

## CONFLICT OF INTEREST

Chapter 268A of the General Laws governs your conduct as a public official or employee. Below are some of the general rules that you must follow. You could face civil and criminal penalties if you take a prohibited action. There are some exemptions to these rules, so you may wish to seek legal advice from the State Ethics Commission or your agency's legal counsel regarding how the law would apply in a particular situation.

### **In general:**

You may not ask or accept anything (regardless of its value), if it is offered in exchange for you agreeing to perform or not perform an official act.

You may not ask for or accept anything worth \$50 or more from anyone with whom you have official dealings. Examples of regulated "gifts" include: sports tickets, costs of drinks and meals, travel expenses, conference fees, gifts of appreciation, entertainment expenses, free use of vacation homes and complimentary tickets to charitable events. If a prohibited gift is offered: you may refuse or return it; you may donate it to a non-profit organization, provided you do not take the tax write-off; you may pay the giver the full value of the gift; or, in the case of certain types of gifts, it may be considered "a gift to your public employer", provided it remains in the office and does not ever go home with you. You may not accept honoraria for a speech that is in any way related to your official duties, unless you are a state legislator.

You may not hire, promote, supervise, or otherwise participate in the employment of your immediate family or your spouse's immediate family.

You may not take any type of official action that will affect the financial interests of your immediate family or your spouse's immediate family. For instance, you may not participate in licensing or inspection process involving a family member's business.

You may not take any official action affecting your own financial interest of a business partner, private employer, or any organization for which you serve as an officer, director or trustee. For instance you may not take any official action regarding an "after hours" employer, or its geographic competitors; you may not participate in licensing, inspection, zoning or other issues that affect a company you own, or its competitors; if you serve on the Board of a non-profit organization, you may not take any official action which would impact that organization, or its competitors.

Unless you qualify for an exemption, you may not have more than one job with the same municipality or county, or more than one job with the state.

Except under special circumstances, you may not have a financial interest in a contract with your public employer. For instance: if you are a town employee, a company you may own may not be a vendor to that town unless you meet specific criteria, the contract is awarded by a bid process, and you publicly disclose your financial interest.

You may not represent anyone but your public employer in any matter in which you public employer has an interest. For instance, you may not contact other government agencies on behalf of a company, an association, a friend, or even a charitable organization.

You may not ever disclose confidential information, data or material that you gained or learned as a public employee.

Unless you make a proper, public disclosure -- including all the relevant facts -- you may not take any action that could create an appearance of impropriety, or could cause an impartial observer to believe your official actions are tainted with bias or favoritism.

You may not use your official position to obtain unwarranted privileges, or any type of special treatment, for yourself or anyone else. For instance; you may not approach your subordinates, vendors whose contracts you oversee, or people who are subject to your official authority to propose private business dealings.

You may not use public resources for political or private purposes. Examples of “public resources” include: office computers, phones, fax machines, postage machines, copiers, official cars, staff time, sick time, uniforms, and official seals.

You may not, after leaving public service, take a job involving public contracts or any other particular matter in which you participated as a public employee.  
For more information about the conflict of interest law, contact the state ethics Commission at (617) 727-0060.

In addition to the Open Meeting Law, the conduct of Public Officials is subject to the Conflict of Interest Law. The text of the law, Chapter 268A, is long; only the primary areas will be addressed in this guideline. If you have a doubt about a conflict, please consult with the Town Manager who will relay the question to Town Counsel if warranted.

The Conflict of Interest Law was enacted in 1962 and this law now governs the ethical conduct of Public Officials. The Ethics Commission has ruled that the law applies to **all** Public Officials **paid** or **unpaid**. It also regulates the activities of Public Officials after their term of service is over. Its purpose is to insure that the private interests of any individual do not conflict with the best interest of the community. Within the law:

- a. An appointee should abstain from participating in committee decisions, which could affect a business in which he or a member of his extended family have a significant financial interest. (See “Financial Conflicts” section.)
- b. If an appointee or a family member engage in a business relationship with the Town, and that could be viewed as being affected by the committee, the appointee should report that

“potential conflict” to the Town Clerk in writing. (Status as a municipal taxpayer does NOT require any special action for the examples above).

- c. Avoid taking compensation or gifts from anyone having business before your committee.

### **B. Financial Conflicts:**

The law assumes that objectivity and integrity could be comprised if you act on matters in which you have a financial interest. Any “particular matter” that comes before a committee or board in which a business partner or family member are associated should be regarded as a potential conflict and the committee member is encouraged to leave the meeting during any discussion and subsequent vote that follows. A “particular matter” includes almost any determination of the committee or board. Consult with Town Staff if in doubt. Special rules may be applicable.

### **C. Misuse of Position**

No unwarranted privilege should be sought or used if the reasons for the privileges or offer come as a result of serving in an official town capacity. In addition, no Town equipment or facilities should be used for a personal gain.

### **D. Revolving Door Restrictions:**

Using friendships, associations or confidential information obtained or formed while serving in local government to obtain special consideration or privileges after leaving the office or appointed position is prohibited.

(Refer to the law, your own attorney, Town Counsel, or the State Ethics Commission on specific situations).

## **POLITICAL ACTIVITY**

Chapter 55 of the General Laws regulates your political activity. Appointed employees may not directly or indirectly solicit contributions, or anything else of value, for campaigns or other political purposes. For more information about political activity, contact the Office of Campaign and Political Finance at (617) 727-8352 or (800) 462 OCPF.

## **PUBLIC RECORDS** **Chapter 66**

Public inspection and copies of records. (66:10)

Section 10. (a) Every person having custody of any public record, shall at reasonable times and without unreasonable delay, permit it, or a portion of a record, which is a public record to be inspected and examined by any person, under his supervision, and furnish one copy upon payment of a reasonable fee.

A custodian of a public record, shall, within ten days following any receipt of a request for a copy of a public record comply with the request.

In any court there shall be a presumption that the record sought is public, and the burden shall be upon the custodian to prove with specificity the exemption, which applies.

The clerk of every city or town shall post, in a conspicuous place in the hall a brief printed statement that any citizen may, at his discretion, obtain copies of certain public records from local officials for a fee.

The home address and home telephone number of law enforcement, judicial, prosecutorial, department of youth services, department of social services, correctional and other public safety and criminal justice system personnel shall not be public records in the custody of the employers of such personnel and shall not be disclosed, provided, however that such information may be disclosed to an employee organization under chapter 150E or to a criminal justice agency as defined in section 167 of chapter 6. The home address and phone number, or place of employment or education of victims of adjudicated crimes and persons providing or training in family planning services and the name and home address and phone number of place of employment or education of a family member of any of the foregoing shall not be public records.