

CODE OF CONDUCT FOR PUBLIC OFFICIALS

Presidential Decree No. 21238

CHAPTER I GENERAL PROVISIONS

Article 1: Purpose

The purpose of this Decree is to prescribe the standards of conduct to be observed by public officials in accordance with Article 8 of the Act on Anti-Corruption and the Establishment and Operation of the Anti-Corruption and Civil Rights Commission.

Article 2: Definitions

The definitions of terms as used in this Decree shall be as follows:

1. The term “duty-related party” means an individual (a public official who acts in his/her private capacity) or an organization whose business is related to a public official’s duties and who falls under one of the following:
 - (a) Any individual or organization that has filed or is sure to file a civil petition under Article 2 (2) 1 and 4 of the Enforcement Decree of the Civil Petitions Procedure Act;
 - (b) Any individual or organization that will get advantages or disadvantages as a direct result of the cancellation of authorization or permission, business suspension, imposition of surcharge or fine for negligence;
 - (c) Any individual or organization that is subject to investigation, audit, supervision, inspection, control or administrative

guidance;

- (d) Any individual or organization that will get advantages or disadvantages as a direct result of adjudication, decision, official approval, appraisal, examination, assessment, mediation or arbitration;
 - (e) Any individual or organization that is subject to conscription, muster or mobilization;
 - (f) Any individual or organization that has concluded or is sure to conclude a contract with the State or a local government;
 - (g) Any individual or organization that will get advantages or disadvantages as a direct result of decision or implementation of government policies or public projects; and
 - (h) Any other individual or organization that is related to anti-corruption duties assigned by the head of a central administrative agency (including the head of an entity which is answerable to the President or the Prime Minister); the executive organ of a local government; the head of a local council; and the superintendent of education and the head of board of education of a special metropolitan city, a metropolitan city or a local province (hereinafter referred to as the "Agency Head").
2. The term "duty-related public official" means a public official who gets advantages or disadvantages as a direct result of other public official's performance of duties (in case of a government agency to get such advantages or disadvantages, a public official in charge of the affairs concerned within the agency), and who falls under any one of the following:
- (a) A public official who receives orders related to his or her duties;
 - (b) A public official (of the same government agency or other relevant agency) who handles or is related to affairs concerning personnel management, budget, audit, prize/decoration or evaluation/ assessment;

- (c) A public official who entrusted his or her affairs to other public official and the public official who was entrusted with the affairs; and
 - (d) Any other public official who the Agency Head considers a duty-related public official.
3. The term “gift” means goods, marketable securities, lodging tickets, membership cards, admission tickets or other equivalents which are offered without solicitation of any favors (including the favor whose value is much lower than its prevailing value in the market or the price at which it is traded).
 4. The term “gift of entertainment” means treatment including cuisine and a golf trip, or a convenience including transportation and an accommodation facility.

Article 3: Scope of Application

This Decree shall apply not only to State public officials (except for public officials under the control of the National Assembly, the Court, the Constitutional Court and the National Election Commission), but also to local public officials.

Chapter II Fair Performance of Duties

Article 4: Handling of Instructions that Hinder Fair Performance of Duties

- (1) If and when a public official gives his or her subordinate the instructions that may hamper fair performance of public duties in

order to pursue his or her own private interests or the interests of any third party, the subordinate public official may refuse to follow the instructions by communicating the reason to the superior official or consult with the officer in charge of the Code of Conduct for Public Officials designated by the provisions of Article 23 hereof (hereinafter referred to as the “Code of Conduct Officer”).

- (2) If a public official is repeatedly asked to fulfill the same wrongful instruction notwithstanding his or her refusal under paragraph (1), he or she shall immediately consult with the Code of Conduct Officer.
- (3) The Code of Conduct Officer, when requested to provide consultation under paragraph (1) and (2), shall check the details of such an instruction. In case the Code of Conduct Officer deems it necessary to change or cancel the instruction, he or she shall give notification to the head of the agency concerned; provided, however, that this shall not apply when the superior public official, who gave the wrongful instruction, changes or cancels it while the Code of Conduct Officer is checking its details.
- (4) The head of agency, who received notification in accordance with paragraph (3), shall take a proper measure including, but not limited to, the cancellation or change of the instruction, where deemed necessary. In that case, disciplinary or other necessary actions may be taken against the superior public official who repeated the biased instructions that may harm fair performance of duties notwithstanding the provisions of paragraph (1) herein.

