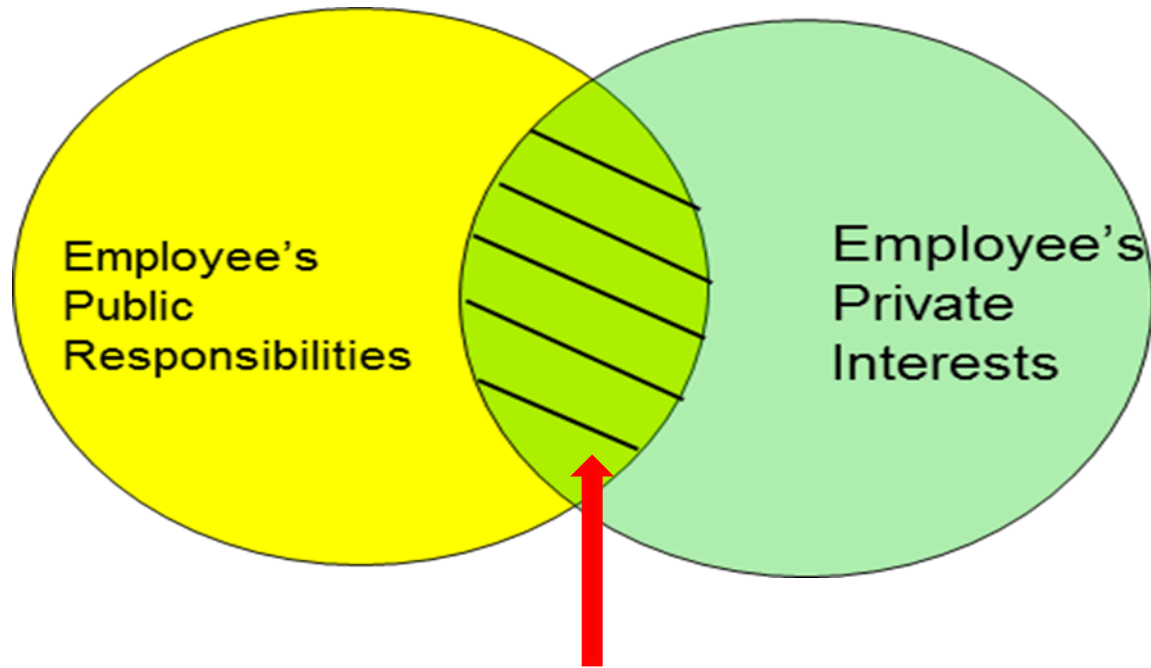




State Ethics Commission

Conflict of Interest Law

CONFLICTS 101



Focus of the Conflict of Interest Law

Obtaining Legal Advice

Speak to the Attorney of the Day

- **Advice is Confidential**
- **Advice can be given by telephone (617-371-9500), email, or letter.**
- **Online request for advice, www.mass.gov/ethics.**
- **No advice given about past incidents or for another person**
- **Disclosure forms available on the website.**

Gift Restrictions

Gifts, or items of value, given to board members are prohibited if:

- The gift involves a quid pro quo (bribes); or
- The gift is worth \$50 or more and connected either to an official act, or to official position.
- Gifts worth less than \$50 may create an appearance problem requiring a disclosure.

Conflict Law Issue

A matter comes before the board, and a person or entity with whom you have some non-Board connection is involved in the matter, there are 2 questions to ask:

1. Do I, or does a person or entity with whom I am closely associated, have a “financial interest” in the matter?
2. If the answer to Question 1 is no, then would a reasonable person, knowing the circumstances, be able to conclude that I could be improperly influenced if I participate in the matter?

