



State Ethics Commission

Conflict of Interest Seminar

Municipal Employees



State Ethics Commission

“The basis of effective government is public confidence, and that confidence is endangered when ethical standards falter or appear to falter.”

~ John F. Kennedy
Address to Congress
April 27, 1957



State Ethics Commission

THE COMMISSION

- ◆ is a five-member, independent, non-partisan authority.
- ◆ is an administrative law agency providing advice, education and enforcement of M.G.L. 268A and 268B.
- ◆ has jurisdiction over all state, county and municipal employees and volunteers, paid or unpaid, full time, part-time, intermittent or specials.



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THE DIVISIONS

- ◆ **Public Education Division:**
Seminars, Website, Media.
- ◆ **Legal Division:**
Free, confidential, guidance, oral or written.
Statements of Financial Interests.
- ◆ **Enforcement Division:**
Investigates 900-1200 complaints a year.
Complainant identity kept confidential.
Anonymous complaints accepted.



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Website

www.mass.gov/ethics

- **Educational materials**
- **Formal Legal Opinions**
- **Enforcement Decisions**
- **Disclosure Forms**
- **Links to the Online Training Program and Summary of the Conflict of Interest Law for Municipal Employees**



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Obtaining Legal Advice

Speak to the Attorney of the Day

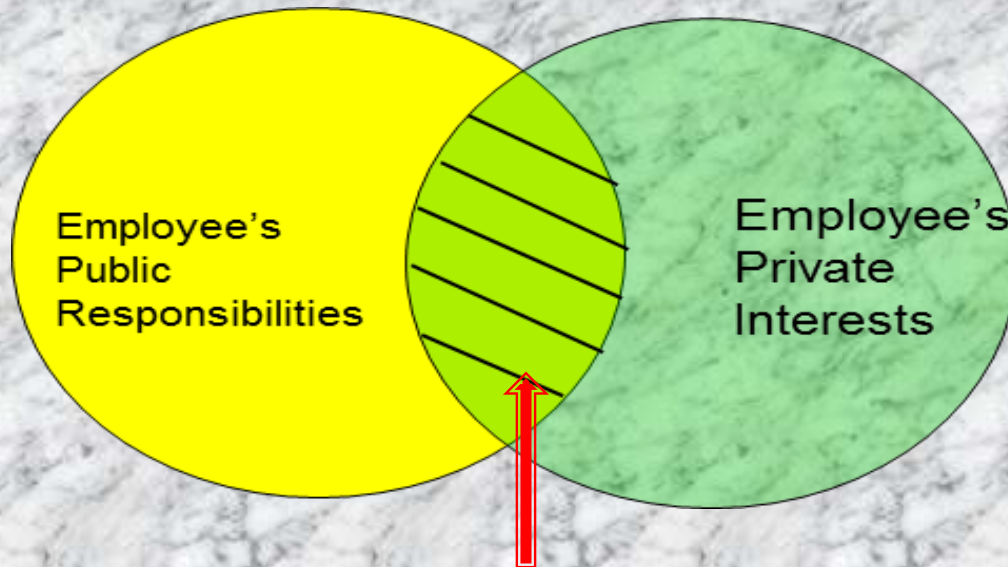
- Advice is Confidential
- Advice can be given by telephone (617-371-9500), email, or letter.
- Online request for advice, www.mass.gov/ethics.
- No third party or past conduct advice given.
- Disclosure forms available on the website.



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CONFLICTS 101

Professional Life \longleftrightarrow Personal Life



Focus of the Conflict of Interest Law



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Conflict of Interest Law: Gifts

- **§ 2-** Bribery: prohibits corrupt gifts, offers, and promises to influence official acts.
- **§ 3-** Gifts and Gratuities: prohibits gifts of substantial value given for or because of official acts performed or to be performed.
- **§ 23(b)(2)(i)-** Gifts: prohibits gifts of substantial value given for or because of official position.



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Examples of Prohibited Gifts

Connection to Official Act

- *Example:* You vote to approve a permit or license for which the applicant is eligible. The applicant sends you a \$50 restaurant gift certificate to say thank you. You may not accept this gift.

Because of Official Position

- *Example:* A local business owner gives you tickets worth \$50 or more to a sporting event because you are a board member and not because of any friendship you have with the giver. You may not accept this gift.



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Conflict of Interest Law: Gifts

- **§ 23(b)(3)- Standards of Conduct:** prohibits gifts valued at less than \$50 if the receipt of a gift creates the appearance that the public employee could be improperly influenced in the performance of their duties, unless a written disclosure is filed.



