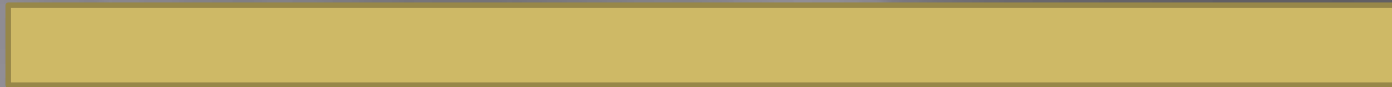


# ETHICS 101 – WHAT YOU NEED TO KNOW



Presented by:  
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The Florida Commission on Ethics  
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# Where did the Com'n come from?



- ▣ Created by Article II, Section 8 of the Florida Constitution
- ▣ Has jurisdiction over laws in Chapter 112, Florida Statutes (the Code of Ethics); but not the Sunshine Law
- ▣ Code of Ethics covers conduct committed in your public capacity

# Who serves on the Commission?

- ▣ Nine-member uncompensated board
- ▣ Appointed by the Governor, Speaker of the House, President of the Senate
- ▣ No lobbyists or public employees

# Com'n Responsibilities: Opinions



- ▣ Informal over-the-phone advice
- ▣ Informal written opinion (through email or letter)
- ▣ Formal written opinion, approved by the Commission

# Com'n Responsibilities: Complaints



- ❑ Complaints must be sworn and on proper form
- ❑ May be filed by ANYONE!
- ❑ Process is confidential until a certain stage
- ❑ Referrals can be made from certain agencies

# Misuse of Position

- ▣ Section 112.313(6) – Public officer or employee cannot:
  - (1) “Corruptly” use or attempt to use
  - (2) Public position or resources
  - (3) To obtain a special benefit or privilege
  - (4) For oneself or others
- ▣ This is not simply mismanagement or rude behavior



# Constitutional Amendment 12

- ▣ Drafted by the Constitutional Revision Commission and approved by voters in November 2018
- ▣ Applies to all “public officers” and “public employees”
- ▣ Triggered if one “abuses” their public position to obtain a “disproportionate benefit” for themselves, a spouse or child, or an affiliated business
- ▣ “Intent” is an element – Must act with “wrongful intent” to obtain a benefit, privilege, or exemption that is “inconsistent with the proper performance” of your public duties (CEO 19-23)

# Use of Certain Information

▣ Section 112.313(8) – If particular information is:

(1) Not available to members of the public; and

(2) A public officer learned of it because of his official position...

...then he may not disclose or use the information for his personal gain or for gain of anyone else



# Nepotism

**Application for Employment**

We provide accommodations for persons with disabilities in the hiring process. If your disability is not listed, please let us know, and we will provide assistance.

First Name \_\_\_\_\_

City \_\_\_\_\_

Are you 18 years of age or over? ☐ No \_\_\_\_\_

Date of Birth \_\_\_\_\_

Date of Application \_\_\_\_\_

Middle Initial \_\_\_\_\_

Education \_\_\_\_\_

- ▣ Section 112.3135 – Do not appoint, employ, promote, or advance a relative to a position in your agency
- ▣ Applies regardless of whether public officer abstains from vote

# Dual Office Holding

- ▣ Section 112.313(10) – If a public officer is employed by an agency, he cannot serve on that agency's governing body
- ▣ Section 112.3125 – Places additional restrictions on circumstances where an elected officer can accept additional public employment
  - Can't accept position if there is an ulterior motive in offering it
  - Can't accept position unless you're subject to same hiring criteria as everyone else and position is publicly advertised

# Conflict of Interest – Doing Business with your Agency



- ▣ Section 112.313(3) has *two* prongs:
  - Cannot purchase goods/services from your own business
  - Cannot sell goods or services to your own agency
- ▣ Grandfathering exemption

# Conflicting Employment or Contractual Relationships

- ▣ Section 112.313(7)(a) – Has Two Parts
  - Part One prohibits a public officer from:
    - (1) Having an employment or contractual relationship with a business entity or agency
    - (2) When that entity/agency is regulated by or is doing business with the officer's own agency

# Conflicting Employment or Contractual Relationships

- ▣ Section 112.313(7)(a) – Has Two Parts
  - Part Two prohibits a public officer from having any employment or contract that will:
    - (1) Create a continuing or recurring conflict with their public duties; or
    - (2) Impede their ability to fully and faithfully discharge their duties

# Common Questions – Sections 112.313(3) and (7)(a)

- ▣ What if I am on an advisory board and simply make recommendations?
- ▣ May a City Commissioner represent a client before a subordinate board?
- ▣ What if applicant is a client of my professional firm, but I perform no services for them?
- ▣ What if I have been involved with the client in the past – and want to be in the future – but have no current relationship with them?



