



State Ethics Commission

Conflict of Interest Seminar-

State Agencies



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 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.



State Ethics Commission

Conflict of Interest Law: Gifts

- **§ 2- Bribery: prohibits corrupt gifts, offers, and promises to influence official acts.**
 - **Quid Pro Quo/ Corruption.**
 - **Criminally or Civilly Enforced.**
 - **Possible \$25,000 civil penalty.**
 - **\$0 Threshold**
 - **Both Giver and Recipient Can Be Prosecuted.**



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Conflict of Interest Law: Gifts

- **§ 3- Gifts and Gratuities:** prohibits gifts given for or because of official acts performed or to be performed.
 - **\$ 50 THRESHOLD**
 - **COMMISSION MAY AGGREGATE GRATUITIES**
 - **GIFT IS GIVEN TO:**
 - **INFLUENCE A PRESENT ACT;**
 - **INDUCE A FUTURE ACT; or**
 - **REWARD FOR A JOB WELL DONE.**



State Ethics Commission

Conflict of Interest Law: Gifts

- § 23(b)(2)(i)- Gifts: prohibits gifts of substantial value to public employees for or because of official position.



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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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Conflict of Interest Law: Gifts

- § 26- Gifts with Fraudulent Intent: prohibits gifts to public employees given with fraudulent intent in the aggregate of more than \$1,000 in any 12 month period.
 - Both giver and recipient can be prosecuted.



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Financial Disclosure Law: Gifts

- **c. 268B, § 6- Gifts from Lobbyist: prohibits receiving or soliciting gifts from lobbyists by elected state officials and certain public employees and their immediate family members.**
 - **Both the lobbyist and public employee can violate.**



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Regulatory Exemption: Gifts

930 CMR 5.06: Gifts Unrelated to Official Action, Position, or Performance of Duties

Public employees can accept gifts unrelated to official action but:

- if a matter involving the giver comes before the public during the six months following such acceptance, or
- if such a gift follows any official action by the employee involving the giver within six months

The employee must disclose the gift.



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Regulatory Exemption: 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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Regulatory Exemption: 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 Exemption: 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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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 **NEPOTISM**

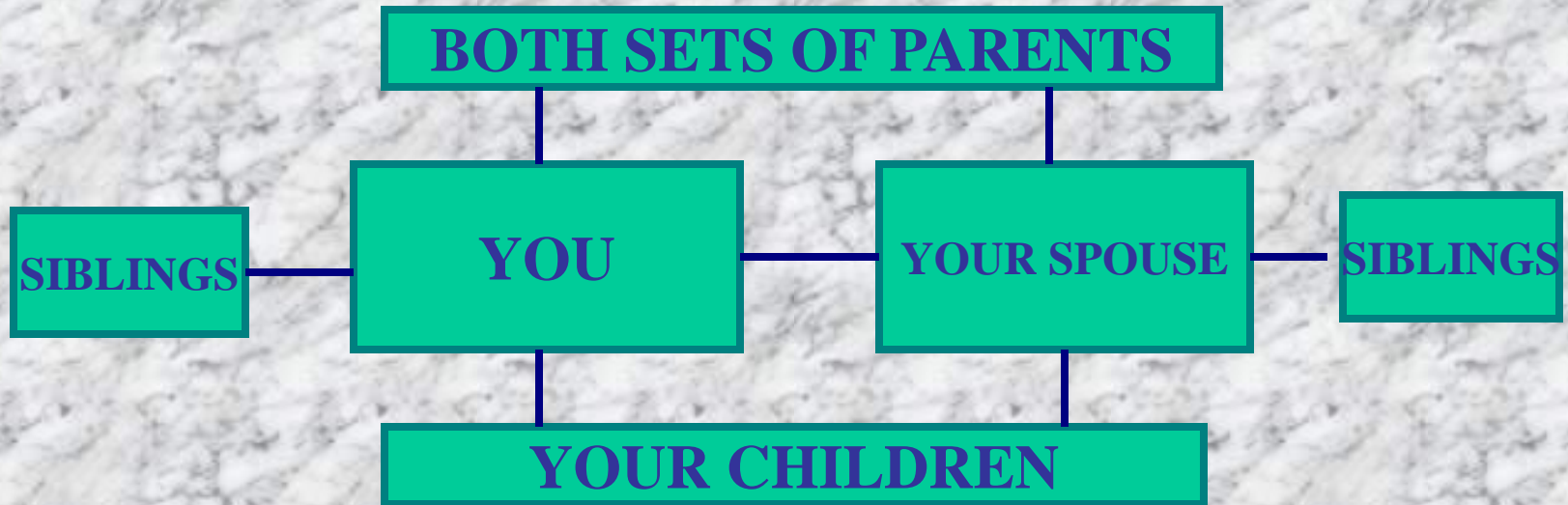
A state employee may not in general participate in “particular matters” in which he, his immediate family, a partner, a business organization with which he has certain affiliations or someone with whom he is negotiating prospective employment has a financial interest.

