



PERSSON, COHEN, MOONEY, FERNANDEZ & JACKSON, P.A.
ATTORNEYS AND COUNSELORS AT LAW

Florida's Ethics Law Training

Presented by:
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June 29, 2023
Elected Official Training





Florida's Ethics Law:

Florida Statutes 112.3145 requires that designated elected officials (including elected municipal officers):

[C]omplete 4 hours of ethics training each calendar year which addresses, at a minimum, s. 8, Art. II of the State Constitution, the Code of Ethics for Public Officers and Employees, and the public records and public meetings laws of this state.



Scope - Florida's Ethics Law*:

- Article II, Section 8 of the Florida Constitution
- Part III, Chapter 112, Florida Statutes (Code of Ethics)

*Locally adopted Ethics Codes/Rules are Not Covered.



Florida Commission on Ethics

"A Public Office is a Public Trust"



Sunshine Amendment - Article II, Sec. 8

- Adopted by Florida voters in 1968 through a constitutional amendment to provide for ethical conduct standards and disclosure requirements for public officers and employees.
- Specified that the Legislature was to adopt the code of ethics for the public officers.

Article II, Section 8 of the Florida Constitution





A public office is a public trust. . .
[A]ll elected public officers shall:

- File full and public disclosure of their financial interests...
- File full and public disclosure of their campaign finances...
- Be liable to the state for all financial benefits obtained by breaches of the public trust for private gain...



Art. II, Sec. 8, Fla. Const.



A public office is a public trust. . .

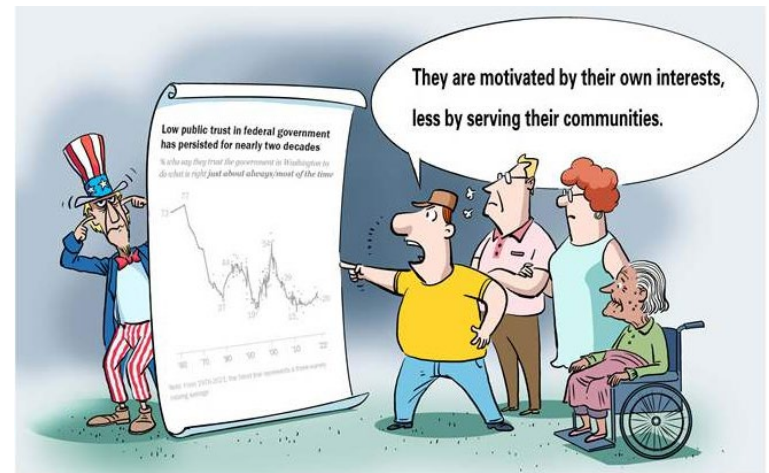
- A public officer shall not abuse his/her public position to obtain a disproportionate benefit for themselves; relatives; for any business he/she contracts with or owns an interest in.
- The Florida Commission on Ethics shall define and determine violations of “disproportionate benefit”.
- Penalties shall be prescribed by law.

Art. II, Sec. 8, Fla. Const.



Ethics Code – Chapter 112, Part III, Fla. Stat.

- Adopted by the Legislature to Implement Constitutional framework.
- Focus is to ensure that public officials use their offices for public benefit and not private gain and maintain public respect for government.



(Cartoon by Ma Hongliang)

Florida's Ethics Law:

- Florida's Ethics Code applies to all public officers including municipal advisory board members.
- Premised upon maintaining public trust and prohibits public officials from using their office for "private gain".
- Private gain almost always references a public official's *financial interest* that is directly enhanced as a result of the vote, where the gain is direct and immediate.

Art. II, Sec. 8, Fla. Const.; Ch. 112, Fla. Stat.





Ethics Code - Gifts



- Elected Officials are prohibited from soliciting and accepting gifts of any value based on understanding that the elected official would be influenced by the item.(i.e., vendor, contractors, etc.)
- “Gift” is broadly defined. Includes loans, rewards, future employment, favor, etc.
- Elected official must follow gift reporting requirements.
- Excludes gifts from relatives.

