

United Nations Convention against Corruption

Article 8 (code of conduct)

Status of Implementation

1. Introduction of 'The Code of Conduct for Public Officials'

○ Purpose

The purpose of "The code of conduct for public officials" is to prescribe desirable standard of values and conducts to be observed by public officials when they fall into conflict of interests during the performance of duties.

○ Legal basis and History

As 「Act on Anti-Corruption and the Establishment and Operation of the Anti-Corruption & Civil Rights Commission」, enacted and proclaimed on July 24, 2001, was hold for public officials, "The code of conduct for public officials" was put into force from May, 2003. On July 21, 2005, the act was revised to mandate officials in government related organizations to follow the code of conduct. As a result, beginning from April, 2006, government-related organizations started to enact and put into force the code of conduct.

○ Form of Enactment

Under Article 7 of 「Act on Anti-Corruption and the Establishment and Operation of the Anti-Corruption & Civil Rights Commission」, officials in the administration should be subject to the code of conduct by the presidential decree, officials in constitutional institutions to the code by their organizations' regulation, officials in government related organizations to the code by internal regulations.

For local councilmen, reflecting their unique characteristics of status, "The code of the conduct of local council members" was enacted and proclaimed on November 22, 2010 under the separate presidential decree, and was enforced from February 3, 2011.

○ Subjects of Application

As of March 2011, 1.3 million public servants in 1,227 agencies are subject to the code of conduct. (Administrative agencies 306, Local councils 244, Government-related organizations 677)

○ Operation System

Based on the presidential decree enacted by the ACRC, each public organization should enact and operate the code of conduct tailored to its organizational characteristics and working conditions in order to secure effectiveness of the code.

○ Structure and Details

「The code of conducts for public officials」 consists of 6 chapters and 24 articles of 16 Standards of Conduct and 8 Definition and Operation Systems.

Fair Performance of Duties (6)	Prohibition of Giving and Receiving Unfair Profits (7)	Creation of Healthy Climate of Civil Service (3)
Handling of Instructions that Hinder Fair Performance of Duties (§4) Recusation for conflicts of interests (§5) Exclusion of Preferential Treatment (§6) Prohibition of Use of Budget for Unspecified Purposes (§7) Handling of Unjust Request from Politicians (§8) Prohibition of Illegal Solicitation for Personnel Affaires (§9)	Prohibition of Influence Peddling (§10) Prohibition of the Improper Use of Public Position (§10. 2) Prohibition of Illegal Solicitation (§11) Restriction of Use of Duty-related Information for Financial Transactions (§12) Prohibition of Personal Use of Public Property (§13) Restriction of Receiving Money or Other Valuables (§14) Prohibition of giving money or other valuables (§14. 2)	Report on Outside Lecture or Conference (§15) Prohibition of Borrowing Money (§16) Restriction on Notification of Festivities and Funerals and on Receipt of Money Thereof (§17)

「The code of conduct for local council members」 consists of 6 chapters and 24 articles of 15 standards of conduct.

Fair Performance of Duties (4)	Prohibition of Giving and Receiving Unfair Profits (5)	Creation of Healthy Climate of Civil Service (6)
Recusation for conflicts of interests (§4) Prohibition of Use of Budget for Unspecified Purposes (§5) Prohibition of Illegal Solicitation for Personnel Affaires (§6) Restriction of participating in the committee related to one's duties (§7)	Prohibition of Influence Peddling (§8) Restriction of Use of Duty-related Information for Transactions (§9) Prohibition of Personal Use of Public Property (§10) Restriction of Receiving Money or Other Valuables (§11) Restriction of Exchanging Money or Other Valuables between local council members (§12)	Restriction on activities at home and abroad (§13) Report on Outside Lecture or Conference (§14) Report on conduct to pursue profits (§15) Restriction on Financial Transactions (§16) Restriction on Notification of Festivities and Funerals and on Receipt of Money Thereof (§17) Prohibition of Sexual Harassment (§18)

2. Violation Report and Inspection System of "The code of conduct for public officials"

○ Handling of Violation Report of The Code of Conduct

Anyone who detect public officials' violation of the code of conduct can report the case to the ACRC or a Code of Conduct Officer in the agency concerned.