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Regulatory Exemptions: Gifts

**930 CMR 5.08: Gifts Worth \$50 or More and Related to
Official Action or Position: Exemptions**

(Disclosure and Prior Approval Required in Certain Circumstances)

- **Travel Expenses where the purpose of the travel serves a legitimate public purpose**
- **Incidental Hospitality That Serves a Public Purpose**
- **Legitimate Speaking Engagements**
- **Honorary Degrees.**



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Exemption Example

Example of exemption:

A town vendor offers to pay your expenses to attend an out of state conference. You fill out the Ethics Commission disclosure form. You certify that acceptance of such expenses serves a legitimate public purpose and that such public purpose outweighs any personal benefit to you or the person/entity paying the expenses. You are permitted to accept the payment of expenses. 930 CMR 5.08(2)(d). If you are appointed, your appointing authority makes the certification.



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Regulatory Exemptions: Gifts

**930 CMR 5.08: Gifts Worth \$50 or More and Related to
Official Action or Position: Exemptions**
(Disclosure and Prior Approval Required in Certain Circumstances)

- **Awards for Meritorious Public Service or Lifetime Achievement.**
- **Public Employee Discounts and Waived Membership Fees.**
- **Gifts Among Public Employees.**
- **Ceremonial Gifts and Privileges.**



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Regulatory Exemptions: Gifts

**930 CMR 5.08: Gifts Worth \$50 or More and Related to
Official Action or Position: Exemptions**
(Disclosure and Prior Approval Required in Certain Circumstances)

- **Retirement Gifts.**
- **Unsolicited Perishable Items.**
- **Admission to Political Campaign Events for Elected Officials and their Staff Members.**
- **Gifts Received and Held Temporarily as Part of Charitable Activities.**



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Regulatory Exemptions: Gifts

**930 CMR 5.08: Gifts Worth \$50 or More and Related to
Official Action or Position: Exemptions**

(Disclosure and Prior Approval Required in Certain Circumstances)

- **Class Gifts to Teachers.**
- **Passes to School Event given by the district for school sports and entertainment events.**
- **Random Drawings.**



State Ethics Commission **NEPOTISM**

A municipal employee may not in general participate in particular matters in which he, his immediate family, a partner, a business organization with which he has certain affiliations or someone with whom he is negotiating prospective employment has a financial interest.

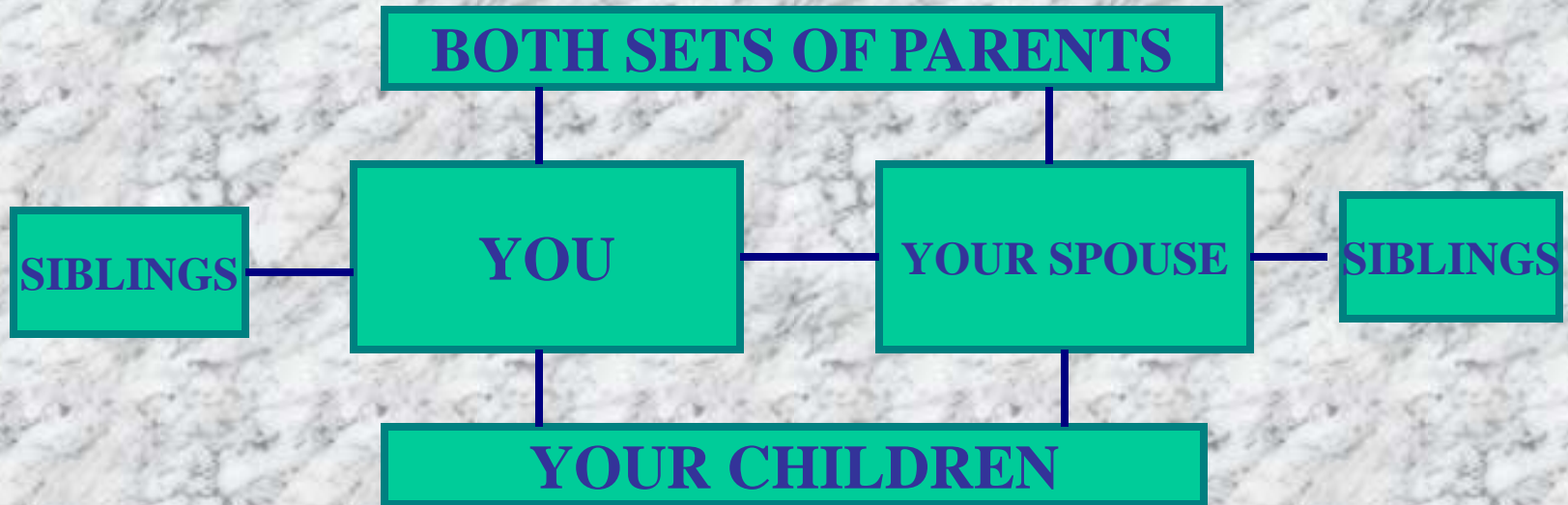


- 2 - Step disclosure and determination process for appointed municipal employees.
- No exemptions for elected officials.
- Matters affecting abutters and competitors may affect official's financial interest.



