Report fraud, waste and abuse.
4. Treat all persons respectfully and equally.
5. Preserve public trust.
6. Not use their position to seek an unauthorized benefit for themselves or another person.
7. Neither solicit nor accept gifts or additional compensation for performance of their duties.
8. Not tamper with or conceal public records.
9. Not have any financial interest in any contract with the City, unless properly disclosed and authorized.
10. Not disclose confidential information or use such information for personal gain.



**Cited Sources Follow This Slide.**

# *Clark v. Arkansas*, 308 Ark. 84 (1992)

- Attorney General of Arkansas convicted of Theft by Deception (Class C Felony) over travel receipts.
- On appeal, he argued that the “M and O” budget of \$600k+ was for his personal expenses
- It didn’t work.
- Special judge Howard Brill said the argument “offends common sense.”
- He summarized the law, “Public servants must never forget that they serve the public.”

[Back to #5](#)

## *Miller v. City of Lake City, 302 Ark. 207 (1990)*

### Points of law:

- \* A city is liable for the authorized acts of agents and employees.
- \* A city is not liable for the unauthorized acts of agents and employees.
- \* However, the employee may be personally liable.

# 5-52-101. Abuse of public trust.

(a) A person commits the offense of abuse of public trust if the person:

(1) Solicits, accepts, or agrees to accept on behalf of any person, political party, or other organization any benefit from another person upon an agreement or understanding that the other person will or may be appointed a public servant or designated or nominated as a candidate for public office;

(2) Offers, confers, or agrees to confer any benefit and the receipt of the benefit is prohibited by this section;

(3) Solicits, accepts, or agrees to accept any benefit as compensation or consideration for having as a public servant given a decision, opinion, recommendation, or vote favorable to another or for having otherwise exercised his or her discretion in favor of another; or

(4) Offers, confers, or agrees to confer any benefit upon a public servant and the receipt of the benefit is prohibited by this section.

(b) It is not a defense to a prosecution under this section that the decision, opinion, recommendation, vote, or use of discretion, except for the benefit, was otherwise proper.

(c) Abuse of public trust is a Class D felony.

[Back to #6](#)

## 5-52-104. Soliciting unlawful compensation.

**(a)** A person commits the offense of soliciting unlawful compensation if he or she requests a benefit for the performance of an official action as a public servant knowing that he or she is required to perform that action:

- (1)** Without compensation, other than authorized salary or allowances; or
- (2)** At a level of compensation lower than that requested.

**(b)** Soliciting unlawful compensation is a Class A misdemeanor.

[Back to #7](#)

## 5-52-106. Misuse of confidential information.

(a) A public servant commits the offense of misuse of confidential information if, in contemplation of official action by himself or herself or a governmental unit with which he or she is associated or in reliance on information to which he or she has access in his or her official capacity and which has not been made public, the public servant:

- (1) Acquires or aids another to acquire a pecuniary interest in any property, transaction, or enterprise that may be affected by the information; or
- (2) Speculates or aids another to speculate on the basis of the information.

(b) Misuse of confidential information is a Class A misdemeanor.

[Back to #10](#)

## 5-52-107. Abuse of office.

(a) A person commits the offense of abuse of office if, being a public servant and with the purpose of benefiting in a pecuniary fashion himself or herself or another person or of harming another person, the person knowingly:

(1) Commits an unauthorized act which purports to be an act of his or her office; or

(2) Omits to perform a duty imposed on him or her by law or clearly inherent in the nature of his or her office.

(b) Abuse of office is a Class B misdemeanor.

## 5-54-121. Tampering with a public record.

- (a) A person commits the offense of tampering with a public record if, with the purpose of impairing the verity, legibility, or availability of a public record, he or she knowingly:
- (1) Makes a false entry in or falsely alters any public record; or
  - (2) Erases, obliterates, removes, destroys, or conceals a public record.
- (b) (1) (A) Tampering with a public record is a Class C felony if the public record is a court record.
- (B) Tampering with a public record is a Class B felony if the public record is a court record and the person broke into any building or structure with the intent of tampering with a court record located in the building or structure.
- (2) Otherwise, tampering with a public record is a Class D felony.

## 14-42-107. Interest in offices or contracts prohibited.

...

**(b) (1)** No alderman, council member, official, or municipal employee shall be interested, directly or indirectly, in the profits of any contract for furnishing supplies, equipment, or services to the municipality unless the governing body of the city has enacted an ordinance specifically permitting aldermen, council members, officials, or municipal employees to conduct business with the city and prescribing the extent of this authority.