Regarding the reported case, the ACRC confirms the violation, informs the head of related officer's agency and receives result of the case handled, under article 10 of enforcement decree in Act on Anti-Corruption and the Establishment and Operation of the Anti-Corruption & Civil Rights Commission. The agency concerned handles the reported case, then notifies the result to the ACRC.

- **Investigation and Inspection on Operation and Implementation of the Code of Conduct**

The ACRC conducts inspections in order to enhance compliance and secure effectiveness of the code, especially during holiday seasons when moral hazard is highly likely to occur in civil services. The ACRC reports violations to the agency concerned so that it can address the issue.

3. Measure to Secure Effectiveness of "The code of conduct for public officials"

- **Review on revision and enactment of a "The code of conduct"**

The ACRC reviews revision and enactment of other organizations' code of conducts to support the process and secure rationality of the code. The ACRC also advises correction if any improper aspects. According to the ACRC reviews, conducted between 2009 and 2010, 829 (85.4%) among 971 organizations had desirable code of conducts, while 142 organizations (14.6%) were called for rectifications.

- **Performance Analysis on Operation of "The code of conducts" in organizations**

The ACRC designated the office head of Professional Ethics team or audit team as A Code of Conduct Officer so that organizations can train, counsel and monitor internally. The ACRC receives Operation Performance Report from the organizations semiannually. According to performance analysis of the organizations, 6,792 public officials were penalized for violations of the code since the enforcement of the code in 2003.

- **Development and Proliferation of Best Practices in The code of conducts**

To support voluntary implementation of public organizations, the ACRC selected 23 best practices and recommended adoptions in June 2010. The ACRC published booklets to help their understanding.

- **Counseling Service on The Code of Conduct**

For better understanding on the code of conduct, The ACRC has opened e-Clean System on its homepage since 2004 and has dealt with 994 cases until March 2011.

- **Others (Training and Consulting Support)**

To improve violators' understanding on the code of conduct and to support internal education, The ACRC provides education materials and holds annual meetings for Code of Conduct Officers. The ACRC offers intensive consulting services tailored to each organization to suggest optimum implementation and operation of the code.

<Annex>

1. The full text in English of 「Act on Anti-Corruption and the Establishment and Operation of the Anti-Corruption & Civil Rights Commission 」
2. The full text in English of 「The code of conduct for public officials 」

United Nations Convention against Corruption

Article 10 (Public reporting)

Status of Implementation

1. Purpose of Information Disclosure System

(1) Definition

○ Information Disclosure System is an institutional device to protect people's rights to know and improve transparency of state administration, by making information held by government organizations public or providing important information to people in advance.

(2) Importance of Information Disclosure System

○ To protect people's right to know

- People's right to know was derived from freedom of the press guaranteed by the constitutions. It includes people's right to request disclosure of information, which allows access to administrative information with direct and indirect impacts on their lives.

○ To encourage people's participation in the government administration

- The government holds the largest amount of information on social issues and people has right to share this information in order to make right decisions in their political participation.

- Ultimately, people's access to information should be guaranteed to realize their political participation.

○ To secure reliability and transparency in administration

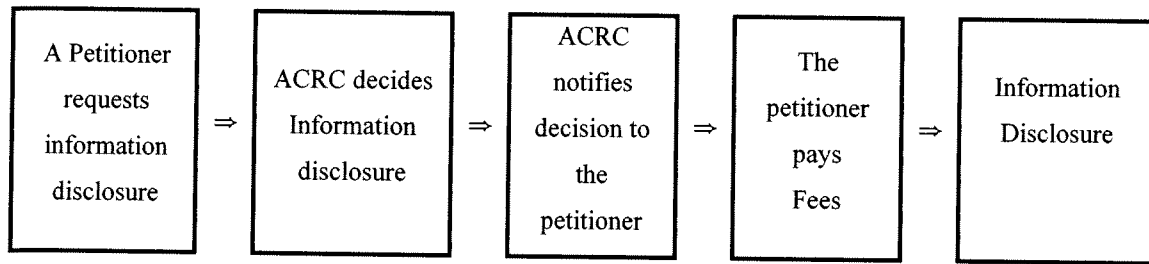
- By securing people's accessibility to information possessed and managed by public organizations, the government can secure reliability and transparency in administration.