Article 5: Recusation for Conflicts of Interest

- (1) When a public official’s duty falls under any of the following subparagraphs, he or she shall consult the immediate senior official

or the Code of Conduct Officer about avoiding such duty and then handle the matter; provided, however, that this shall not apply if the duty concerned is one of the simple civil petition services designated by the Agency Head on the ground that their fair performance may not be hampered:

- (a) Where the duty concerned is directly related to the public official's own financial interests; or those of certain other persons, such as his/her lineal ascendants/descendants and spouse; and the spouse's lineal ascendants/descendants;
- (b) Where a duty-related party is his/her relative within the relationship of third degree (defined by Article 767 of the Civil Act, hereinafter the same shall apply);
- (c) Where a duty-related party is the agency or the representative of the agency for which he or she used to work within the past 2 years; and
- (d) Where a duty-related party is defined by the Agency Head as a person with whom a public official may not perform his/her duties in an impartial manner.

(2) The immediate senior official or the Code of Conduct Officer, who received a request for consultation in accordance with paragraph (1), shall give notification to the head of the agency concerned if it is deemed inappropriate that the public official concerned continues to perform the duties; provided, however, that the senior official may temporarily reassign the public official to other duties without giving notification to the head of the agency if he or she has the authority to do so.

(3) The head of the agency who received notification under paragraph (2) shall take necessary measures to ensure fair performance of duties, including, but not limited to, the reassignment of duties.

Article 6: Exclusion of Preferential Treatment

While performing his/her duties, a public official shall not give any preferential treatment to a specific person on the grounds of kinship, religion, regional or academic ties.

Article 7: Prohibition of Use of Budget for Unspecified Purposes

A public official shall not make his or her agency bear economic costs by using its budget (including travel and business promotion expenses) for unspecified purposes.

Article 8: Handling of Unjust Request from Politicians

- (1) If a politician or a political party forces or requests a public official to perform his or her duties in a biased and improper way, he or she shall either give notification to the head of his/her agency or consult with the Code of Conduct Officer before handling the matter.
- (2) Having received notification under paragraph (1), the head of the agency concerned shall take necessary measures so that the public official may fairly perform his/her duties. The same shall apply to the Code of Conduct Officer who consulted with the public official in accordance with paragraph (1).

Article 9: Prohibition of Illegal Solicitation for Personnel Affairs

- (1) A public official shall not ask any third party to solicit a public official who handles affairs on his or her appointment, promotion, job transfer and any other personnel management for the purpose of getting personal benefits.
- (2) A public official shall not use his or her public position to unduly influence the decisions on personnel management for other public

officials, especially decisions on their appointment, promotion and job transfer.

Chapter III

Prohibition of Giving and Receiving Unfair Profits

Article 10: Prohibition of Influence Peddling

A public official shall not directly use his or her public position to benefit him/herself or other people.

Article 10-2: Prohibition of the Improper Use of Public Position

A public official shall not use or allow other people to use his/her position or the title of the agency in the way that they appear on public announcement or notice for personal gains other than official duties.

Article 11: Prohibition of Illegal Solicitation

- (1) A public official shall not use any good office or solicitation to hinder other public officials from performing their duties in a fair and proper manner for the purpose of benefiting him/herself or other selected people.
- (2) A public official shall not introduce a duty-related party to any other duty-related party or to a public official as defined by Article 2. 2 of the Act on Anti-Corruption and the Establishment of the Anti-Corruption & Civil Rights Commission, for the purpose of benefiting him/herself or other selected people.

Article 12: Restriction of Use of Duty-related Information for Financial Transactions

- (1) A public official shall not involve in transactions of or make investment in marketable securities, real estate and other financial instruments by using information he or she obtained in the course of performing his or her public duties; nor shall he or she give such information to any other person in order to help them make such financial transactions or investment.
- (2) Concerning the provision of paragraph (1), the Agency Head shall draw up a detailed set of standards for restricting the use of duty-related information for financial transactions, depending on specific area of public duty.

Article 13: Prohibition of Personal Use of Public Property

A public official shall not benefit himself or herself by using public properties including public-owned vehicles, vessels and airplanes; and additional services provided as a result of budget expenditure including frequent flyer miles and reward points without justifiable grounds.