# Conflicts of Interest and Voting

**Important!!**

Abstaining from a vote — or disclosing the relationship —  
is not enough to cure a violation of  
Sections 112.313(3) or (7)(a)

# Statutory Exemptions to Sections 112.313(3) and (7)(a)



- ▣ Sealed competitive bidding
- ▣ Emergency purchases

# Statutory Exemptions to Sections 112.313(3) and (7)(a)

- ▣ Sole source of supply
- ▣ Totals less than \$500 in a calendar year
- ▣ Selling terms are generally available



# Post-Public Office Employment

- ▣ Section 112.313(14) – Applies only to elected officers
- ▣ Prohibits the following for two years after you leave your position:
  - (1) Representing another person or entity
  - (2) For compensation
  - (3) Before your former “government body or agency”
- ▣ Just attending a meeting of the City Commission on behalf of a client can be a problem!

# Always good to remember...



- ▣ Do not “feather your nest” before you leave public office (Section 112.313(6))
- ▣ Do not use any confidential information learned while in public office (Section 112.313(8))



# “What is Financial Disclosure?”



- ❑ Not the same as a “financial statement”
- ❑ Only a “snap shot” of person’s financial situation as of a certain date
- ❑ Administered by Ethics Commission



# Who has to file?

- ▣ Florida law requires elected local officials to file a Form 1, as well as certain other local officers/employees
  - Due each year on July 1 with a grace period extending until Sept. 1
- ▣ Form 1 contains information on your net worth, assets, liabilities, and sources of income



# Common Disclosure Questions

- ▣ Where do I file my CE Form 1?
  - File with the Supervisor of Elections in the County where you permanently reside
  
- ▣ May I just scan my Form and email it to the Supervisor of Elections?
  - Yes, contact your Supervisor's Office and they should give you an email address
  
- ▣ What happens if I do not file by the end of the grace period?
  - A fine of \$25 per day begins to accrue, up to a maximum of \$1,500

# More Disclosure Questions

- ▣ Is there any way to protect personal information on the Form 1?
  - Bank account numbers, social security information, and credit card numbers are automatically redacted
  - Certain public officers can have additional information redacted upon a written and notarized request, based on their past or current position
  
- ▣ Do I have to file a Form 1 when I leave my position?
  - Yes, file a Form 1F with the Supervisor of Elections in the County where you reside within 60 days of leaving your position

# What if you make a mistake on your Form?

- ▣ You can amend your Form 1 by filing a Form 1X
  - Looks just like a Form 1, but has space for you to explain your changes
- ▣ File before Sept. 1 and it will be considered part of your initial filing



# Filing a Disclosure Appeal

- ▣ You'll start to accrue a fine if you miss deadline (July 1) and grace period (Sept. 1)
- ▣ Fine accrues at rate of \$25 per day, up to \$1,500
- ▣ How do I challenge a fine?
  - Must file an appeal within 30 days after the notice is sent of payment due
  - Must be able to show “unusual circumstances” that caused the late filing

# Voting Conflict – Two Types

- ▣ Possibility #1 – May not vote on any measure which will inure to your personal “special private gain or loss”
- ▣ Possibility #2 – May not vote on any measure which you know will inure to the “special private gain or loss” of a principal, relative, or business associate



# Who is a “Principal?”

- ▣ An employer
- ▣ A client of your professional practice
- ▣ A corporation where you serve as a compensated director



# Who is a “Relative?”

- ▣ Father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, or daughter-in-law
- ▣ This definition is different than how the term “relative” is used elsewhere
- ▣ Be careful when someone shares a household with a relative

# What is a “Business Associate?”

- ▣ A person or entity who is carrying on a business enterprise with the public officer, regardless of the form of the business
- ▣ Key Question #1 – Are they engaging in a common commercial or entrepreneurial pursuit?
- ▣ Key Question #2 – Is this a current, ongoing business relationship?

