Code of Ethics Training

FOR COUNTY AND MUNICIPAL OFFICIALS, EMPLOYEES AND ADVISORY BOARD MEMBERS
PBC Commission on Ethics

Five volunteer members appointed by various community “stakeholders” to serve four-year terms:

- PBC Association of Chiefs of Police
- PBC League of Cities
- PBC Chapter of the Florida Institute of Certified Public Accountants
- President of Florida Atlantic University
- PBC Bar Association in conjunction with the Hispanic Bar Association and the F. Malcolm Cunningham Bar Association.
COE STAFF

- Investigate Complaints
- Questions about the Code of Ethics
- Provide Advisory Opinions
- Training and Community Outreach
- Understand your Responsibilities
OVERVIEW

❖ Ethics Decision Tree
  ◆ Steps to avoid violations and problems

❖ The Code of Ethics
  ◆ Conflicts of Interest
  ◆ Gift Law
  ◆ Miscellaneous Provisions
I just took this training, why do I have to take it again?

- The Code of Ethics requires “periodic retraining”
What is the purpose of the PBC Code of Ethics?

- Honest and ethical conduct
- Protects confidential information
- Increase public trust in local government
FREQUENTLY ASKED QUESTIONS

Who does the PBC Code of Ethics apply to?

- **All** County and Municipal employees and officials
- **No** State officers or employees, and **No** Constitutional Officers
ETHICS DECISION TREE

Four step process designed by COE staff to help you determine if the actions you are considering are in violation of the law or the Code of Ethics.
USE THE “ETHICS DECISION TREE” BEFORE YOU ACT...  ASK YOURSELF...

Is it legal?
ETHICS DECISION TREE

Is it legal?

Does it comply with the Code of Ethics?

Does it comply with county/municipal policy?
ETHICS DECISION TREE

1. Is it legal?
2. Does it comply with the Code of Ethics?
3. Does it comply with county/municipal policy?
4. Could your actions create problems for your agency or the people you serve?
STANDARDS OF CONDUCT

All public officials and employees must be transparent in their actions.

- Minimum Legal Standard
- Good Government Standard
What is a conflict of interest?

- Personal Activities or relationships interfering with work.

A “special benefit”
PROHIBITED CONDUCT
SECTION 2-443
PROHIBITED CONDUCT

- Section 2-443(a), Misuse of public office or employment
- Section 2-443(b), Corrupt misuse of official position
- Section 2-443(c), Disclosure of voting conflicts
- Section 2-443(d), Contractual relationships
MISUSE OF OFFICE

Section 2-443(a)(1-7), Public Employees and Officials are **prohibited** from using their official position in a manner that results in.......a “**special** financial benefit” being given to...
NO FINANCIAL BENEFIT TO:

- Yourself
- A household member, spouse, domestic partner
- Outside business or employer
- A close family relative
- Spouse/domestic partner’s employer or business
- A customer or client of your outside business
- A debtor or creditor of the official or employee, who owes or is owed more than $10,000 (except banking and mortgage institutions)
- A non-profit organization if the official/employee or their spouse/domestic partner serves as an officer or director of that organization
SPECIAL FINANCIAL BENEFIT

- Financial benefit – *anything* of value that is obtained *through* your official position
  - Employment;
  - Advisory Board;
  - Elected Position
SPECIAL FINANCIAL BENEFIT

- **Special financial benefit** – one not shared with “similarly situated” members of the general public
  - **Similarly Situated** – means that everyone affected by a decision is affected in the same manner.
MISUSE OF OFFICE

The Family Plan

A municipal employee is designated to accept payments for water bills generated by the City’s Utility Department.
MISUSE OF OFFICE

The Family Plan

May the employee personally accept funds directly from his sister to pay for her water service?
MISUSE OF OFFICE

The Family Plan

**Answer:** Yes! Where the public employee simply does his job, and gives no “special financial benefit” to his sister, there is no prohibition.
The Family Plan

Is it acceptable for him to change the amount of her water usage to a lower amount to reflect a lower payment for her water bill?
Answer: No! He may not arbitrarily change the water usage to lower her bill.... nor may he do so for anyone else.
Is it acceptable for him to give an early payment discount, where the City allows a 1% reduction of any water bill paid in full at least 10 days before it is due?
MISUSE OF OFFICE

