



# **State Ethics Commission**

## **Conflict of Interest Law**

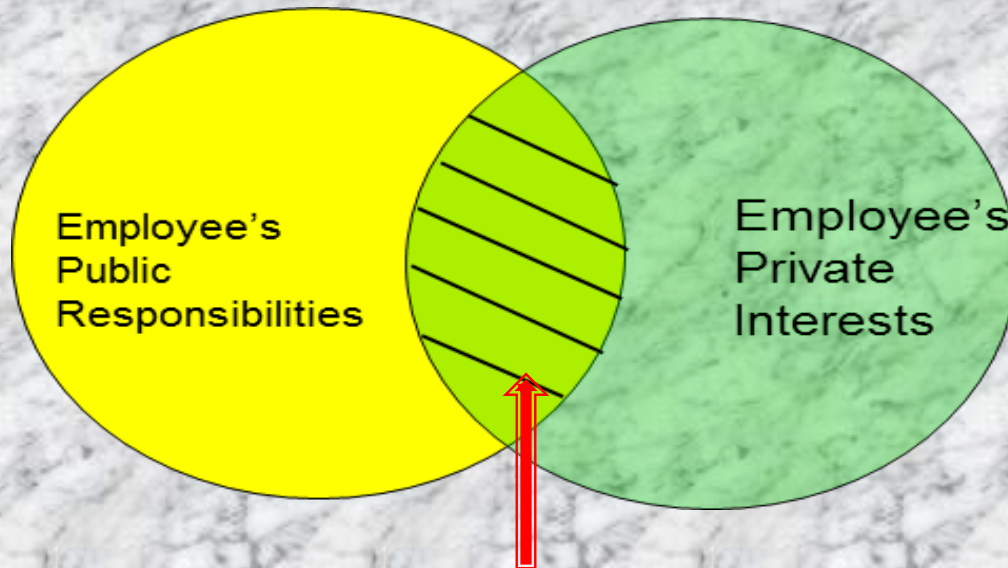
**Municipal Employees and  
Board Members**



# State Ethics Commission

## CONFLICTS 101

Professional Life  $\longleftrightarrow$  Personal Life



Focus of the Conflict of Interest Law



# **State Ethics Commission**

## **State Ethics Commission**

- ◆ is a five-member, independent, non-partisan state agency whose members are appointed by the Governor, the Attorney General and the Secretary of State.
- ◆ provides advice, education and enforcement of Mass. General Laws, chapters 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**

## **Services provided by the State Ethics Commission**

- ◆ You can obtain legal advice on how to comply with the law. Ask for the Attorney of the Day.
- ◆ We can come to your agency and conduct an educational seminar for your employees.
- ◆ You can file a complaint if you believe someone has violated the law.

**Call 617-371-9500 or visit our website at  
[www.mass.gov/orgs/state-ethics-commission](http://www.mass.gov/orgs/state-ethics-commission).**



# State Ethics Commission

Website

<https://www.mass.gov/orgs/state-ethics-commission>

- 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



# State Ethics Commission

## 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,  
<https://www.mass.gov/orgs/state-ethics-commission>
- No third party or past conduct advice given.
- Disclosure forms available on the website.



# State Ethics Commission

## CONFLICT OF INTEREST LAW EDUCATION REQUIREMENTS

- Summary of the Law
- Online Training Program



# Conflict of Interest Law

Online Training Program  
for Municipal Employees





State Ethics Commission

# Certificate of Completion

## Conflict of Interest Law

State Or County Employee

**has completed the Conflict of Interest Law  
online training program on**



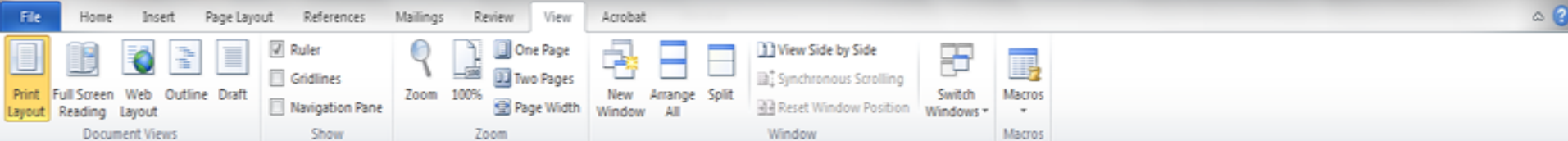
# Summary of the Conflict of Interest Law for Municipal Employees

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This summary of the conflict of interest law, General Laws chapter 268A, is intended to help municipal employees understand how that law applies to them. This summary is not a substitute for legal advice, nor does it mention every aspect of the law that may apply in a particular situation. Municipal employees can obtain free confidential advice about the conflict of interest law from the Commission's Legal Division at our website, phone number, and address above. Municipal counsel may also provide advice.

