



State Ethics Commission

Conflict of Interest Seminar



State Ethics Commission

THE COMMISSION

- ◆ is a five-member, independent, non-partisan agency.
- ◆ provides 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 or intermittent.



State Ethics Commission

THE COMMISSIONERS

- ◆ **Serve a single, five-year term.**
- ◆ **The Governor appoints three members, including the chairman.**
- ◆ **The Attorney General and the Secretary of State each appoint one member.**
- ◆ **Only two of the Governor's appointees may be of the same political party; and only three of the five members may be of the same political party.**



State Ethics Commission

THE DIVISIONS

- ◆ **Public Education:** seminars, website, media contact.
- ◆ **Legal:** free, confidential, timely and binding advice.
- ◆ **Statement of Financial Interests:** financial disclosure document that certain state and county officials and candidates for public office must file.
- ◆ **Enforcement:** most matters resolved confidentially; up to \$2,000 per violation, which increases under the ethics reform bill; anonymous complaints accepted.



State Ethics Commission

BRIBES

**Anything of value, corruptly given or received,
with the intent to have the state employee**

- **take official action**
- **not take official action, or**
- **commit a fraud on government**
 - **NO \$ THRESHOLD**
 - **CRIMINALLY ENFORCED BY AG OR DA**
 - **QUID PRO QUO/CORRUPTION**

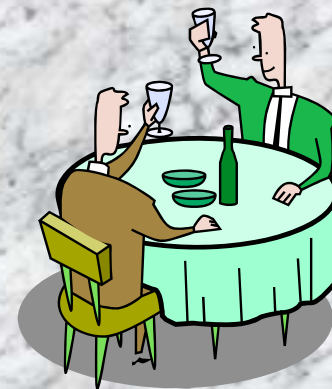


State Ethics Commission

GIFTS AND GRATUITIES

Anything of substantial value given or received, for or because of an official action, or an action under the state employee's official responsibility, performed or to be performed.

- **\$50 THRESHOLD**
- **GIVEN OR RECEIVED IN CONNECTION WITH OFFICIAL BUSINESS**
- **GIFT/GRATUITY IS DESIGNED TO**
 - **INFLUENCE A PRESENT ACT;**
 - **INDUCE A FUTURE ACT;**
 - **REWARD FOR A JOB WELL DONE.**





State Ethics Commission

GIFTS AND GRATUITIES

- **TICKETS TO SPORTING EVENTS, THEATER**
- **GIFT CERTIFICATES**

If the value is \$50 or more, refuse it if you had, have or will have official dealings with the giver.

Can accept if you pay face value, unless the actual value of the ticket is worth more than face value.

Advisory 04-01

Covers free or discounted tickets or special access to tickets.

Ceremonial or gov't purposes excepted.



State Ethics Commission

GIFTS AND GRATUITIES

- ACCEPTANCE OF GIFTS FROM ANYONE WITH WHOM THE PUBLIC EMPLOYEE HAS OFFICIAL DEALINGS CAN ALSO VIOLATE THE CONFLICT OF INTEREST LAW PROVISION INVOLVING IMPROPER "USE OF POSITION".
- GIFTS OR ITEMS RECEIVED FROM FRIENDS WITH WHOM THE PUBLIC EMPLOYEE ALSO HAS OFFICIAL DEALINGS.
 - » MIXED MOTIVE
 - » RECIPROCITY
- GIFTS BETWEEN STAFF OR SOLICITING MONEY FOR BIRTHDAYS OR OTHER OCCASIONS

DON'T ACCEPT GIFTS WORTH \$50 OR MORE GIVEN TO YOU BECAUSE OF YOUR OFFICIAL POSITION.