**(2)** The prohibition prescribed in this subsection shall not apply to contracts for furnishing supplies, equipment, or services to be performed for a municipality by a corporation in which no alderman, council member, official, or municipal employee holds any executive or managerial office or by a corporation in which a controlling interest is held by stockholders who are not aldermen or council members.

[Back to #9](#)

## 14-42-108. Prohibited actions by municipal officials or employees -- Penalty.

**(a) (1)** It shall be unlawful for any official or employee of any municipal corporation of this state to receive or accept any water, gas, electric current, or other article or service from the municipal corporation, or any public utility operating therein, without paying for it at the same rate and in the same manner that the general public in the municipal corporation pays therefor.

...

**(b) (1)** It shall be unlawful for any city official or employee of any municipal corporation in this state to furnish or give to any person, concerns, or corporations any property belonging to the municipal corporation, or service from any public utility owned or operated by the municipal corporation, unless payment is made therefor to the municipal corporation at the usual and regular rates, and in the usual manner, except as provided in subsection (a) of this section.

...

**(c) (1)** Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction shall be fined in any sum not less than ten dollars (\$10.00) nor more than two hundred fifty dollars (\$250).

**(2)** Conviction shall ipso facto remove the official or employee from the municipal office or position held by him and shall render him ineligible to thereafter hold any office or position under, or in connection with, the municipal corporation.

[Back to #6](#)

## 14-42-109. Removal of elective or appointed officers.

**(a) (1) (A)** If the mayor or police judge, member of the city council, or any other elective officer of any city of the first class or second class or incorporated town in this state shall wilfully and knowingly fail, refuse, or neglect to execute, or cause to be executed, any of the laws or ordinances within their jurisdiction, they shall be deemed guilty of nonfeasance in office.

**(B) (i)** It shall be the duty of the circuit court of any county within which any officer may be commissioned and acting, upon indictment charging any such officer with nonfeasance in office, to hear and determine the charges.

**(ii)** If, upon hearing, the charges are proved to be true, the court shall enter a judgment of record removing the guilty officer from office.

...

[BACK TO #1](#)

## 21-1-603. Public employer conduct prohibited -- Good faith communication.

(a) (1) A public employer shall not take adverse action against a public employee because the public employee or a person authorized to act on behalf of the public employee communicates in good faith to an appropriate authority:

(A) The existence of waste of public funds, property, or manpower, including federal funds, property, or manpower administered or controlled by a public employer; or

(B) A violation or suspected violation of a law, rule, or regulation adopted under the law of this state or a political subdivision of the state.

...

[Back to #3](#)

## 21-8-304. Prohibited activities.

- (a)** No public servant shall use or attempt to use his or her official position to secure special privileges or exemptions for himself or herself or his or her spouse, child, parents, or other persons standing in the first degree of relationship, or for those with whom he or she has a substantial financial relationship that are not available to others except as may be otherwise provided by law.
- (b)** No public servant shall accept employment or engage in any public or professional activity while serving as a public official which he or she might reasonably expect would require or induce him or her to disclose any information acquired by him or her by reason of his or her official position that is declared by law or regulation to be confidential.
- (c)** No public servant shall disclose any such information gained by reason of his or her position, nor shall he or she otherwise use such information for his or her personal gain or benefit.

[Back to #6](#)

[Back to #10](#)

## 21-8-801. Prohibited acts generally.

(a) No public servant shall:

(1) Receive a gift or compensation as defined in § 21-8-401 et seq., other than income and benefits from the governmental body to which he or she is duly entitled, for the performance of the duties and responsibilities of his or her office or position;

(2) Purposely use or disclose to any other person or entity confidential government information acquired by him or her in the course of and by reason of the public servant's official duties, to secure anything of material value or benefit for himself or herself or his or her family.

...

[Back to #7](#)

[Back to #10](#)

## 25-19-105. Examination and copying of public records.

**(a) (1) (A)** Except as otherwise specifically provided by this section or by laws specifically enacted to provide otherwise, all public records shall be open to inspection and copying by any citizen of the State of Arkansas during the regular business hours of the custodian of the records.

...

[Back to #8](#)

# Constitution of Arkansas

## Article 2, § 3. Equality before the law.

The equality of all persons before the law is recognized, and shall ever remain inviolate; nor shall any citizen ever be deprived of any right, privilege or immunity; nor exempted from any burden or duty, on account of race, color or previous condition.

[Back to #4](#)

# Constitution of Arkansas

## Article 12, § 5.

No county, city, town or other municipal corporation, shall become a stockholder in any company, association, or corporation; or obtain or appropriate money for, or loan its credit to, any corporation, association, institution or individual.

[Back to #2](#)

# 42 USC 1983

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress ...

[Back to #4](#)