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IMMEDIATE FAMILY





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CODE OF CONDUCT

A public official or employee shall not knowingly:

- Act in a manner such that a reasonable person might conclude that he or she might act with bias.
 - *One-step written disclosure to dispel appearance of conflict*
- Secure unwarranted privileges for his/herself or others.
- Use inherently coercive authority.
- Use official resources for private or personal use.
- Disclose confidential information.
- Accept inherently incompatible employment.





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POLITICAL ACTIVITY

- **SOLICITING CAMPAIGN SUPPORT FROM COLLEAGUES, SUBORDINATES OR CONSTITUENTS**
- **CAMPAIGN ACTIVITIES IN PUBLIC BUILDINGS**
- **CANNOT USE PUBLIC RESOURCES FOR POLITICAL PURPOSES**



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AFTER HOURS RESTRICTIONS

Divided Loyalty Restrictions:

- Representing 3rd Parties
- Working privately on municipal contracts or on work regulated by the municipality

Prohibited Interests in Municipal Contracts:

- Financial Interests in vendor contracts
- Holding additional municipal positions



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Special Municipal Employees

Selectmen in towns with 10,000 or less in population according to latest U.S. Census data

Positions that have been expressly classified by the board of selectmen and

- Are unpaid, or
- Compensated for less than 800 hours in a year, or
- By terms, classification or conditions of employment, permits personal or private employment during normal working hours



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DIVIDED LOYALTIES

An employee may not act on the behalf of, or receive compensation from, a third party in connection with anything of direct and substantial interest to the municipality.



- Divided loyalties / Serving two masters
- You may never appear before your own agency
- Special Municipal Employees who work less than 60 days may appear before other municipal departments, under some circumstances.
- You may always represent yourself before any municipal board or department.



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DIVIDED LOYALTIES

An employee may not act on the behalf of, or receive compensation from, a third party in connection with anything of direct and substantial interest to the municipality.

- **Businesses may be restricted from compensating public employees for work on matters where the municipality has an interest in the matter.**



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DIVIDED LOYALTIES

Exceptions to the rule:

- **Disciplinary/Personnel issues if uncompensated.**
- **Family members if appointing authority approves.**
- **Testimony/Sworn Statements.**
- **Municipal employees can obtain building, wiring, plumbing, gas fitting or septic permits unless employed by issuer.**



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FINANCIAL INTERESTS IN CONTRACTS

A municipal employee may not have a financial interest in a contract in which the municipality is an interested party.

- Contracts to provide goods or services.
- Multiple positions, one of which is paid.





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FINANCIAL INTERESTS IN CONTRACTS

- **Municipal employees can serve on board of selectmen, board of aldermen or city council, but . . .**
- **Elected municipal employees can hold any number of paid elected positions.**
- **Appointed employees can hold any number of unpaid appointed positions.**
- **Appointed employees in towns with populations less than 3500 can hold other paid appointed positions with approval of the board of selectmen.**
- **Exemptions are available for Special Municipal Employees.**



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REVOLVING DOOR PROVISIONS

- THE FOREVER BAN

A former municipal employee is prohibited from receiving compensation from or representing a third party in any particular matter in which he participated as a municipal employee.

- THE ONE YEAR COOLING OFF PERIOD

A former municipal employee is prohibited for one year from appearing personally on behalf of a third party if, within two years prior to his last day of employment, the matter was under his official responsibility.



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REVOLVING DOOR PROVISIONS

- THE FOREVER BAN

A former municipal employee is prohibited from receiving compensation from or representing a third party in any particular matter in which he participated as a municipal employee.

Partners in the firm may also be restricted in matters where the former municipal employee is restricted under the Forever Ban.



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ETHICS REFORM LEGISLATION

- **Increases civil penalties from \$2,000 to \$10,000 for all sections except for bribery.**
- **Adds section to Code of Conduct prohibiting gifts to public employees because of their official position.**
- **Adds section to Code of Conduct prohibiting public employees from submitting false claims for payment to their employer.**
- **Adds a mandatory training requirement for all public employees.**



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2011 GAMING LEGISLATION

- **Municipal employees who worked on gaming legislation are prohibited from working in connection with a gaming license for one year after leaving public employment.**



State Ethics Commission Quick Tips

When in doubt **DON'T**

If a bell goes off or a flag goes up **CALL**

617/371-9500 or **888/485-4766**

Visit us on the Web at **www.mass.gov/ethics**