

**A GUIDE TO THE CODE
OF ETHICS FOR
PUBLIC OFFICIALS AND STATE EMPLOYEES
2004**

NOTE: This Guide summarizes only the main points of the Code. For the full text, with all conditions and exceptions, consult Connecticut General Statutes, Chapter 10, Part I. For interpretations of the Code contact the Ethics Commission.

WHO MUST COMPLY: All state officials and employees (except judges).

NOTE: all officials and employees of the State's Quasi-Public Agencies are included in the Code's definitions of "public official" or "state employee", and are subject to the Code. The provisions on the last page apply to former public officials and state employees.

WHAT STANDARDS DOES THE CODE SET: The ethical rules are contained in Connecticut General Statutes §§1-84 through 1-86. Basically, these sections are intended to prevent one from using public position or authority for personal financial benefit. The principal provisions of §1-84 prohibit:

-acceptance of outside employment which will impair independence of judgment as to official duties or require or induce disclosure of confidential information gained in state service. (Generally outside employment is barred if the private employer can benefit from the state servant's official actions. For example, the individual in his or her state capacity has regulatory or contractual authority over the private entity. A state servant is not prohibited, however, from using his or her expertise for private gain, as long as no provision of the Code is violated in the process);

-use of public position or confidential information gained in state service for the financial benefit of the individual, his or her family (spouse, child, child's spouse, parent, brother or sister), or an "associated business" (defined to include any entity through which business for profit or not for profit is conducted in which the state servant, or an immediate family member, is a director, officer or owner) (**NOTE:** There is an exception to this definition, however, for unpaid service as an officer or director of a non-profit entity.);

-representation of another for compensation, or being a member of a business which represents a client for compensation, before: Banking Department; Connecticut Siting Council; Department of Environmental Protection; Claims Commissioner; office within Consumer Protection Department which carries out duties of the former Department of Liquor Control; Connecticut Real Estate Commission; Department of Public Utility Control; Department of Motor Vehicles; Insurance Department; State Insurance Purchasing Board; Gaming Policy Board; Division of Special Revenue; and Office of Health Care Access. (Excepted from this prohibition are members of boards, commissions, and quasi-public agencies who receive no compensation other than per diem, expenses, or both, and teaching or research professional employees of public institutions of higher education provided their actions are not otherwise in violation of the Code of Ethics.);

-solicitation or acceptance of anything of value based on an understanding that one's official action will be influenced thereby. (Prohibition applies to candidates and to anyone offering or giving the thing of value);

-entering into contracts with the State valued at \$100 or more, unless the contract has been awarded through an open and public process. (Ban extends to immediate family and associated businesses but excepts executive branch and quasi-public agency officials who receive no compensation except per diem, expenses, or both, unless official has control over subject matter of contract. Contracts of employment as a state employee and contracts made by court appointment are exempt from the provision.) Additionally, no executive head of an agency; no executive head of a quasi-public agency; and no member of such individual's immediate family or a business with which he is associated may enter into any contract with that agency or quasi-public agency;

-acceptance of any gift or gifts from one known to be a registered lobbyist or lobbyist's representative. (Limitation also applies to candidates, immediate family and staff members. "Gift" does not include food and drink totaling less than fifty dollars per person in a calendar year, if consumed on occasions at which the lobbyist, or a representative of the lobbyist, furnishing the food and drink is in attendance. In a restaurant setting, for the exception to apply, the lobbyist must be seated at the same table as the public official during the portion of the drinks or meal for which the lobbyist pays. Among the other items excluded from the term are presents given by individuals incident to "major life events", ceremonial awards costing less than one hundred dollars, benefits costing less than ten dollars per person per occasion up to fifty dollars total in a calendar year, and gifts to the state.);

-acceptance of any gift or gifts from any person doing business with, seeking to do business with or directly regulated by the state servant's agency or department. (NOTE: the same exceptions to the lobbyist gift provision listed above also apply to this gift limitation.)

-acceptance of any fee or honorarium given in return for a speech or appearance made or article written in one's official capacity. (Acceptance of the individual's necessary expenses is permissible, however.);

-interference with or solicitation of lobbying contracts for any person.

