

*Louisiana
Ethics*





Ethics

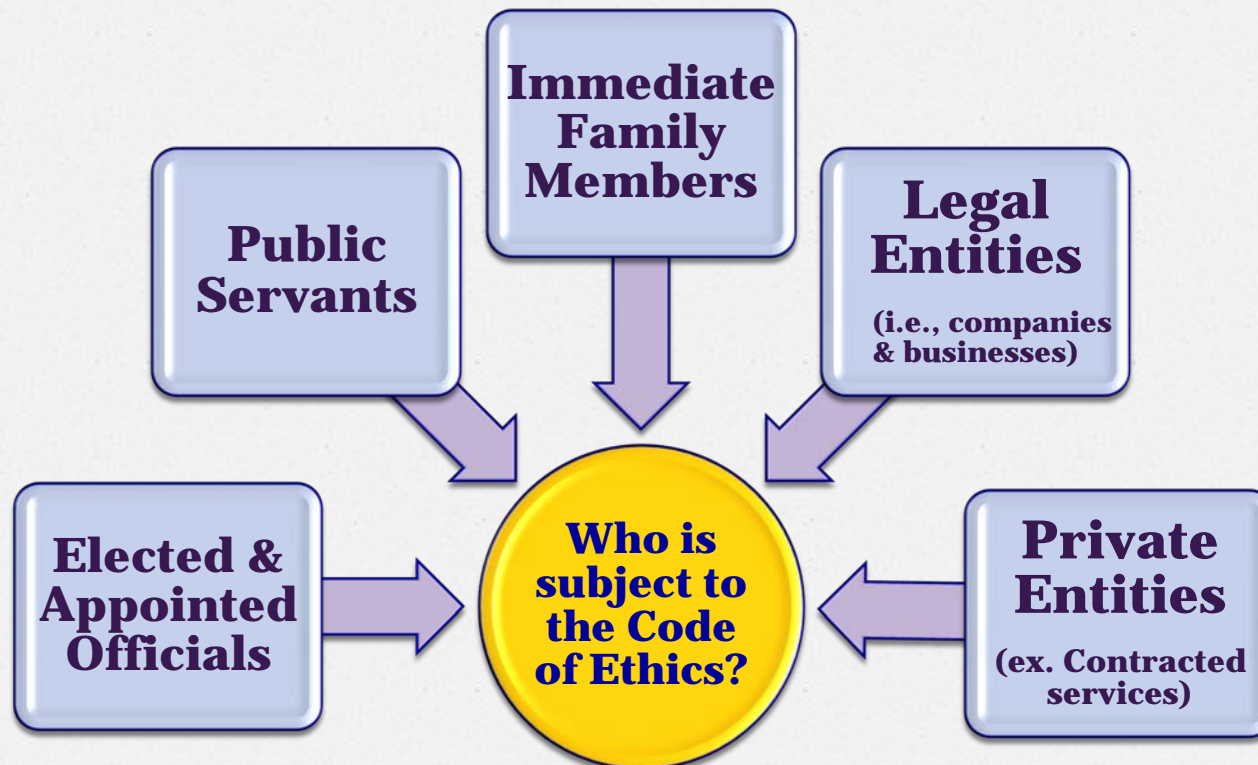
**Maintaining confidence in our
government**

Why AM I Here?

- La. R.S. 42:1170 A(3)(a)(i) requires all public servants to receive a minimum of one hour of education and training on the Code of Ethics during each year of his/her public employment.



Why am I here?



Where Are we located?



Louisiana Board of Ethics

**617 N. Third Street
LaSalle Building, 10th Floor
Baton Rouge, LA 70802**

WHAT are the POLICY GOALS and purpose OF THE CODE OF ETHICS?

- **Purpose** – prevent conflicts of interest

- **Policy Goals (Section 1101)**

- ★ ○ Public office and employment not be used for private gain ★
- Elected officials and public employees are independent and impartial
- Decisions and policies are made in the proper channel of the government
- Public confidence in the integrity of government

Who are considered my immediate family members?

