Public Officials and State Employees Guide to the Code of Ethics

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Ethics

Contact Us

Agency Address: Connecticut Office of State Ethics
18-20 Trinity Street
Suite 205
Hartford, CT 06106

Telephone: 860-263-2400

Facsimile: 860-263-2402

Website: www.ct.gov/ethics

Business Hours: 8:00 am to 5:00 pm

Visitors must enter the building through the door next to the Bushnell Memorial Theater.

Specific E-mail Contacts: For the timeliest responses, please be sure to direct your questions to the appropriate e-mail address; for example, with a question such as, "Can I accept this outside position with a vendor?" please be sure to send your query to ethics.code.@ct.gov

- Legal Advice Regarding Code of Ethics — ethics.code@ct.gov
- Lobbyist Filing/Reporting Questions — lobbyist.ose@ct.gov
- Public Official Filing/Reporting Questions — sfi.ose@ct.gov
- Enforcement/Filing a Complaint — ethics.enforcement@ct.gov
- All Other Inquiries — ose@ct.gov

Staff Phone Number Listing

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OFFICE OF STATE ETHICS

Created on July 1, 2005, under Public Act 05-183, the Office of State Ethics ("OSE") is an independent regulatory division of the Office of Governmental Accountability charged with administering and enforcing the Connecticut Codes of Ethics ("Ethics Codes"), which are found in Chapter 10 of the Connecticut General Statutes.

The OSE's duties include educating all those covered by the Ethics Codes; interpreting and applying the Ethics Codes; investigating violations of, and otherwise enforcing, the Ethics Codes; and providing information to the public.

The OSE's jurisdiction:

Part I Code of Ethics for Public Officials
General Statutes §§ 1-79 to 1-90a

Part II Code of Ethics for Lobbyists
General Statutes §§ 1-91 to 1-101a

Part III Lobbying: Miscellaneous Provisions
General Statutes §§ 1-101aa and 1-101bb

Part IV Ethical Considerations Concerning Bidding and State Contracts
General Statutes §§ 1-101mm to 1-101rr

The OSE Executive Director has overall responsibility for the welfare and effectiveness of the OSE, which has three divisions, the legal division, the enforcement division, and the administrative division.

The OSE's governing body is the Citizen's Ethics Advisory Board ("CEAB"), which has nine members appointed by the Governor and legislative leadership. The CEAB holds monthly meetings that are open to the public. A schedule of CEAB meeting dates, times, and locations is available at www.ct.gov/ethics.

CEAB Members:

- Attend monthly CEAB meetings
- Appoint and evaluate the Executive Director of the OSE
- Issue advisory opinions to persons subject to the Ethics Codes
- Serve as a Hearing Officer for non-confidential hearings held under the Uniform Administrative Procedures Act, General Statutes § 4-166 *et. seq*.
- Attend hearings to determine if violations occurred and, if so, assess penalties
- Attend special meetings if necessary
- Oversee legislative agenda

THE BIG PICTURE

All state officials and employees (except judges) are covered by Part I of the Code of Ethics for Public Officials. It is important to remember that certain provisions of the Code also apply to state officials and employees after they leave state service.

As you read through this guide, be aware that these laws were enacted to prevent individuals from using their public position or authority for their own financial benefit, or for the financial benefit of certain others (for example, family members).

Each state agency also has its own ethics policy, which may be more restrictive than what follows. Be sure to obtain a copy of your state agency's policy.

GIFTS

For a public official or state employee, there are rules in place regarding the acceptance of "gifts" from both restricted and non-restricted donors.

What is a "gift"?

General Statutes § 1-79 (5) defines "gift" in three parts:

1. "anything of value" (for example, money, tickets to a sporting event, meals, services, etc.),

2. "which is directly and personally received" (that is, the state official or employee accepts the opportunity to partake of it),

3. "unless consideration of equal or greater value is given in return" (that is, unless the state official or employee pays fair market value for it).