# Three Considerations

- (1) What is the size of the affected class?
- (2) Is the financial gain or loss resulting from this vote remote or speculative?
- (3) Is this just a preliminary or procedural measure?



# How to Handle a Voting Conflict

- ▣ Three steps to take when a conflict arises:
  1. Abstain from the vote;
  2. Disclose conflict prior to the vote; and
  3. File Form 8B within 15 days of vote (be as thorough as possible)
- ▣ The State Code of Ethics does not require you to leave the room
- ▣ Appointed officers have to disclose conflict before participating in any discussion about the vote

# Gifts – Quid Pro Quo

- ▣ Section 112.313(2) – Local officers cannot directly solicit or accept anything of value in exchange for official action
- ▣ Section 112.313(4) – Extends prohibition to local officers' spouses and children





# What *is* a gift?

ANYTHING YOU GET FOR WHICH YOU DON'T PROVIDE  
EQUAL OR GREATER CONSIDERATION WITHIN 90 DAYS

- ▣ Transportation/lodging
- ▣ Preferential Rates
- ▣ Use of property
- ▣ Tickets
- ▣ Membership dues
- ▣ Food/beverages (even a cup of coffee)
- Flowers/Plants/Floral arrangements
- ▣ Services (cleaning pool, mowing yard, etc.)

# What is a lobbyist?

- ▣ A Lobbyist is someone who:
  - For Compensation...
  - During the past 12 months...
  - Has sought to influence decision-making in your public position
- ▣ Will include attorneys representing clients on matters for which you have decision-making authority

# Gifts – Lobbyists, Principals of Lobbyists, and Vendors

- ▣ You cannot solicit gifts from one of these prohibited sources (Section 112.3148(3))
- ▣ You can only accept gifts of \$100 or less from one of these prohibited sources (Section 112.3148(4))
- ▣ Different rules apply to gifts from political committees (Section 112.31485(2))



# Some Common Scenarios

- ▣ What if a prohibited source offers you seats at a dinner or free admission to an event?
  - Admission to the dinner or event would still be a gift (CEO 16-10)
  - You are capped at \$100; be aware of the bribery statutes
  
- ▣ What if a prohibited source offers to pay your travel to a work-related conference or offers to waive the admission fee?
  - No public purpose exemption! (CEO 16-3)
  - Still would be a prohibited gift, although your agency could pay and then the prohibited source could reimburse your agency (CEO 91-21)

# Other Common Scenarios

- ▣ What if a prohibited source drops off Christmas gift for the entire office?
  - If strings are attached on the recipients, it could be considered an indirect gift
  - Be aware of the bribery statutes
  - Best to donate items to charity
  
- ▣ What about raffles or giveaways, such as at a conference?
  - Will depend on whether it was likely the prohibited source intended for a reporting individual to receive it (Compare CEO 13-2 and CEO 93-27)

# Gifts – Relatives and Friends

- ▣ Gifts from “relatives” of any amount can be accepted (Section 112.3148(1) and Rule 34-12.180)
  - But it has to be from a “relative” recognized by law
  - Don’t have to report gifts from relatives
  
- ▣ Gifts of any amount from friends in the community can be accepted (Section 112.3148(8)(a))
  - But you have to report on a Form 9 if gift is over \$100
  - If friend is a lobbyist or a vendor, limit gift to \$100!



# Is it worth more than \$100?

- ▣ Lodging in a private residence: \$44 per night
- ▣ Private transportation: same as a comparable commercial conveyance
- ▣ Tickets: must multiply face value times number of tickets received



# Final Points on Valuation

- ▣ If there are multiple donors, and one is a vendor or lobbyist, you must determine the amount that donor contributed
- ▣ Food and beverages consumed in a single meal are one gift
- ▣ If food/beverages/entertainment is at a party for over 10 people, divide the event's cost by the number of people invited
- ▣ When in doubt, value at cost to the donor

# Thank you!



## Contact Info

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