- Parents
- Brothers and Sisters
- Brothers' and Sisters' Spouses
- Children
- Children's Spouses
- Spouse
- Spouse's Parents
- **IT DOES NOT INCLUDE YOUR SPOUSE'S BROTHERS AND SISTERS**

Important definitions

- A PUBLIC SERVANT is a public employee or an elected official.
- An ELECTED OFFICIAL is a person holding an office which is filled by a vote or a person appointed to fill a vacancy in such office.



Important definitions

○ **PUBLIC EMPLOYEE** is anyone who is:

○ An administrative officer or official of a governmental entity

○ Appointed by an elected official



○ Engaged in the performance of a governmental function



○ Under the supervision or authority of an elected official or another employee of a governmental entity

**WILL
WORK
for
FREE**

Important definitions

AGENCY

(for PUBLIC SERVANTS)

is the department, office, division, agency, commission, board, committee, or other organizational unit of a governmental entity

Example: Traffic Police Officer's agency within the Police Department is the traffic division

AGENCY

(for ELECTED OFFICIALS)

is the state or any political subdivision to which the elected official is elected

Example: Police Chief's agency is the Police Department

Important definitions

AGENCY HEAD

- Means the chief executive or administrative officer of an agency or any member of a board or commission who exercises supervision over the agency
- Elected officials are agency heads

Payment from Nonpublic or public Sources

- A public servant shall not receive anything of economic value, other than compensation and benefits from the governmental entity to which he is duly entitled, for the performance of the duties and responsibilities of his office or position. (1111A)
- This prohibition includes bonuses from governmental entities



Important

Understanding economic value



It is defined in the Code as MONEY or other thing having ECONOMIC VALUE

- Things can be tangible (capable of being touched) or intangible (can not be touched)
- **Examples:** Tickets, Gift Cards, Discounts, Trips, and Services



Important definitions

- PROHIBITED SOURCES for Elected Officials AND Public Employees:

- A person who has or is seeking a contractual, business, or financial arrangement with your agency. (Vendors)

- Someone who, for compensation, attempts to influence any legislation or ordinance of the elected body.



IMPORTANT DEFINITIONS

○ PROHIBITED SOURCES for Public Employees ONLY:

- A person who conducts activities which are regulated by the public employee's agency



- A person who has a substantial economic interest that can be affected by the performance or non-performance of the public employee's job duties.









Can I accept gifts?

No!

- A public servant SHALL NOT solicit or accept, directly or indirectly, any thing of ECONOMIC VALUE as a gift or gratuity from any person or company that is a PROHIBITED SOURCE (1115)



EXCEPTION TO THE RULE

PROMOTIONAL ITEMS WITH LITTLE VALUE

- To be considered a PROMOTIONAL ITEM the item **must**:
 - Have the name or logo of the business or organization imprinted thereon
 - Have minimal value or no substantial resale value
 - Examples: Pens, T-shirts, Cups, Bags, Hats etc.



**YOUR CORPORATE
LOGO HERE**

Exception to the rule

- Food and drink must be consumed in the presence of the giver or a representative of the company of the giver. (1115.1)
- The maximum amount a person can receive per event is \$58. This total does not include tax or gratuity.
- If it is an event for a group or organization of public servants, then the dollar limitation is calculated by dividing the total cost of F&D by the total number of persons invited.

Exception to the rule

- Event means a single activity, occasion, reception, meal or meeting at a given place and time
- The \$58 cap does not apply when it is a gathering held in conjunction with a meeting related to a national or regional organization, a meeting of a statewide organization of officials or employees provided 10 or more people with the organization are invited



Can I accept Income from Prohibited sources?

A public servant, public servant's spouse, or entity which the public servant or spouse exercise control or owns more than a 25% interest

**MAY
NOT**

Receive any thing of economic value for services performed or compensated from a PROHIBITED SOURCE excluding people influencing legislation (111(c)2(d))

This includes employment, contracts, and selling property or goods

Important

Prohibition on nonpublic service

No public servant
shall receive any
thing of economic
value for any
service, the subject
matter of which:

- Is devoted substantially to the responsibilities, programs, or operations of the agency of the public servant **and** in which the public servant has **participated**
- Draws substantially upon official data or ideas which are not part of public record (1111(C)(1))

Can I receive Finder's fees?