Restricted Donors

Restricted donors include:

- Registered lobbyists (a list is available on the OSE website) or a lobbyist's representative;
- Individuals or entities doing business with your state department or agency;
- Individuals or entities seeking to do business with your state department or agency;
- Individuals or entities engaged in activities regulated by your state department or agency; or
- Contractors pre-qualified by the Connecticut Department of Administrative Services (General Statutes § 4a-100).

Non-Restricted Donors

Two other categories of donors are:

Non-restricted donors giving you something because of who you are in state service

If a gift-giver does not fall within the definition of a restricted donor, but is nonetheless giving you something because of your public position, you should be aware that a dollar limit exists.

From this type of donor, you may accept up to $100 annually from a single source, in addition to any of the 19 gift exceptions noted below and set forth in General Statutes § 1-79 (5)(A)–(S) Advisory Opinions Nos. 98-9 and 2003-13.

Non-restricted donors giving you something that has nothing to do with your state service

There is no limit as to what you may accept from a non-restricted donor, such as your neighbor of 20 years or a best friend from kindergarten, who is giving you a gift that has nothing to do with your public position.

This holds true as long as the donor remains non-restricted. Should this individual become a registered lobbyist, for example, the gift provisions regarding restricted donors would apply, regardless of the purpose of the gift or any longstanding personal relationship.

Gift Exceptions

There are certain exceptions to the definition of "gift." Not all exceptions are covered below; see General Statutes § 1-79 (5)(A)–(S) for the complete list.

- *Token Items* – Items valued less than $10 (such as a pen or mug), provided the annual aggregate of such items from a single source is $50 or less. General Statutes § 1-79 (5) (P).
- *Food and Beverage* – Up to $50 in food/beverage annually, provided the donor or a representative is in attendance when it is being consumed. General Statutes § 1-79 (5) (I).
- *Training* – Vendors may provide you with training for a product purchased by your agency provided such training is offered to all customers of that vendor. General Statutes § 1-79 (5) (Q).
- *Gifts to the State* – Goods or services given to a state entity. The gift must facilitate state action, and must (1) be for use on state property (e.g., a computer), (2) support a state event (e.g., funds to support an agency event), or (3) support the participation by a state employee or official at an event (e.g., funds for an agency employee to attend an educational conference relevant to his state duties). General Statutes § 1-79 (5) (E).
- *Other Exceptions* – There are a total of 19 separate gift exceptions in the Code. Also exempt from the definition of "gift" are items such as informational materials germane to state action, ceremonial plaques or awards costing less than $100, or promotional items, rebates or discounts also available to the general public. See General Statutes § 1-79 (5)(A)–(S).

Major Life Event

There is a $1,000 limit on a gift a registered lobbyist gives to you or a member of your family for a major life event. General Statutes § 1-79 (5) (L). **Note: Registered lobbyists are the only type of restricted donor who may make use of the "major life event" gift exception.**

What is a "Major Life Event"?

- Birth or adoption of a child
- Wedding
- Funeral
- Ceremony commemorating induction into religious adulthood
- Retirement from state service

This list of major life events is exhaustive. Regs., Conn. State Agencies § 1-92-53.

Reporting Requirements of Restricted Donor

Should you receive anything of value that exceeds threshold dollar amounts from an entity doing business with, seeking to do business with, or directly regulated by your department or agency, that entity must, within **10 days**, give you and the head of your department or agency a written report stating:

- Name of the donor;
- Description of item(s) given;
- Value of such item(s); and
- Total cumulative value of all items to date given to you by that donor during the calendar year.

This helps you and donor keep track of the gift exceptions noted above, so that permissible limits are not exceeded. General Statutes § 1-84 (o).

