

## THINGS TO KNOW

### (LOCAL GOVERNMENT OFFICERS AND EMPLOYEES)

#### MISUSE

- Lying, incompetence, mismanagement, and even rule-breaking do not, by themselves, constitute misuse of office; a private benefit to the officer or employee or someone else must be present.
- Violations can include an assertion of public position to obtain a non-economic private benefit, such as sexual favors or preferred seating at a public venue or event.

#### USE OF "INSIDE" INFORMATION

- Use of inside information not available to the general public can be a violation even after you leave public office or employment.

#### NEPOTISM

- You cannot appoint, employ, promote, or advance a relative and you cannot advocate for the appointment, employment, etc., of a relative into a position under your jurisdiction/control.
- If you serve on a collegial body, your relative cannot be appointed, employed, promoted, or advanced by your board, even if you abstain from the vote.

#### QUID PRO QUO—"THINGS OF VALUE"

- NEVER accept any material item, personal service, or special preference based on an understanding that, in return, you'll make a particular decision, cast a certain vote, or undertake a specified action in your public position.
- As a public official or employee, you have the burden to ask, "Why is this thing being given to me?"

## GIFTS (applies ONLY to financial disclosure filers)

- A gift is anything you don't pay for within 90 days. This includes food, beverages, prizes, and overnight stays at someone's house.
- If a gift is prohibited, reporting it won't "cure" the violation. RIPEs are *prohibited* from accepting gifts worth more than \$100 from lobbyists or their firms, partners, employers, or principals, or from vendors!
- If a gift is not prohibited, and it is worth more than \$100, a RIPE must report it on a Form 9 no later than the end of the quarter following the quarter in which they received the gift.
- You can always accept a gift, in any amount, from a relative, and you don't have to report it.

## FINANCIAL DISCLOSURE

- Don't include social security, bank account, or credit card numbers.
- File on time! The due date for Form 1 and Form 6 is July 1. There is a grace period effective until September 1, after which automatic fines of \$25 per day begin to accrue.
- The original, signed disclosure form must be filed—scanned or faxed versions are not acceptable.
- Form 1 filers *must* choose either "comparative (percentage) thresholds" or "dollar value thresholds" to calculate their reportable interests.
- If a CPA or attorney prepares and signs the disclosure form, the filer may be protected from a violation if a complaint is filed and it is determined that the CPA or attorney failed to accurately transcribe information provided by the filer.
- If you file a Form 1 or Form 6 and then file an amended form (Form 1X or Form 6X) prior to September 1, the amended form is considered the original filing even if a complaint is filed.

- If you receive an automatic fine for not timely filing your Form 1 or Form 6, the Commission may take action to collect the fine for 20 years after it becomes final.

## CONFLICTS

- If you have a conflict of interest under F.S. 112.313(3) or (7), F.S., abstaining from a vote will not cure it!
- A public officer purchases, rents, or leases realty, goods, or services for his public agency when he does so individually or when a collegial public body of which he is a member does so.
- One acts in a private capacity to rent, lease, or sell realty, goods, or services when he does so individually or when he is an officer, director, proprietor, or holder of a material interest in a business that does so, or when he is personally involved in the transaction.
- Paid *and* unpaid connections can constitute a contractual relationship; as can ownership of small amounts of stock (or stock options) in large companies.
- Generally, neither a public officer nor a member of his firm can represent a client in a matter involving his own public board or agency.

## VOTING CONFLICTS

- Abstention does not cure a conflict of interest or nepotism violation.
- Voting conflicts arise when a measure will bring an officer or other specified person or entity "special private gain or loss." This means *economic* benefit or harm.
- Local officers are prohibited from voting on measures resulting in "special private gain or loss" to themselves, or which they know would result in "special private gain or loss" to their principals, relatives, or business associates.

- Considerations for "special private gain or loss" include (1) the size of the class; (2) whether the gain/loss is remote or speculative; and (3) whether the vote is preliminary or procedural.
- Local officers facing a voting conflict must: (1) abstain; (2) publicly disclose the conflict to their agency prior to the vote; and (3) file a Form 8B within 15 days of the vote.
- Additional rules apply for appointed state and local officers who wish to participate in matters which could affect themselves, their principals, employers, relatives, or business associates.

#### POST-EMPLOYMENT AND POST-OFFICEHOLDING

- The meaning of "representation" within the context of post-public-service restrictions and other restrictions is extremely broad; it prohibits almost all contact with an agency in behalf of one's client, company, or employer.

QUESTIONS? CALL US!  
Florida Commission on Ethics  
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