- NO public servant shall receive any thing of economic value from a person to whom the public servant has directed business of the governmental entity (1111B)



Payments for rendering assistance to certain persons

- A public servant or legal entity in which the public servant is an **officer, director, trustee, partner, or employee**, or in which such public servant has a substantial economic interest, **shall not** receive or agree to receive any thing of economic value for assisting a person in a transaction, or in an appearance in connection with a transaction, with the agency of such public servant (1111E(1))

Illegal payments

- No public servant or other person shall **give, pay, loan, transfer, or deliver** or **offer to give, pay, loan, or deliver, directly or indirectly**, to any public servant or other person any thing of economic value which the public servant would be prohibited from receiving by the Code (1117)



What Can you accept?

CERTAIN COMPLIMENTARY ADMISSION

- It must be an EDUCATIONAL or PROFESSIONAL development seminar or conference in the U.S. or Canada
- The seminar or conference must be related to your public service and is designed to enhance your knowledge or skills
- You must be requested or invited to attend by the sponsoring civic, nonprofit, educational, or political group
- Your agency head must approve the acceptance
- The sponsor can not be someone who is compensated for seeking to influence legislation

What can you accept?

CERTAIN COMPLIMENTARY ADMISSION

- You can accept complimentary admission, reasonable lodging, and reasonable transportation to and from the seminar or conference
- You MUST file an affidavit with the Board within 60 days of acceptance (Name, who hosted, amount expended on your behalf)
- If your agency or governmental entity pays, no affidavit is required to be filed

What can you accept?

CERTAIN COMPLIMENTARY ADMISSION

- Admission to a civic, non-profit, educational, or political event when you are:
 - Program Honoree
 - Speaker
 - Panel member for a discussion at event
 - Assisting an elected official who meets one of the above and you are under their supervision



- DOES NOT INCLUDE SPORTING EVENTS



*ADMISSION TO FUNDRAISING EVENT FOR CANDIDATE OR POLITICAL PARTY



Abuse of office

No PUBLIC SERVANT shall:

- Use the authority of his office or position, directly or indirectly, to compel or coerce any person (including other public servants) to provide himself or any other person with any thing of economic value
- Use the authority of his office or position, directly or indirectly, to compel or coerce any person (including other public servants) to engage in political activity (1116)



How do I participate in transactions?

You participate when you take part in or have or share responsibility for an action of the governmental entity through **approval, disapproval, recommendation, rendering advice, investigation, or the failure to act or perform a duty**

Actions you should not perform (1112)

A public servant **cannot participate** in a **transaction** which:

- He
- Any member of his immediate family
- Any person in which he has a substantial economic interest
- Any person of which he is an officer, director, trustee, partner, or employee
- Any person with whom he is negotiating future employment
- Any person who is a party to an existing contract with the public servant and can affect the economic interests of the public servant.

Has a **substantial economic interest** involving the governmental entity.



Important

What is a transaction?

- A proceeding
- Application
- Submission
- Request for ruling or other determination
- Contract, claim, or case
- Any matter in which the governmental entity or agency is the subject, party, or has a direct interest



substantial economic interest means...

An interest which is of greater benefit to the public servant or other person than to a general class or group of persons **EXCEPT** the interest that a person has as a member of the **general public**

Protecting against participation

ELECTED OFFICIALS

- Must recuse themselves from voting but **MAY** participate in the debate or discussion

APPOINTED OFFICIALS

- Must recuse themselves and **CAN NOT** participate in the debate or discussion

***Public employees** must disqualify themselves. Set up a disqualification plan.



WE'RE LIKE ONE BIG FAMILY AROUND HERE"

Nepotism



- No member of the immediate family of an agency head shall be employed in his agency
- **Exception to the rule:**
 - When the immediate family member has been employed by the agency for **at least one year prior** to the immediate family member becoming the agency head
 - Employee can still be promoted and advance within the agency

Important

nepotism

- Avoid participation if the exception applies
- There are specific exceptions for School Board Members, District Attorneys, Legislators, and Volunteer Firefighters
- Municipality with less than 2,000 population and owning an electrical or gas distribution system.