If the answer to question 1 is yes

NEPOTISM

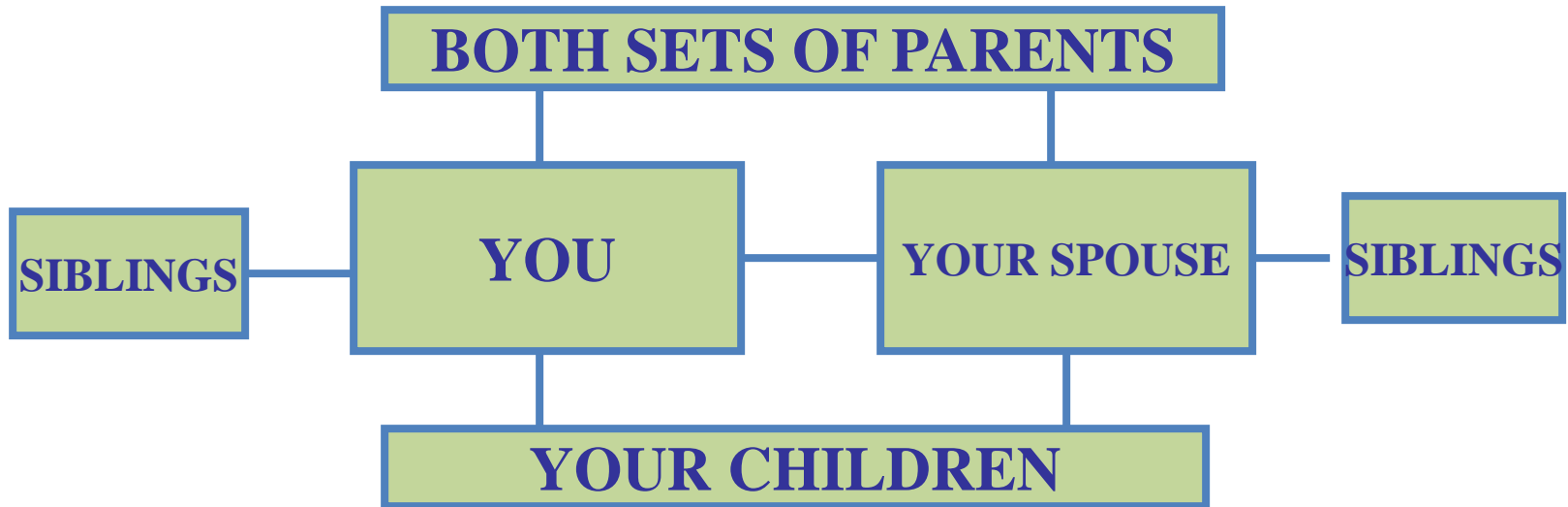
A state employee may not participate in particular matters in which he, his immediate family, a partner, a business organization with which he has certain affiliations or someone with whom he is negotiating prospective employment has a financial interest.

- **Board members are required to recuse.**
- **Can follow 2 - Step Disclosure and Determination Process Appointing authority can waive the requirements.**
- **Disclosure filed with appointing authority and the State Ethics Commission.**

NEPOTISM

- “financial interest” is any financial interest, large or small, and positive or negative, that is direct and immediate, or reasonably foreseeable. The term does not include financial interests that are remote, speculative, or not sufficiently identifiable.
- If any of these closely associated persons or entities has a financial interest in a Board matter, **you must recuse** from participating in the matter. This means you can’t deliberate or vote, participate in casual discussions w/ other Board members or vote whether to schedule something for a particular Board meeting. You can’t touch the matter **at all** in your Board role, unless you get written permission from the Governor in advance.

IMMEDIATE FAMILY



If the answer to question 1 is no

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.**
 - ***One-step written disclosure to the Governor to dispel the appearance of a conflict of interest.***
- **Use official position to secure unwarranted privileges for himself or others.**
- **Use public resources for private or personal use or political activity.**
- **Disclose confidential information.**

CODE OF CONDUCT

- Standard: would a **reasonable person** who **knew all the facts** think that you might be improperly influenced?
- Did you **know or have reason to know** that the matter before the Board affected an outside, private interest.
- If yes, provided that you can act objectively, you should participate only after making a **written disclosure** of the circumstances to the Governor to dispel the appearance of a conflict of interest.

Duty of Loyalty

Conflict of interest law imposes a duty of loyalty on state employees to state interests

State employees may not represent 3rd party interests before state agencies or be paid by 3rd party interests in connection with any matters in which the state is a party or has a direct and substantial interest, but . . .

- **Special state employees can do so, but not before the agency in which they serve or as to matters before other state agencies that have or will be under review by their state agency.**
- **Board members are special state employees because they are uncompensated.**

Duty of Loyalty

- **Special state employees can't work for clients in connection with particular matters before their own Board, even if they abstain from the matter in their Board role.**
- **Special state employees can't be paid by clients in relation to matters before their own board, even if they abstain from the matter in their Board role.**
- **Partners of special state employees also can't work for clients or be paid by clients in connection with particular matters before the special state employee's Board.**

PROHIBITED FINANCIAL INTERESTS IN STATE CONTRACTS

State employees may not have a financial interest in other state contracts.

- **Contracts to provide goods or services.**
- **Multiple positions, one of which is paid.**
 - **May hold any number of elected or unpaid positions.**
 - **Exemptions may be available.**

PROHIBITED FINANCIAL INTERESTS IN STATE CONTRACTS

- **Special state employees can't have a financial interest in a contract with their own Board. A Board member can't be paid by the school to do work for the school.**
- **A firm partner who is a Board member can't receive compensation from any business his firm has before his own Board; the firm needs to put accounting mechanisms in place to prevent this from happening.**

When You Leave Public Service

● THE FOREVER BAN

A former state employee is prohibited from receiving compensation from or representing a third party interest in any particular matter in which he participated as a public employee.

● THE ONE YEAR COOLING OFF PERIOD

A former state employee is prohibited for one year from appearing personally on behalf of a third party if, within two years prior to his last day of employment, the matter was under his official responsibility.

When You Leave Public Service

- **Partners of former state employees must observe a one year cooling off period under certain circumstances.**
- **Former state employees cannot lobby their former agency for one year.**

Quick Tips

When in doubt or

If a bell goes off or a flag goes up

DON'T

Visit us on the Web

www.mass.gov/ethics

CALL

**888-485-4766
617-371-9500**