Article 14: Restriction of Receiving Money or Other Valuables

- (1) A public official shall not receive money, valuables, real estates, gifts or gifts of entertainment (hereinafter referred to as “money or other valuables”); provided, however, that this provision shall not apply to one of the following:
 1. Money or other articles provided by a lawful ground of claim such as the payment of debt;

2. Foods or convenience provided within the scope of conventional practices;
3. Transportation, accommodation or foods uniformly provided by a sponsor to all participants in an official event related to duties;
4. Souvenirs or promotional goods distributed to many and unspecified persons;
5. Money or other valuables publicly provided to a public official in need who is afflicted with a disease or suffers other kind of disaster; and
6. Money or other valuables provided to a public official to facilitate the performance of his or her duties within the limit set by the Agency Head.

(2) A public official shall not receive money or other valuables from a duty-related public official, provided, however, that this provision shall not apply to one of the following when:

1. any subparagraph of paragraph (1) herein is applied;
2. a small gift is offered according to common practices;
3. a friendly society publicly offers money or other valuables; and
4. a superior public official offers money or other valuables to his or her subordinates to promote their morale or to console, encourage or reward them.

(3) A public official shall not receive money or other valuables from an individual who was a duty-related party or a duty-related public official in connection with his or her current public duties; provided, however, that this shall not apply to the money or other valuables that fall under paragraph (1) or (2) above.

(4) A public official shall prevent his/her spouse or lineal ascendants/descendants from receiving money or other valuables

prohibited under paragraph (1) or (3) above.

Article 14-2: Prohibition of Giving Money or Other Valuables

A public official shall not give money or other valuables to a public official prohibited from receiving money or other valuables under Article 14 (2); provided, however, that this shall not apply to the money or other valuables that fall under Article 14 (2) above.

**CHAPTER IV
CREATION OF HEALTHY CLIMATE OF CIVIL SERVICE**

Article 15: Report on Outside Lecture or Conference

- (1) If a public official intends to give a lecture, a presentation or advice or to participate in a discussion, discourse, examination, assessment or resolution, at a seminar, public hearing, forum, symposium, training course, conference, etc. (hereinafter referred to as the “outside lecture or conference”) which pays an honorarium, he or she shall notify the head of his/her agency of (a) who made a request for the outside lecture or conference, (b) reasons for such request, (c) the venue, date and time for the outside lecture or conference and (d) the amount of an honorarium; provided, however, that he or she may not report it if the request for the outside lecture or conference is made by the State or a local government (including an entity which belongs to a local government).
- (2) The total amount of an honorarium under paragraph (1) shall not exceed ordinary standard conventionally applied by the party who made a request for such outside lecture or conference.

Article 16: Prohibition of Borrowing Money

- (1) A public official shall not borrow money from, lend money to or rent real estate from a duty-related party or a duty-related public official (excluding a relative within the third degree; hereafter the same shall apply in this Article) without compensation (including cases where such compensation is insignificant compared to the market value or customary transaction value; hereafter the same shall apply in this Article). Provided, however, this shall not apply when a loan is made on ordinary terms and conditions from a financial institution under Article 2 of the Act on Real Name Financial Transactions and Guarantee of Secrecy.
- (2) Notwithstanding the provisions of paragraph (1), a public official, who intends to borrow money from, lend money to or rent real estate from a duty-related party or a duty-related public official without any compensation for unavoidable reasons, shall give notification to the head of his/her agency.

Article 17: Restriction on Notification of Festivities and Funerals and on Receipt of Money Thereof

- (1) A public official shall not notify a duty-related party or a duty-related public official of festivities and funerals except as expressly provided by the following:
 1. Notification of festivities and funerals given to relatives;
 2. Notification of festivities and funerals given to current or former colleagues;
 3. Notification of festivities and funerals through newspapers, broadcasting or intranet to which only his/her current or former colleagues pursuant to subparagraph 2 above have access; and
 4. Notification of festivities and funerals given to the members of

a religious organization or a social gathering to which he or she belongs.

(2) A public official shall not give or take money or other valuables for festivities and funerals whose worth exceeds the standards, which the Agency Head set within the scope of common practices and after collecting opinions from the employees of the government agency, except as expressly provided by one of the following cases:

1. where money or other valuables are given or taken between a public official and his/her relatives for festivities and funerals;
2. where money or other valuables for festivities and funerals are given to a public official by a religious organization or a friendly society to which he or she belongs, in accordance with its articles of association or regulations; and
3. where money or other valuables are given for festivities and funerals determined by the Agency Head.