Prohibited contracts

- A **public servant** or member of his **immediate family** or **legal entity** in which he has a controlling interest (*greater than 25% combined amongst the family*) **SHALL NOT** bid on or enter into any contract, subcontract, or other transaction that is under the supervision or jurisdiction of the agency of the public servant (1113)

Important

PROHIBITED CONTRACTS

- A **public servant** or **immediate family** member who receives any thing of economic value from his agency or
 - through a person who is regulated by his agency
 - has bid on or entered into any contract, subcontract, or transaction under the supervision or jurisdiction of his agency
- **SHALL DISCLOSE** to the Board income or value received and the nature of the business activity

TIME FOR TRANSPARENCY

TIME
FOR
RENEWAL

Prohibited contracts

- The amount of the contract is not important, it is still prohibited
- **You may donate time and money to your own agency**
- You may want to notify your immediate family due to the potential penalties and fines



PENALTIES AND FINES

- Censure
- \$10,000 per violation
- 150% of the economic advantage
- Cancel or rescind contract
- Forfeit gifts or illegal payments
- Remove, suspend, or order a reduction in pay or demotion of the public employee



ETHICS ADJUDICATORY BOARD (EAB)

- EAB determines the penalties when they deem a violation has occurred
- The case is heard before a panel of 3 administrative law judges
- Due process rights are available (Attorney present, proper notice, appeal, etc.)
- Appeals to First Circuit

What is necessary to file a complaint?

- Must be 18 or older and qualified to vote
- Written and signed
- Sworn (notarized) or non-sworn
- Actions or issues occurring within the previous 4 years
- Agency heads are required to report any potential issues

Whistleblower (1169)

Copy located on our
website

It should be posted in a
conspicuous place when
there are 10 or more
persons employed



- Protects any public employee who reports information that they reasonably believe to be a violation from discipline, reprisal or threats of such for reporting acts of alleged impropriety
- Person wrongfully suspended, demoted, or dismissed will be reinstated to his position and is entitled to lost income

What happens after the complaint is filed?

- Board must have 8 votes to investigate
- Matters under investigation are confidential
- Could potentially be prosecuted for revealing information.
- Once investigation is sanctioned the respondent receives:
 - An explanation of the matter
 - Redacted copy of the complaint
 - A certificate of vote by certified mail

What happens after the complaint is filed?

- Investigators put together a fact pattern by gathering formal evidence that can be relied on
 - Subpoena of documents
 - Depositions
- Depending on result of investigation the board will
 - Dismiss or close the file
 - Issue cautionary letter
 - Offer settlement
 - Issue charges for public hearing



Post-employment restrictions

Disclaimer

- No former **agency head** or **elected official** shall assist another person, for **compensation**, in a transaction or appearance in connection with a transaction involving that agency or render any service on a contractual basis for that agency for **two years** following the **termination** of public service (1121A)
- No former **member** of a **board** or **commission** shall contract with, be employed in any capacity, or be appointed to any position by that board or commission for two years following termination of public service

Post-employment restrictions

- No former **public employee** shall assist another person, for **compensation**, in a **transaction** or appearance in connection with a transaction in which the former public employee **participated** at any time during his public employment and involving the **governmental entity** by which he was employed for **two years** following termination of public service
- Also **can not** render **any service** that you performed for the former agency to former agency on a contractual basis for two years

Requesting an advisory opinion

- Must have a direct interest in an issue arising under one of the laws under the Board's jurisdiction
- Must be in writing
- Prospective or prior to taking action
- The become public record



Personal financial disclosures

- All **elected officials**, excluding judges, are required to file a personal financial disclosure statement with the Board **annually**. You are still **required** to file for the year you **leave** office **unless** it is in **January**
- Each elected official should file **only one** statement regardless of the number of positions held. The **more detailed** statement should be filed in this instance

The high points

- **Prohibitions on Income-** 1111A, Private income from prohibited sources
- Can not accept gifts from prohibited sources except **food** and **drink** and **promotional items**
- **Prohibited Sources-** Vendors, Substantial Interest etc.
- Can not contract with your agency
- **Nepotism-** Agency heads can not have immediate family members within the agency
- Beware of **participation** issues. Recuse or disqualify yourself

Website and contact info

For more information check out our
website www.ethics.la.gov

If you would like informal advice you
can contact our offices at
(225) 219-5600 or (800) 842-6630.