The conflict of interest law seeks to prevent conflicts between private interests and public duties, foster integrity in public service, and promote the public's trust and confidence in that service by placing restrictions on what municipal employees may do on the job, after hours, and after leaving public service, as described below. The sections referenced below are sections of G.L. c. 268A.

When the Commission determines that the conflict of interest law has been violated, it can impose a civil penalty of up to \$10,000 (\$25,000 for bribery cases) for each violation. In addition, the Commission can order the violator to repay any economic advantage he gained by the violation, and to make restitution to injured third parties. Violations of the conflict of interest law can also be prosecuted criminally.



## ACKNOWLEDGMENT OF RECEIPT

I, \_\_\_\_\_, an employee at \_\_\_\_\_,  
*(first and last name)* *(name of municipal dept.)*

hereby acknowledge that I received a copy of the summary of the conflict of interest law  
for municipal employees, revised May 10, 2013, on \_\_\_\_\_.  
*(date)*

*Municipal employees should complete the acknowledgment of receipt and return it to the individual who provided them with a copy of the summary. Alternatively, municipal employees may send an e-mail acknowledging receipt of the summary to the individual who provided them with a copy of it.*

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# State Ethics Commission

## ON THE JOB RESTRICTIONS

- Gift Restrictions
- Nepotism/Self-Dealing Restrictions
- Code of Conduct for Municipal Employees



# State Ethics Commission

## Gift Restrictions

- **§ 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.



# State Ethics Commission

## Gift Restrictions

- **§ 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.



# State Ethics Commission

## Gift Restrictions

### GIFTS THAT MAY BE PROHIBITED

- Meals
- Event Tickets- **Advisory 04-01**
- Free Travel or Expense Reimbursements
- Gift Certificates
- Floral Arrangements/Fruit Baskets
- Lottery Tickets
- Gifts offered through sales promotions



# State Ethics Commission

## 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.**





# State Ethics Commission

## 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.**



# State Ethics Commission

## 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.**



# State Ethics Commission

## 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/SELF DEALING

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.

