**Multi-Agency Seminar**

**March 4-5, 2015**

**David Giannotti, Chief, Public Education and Communications Division**

**State Ethics Commission**

**STATE ETHICS COMMISSION**

**What We Do**:

We administer and enforce the conflict of interest law, G.L. c. 268A, and the financial disclosure law, G.L. c. 268B. As state employees, you are covered by the conflict of interest law. If you are in a designated policy-making position, you must file a Statement of Financial Interests (SFI) with the Commission each May 1st for the preceding calendar year.

**Confidential Advice**:

* How to Request:
	+ Call (617) 371-9500 and ask for the attorney of the day
	+ Submit a request through our website: [www.mass.gov/ethics](http://www.mass.gov/ethics)
	+ Write a letter
* Advice is confidential and binding on the Commission. We record all advice.
* We provide advice by telephone, email, and letter. Telephone advice is often given on the day of the request, and email within a day or two. A written advisory opinion in the form of a letter takes a little longer (in most cases, within 30 days of the request) and is usually provided in situations where the facts are more complicated.
* We do not give third party advice, meaning you may call about your own situation, or you may call on behalf of someone else if you have that person’s permission to do so.
* We do not give advice on past conduct – your request must involve prospective conduct.
* You can find educational materials on our website as well as disclosure forms.

**THE CONFLICT OF INTEREST LAW**

**Bribes** – You cannot ask for or receive anything of value (any amount) in return for doing or not doing something in your state job. Bribes involve corrupt intent and an exchange, i.e., something for something.

**Gifts** - Gifts of substantial value are prohibited when there is a connection to action you could take or have already taken in your job, or a connection to your position.

Substantial Value: Substantial value is $50 or more. The value of a gift is its fair market value at the time of the gift, its actual cost, or its face value, whichever is greater. The Commission may aggregate gifts offered/given within any 365 day period.

Prohibited Gifts:

Connection to Official Act. You cannot ask for or accept a gift of substantial value that is given to you for or because of any official act performed or to be performed. The gift is prohibited if it is connected to a particular official act and is given to reward or thank you for an action taken or is given to influence a present or future act.

Because of Official Position. You cannot ask for or accept a gift of substantial value that is given to you because of your official position.

Gift Exemptions: There are exemptions to the gift prohibitions in situations where the Commission has determined that allowing a public employee to accept a gift promotes a public interest or does not present a genuine risk of a conflict or the appearance of a conflict. Call us for advice about whether you may accept a gift in a particular situation.

New Regulations: The Commission has developed and issued new regulations that create a number of exemptions to the restrictions on gifts. The regulations, which can be found at **930 CMR 5.00**, describe in detail the various circumstances in which public employees may accept certain gifts. The exemptions address ceremonial gifts, situations where the gifts are given solely because of family or friendship and situations that do not present a genuine risk of a conflict or the appearance of a conflict.

**Divided Loyalties** – In general, you may not be paid by anyone other than the Commonwealth in relation to any matter in which the Commonwealth or a state agency is a party or has a direct and substantial interest. You also may not act on behalf of anyone other than the Commonwealth in such a matter. Constituent services are generally permitted, with some exceptions.

(Note: The restrictions for special state employees are different and less restrictive than those that apply to state employees.)

**Self-Dealing/Nepotism** - You are prohibited from participating in any “particular matter” in which any of the following has a financial interest: yourself; a member of your immediate family (parents, children, siblings, spouse, spouse’s parents, children, siblings); a business organization of which are a director, officer, trustee or employee; or any person or organization with whom you are negotiating or have any arrangement regarding prospective employment.

Particular Matter: Does not include general legislation or home rule petitions (but does include special legislation). The budget as a whole is not a particular matter, but budget line items, outside sections that deal with an existing line item in an appropriation, and budget amendments are particular matters. If not a particular matter, you may participate but you may be required to file a disclosure of your or your family member’s financial interest.

**Multiple State Jobs or Contracts** - You are prohibited from having a direct or indirect financial interest in a state contract, unless an exemption applies. This prohibition includes a second paid state job, a second paid job with a private employer where your salary is paid with state funds, or a financial interest in a contract with the state. There are potential exemptions in this area and we recommend that you contact us for advice if such a situation arises.

**Code of Conduct**

Misuse of Position**:** You cannot use your state position to obtain for yourself or others an unwarranted privilege or benefit of substantial value not available to similarly situated individuals.

Appearance of a Conflict: You are prohibited from acting in a manner that would suggest that you would be biased by your personal relationship with someone, i.e., a reasonable person who knew all the facts would think you have a conflict of interest. You can eliminate the appearance of a conflict by filing a public disclosure with your

appointing authority before you take any action. If you cannot act fairly and objectively because of your personal relationship, you should abstain from participating in the matter.

**Restrictions on Former State Employees:**

Lobbying Restriction. You are prohibited from lobbying your former state agency f for one year after you leave your state position. This means that you cannot do anything to promote, oppose, or influence any legislation for one year after leaving your state position.

Forever Ban. Cannot act as agent or attorney for anyone other than the Commonwealth, or be paid by anyone other than the Commonwealth, in connection with any particular matter in which the Commonwealth or a state agency is a party or has a direct and substantial interest, if you participated in that particular matter in your state job. This prohibition remains in effect forever. (General legislation and home rule petitions are not particular matters.)

One Year Restriction. For one year after leaving your state position, you cannot appear personally before any state court or state agency as agent or attorney for anyone other than the state in connection with any particular matter in which the state is a party or has a direct and substantial interest, if that particular matter was under your official responsibility as a state employee at any time during your last 2 years in that position.

Partners of Former State Employees. If you are subject to the “Forever Ban” above, your partner cannot do for one year what you are prohibited from doing. (Note: There are also restrictions on what partners of current state employees may do.)

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This document is intended to serve as a brief and general overview of the conflict of interest law, and is not intended to constitute advice. You are encouraged to seek advice from the Ethics Commission on how the conflict of interest law would apply to your own prospective conduct.

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