○ To protect people's interests

- Access to information should be guaranteed for people to protect their interests against environmental and social problems related to transportation, consumers and safety.

2. Status of Information Disclosure System

○ **Legal Basis:** Act on Disclosure of Information by Public Agencies/ Enforcement Decree/Enforcement Regulation (Enforced in January 1, 1998)



- **Process of information disclosure**

- **Online Information Disclosure Online Service**

- ACRC built information disclosure system in 2006 to provide one-stop online services. (www.open.go.kr)

- **Active Use of Information Disclosure System**

- Handled 130,000 cases (2006) → 200,000 cases (2007) → 230,000 cases (2008) → 300,000 cases (2009)

- Online Service Usage rate: 40%(2006) → 52%(2007) → 60%(2008) → 66%(2009)

3. Details of Information Disclosure System

- **Purpose of Information Disclosure System (Article 1 of Act)**

- By defining people's right to request information disclosure and organizations' obligation to provide information possessed and managed by the organizations

- In order to grant the citizens' right to know and secure participation and transparency of government administration.

- **Scope of Information Disclosure (Article 2 No.1 of Act)**

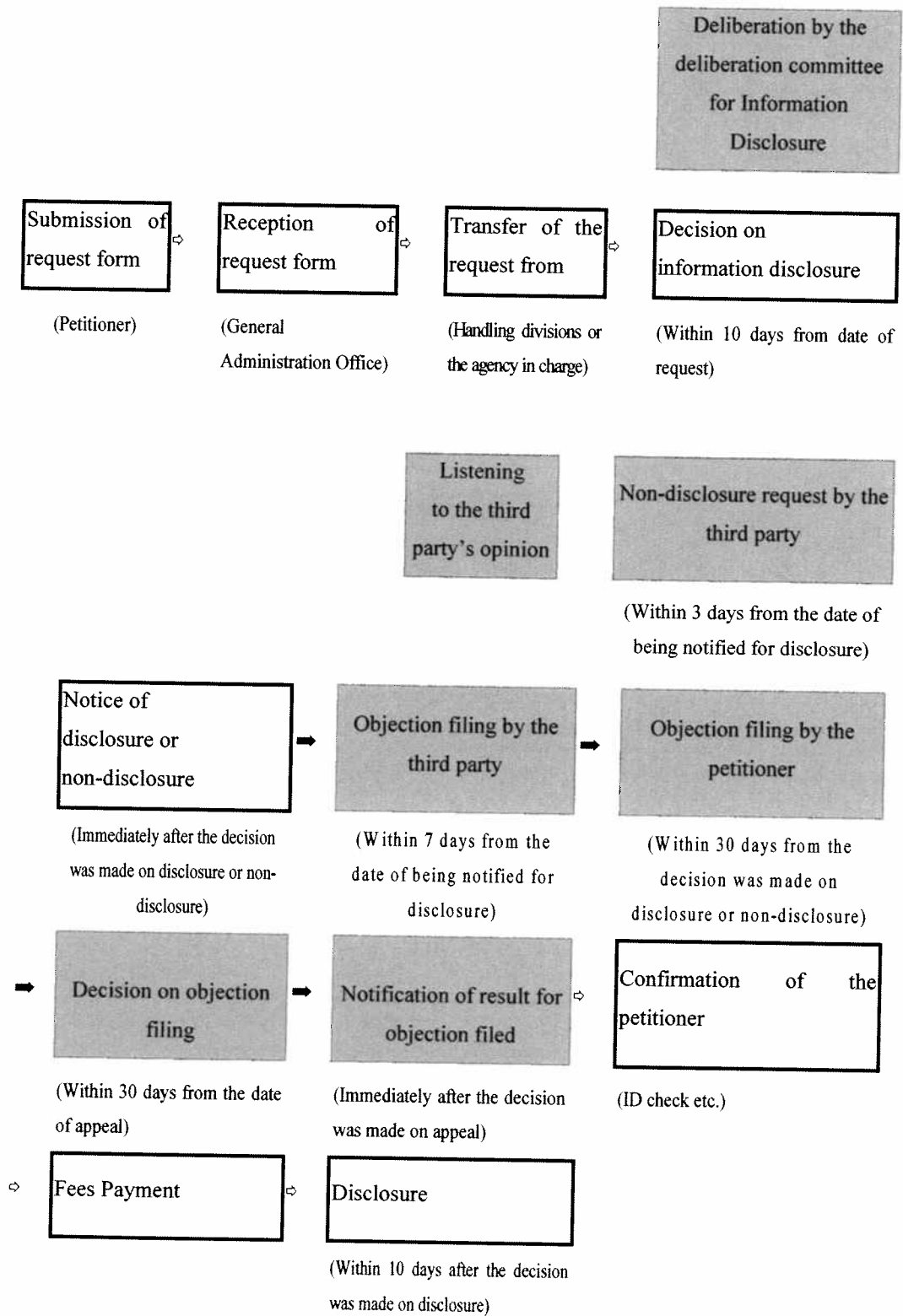
- 'Information' refers to any document that is composed, acquired, or managed officially by a public institution (Including e-document) as well as the items recorded in media like photo, picture, plan, tape, slide, and any other item in accordance with the aforementioned items.