Section 1-85 (substantial conflict) and §1-86 (potential conflict) are distinct but related provisions to consider when a possible conflict is identified:

- (1) If faced with taking official action which you can expect will directly affect your financial interests, or that of your spouse, dependent child, or an associated business, distinct from others in your occupation or group (e.g., taking official action on the awarding of a contract to a private business you own) you have a substantial conflict of interest under §1-85 and may not act under any circumstances.
- (2) However, if your financial interest is shared by the other members of your profession, occupation, or group (e.g., a public official/teacher acting on a matter that will result in a uniform financial benefit to all teachers) you proceed under the rules of §1-86. Specifically: (A) if one is a member of a regulatory agency, one must either be excused or prepare, under penalty of false statement, a written statement (to be placed in the minutes of the individual's agency, copy to the Ethics Commission) describing the potential conflict and stating why, despite the situation, one can act fairly, objectively and in the public interest; or (B) if not a member of a regulatory agency, the individual must prepare a written statement, under penalty of false statement, which describes the potential conflict. The individual must deliver the statement to his or

her superior, who will assign the matter to another who is not subordinate to the individual with the conflict. (If one has no immediate superior, deliver the statement to the Ethics Commission for guidance on how to proceed.)

- (3) Under §1-86, if the financial effect on you, a family member, or an associated business is insignificant (i.e. less than \$100 in a calendar year), or no different than that of a substantial segment of the general public (e.g., a regulatory official approving an increase in residential electric rates), you may act without having to follow §1-86 procedures.

FINANCIAL DISCLOSURE: Certain public servants in significant positions in the Legislative and Executive Branches of State government and the State's Quasi-Public Agencies must file annually with the Ethics Commission by May 1 statements of financial interests held during the previous year.

Additionally, each state servant must disclose to the Commission, within thirty days, any "necessary expense" payments which the individual receives in his or her capacity as a public official or state employee if lodging and/or out-of-state travel is included, unless such expenses are paid for by the Federal Government or another State Government.

Also, whenever a gift to the state incidentally benefits a public official or state employee in the amount of fifty dollars or more and is donated by an individual or entity regulated by, doing business with, or seeking to do business with the recipient agency, the individual's superior, shall certify in writing to the Ethics Commission, prior to the acceptance of the benefit, that the gift, in fact, facilitates state action or functions and is sanctioned by the recipient agency, notwithstanding any potential conflict of interests. An example of such a gift to the state is when a regulated entity pays the cost for a state regulatory employee to take a course relevant to his or her area of expertise.

ENFORCEMENT PROCEDURES, PENALTIES: Enforcement of the Code is initiated by a complaint, filed by the Commission or any member of the public. (In most instances, a Commission complaint is preceded by a confidential staff evaluation.) A two-stage process follows: (1) confidential investigation and probable cause hearing; (2) if probable cause is found, a public hearing to determine if the Code has been violated. (At any stage of the process the Commission and Respondent may negotiate a settlement.) After a finding or admission of a violation, the Commission can order the Respondent to comply with the Code in the future, file any required report or statement, and pay a civil penalty.

Alternatively, for failure to file a report, statement, or other information required by the Code the Commission can, after a single hearing, impose a civil penalty of up to \$10 per day, the aggregate penalty for any one violation not to exceed \$2,000.

If the Commission concludes a violation was intentional, it can refer the matter to the Chief State's Attorney for action. An intentional violation of the Code is a misdemeanor punishable by a fine of up to \$2,000, a jail term of up to one year, or both.

The Attorney General may sue for up to three times the economic gain received through knowingly committing or knowingly profiting from a violation of the Code.

The Commission is authorized to protect and keep confidential the identity of any individual who provides information regarding a possible violation of the Code.

IF YOU HAVE A QUESTION ABOUT THE CODE: Anyone subject to the Code may request the Commission's advice (advisory opinion) as to how the Code applies to a situation. The Commission staff also provides informal advisory letters when the question posed is unambiguous or has been previously addressed by a Commission opinion. Finally, staff is available to discuss application of the Code to your particular issue on a confidential basis.

If you have any questions about this Guide or desire more information about the Ethics laws, please contact the Commission staff or visit the Commission's website (www.ethics.state.ct.us).