Gifts Between State Employees

Advisory Opinion No. 2006-6 interpreted General Statutes § 1-84 (p), regarding gifts between supervisors and subordinates in state service. This three-part provision limits gift-giving between certain individuals. Specifically:

- There is a monetary limit of $99.99 for gifts between a public official or state employee and his or her supervisor or subordinate. This limit is a **per-gift** – not a per-year – amount.
- Individuals subject to this limit may still make use of the major-life-event exception. In other words, supervisors and subordinates are not limited to $99.99 when giving gifts to each other for major life events. The applicable limit for major life events is $1,000.
- The provision applies not only to direct supervisors and subordinates, but to any individual up or down the chain of command.

In Advisory Opinion 2007-5, the CEAB concluded that supervisors and/or subordinates ***may not pool*** their money to give a collective or group gift valued in excess of the $99.99 limit. Thus, except in the case of a major life event (which holds a $1,000 limit), it would be a violation for Supervisor A to accept a gift valued at $150 from Subordinates X and Y (and for them to give such a gift), even though the individual contributions of X and Y are less than the $99.99 limit established in General Statutes § 1-84 (p).

Likewise, supervisors and/or subordinates ***may not pool*** their money to give a group gift valued in excess of $1,000 for a major life event.

NECESSARY EXPENSES

General Statutes § 1-84 (k) – the "necessary expenses" provision – prohibits a state employee or official from accepting a fee or honorarium for participating at an event *in his or her official capacity*.

However, a state employee or official may receive payment or reimbursement for "necessary expenses" if – in his or her official capacity – the employee or official actively participates in the event (for example, gives a speech or runs a workshop).

"Necessary expenses" are not considered gifts and may include the cost of:

- Travel (coach);
- Lodging (standard room for the night before, of, and immediately following the event);
- Meals (non-lavish); and
- Conference or seminar registration fees.

"Necessary expenses" ***do not*** include the cost of entertainment (tickets to sporting events, golf outings, night clubs, etc.) or payments of expenses for family members or other guests.

Only a sponsor of the event to which you are participating may pay for or reimburse your "necessary expenses." Advisory Opinion No. 2012-9.

Within 30 days of receiving payment or reimbursement of "necessary expenses" for ***lodging and/or out-of-state travel***, the employee or official must file an ETH-NE form with the OSE. General Statues § 1-84 (k).

Example:

Question: A restricted donor is hosting an out-of-state conference and would like a state employee to come and give a speech in his official capacity. The restricted donor has offered to pay the employee's travel and lodging expenses, to waive his conference registration fee, and to give him a $500 honorarium. Permissible?

Answer: The state employee may not accept the $500 honorarium (because he is participating in his official capacity), but may accept payment or reimbursement for "necessary expenses," which include coach-class travel, standard lodging for the nights before, of and after the speech, and waiver of the conference registration fee.

Note: For additional information please see: *Necessary Expenses: A Guide for Public Officials and State Employees*.

CONFLICTS OF INTEREST

Substantial Conflict of Interest

WHAT IS A "SUBSTANTIAL" CONFLICT OF INTEREST?

Under General Statutes § 1-85, a public official or state employee has a "substantial conflict" – and may not take official action – if he has reason to believe or expect that the following is true:

(1) The official action would directly affect his financial interests (i.e., he will derive a **direct** monetary gain or suffer a **direct** monetary loss) or those of his spouse, a dependent child, or a business with which he is associated; and

(2) It would do so in a way that is distinctly different from its effect on other persons in the same profession, occupation or group.

"Reason to believe or expect" would be if there is a written contract, agreement, or other specific information available to the individual which would clearly indicate to a reasonable person that such direct benefit or detriment would accrue or when the language of the legislation, regulation or matter in question so indicates. Regs., Conn. State Agencies § 1-81-28 (c).

"**Business with which … associated**" is defined to include any entity through which business for profit or not for profit is conducted in which the public official or state employee, or a member of his or her immediate family, is a director, officer, or holder of significant ownership interest. **Note:** Unpaid service as an officer or director of a non-profit entity is exempted from the definition of "Business with which … associated." General Statues § 1-79 (2).