- ※ Exceptional non-disclosure: Information which falls into non-disclosure items under the provisory clause shall not be disclosed. (Act Article 9. Section 1. No.1-8)

- **Organizations subject to information disclosure (article 2 of Act, article 2 of Decree)**

- Governments organizations, local councils, public organizations stipulated in article 4 of Act on the Management of Public Agencies, and other organizations defined by the presidential decree
- **Person who can demand information disclosure (article 5 of Act, article 3 of Enforcement decree)**
 - All citizens and foreigners (A person who lives in Korea with a certain residential address or who stays in Korea temporarily for academic and research purposes) defined by the presidential decree
- **Type of Decision on Information Disclosure and details (article 13 of Act, article 12 of Decree)**
 - Full disclosure: date, place, methods, fees
 - Partial disclosure: basis of partial disclosure, process of appeals
 - Non-disclosure: basis of non-disclosure, process of appeals
 - ※ Decisions on disclosure are made within 10 days after the date of request and can be extended up to 10 days. (Article 11 of Act)
- **Process of appeals (article 18-20 of Act)**
 - Appeal against the decision made to be non-disclosure or partial disclosure without application of transposition system of administrative decision
 - Filing an objection (article 18 of the Act), Administrative appeals (article 19 of the Act), Administrative litigation (article 20 of the Act)
- **Organization and Management of The deliberation committee for information disclosure (article 12 of Act, article 11 of Enforcement decree)**
 - Subject Organizations: government organizations, local councils, education offices, state-run companies
 - Number of members/Term: 5-7 people (A half of members should be selected from outside) / 2 years (Serving one more term is allowed)
 - Deliberation details: reasons for non-disclosure, non-disclosure appeals, disclosure standards
- **Organization and Management of The committee for information disclosure (article 22-23 of Act, article 19-26 of Enforcement decree)**
 - Number of people who has right of appointment / number of members: Minister of Public Administration and Security / 9 people (5 from private sectors, 4 from the government)
 - Term/opening time: 2 years (Serving one more term is allowed) / semi-annual
 - Function: policy making and deliberation for information disclosure in public organizations

4. Flow Chart of Information Disclosure Process



※ legend Mandatory process



→ : Elective Process