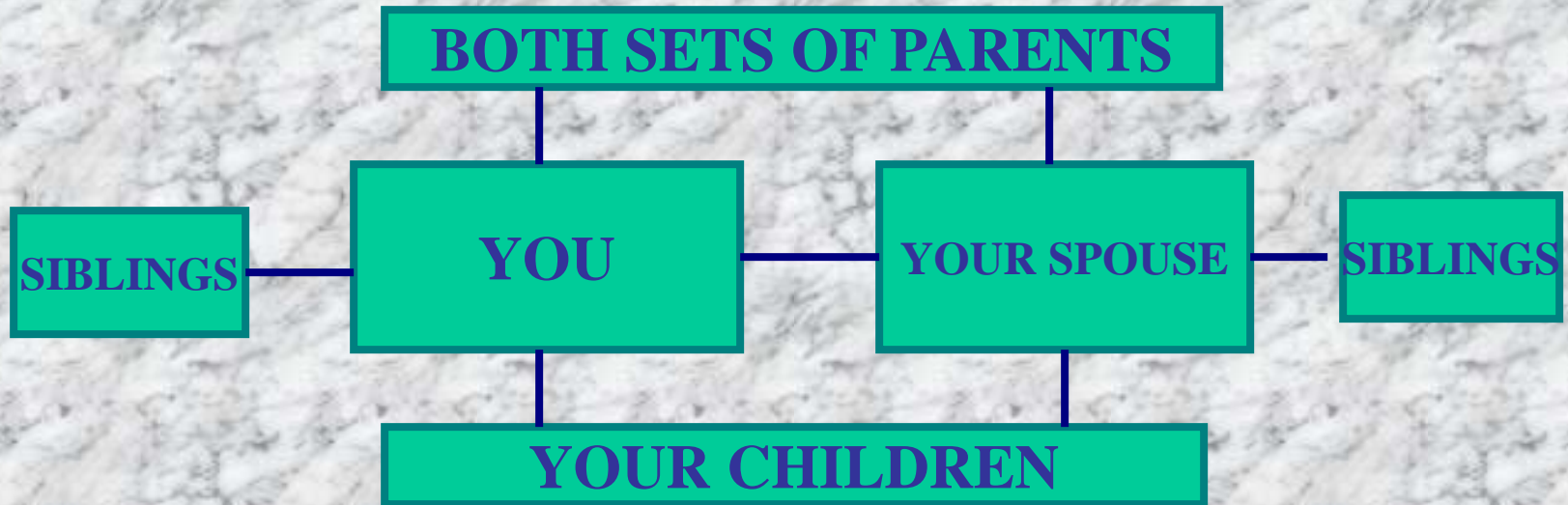


- **2 - Step disclosure and determination process for appointed municipal employees.**
- **No exemptions for elected officials.**
- **Matters affecting abutters and competitors may affect official's financial interest.**



# State Ethics Commission

## IMMEDIATE FAMILY





# **State Ethics Commission**

## **MUNICIPAL BOARD MEMBERS: THE RULE OF NECESSITY**

- **AVAILABLE TO ELECTED BOARDS ONLY**
- **THE BOARD CANNOT ACHIEVE A QUORUM**
- **NO OTHER BOARD IS AVAILABLE TO DECIDE THE ISSUE**
- **BOARD SHOULD OBTAIN LEGAL ADVICE**
- **BOARD MEMBERS WILL NEED TO DISCLOSE CONFLICTS  
IN THE MEETING MINUTES**



# **State Ethics Commission**

## **MUNICIPAL BOARD MEMBERS: WHAT IF YOU NEED TO ABSTAIN?**

- **CAN I REMAIN AT THE TABLE?**
- **CAN I SIT IN THE AUDIENCE?**
- **MUST I LEAVE THE ROOM?**



# State Ethics Commission

## CODE OF CONDUCT

*A public official or employee shall not knowingly:*

- Act in a manner such that a reasonable person could 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 official resources for private or personal use.
- Disclose confidential information.





# **State Ethics Commission**

## **POLITICAL ACTIVITY**

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

**Advisory 11-1: Public Employee Political Activity**



# **State Ethics Commission**

## **PRIVATE COMMERCIAL RELATIONSHIPS**

### **Advisory 14-1:**

**Public Employees' Private Business Relationships And  
Other Private Dealings With Those Over Whom They  
Have Official Authority Or With Whom They Have  
Official Dealings**



# State Ethics Commission

## AFTER HOURS RESTRICTIONS

### Divided Loyalty Restrictions:

- Representing 3<sup>rd</sup> 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



# State Ethics Commission

## Divided Loyalties

**While a municipal employee, unless you are a special municipal employee:**

- **You may not represent 3<sup>rd</sup> party interests before any municipal board, even if you are not paid.**
- **You may not be paid by anyone to work on any matters in which any agency of the municipality is a party or has a direct and substantial interest.**



# **State Ethics Commission**

## **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**



# State Ethics Commission

## 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.



# State Ethics Commission

## 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.**
- **“Inside Track” issues.**



# **State Ethics Commission**

**If not a "special," a public employee would violate the conflict of interest law if they held another position with their city or town.**

**Special municipal employees are eligible for an exemption as long as:**

- they file a disclosure with the city or town clerk making full disclosure of the other employment relationship, and, in certain instances,**
- the City Council or Board of Selectmen may need to give its approval to the special to hold the additional position.**





# State Ethics Commission

## 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 for Special Municipal Employees.



# State Ethics Commission

WHEN YOU LEAVE MUNICIPAL  
SERVICE

Revolving Door Provisions

Restrictions on Appointments



# State Ethics Commission

## 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.



# State Ethics Commission

## RESTRICTIONS ON APPOINTMENT

- Board members are ineligible for appointment to positions supervised by the board until 30 days after they resign from the board.
- Municipal employees who also serve on the Board of Selectmen/Board of Aldermen/City Council are ineligible for any other municipal appointment while a Selectman, Alderman or City Councilor and for 6 months thereafter.
- Housing Authority employees who also serve as elected officials are ineligible for any other municipal appointment until 6 months after they leave the elected position.



# 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/orgs/state-ethics-commission](http://www.mass.gov/orgs/state-ethics-commission)