The Family Plan

Answer: **Yes!** Where such a “discount” is available to all customers who pay in advance if she meets the requirements.
The Charitable Official

An elected official serves on the board of directors of a non-profit organization, his local church.
The Charitable Official

May the elected official vote to give government funding to that particular church for a new afterschool program?
MISUSE OF OFFICE

The Charitable Official

Answer: No! In doing so, the official would violate Section 2-443(a)(7), by giving a “special financial benefit” to a...charitable or religious organization, which he or she is an officer or director.
MISUSE OF OFFICE

The Charitable Official

May he do so if he and his wife or domestic partner are not officers, directors or board members of the church, but both are members of the congregation?
The Charitable Official

Answer: Yes! So long as there is no unlawful compensation given to the official for such a vote.
Section 2-443(b)

You cannot use your official position... (your job, board membership, elected title or official office)

✓ ...to *corruptly* secure...
✓ ...a “special benefit”...
✓ ...for *any* Person
CORRUPT MISUSE OF OFFICIAL POSITION

- ...a “special benefit”...
  - Any benefit you or another person are not entitled to, or
  - Any benefit that you are not allowed to give.

(not necessarily financial)
...corruptly...

- Taken with **wrongful intent**, and which is...
- **Inconsistent** with the “**proper performance**” of your public duties
The Corruptible Driver

A town Mayor is involved in a vehicle crash. The police are called to the scene, at which time the Mayor identifies himself and directs the officer to issue a ticket to the other driver prior to the investigation of the crash.
CORRUPT MISUSE OF OFFICIAL POSITION

The Corruptible Driver

Is that a “corrupt” misuse of the Mayor’s official position?
The Corruptible Driver

**Answer:** Yes! The Mayor would be acting with “wrongful intent,” and in a manner “inconsistent with the proper performance of his public duties” as Mayor.
DISCLOSURE OF VOTING CONFLICTS

Section 2-443(c) – An official may not vote on or participate in any matter to provide or obtain a special financial benefit.
DISCLOSURE OF VOTING CONFLICTS

In other words, they may **not** vote on or participate in a matter that will result in a special financial benefit being given to:

1. Themselves
2. Their spouse, domestic partner or household member
3. A close family relative as listed in this section
4. An outside employer or business of theirs or their spouse/domestic partner
5. A customer of their outside employer or business
6. A substantial debtor or creditor
7. A civic, religious or charitable organization – serves on board
The Vested Voter

A landscape designer who serves as a Town Commissioner files a plan for a new development she intends to build in Town.
DISCLOSURE OF VOTING CONFLICTS

The Vested Voter

Is it permissible for her to vote on this project as a Town Commissioner?
The Vested Voter

Answer: No! Both the PBC Code of Ethics and the Florida Code of Ethics prohibits the official from voting on any matter in which she has a financial interest.
The Vested Voter

Is it permissible for her to appear as her company’s representative before the Town Commission to present the proposal for approval?
The Vested Voter

**Answer: No!** While the Florida Code only prohibits voting on this issue, PBC Code prohibits both voting and participation that attempts to influence the vote.
The Vested Voter

May she meet with building staff to review her proposed design and obtain their input as to whether it meets building code standards?
The Vested Voter

Answer: Yes! As with anyone, she has a right to make sure her proposal is within building code standards. However, she must take care not to try to influence, based on her position as Commissioner.
Section 2-443(d)

General Rule: You may not enter into contracts or provide goods or services to the public entity you work for or represent.
The Code regulates some contracts you enter into in your **private** capacity **because** of your public employment or position. This includes contracts between the public entity you serve, and...