Fla. Stat. § 112.313 (2)





Ethics Code – Gifts/Compensation

- Cannot accept directly or indirectly a gift worth more than \$100.
- This includes gifts from lobbyists, political committees or vendors doing business with the agency.

Fla. Stat. § 112.3148





List of Prohibited Conduct

- Misuse of Public Position - “corruptly using” position for yourself or others. *See*, Fla. Stat. § 112.313 (6)
- Abuse of Public Position - “disproportionate benefit” for yourself or certain others. *See*, Art. II, Sec. 8(h), Fla. Const.
- Improperly Disclosing Information - using information not available to the public for the benefit of yourself or others. *See*, Fla. Stat. § 112.313 (8)
- Nepotism - seeking advancement or employment for your relative. *See*, Fla. Stat. § 112.3135

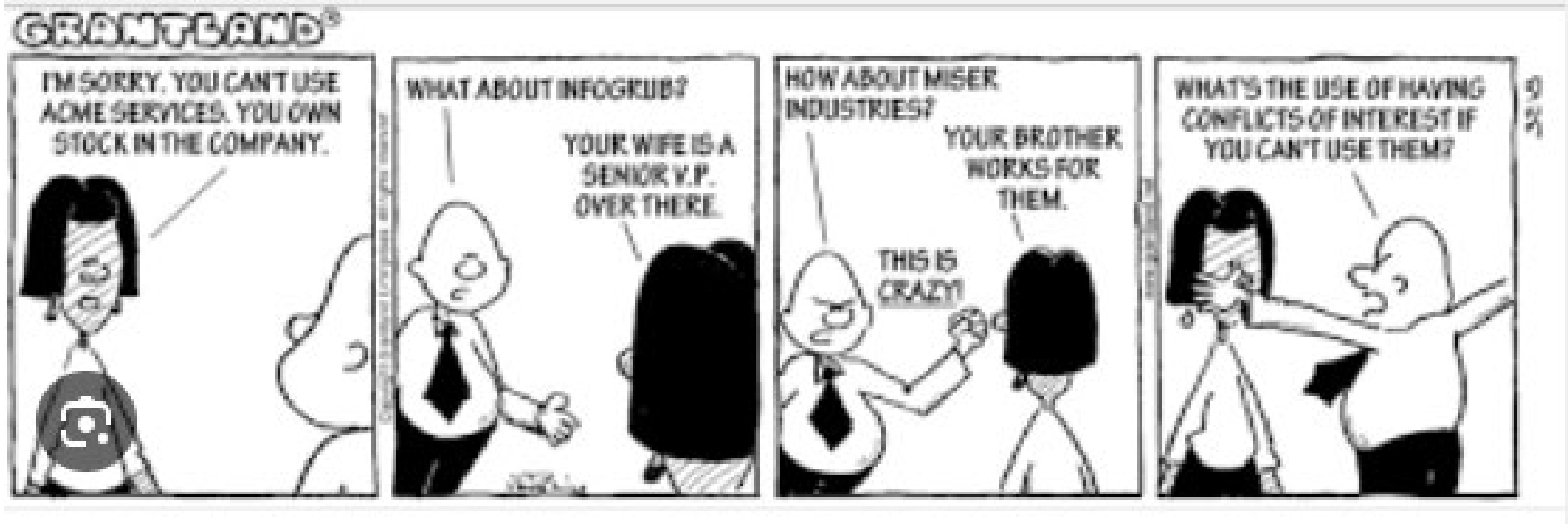


List of Prohibited Conduct

- Lobbying– representing another person or entity for compensation for 2 years after leaving office *if there is a locally adopted prohibition*. See, Fla. Stat. § 112.313 (13), (14)
- Doing Business with One's Agency – selling goods/services to agency, or doing business with an agency elected official or elected official's spouse or child who owns more than a 5% interest in the business. See, Fla. Stat. § 112.313 (3)
- Conflicting Employment/Contractual Agreement – holding any employment or contract with a business that is regulated by your agency. See, Fla. Stat. § 112.313 (7)



Conflicts





Voting Restrictions- Conflicts

- Must abstain from voting and refrain from discussion on any measure that “inures to private gain or loss”.
- Voting restriction applies when there is a specific benefit to yourself, an employer, a principal or relative.
- If conflict is known, must publicly state to the assembly the nature of the conflict and abstain from voting.
- Memorandum of Voting Conflict form must be filed with board secretary/Clerk within 15 days.