State Ethics Commission

GIFTS AND GRATUITIES

- **EXEMPTIONS MAY BE AVAILABLE IF THERE IS A LEGITIMATE PUBLIC PURPOSE (See 930 CMR 5.00- Gift Regulations)**
 - TRAVEL/MEAL/LODGING REIMBURSEMENTS
 - HONORARIA- (Within Certain Limits)
 - FREE OR DISCOUNTED ADMISSION
 - ATTENDANCE AT CONFERENCES AND SEMINARS
 - CHAMBER OF COMMERCE BREAKFASTS AND SIMILAR EVENTS
 - AWARDS
- **WRITTEN DISCLOSURE IN ADVANCE TO THE APPOINTING AUTHORITY AND WRITTEN DETERMINATION BY THE APPOINTING AUTHORITY THAT YOUR RECEIPT SERVES A LEGITIMATE PUBLIC PURPOSE.**
- **DISCLOSURE FORMS ON THE WEBSITE/ CONTACT LEGAL DIVISION FOR GUIDANCE.**



State Ethics Commission

NEPOTISM

A public 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 public employees can waive the requirements.**
- **County employees may be required to disclose the conflict to their appointing authority and the State Ethics Commission.**
- **No exemption for elected officials.**



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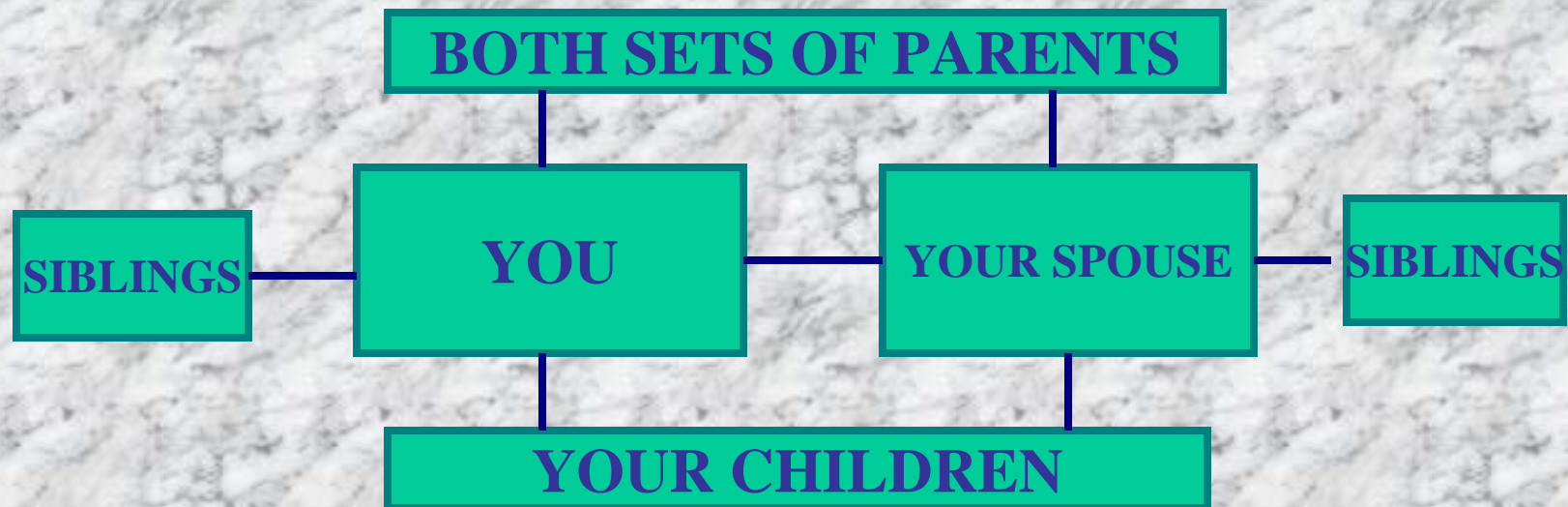
- Rule of Necessity may be available for elected boards.
- Matters affecting abutters or business competitors may affect public employee's financial interests.
- Absention/Recusal requirements for board members.

Leave the room or sit in the audience.



