Massachusetts
State Ethics Commission
G.L. c. 268A – The Conflict of Interest Law
State Ethics Commission

• Independent, non-partisan state agency
• Advice and enforcement
  – Conflict of Interest Law
  – Financial Disclosure Law
• Jurisdiction: All state, county and municipal employees
State Ethics Commission

- Five-member Commission; 25 member staff
- **LEGAL:** Advice, education
- **ENFORCEMENT:** Investigations, education
- **PUBLIC EDUCATION & COMMUNICATIONS:** Training, seminars, media relations and education
What is a Conflict of Interest?

When some element of your private life intersects with the duties and responsibilities of your public job, **there may be a conflict of interest**

- Law covers your conduct:
  - On the job
  - After hours
  - After leaving public service
Gift Restrictions - Bribery

• Bribery section prohibits corrupt gifts, offers and promises to influence official acts
  – Criminally or civilly enforced – up to $25K penalty
  – Any value
  – Giver and recipient may be prosecuted
Gifts

Ask yourself:
❖ Why is the gift being offered?
❖ What is the value of the gift?

• Gifts of substantial value ($50 or more) restricted if given for or because of official position or official action
  • Includes rewards for a job well done
• Commission may aggregate gifts
Gift Restrictions – Exemptions
Disclosure and prior approval required in certain circumstances

• Travel expenses
  – Must serve legitimate public purpose; benefit to public outweighs benefit to employee
  – Disclosure and prior approval required
Gift Restrictions – 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
- Retirement gifts
- Unsolicited perishable items
- Admission to political campaign events for elected officials and their staff members
- Class gifts to teachers (limited to $150 annually)
- Passes to school events given by the district for school sports and entertainment
- Random drawings
Gifts

- Value is determined by cost, fair market value or face value, whichever is greater
- Events with no cost to attendee – value determined by the organizer’s cost per person
Gifts

• **What about gifts worth less than $50?**
  – Written disclosure if receipt creates appearance that the public employee could be improperly influenced

• **Financial Disclosure Law – c. 268B § 6: Gifts from lobbyists prohibited**
  – Gifts from lobbyists to certain state and county officials and their immediate families are prohibited
  – Both the lobbyist and the public employee can violate
Self-Dealing and Nepotism

• Prohibits participation particular matters affecting the financial interests of:
  – You and your immediate family
  – Your business partner(s)
  – Any business organization in which you serve
  – Future employer(s)
Immediate Family

- You, your spouse, parents, siblings and children
- Your spouse’s parents, siblings and children
Rule of Necessity

• If **elected** official(s) cannot participate because of a financial interest conflict
• Last resort
• Consult municipal/agency counsel and Ethics Commission before invoking rule
• Rule cannot be invoked in cases where disclosure would dispel appearance of conflict
Section 23: Code of Conduct

• A public employee shall not knowingly:
  – Act in a manner such that a reasonable person would conclude that he or she might act with bias.

• Use official position to secure unwarranted privileges of substantial value ($50 and up) for self or others

  Cannot use public resources for private or personal purposes
Political Activity

• **Advisory 11-1: Public Employee Political Activity**
• Campaign Finance Law applies
  – Office of Campaign and Political Finance: 617-979-8300
• Public resources may not be used for political purposes
Acting as Agent

- Duty of loyalty
- Cannot be paid by third party in matters before your level of government
- Cannot act as spokesperson, representative
- You can represent yourself

Exemptions apply - Call the Commission for advice!
Financial Interests in Contracts

• May not have a financial interest in a contract with the same level of government that employs you
• Prevents “inside track”
• Contracts
  • Goods and services
  • A second job

Exemptions apply – Call the Commission for advice!
When You Leave Public Service

• The Forever Ban
  – Matters you participated in as a public employee
  – May never be paid or represent 3rd party

• The One-Year Cooling Off Period
  – Matters under your official responsibility
  – Cannot appear personally on behalf of 3rd party for one year, if matter was under official responsibility within last two years of public job
When You Leave Public Service

• Restrictions on partners – call for advice
• State employees cannot lobby their former agency for one year
• If you worked on gaming legislation, one-year wait before working for licensee
Online Training & Summary Acknowledgment

- Required for all public employees
- Within 30 days of being hired; every 2 years after
- Certificates are public records
- Acknowledge summary of law every year
Call the Legal Division

Free, Confidential, Binding advice

- No 3rd party or hypothetical advice; no advice on past conduct
- **Attorney of the Day** – 617-371-9500
- Informal written opinion – 30 days
- Request advice online
  – Visit www.mass.gov/ethics
Conflict of Interest Law

ASK BEFORE YOU ACT

Contact the Ethics Commission for advice

617-371-9500
mass.gov/ethics