CHAPTER V MEASURES AGAINST VIOLATION

Article 18: Consultation on Legality

When a public official deem it unclear whether his/her performance of duties violates this Decree, he or she shall handle the duties after consulting the code of conduct officer.

Article 19: Report and Confirmation of Violation

- (1) Any one who should become aware that a public official violates this Decree may report such fact to the head of an agency to which

the public official belongs, the code of conduct officer in that agency or the Anti-Corruption and Civil Rights Commission.

- (2) The person who files a report in accordance with paragraph (1) shall specify in the report the personal details of him/herself as well as of the violator including name, address, etc., and the details of violation.
- (3) The head of an agency to which the public official in question belongs or the code of conduct officer at the agency, should he or she receive a report of violation under paragraph (1), shall guarantee the confidentiality for the informant and the report details and shall take necessary measures so that the informant may not receive any detrimental treatment due to the report.
- (4) The code of conduct officer shall confirm the violation reported under paragraph (1) and then report it to the head of the relevant agency, attaching a vindication submitted by the public official concerned.

Article 20: Disciplinary Action

The head of the agency, should he or she has received a report under Article 19 (4), may take necessary measures including disciplinary actions against the public official concerned.

Article 21: Disposal of Money or Other Articles Prohibited

- (1) A public official who has received money or other valuables in violation of Article 14 or 17 (2) shall immediately return the money or other valuables received in excess of or in violation of the prescribed standards to the offering party. In which case, the public official concerned may request the expenses for return thereof from the head of the agency to which he or she belongs, by attaching documentary evidence.

- (2) If the money or other valuables to be returned under paragraph (1) are subject to loss, decay or deterioration, if it is difficult to return them because the name or address of the offering party is not obvious or if there are other unavoidable reasons for not returning them, the public official concerned shall immediately report such fact to the head of his or her agency or the Code of Conduct Officer and then dispose them according to the decisions by the head of the agency.

CHAPTER VI SUPPLEMENTARY PROVISIONS

Article 22: Education

- (1) The Agency Head shall provide a schedule for education of public officials under his or her control to guarantee their compliance with this Decree and conduct education as set in the schedule at least once a year.
- (2) The Agency Head shall give education under this Decree to newly appointed public officials under his or her control.

Article 23: Designation of Code of Conduct Officer

- (1) The Agency Head shall designate a code of conduct officer at the agency and agencies under his or her control whose head is a public official of Grade IV or higher or of other equivalent position (including a general public official who is a member of Senior Executive Service): Provided, that this shall not apply when it is not appropriate to designate a code of conduct officer at the agency under his control in the light of its scale, character, and geographic

position.

- (2) The Code of Conduct Officer shall educate and consult with the public officials in his or her agency on the Code of Conduct for Public Officials, check and assess the degree to which they are following this Decree, and receive the disclosure of and conduct the investigation of violation.
- (3) The Code of Conduct Officer shall not disclose any secrets learned in the process of consultation under this Decree.
- (4) For an agency that has not designated a code of conduct officer under paragraph (1), the code of conduct officer responsible for its superior agency shall conduct the affairs of such agency with regard to the Code of Conduct for Public Officials.

Article 24: Operation of Code of Conduct by Agency

- (1) The Agency Head shall establish a detailed code of conduct for public officials for the said agency in consideration of the character of the said agency within the scope of necessity for the enforcement of this Decree. In the case of Article 15, 17 and 23 of this Decree, the head of a local council and board of education may establish provisions different from that of this Decree in consideration of the character of the said agency.
- (2) The Agency Head, when establishing or amending the agency specific code of conduct for public officials under paragraph (1), shall notify the Anti-Corruption and Civil Rights Commission thereof.
- (3) Should the Anti-Corruption and Civil Rights Commission deem that the agency specific code of conduct for public officials notified under paragraph (2) is inappropriate or partial, it may recommend remedial actions to the agency concerned.

- (4) The Anti-Corruption and Civil Rights Commission may advise matters necessary to operate the agency specific code of conduct for public officials under paragraph (1).

ADDENDUM

<No. 21238, December 21, 2008>

Article 1 (Enforcement Date)

This Decree shall enter into force from February 1, 2009.

Article 2 (Applicable Cases concerning Report on Outside Lecture or Conference)

Notwithstanding permission granted under Article 15 (1) prior to the revision of this Decree, an outside lecture or conference on and after the enforcement date of this Decree shall be reported under the revised provisions of Article 15 hereof.