State Ethics Commission

IMMEDIATE FAMILY





State Ethics Commission

CODE OF CONDUCT

A state 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 county or municipal resources for private or personal use.
- Disclose confidential information.
- Accept inherently incompatible employment.



State Ethics Commission

POLITICAL ACTIVITY

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



State Ethics Commission

REPRESENTING 3rd PARTIES
BEFORE PUBLIC AGENCIES



A county or municipal employee may not act as an agent or attorney for, or receive compensation from, anyone other than the county or municipality in connection with any matter in which the county or municipality is a party or has a direct and substantial interest.





State Ethics Commission

REPRESENTING 3rd PARTIES
BEFORE PUBLIC AGENCIES

ACTS OF AGENCY INCLUDE:

- APPEARING PERSONALLY
- PHONE CALLS
- CORRESPONDENCE
- SIGNING APPLICATIONS
- STAMPING PLANS





State Ethics Commission



REPRESENTING 3rd PARTIES
BEFORE PUBLIC AGENCIES

SPECIAL COUNTY OR SPECIAL MUNICIPAL
EMPLOYEES



Rule applies less restrictively to special county or
special municipal employees.



State Ethics Commission

REPRESENTING 3rd PARTIES
BEFORE THE STATE

EXCEPTIONS TO THE RULE

- County employees can hold elected or appointed municipal office.
- Personnel or disciplinary matters as long as uncompensated.
- Assist family members or others if serving as guardian, executor, administrator, etc.
- Testimony or sworn statements.
- Municipal employees can apply for gas, plumbing, electrical or septic permits unless employed by the permit granting agency.



State Ethics Commission

MULTIPLE CONTRACTS, FINANCIAL INTEREST IN CONTRACT

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

- Contracts to provide goods or services.
- Multiple positions, one of which is paid.
 - May hold any number of elected or unpaid positions.
 - Exemptions may be available.





State Ethics Commission

**MULTIPLE CONTRACTS, FINANCIAL
INTEREST IN A CONTRACT**

EXCEPTIONS TO THE RULE:

- **Can furnish goods or services to recipients of public assistance.**
- **Applies less restrictively to special county or special municipal employees.**
- **Can receive funds in connection with federal programs to improve or rehabilitate rental properties.**



State Ethics Commission

**MULTIPLE CONTRACTS, FINANCIAL
INTEREST IN A CONTRACT**

EXCEPTIONS TO THE RULE:

- **Municipal employees can serve as call firefighters, call police officers or call ambulance service personnel if the board of selectmen waives the requirements of the section.**
- **Municipal employees, except housing authority board members or employees, can receive housing subsidies.**
- **Full time municipal employees can serve on the board of selectmen.**



State Ethics Commission

WHEN YOU LEAVE STATE SERVICE

- **THE FOREVER BAN**

AFFECTS MATTERS YOU HANDLED

- **THE ONE YEAR COOLING OFF PERIOD**

AFFECTS MATTERS UNDER YOUR OFFICIAL RESPONSIBILITY
DURING THE LAST 2 YEARS OF PUBLIC EMPLOYMENT.

- **CANNOT ACT AS A LOBBYIST FOR ONE YEAR.**

- **CANNOT DISCLOSE CONFIDENTIAL INFORMATION.**



State Ethics Commission

WHEN YOU LEAVE STATE SERVICE

BUSINESS PARTNERS

- **MUST OBSERVE A ONE YEAR COOLING OFF PERIOD.**
- **CANNOT REPRESENT CLIENTS IN MATTERS YOU, AS A PUBLIC EMPLOYEE, ARE HANDLING OR WHICH ARE PENDING IN YOUR AGENCY.**



State Ethics Commission

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 state employees because of their official position.
- Adds section to Code of Conduct prohibiting state employees from submitting false claims for payment to their employer.
- Adds a mandatory training requirement for all state employees.



State Ethics Commission Quick Tips

When in doubt **DON'T**

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

617/371-9500

888/485-4766

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