- ...You
- ...Your outside employer
- ...Any business in which you, your spouse, a household member, or a close family relative, alone or in combination, have at least a 5% ownership share.
Exceptions to the Rule!
EXCEPTIONS

1. Your outside employer is another governmental entity
2. It is a sealed bid/low-bid contract (and you meet additional requirements)
3. Emergency purchases
4. Sole source of supply
5. Contract is for less than $500 per year
6. You are an employee, and meet the part-time employment exception
7. For extra-duty details (Police and Fire exception)
OUTSIDE EMPLOYMENT WAIVER

IS THE POTENTIAL EMPLOYER A VENDOR?
OUTSIDE EMPLOYMENT WAIVER

ONLY NEEDED IF POTENTIAL EMPLOYER IS A VENDOR OF YOUR AGENCY

- Potential employer **does not** have contracts that you or your department or section will oversee, administer or enforce.
- You **did not** participate in awarding the contract.
- Part-time employment **will not** impair or interfere.
- **Comply** with internal policy.
OUTSIDE EMPLOYMENT WAIVER

**Complete a Conflict of Interest Waiver**

- Complete and sign under Oath.
- Review by Supervisor.
- Chief Administrative Officer

SEND COMPLETED FORM TO THE COE
CONTRACTUAL RELATIONSHIPS

ADVISORY BOARD MEMBERS

Prohibition from entering into a contract with the public entity they serve....

...but, this prohibition is limited to the department(s) your board oversees

The same exceptions apply as with elected officials and employees
OTHER ISSUES

Travel Expenses
Disclosure of Inside Information
Nepotism
TRAVEL EXPENSES

There is a prohibition against accepting travel expenses directly from:

- Contractor
- Vendor
- Service Provider
- Bidder
- Proposer
TRAVEL EXPENSES - EXCEPTIONS

1. Waived by the Board of County Commissioners or Municipal governing body...

2. The expenses are reimbursed or paid by...
   a. Another governmental entity, or
   b. An organization that your employer is a member, and the travel is related (i.e. League of Cities)
An employee wishes to attend training in Orlando. Vendor pays for hotel.
TRAVEL EXPENSES

The Weary Traveler

Has the employee violated the Code of Ethics?
TRAVEL EXPENSES

The Weary Traveler

Answer: Yes! The employee did not have the prohibition waived prior to the trip; and they cannot allow travel expenses to be paid directly by a vendor without the waiver.
Prohibition from using information...

Gained through your job

Not available to the general public

For your personal benefit or the benefit of any other person or entity
The Pernicious Planner

A staff member has drafted several options for the extension of a major road. She realizes that the commission has informally selected an option. The information is not yet available to the general public.
The Pernicious Planner

1. **Is she allowed** to purchase land surrounding the planned extension hoping to sell it for a premium?
The Pernicious Planner

Answer: No! She would be in violation of the section prohibiting the use of inside information for personal gain.
The Pernicious Planner

2. *Is she allowed* to tell someone else to purchase land surrounding the planned extension to sell it for a premium?
The Pernicious Planner

Answer: No! She would still be in violation of the section prohibiting the use of inside information for personal gain.
NEPOTISM

Employees, Officials or Advisory Board Members are prohibited from

Appointing

Employing

Promoting

Advancing, or....

Advocating

......to benefit any close family relative

or a spouse or domestic partner
Advisory Boards

Cities with a population under 35,000 can appoint to boards that don’t have land-planning or zoning responsibilities.
Absolute Prohibitions: $0

- Kickbacks
- Bribes
- Tips (1 exception)
$100 Gift Limit (annually)

- Vendors
- Bidders/proposers
- Lobbyists
- Principals or employers of lobbyists
Reporting Requirements (non-state reporters)

Gifts in excess of $100 per Year (Aggregate)
No person or entity shall offer or give or receive a gift of any value, when that gift is based on an action, omission, or even a promise of...

- An official action taken or to be taken or could be taken;
- A legal duty performed or to be performed or could be performed;
- A legal duty violated or to be violated or could be violated

Bribes/kickbacks are **ALWAYS UNLAWFUL** under the Code and FL criminal law.
The Surly Server

There is a waiter at a municipal golf course restaurant. Customers usually leave him money over the amount of the bill in the form of a “tip.”
EXCEPTION TO ACCEPTANCE OF TIPS

The Surly Server

May he accept the tip?
EXCEPTION TO ACCEPTANCE OF TIPS

The Surly Server

Answer: Yes!
YOU ASKED if employees of the Village Country Club may accept tips without violating the Code of Ethics.