See, Fla. Stat. § 112.3143



Ethics Code- Required Conduct

- Elected and appointed municipal officials must fill out Form 1 (Limited Financial Disclosure form) this year on or before July 1, 2023.
- Requires the reporting of person's sources and types of financial interests.
- Does not require monetary values.
- Form 1 is still the requirement until December 31, 2023.
- Must file within 30 days of appointment.
- Form 1F is filed within 60 days of leaving position.



CS/CS/SB 774 (Chapter 2023-49, Law of Florida)

- Legislation was advanced by the Florida Commission on Ethics.
- Signed into law on May 12, 2023.
- Requires mayors and city commissioners/councilmembers file a Form 6 Full and Public Disclosure of Financial Interests annually, beginning Jan. 1, 2024.
- Must file at time of qualifying and at annual reporting deadline.
- Subjects municipal elected officials to same requirements as Legislature, Constitutional Officers and County Commissioners.
- Increases maximum civil penalty for violations to \$20,000.



Form 6- Full And Public Disclosure Form

- Requires the Disclosure of assets, liabilities and sources of income over \$1000 and their value, and net worth.
- Option to file tax return in lieu of sources of income, but still must disclose assets, liabilities and net worth.
- Requires disclosure of relationships and ownership interest in specified businesses (banks, savings and loans, insurance companies and utilities).
- Filed annually each July 1, electronically through the Commission on Ethics website.
- Must prepare to file starting 2024!



Form 6

- Form 6 is a Public Record.
- Private information (SSN, bank accounts) should not be included. Redaction responsibility is on the filer!
- Not required to report liabilities solely held by spouse or spouse's income. However, joint income with your spouse is reported.
- Secondary sources and amounts of income must be disclosed if you are the owner of 5% of the assets over \$1000.
- Form includes reporting box for 4 hours of training.
- Fines for untimely filings accrue at \$25/day, max of \$1500.



Florida Commission on Ethics

- Created the Commission on Ethics to investigate complaints and breaches of public trust.
- 9 Member Commission that serves 2-year term:
 - 5 appointed by Governor
 - 2 appointed by President of the Senate
 - 2 appointed by Speaker of the House
- Members not permitted to hold public employment during their terms.
- Meet in Tallahassee.



Florida Commission on Ethics



GLENTON "GLEN" GILZEAN, JR., CHAIR
Orlando - Non-profit Executive (R)
Term expires June 2024
Appointed by the Governor



MICHELLE ANCHORS
Fort Walton Beach - Attorney (D)
Term expires June 2024
Appointed by the President of the Senate



JOHN GRANT
Tampa - Attorney (R)
Term expires June 2023
Appointed by the Governor



ED H. MOORE
Tallahassee - Association Executive (R)
Term expires June 2024
Appointed by the Governor



JIM WALDMAN
Fort Lauderdale - Attorney (D)
Term expires June 2023
Appointed by the Governor



DON GAETZ, VICE CHAIR
Niceville (R)
Term expires June 2024
Appointed by the President of the Senate



WILLIAM P. CERVONE
Gainesville - Former State Attorney (R)
Term expires June 2024
Appointed by the Speaker of the House of Representatives



WILLIAM "WILLIE" N. MEGGS
Tallahassee - Former State Attorney (D)
Term expires June 2023
Appointed by the Governor



WENGAY M. NEWTON, SR
St. Petersburg (D)
Term expires June 2024
Appointed by the Speaker of the House of Representatives



Florida Commission on Ethics

- Has Jurisdiction to review and investigate complaints against *individual public officers and employees* for violation of the Florida's Ethics Code.
- They cannot conduct an investigation until a sworn complaint is filed.
- They do not independently initiate an action even if there are newspaper articles, letters or phone calls.
- Ethics Complaints are the easiest type of action to file!

