



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

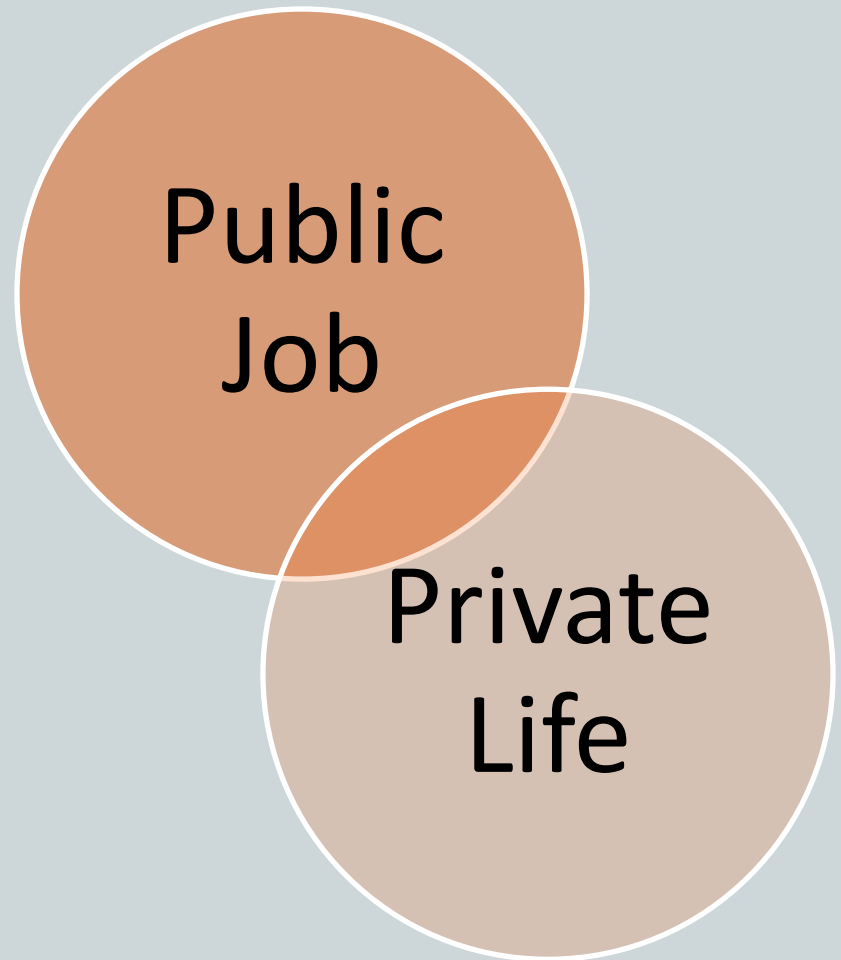
- Five-member Commission;
25 member staff
- **LEGAL:** Advice, education
- **ENFORCEMENT:**
Investigations, education
- **PUBLIC EDUCATION &
COMMUNICATIONS:**
Training, seminars, media
relations and education



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

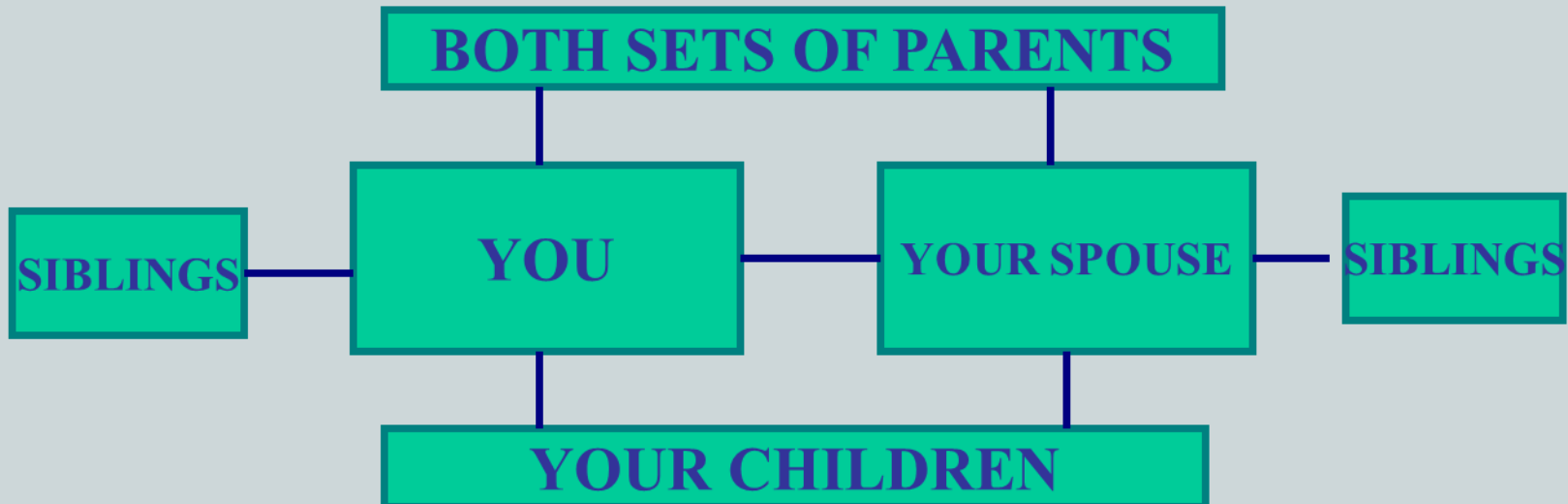
Self-Dealing and Nepotism

- **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