IN SUM, city employees specifically hired for service related jobs may continue to accept service tips.
CHARITABLE SOLICITATIONS

It is generally prohibited to solicit or accept any gift from a vendor or lobbyist greater than $100, in the aggregate, for any year.

Even if you are not the final recipient of the gift, a gift to be passed on to someone else is a “pass through” gift.
How does this rule apply to solicitations from a vendor or lobbyist that are meant for a charitable purpose?
CHARITABLE SOLICITATIONS

The Philanthropic Runner
A county employee is running a race on behalf of St. Jude Children’s hospital and needs to raise $2,000. She receives a $300 donation from Office Depot, a county vendor.
CHARITABLE SOLICITATIONS

The Philanthropic Runner

Can she accept the donation?

St. Jude Heroes Run For a Reason
An employee or official may solicit donations of more than $100 from a vendor or lobbyist of their government on behalf of any non-profit charitable organization, providing the person or entity soliciting ... 

✓ **Files** a **Charitable Solicitation Log** with the COE

✓ **Does not** use county or municipal resources to solicit the funds.

✓ And, **does not** solicit any person or entity with a “current” bid or proposal still outstanding (even if they are a current vendor).
CHARITABLE SOLICITATIONS

The Philanthropic Runner

Can she accept the donation?

St. Jude Heroes Run For a Reason.
The Philanthropic Runner

Answer: **Yes!** She **can** accept the donation, so long as she
✓ “logs” the donation,
✓ doesn’t use county resources,
✓ doesn’t solicit any person or entity with a bid proposal or application outstanding, and
✓ there is no “quid pro quo” or other special consideration.
GIFT LAW DISCLOSURE REQUIREMENTS

State Reporting Individuals

- “Local Officers” and department managers
- Quarterly Reporting Required
- Send your state form to the Florida COE and a copy to the County Commission on Ethics at the same time.

FLORIDA COE: (850) 488-7864
GIFT LAW DISCLOSURE REQUIREMENTS

Local Reporting Individuals

- Everyone else
- Yearly Reporting (FISCAL)
- Due November 1
- Send to COE by Fax, Email or U.S. Mail.
- If you have no gifts, please do not file a blank form.

PBC Gift Form

YEARLY GIFT DISCLOSURE (GIFTS OVER $100)

<table>
<thead>
<tr>
<th>DATE RECEIVED</th>
<th>DESCRIPTION OF GIFT</th>
<th>IMPORTANT VALUE</th>
<th>NAME OF PERSON MAKING THE GIFT</th>
<th>ADDRESS OF PERSON MAKING THE GIFT</th>
</tr>
</thead>
</table>

PART A - STATEMENT OF GIFTS

If you have no gifts, please do not file a blank form.

PART B - RECEIPT PROVIDED BY PERSON MAKING THE GIFT

PART C - GIFT

The person whose name appears at the beginning of this form, to the best of his or her knowledge and belief, certifies that all gifts received have been reported and that no other gifts have been received.

PART D - PLEDGE INSTRUCTIONS

The form and any signed copies must be submitted to the Committee on Ethics, 10th Floor, City Hall, Seattle, WA 98119. The form must be filed no later than the day of termination for the previous reporting year.
EXCEPTIONS TO THE DEFINITION OF GIFTS
(ONLY FOR NON-STATE REPORTING INDIVIDUALS)

- Political contributions
- Gifts from relatives or members of your household
- Personal gifts over $100, if given by a personal friend or co-worker and motivation of is friendship/social relationship
- Awards for civic/professional achievement
- Advertising materials (from vendors)
- Gift solicited for a public purpose
- Inheritance
MISCELLANEOUS PROVISIONS

Contingent Fee Prohibition (Attorneys, Lobbyists)

Honesty in Applications
ENFORCEMENT

Commission on Ethics: Civil Code Enforcement Board
- Letter of Reprimand or Instruction.
- Fine up to $500 per violation.
- Restitution where indicated.
ENFORCEMENT

- **Criminal:** Knowing and willful violations are referred to the State Attorney’s Office and may be punishable as first degree misdemeanors
  - Up to 1 year in jail and
  - Fine up to $1000

- Government employer can discipline or terminate employees as allowed under their policies and/or rules.