Required Action for Substantial Conflict of Interest:

A public official or state employee ***must*** abstain from taking official action on the matter if he or she has a substantial conflict, as defined above.

Potential Conflict of Interest

WHAT IS A "POTENTIAL" CONFLICT OF INTEREST?

A "potential" conflict of interest exists if a public official or state employee, in the discharge of his or her official state duties, would be required to take an action that would affect his or her financial interest, or the financial interest of his or her spouse, parent, brother, sister, child, spouse of the child, or a business with which the official or employee is associated.

Unlike a "substantial" conflict of interest, there is no requirement that the financial impact be direct or that it affect the individual differently from other members of his or her profession, occupation, or group.

However, there still must be a reasonable expectation on the part of the state employee or public official that there will be some financial impact based on his or her actions.

A "potential" conflict of interest does not exist if the financial interest is "de minimus" (under $100) or if the interest is indistinct from that of a substantial segment of the general public (e.g., all taxpayers). General Statutes §1-86.

Required Action for Potential Conflict of Interest:

Member of a Regulatory Board, Commission, Council or Authority
Such a public official or state employee ***must*** abstain from taking official action on the matter ***or*** prepare a written statement explaining the conflict and why despite the conflict they are able to act fairly, objectively and in the public interest. Such statement must be submitted to the OSE and entered in the agency's journal or minutes.

Any Other Public Official or State Employee
A public official or state employee who is not a member of a regulatory board, commission, council or authority ***must*** prepare a written statement to an immediate supervisor for reassignment. If there is no immediate supervisor, the statement must be submitted to the OSE for advice and guidance.

ETHICS AT WORK

Post-State Employment (Revolving Door)

If you are a *former*, or soon to be former, state official or employee seeking post-state employment, you should be aware of the Ethics Code's revolving-door provisions:

Lifetime Bans

- **Confidential Information:** You may **never** disclose any confidential information you learned during the course of your state service for anyone's financial gain. General Statutes § 1-84a. "Confidential information" is defined by Regs.,Conn. State Agencies § 1-81-15.

- **Side-Switching:** You may **never** represent anyone other than the state regarding a particular matter in which you were personally or substantially involved while in state service and in which the state has a substantial interest. This prevents side-switching in the midst of on-going state proceedings. General Statutes § 1-84b (a).

One-year Bans

- **Cooling-Off**: You may not represent your new employer for compensation before your former agency for a period of **one year** after leaving state service. General Statutes § 1-84b (b).

- **State Contracts:** You are prohibited from being hired for a period of **one year** after you leave state service by a party to a state contract valued at $50,000 or more if you were substantially involved in, or supervised, the negotiation or award of that contract and it was signed within your last year of state service. General Statutes § 1-84b (f).

- Employees who held certain specifically-designated positions (with significant decision-making or supervisory responsibility) at certain state regulatory agencies are prohibited from seeking or accepting employment with any business subject to regulation by the individual's agency within **one year** of leaving the agency. Note that there is an exception for *ex-officio* board or commission members. General Statues § 1-84b (c).

  See Regs., Conn. State Agencies § 1-92-40a for list of positions.

Outside Employment for State Officials and Employees

If you are a *current* state official or employee seeking outside employment, especially from an employer that is regulated by or does business with your agency, you should be aware of the following rules:

- You may not accept outside employment that impairs your independence of judgment regarding your state duties, or that encourages you to disclose confidential information learned in your job. General Statutes § 1-84 (b).

- You may not use your position for your own financial gain, or the gain of your family (spouse, child, child's spouse, parent, brother or sister) or an associated business, however inadvertent that use may be. General Statutes § 1-84 (c).

    - Generally, these provisions are violated when a state official or employee accepts outside employment with an entity that can benefit from his/her state position (e.g., he/she has specific regulatory, contractual or supervisory authority over the person or entity).