Ethics Complaints:

- An Administrative Complaint can be filed with Florida Commission on Ethics (COE).
- Complaint form is available on COE website.
- Complaint is investigated by agency investigator.
- If probable cause exists, an administrative hearing is scheduled before the COE panel in Tallahassee to determine violation.
- COE conducts a hearing, decides whether the law violated, and recommends a penalty.



Florida Commission on Ethics
P. O. Drawer 15709, Tallahassee, Florida 32317-5709
"A Public Office is a Public Trust"

COMPLAINT

Fill in the blank form.

Simple request for
statement of
violation.



1. PERSON BRINGING COMPLAINT:

Name: _____ Telephone Number: _____
Address: _____
City: _____ County: _____ State: _____ Zip Code: _____

2. PERSON AGAINST WHOM COMPLAINT IS BROUGHT:

Use a separate complaint form for each person you wish to complain against:
Name: _____ Telephone Number: _____
Address: _____
City: _____ County: _____ Zip Code: _____
Title of office or position held or sought: _____

3. STATEMENT OF FACTS:

Please provide a full explanation of your complaint, describing the facts and the actions of the person named above and why you believe he or she violated the law. Include relevant dates and the names and addresses of persons whom you believe may be witnesses. Please do not submit more than 15 pages, including this form. Please do not submit video or audio tapes, CDs, DVDs, flash drives or other electronic media; such material will not be considered part of the complaint and will be returned.

4. OATH

STATE OF _____
COUNTY OF _____

I, the person bringing this complaint, do swear or affirm that the facts set forth in the foregoing complaint and attachments thereto are true and correct to the best of my knowledge and belief.

Sworn to (or affirmed) and subscribed before me by means of physical presence or online notarization, this _____ day of _____, 20____, by _____ (name of person making statement)

SIGNATURE OF COMPLAINANT

(Signature of Notary Public)

(Print, Type, or Stamp Commissioned Name of Notary Public)



Ethics Complaints:

- There is no filing fee or service of process associated with an Ethics Complaint.
- Once filed the Complaint and all proceedings and records are confidential until the respondent requests the Complaint be made public OR the action is before the Commission on Ethics in a public hearing setting.
- Five year statute of limitations on Ethics Complaints.
- Commission can dismiss small minor violations.



Potential Penalties:


- Removal/suspension from office.
- Impeachment.
- Censure, reprimand, demotion or salary reduction.
- Restitution of any pecuniary benefits received due to the violation.
- Civil penalty of up to ~~\$10,000~~ \$20,000
- Daily fines (\$25/day) up to \$1500 for late form submittal.





Public Service

Grover Cleveland



Public officers are the servants and agents of the people, to execute the laws which the people have made.

AZ QUOTES



Oath of Office for Public Officials

'I do solemnly swear (or affirm) that I will support, protect, and defend the Constitution and Government of the United States and of the State of Florida; that I am duly qualified to hold office under the Constitution of the state; and that I will well and faithfully perform the duties of **Town/City Commissioner** on which I am now about to enter. So help me God.'

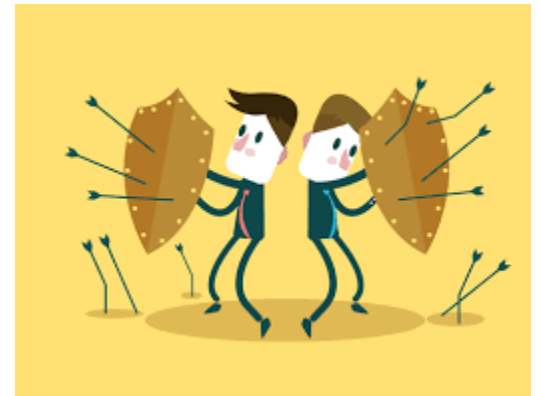
See, Sect. 5(b), Art. II, Fla. Const.



Indemnification & Public Service

Public officials have a right to be defended when acting in the course and scope of duties

- Florida Statutes § 111.07.
- Common law.
- Town/City Code?







For more information, please contact:

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