- State employees must disclose in writing to their Appointing Authority and the State Ethics Commission.
- Appointing Authority can then handle the matter, reassign it, or grant an exemption.
- Disclosures/exemptions must be maintained as public records



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IMMEDIATE FAMILY





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EMPLOYMENT NEGOTIATIONS

If you are negotiating for employment and you have official dealings.

-Abstain from participating and disclose to Appointing Authority and State Ethics Commission.

If you decline to pursue an unsolicited job offer and you have official dealings.

-Disclose to Appointing Authority.



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Regulatory Exemption: Nepotism

930 CMR 6.08: Exemption for Board Members Appointed by Public Agency

- **Allows a non-elected public employee appointed to the board of a nonprofit public interest organization by the employee's employing public agency, to serve as the employing public agency's representative on such board, and to participate fully in board matters and in agency matters.**



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 state 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 STATE RESOURCES FOR POLITICAL PURPOSES**



State Ethics Commission



REPRESENTING 3rd PARTIES BEFORE THE STATE

A state employee may not act as an agent or attorney for, or receive compensation from, a third party in connection with any matter of direct and substantial interest to the state.

ACTS OF AGENCY INCLUDE:

- APPEARING PERSONALLY
- PHONE CALLS
- CORRESPONDENCE
- SIGNING APPLICATIONS





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REPRESENTING 3rd PARTIES BEFORE THE STATE

- **State Employees can prepare state tax returns for others.**
- **State Employees can hold municipal office or positions.**
- **Personnel or disciplinary matters as long as uncompensated**
- **Assist family members or others if serving as guardian, executor, administrator, etc.**



State Ethics Commission

STATE EMPLOYEES MAY NOT HAVE A FINANCIAL INTEREST IN A CONTRACT IN WHICH THE STATE IS AN INTERESTED PARTY

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

State Employees may teach a course at a state college or university as long as they have no responsibility for the financial management of the school.

State Employees can receive Dept. of Children and Families payments to serve as foster parents, guardians, pre-adoptive or adoptive parents.



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Regulatory Exemption: Providing Personal Services to State Agency Clients

930 CMR 6.07: Exemption to Permit Personal Services to State Agency Clients

- **Allows state employees to provide personal services to persons receiving services from state agencies within the Executive Offices of Health and Human Services, Public Safety and Security, Elder Affairs, Veterans' Services, the Human Service Transportation Office, and any sheriff's office, or educational services to those who work for such agencies, or**
- **If employed by an organization funded by a state agency within the aforesaid offices, must disclose to the State Ethics Commission and obtain approval from appointing authority or contracting state agency.**



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930 CMR 6.13: Exemption to Permit Public Agencies to Contract With Attorneys and Consultants of Choice

Allows person performing contracted legal or other professional services to have a financial interest in additional contracts provided that the employee:

- **did not participate in or have official responsibility for the additional contract,**
- **the additional contract was awarded as the result of a competitive selection process or the agency head provides a sole source justification for the contract, and**
- **the person discloses to the Commission (state and county employees) or the city or town clerk (municipal employees)**



State Ethics

Commission

WHEN YOU LEAVE STATE SERVICE

- **THE FOREVER BAN**

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

- **THE ONE YEAR COOLING OFF PERIOD**

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

- **AFFECTS BUSINESS PARTNERS FOR ONE YEAR**

- **CANNOT ACT AS A LOBBYIST BEFORE YOUR FORMER AGENCY FOR ONE YEAR.**



State Ethics Commission

FUTURE EMPLOYMENT

**YOU MAY NOT REPRESENT PRIVATE INTERESTS
BEFORE THE STATE ON. . .**

- **MATTERS YOU HANDLED, OR**
- **FOR ONE YEAR, MATTERS THAT WERE
UNDER YOUR OFFICIAL RESPONSIBILITY.**

**YOU MAY NOT DISCLOSE CONFIDENTIAL
INFORMATION EVEN AFTER YOU LEAVE STATE
SERVICE.**



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**