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ETHICS CODE PROVISIONS APPLICABLE TO
THOSE LEAVING STATE OR QUASI-PUBLIC AGENCY SERVICE

1. NO FORMER PUBLIC OFFICIAL OR STATE EMPLOYEE MAY DISCLOSE OR USE CONFIDENTIAL INFORMATION, GAINED IN STATE SERVICE, FOR THE FINANCIAL BENEFIT OF ANY PERSON.

This is a lifetime prohibition. "Confidential information" is any information not generally available to the public. The information may be in any form (written, photographic, recorded, computerized, etc.) including orally transmitted information, e.g., conversations, negotiations, etc.

2. NO FORMER EXECUTIVE BRANCH OR QUASI-PUBLIC AGENCY OFFICIAL OR STATE EMPLOYEE MAY REPRESENT ANYONE (OTHER THAN THE STATE) CONCERNING ANY PARTICULAR MATTER (1) IN WHICH HE OR SHE PARTICIPATED PERSONALLY AND SUBSTANTIALLY WHILE IN STATE SERVICE AND (2) IN WHICH THE STATE HAS A SUBSTANTIAL INTEREST.

This is a lifetime prohibition. It applies regardless of where the representation occurs and whether or not compensation is involved. The term "particular matter" must almost always be determined on a case by case basis. Although the concept is essentially a narrow one, a specific "particular matter" (e.g., an administrative enforcement proceeding) cannot be further divided into separate phases (prehearing investigation, hearing, decision, etc.) To hold otherwise would frustrate a principal purpose of this provision: prevention of side switching in the midst of on-going state proceedings.

3. NO FORMER EXECUTIVE BRANCH OR QUASI-PUBLIC AGENCY OFFICIAL OR STATE EMPLOYEE SHALL, FOR ONE YEAR AFTER LEAVING STATE SERVICE, REPRESENT ANYONE (OTHER THAN THE STATE) FOR COMPENSATION BEFORE THE AGENCY IN WHICH HE OR SHE WAS EMPLOYED AT THE TIME OF LEAVING STATE SERVICE, CONCERNING ANY MATTER IN WHICH THE STATE HAS A SUBSTANTIAL INTEREST.

"Represent" (under both nos. 2. and 3.) includes any action which reveals the identity of the individual, e.g., a personal appearance, phone call, signature on a document, identification on a firm's letterhead, etc.

NOTE: A Commission policy has been established to allow former state servants to enter into consulting and other employment contracts with their former agencies within the one year period. Specifically, such conduct is permitted, as long as the re-employment is at no greater pay level than the individual was receiving at the time of separation from state service plus necessary expenses. In essence, by prohibiting the negotiation of the compensation rate, this policy prevents improper use of influence and contacts for financial advantage. At the same time, employment options of former state servants are not limited unnecessarily and the State is not denied these individuals' expertise. Those with questions concerning this policy should contact a Commission attorney.

4. NO FORMER PUBLIC OFFICIAL OR STATE EMPLOYEE WHO PARTICIPATED SUBSTANTIALLY IN, OR SUPERVISED, THE NEGOTIATION OR AWARD OF A STATE CONTRACT VALUED AT \$50,000 OR MORE MAY ACCEPT EMPLOYMENT WITH A PARTY TO THE CONTRACT (OTHER THAN THE STATE) FOR ONE YEAR AFTER

**RESIGNATION FROM STATE SERVICE IF THE RESIGNATION OCCURS
WITHIN ONE YEAR AFTER THE CONTRACT WAS SIGNED.**

Substantial participation is not limited to the chief negotiator or the individual who signs the contract. Rather, the concept of substantial participation (under both nos. 2. and 4.) applies whenever the individual exercises discretionary authority at any level of the process. "Employment" includes work as an independent contractor or consultant.

- 5. PERSONS WHO SERVE IN ONE OF APPROXIMATELY 75 SENIOR POSITIONS IN THE STATE'S REGULATORY AGENCIES ARE PROHIBITED, FOR ONE YEAR AFTER LEAVING STATE SERVICE, FROM ACCEPTING EMPLOYMENT WITH ANY BUSINESS SUBJECT TO REGULATION BY THEIR FORMER AGENCY.**

(NOTE: positions to which this restriction applies are listed in Regulations of Conn. State Agencies §1-92-40a.)

Revised: October, 2003 (poguide)