- You may not accept employment with an entity that represents others before the following 11 agencies: Department of Banking, the Claims Commissioner, the Office of Health Care Access division within the Department of Public Health, the Insurance Department, the Department of Consumer Protection, the Department of Motor Vehicles, the State Insurance and Risk Management Board, the Department of Energy and Environmental Protection, the Public Utilities Regulatory Authority, the Connecticut Siting Council or the Connecticut Real Estate Commission. General Statutes § 1-84 (d).

- You may not utilize state time, materials or personnel in completing tasks for outside employment. Advisory Opinion No. 2007-4.

Hiring State Employees for Outside Employment

In Advisory Opinion 2008-5, the CEAB concluded that it is impermissible, under the Ethics Code, for a state employee-supervisor to employ a state employee-subordinate in the supervisor's outside business.

Likewise, it is impermissible under the Ethics Code for a subordinate to employ a supervisor in the subordinate's outside business.

Both situations would involve an impermissible impairment of independence of judgment. The CEAB noted that this prohibition extends to all supervisors and subordinates up and down the chain of command.

STATEMENTS OF FINANCIAL INTERESTS

Statements of Financial Interests ("SFIs") serve as a tool to maximize public confidence in governmental decision making. The policy underlying this requirement has been in effect since the enactment of the Ethics Codes in 1977. The SFI provides a checklist or reminder to the official/employee to be mindful of potential conflicts of interest, and it provides a baseline of information which can be compared to subsequent years for the purpose of determining potential misuse of office for financial gain.

Legislators, as well as certain other public officials and senior state employees, must file SFIs with the OSE by **May 1** each year.

Who Must File:

1. Statutorily designated individuals. General Statutes § 1-83 (a) (1); and
2. Members of the Executive Department and employees of quasi-public agencies designated by the Governor. See, Governor Malloy's Standard.

What Information Must be Filed in the SFI:

- businesses with which you are associated and certain of their affiliates;
- the category or type (not amount) of all sources of income over $1,000;
- securities in excess of $5,000;
- real estate holdings;
- blind trusts; and
- leases or contracts with the state or quasi-public agencies.

A ***confidential*** portion of the statement requires disclosure of sources of any debts over $10,000. (The confidentiality of this portion may be waived.) General Statutes §1-83 (b).

Note: If you were to assume your state office or position after **March 31**, you must file a SFI within 30 days of assuming your position. Also, you must file a SFI upon leaving state service, covering the portion of the year during which you held the office or position.

Governor Malloy's Standard

Governor Malloy has established a standard which requires "filing of Annual Statements of Financial Interests by all persons in the Executive Branch and Quasi-Public Agencies who exercise (i) significant policy-making, regulatory or contractual

authority; (ii) significant decision-making and/or supervisory responsibility for the review and/or award of State contracts; or (iii) significant decision-making and/or supervisory responsibility over staff that monitor State contracts."

ETHICS COMPLIANCE

Ethics Compliance Officers and Ethics Liaisons

Ethics compliance officers must be appointed within each state agency and quasi-public agency that deals with or plans large state contracts. The main responsibilities of a compliance officer include developing an agency ethics policy as well as training agency employees on the Ethics Code, paying attention to any changes in the law as well as provisions specific to state contracting. General Statutes § 1-101rr (a).

Ethics liaisons must be appointed within each state agency and quasi-public agency. These officers serve as a link between the agency and the OSE. Liaisons are responsible for developing agency ethics policies as well as coordinating employee training with the OSE. General Statutes § 1-101rr (b).

The OSE supports the responsibilities of the above officers by providing in-person training, educational videos or training materials upon request. The OSE also sends a monthly electronic newsletter to each officer that highlights new developments in the law, summarizes new advisory opinions, includes handouts on complex areas of the law and provides answers to frequently-asked questions. All such communications are indexed on our website, in the "Ethics Liaison/Compliance Officer Corner."

Mandatory Reporters

The Ethics Code contains mandatory reporting requirements for the following individuals who have "reasonable cause to believe that a person has violated" the Ethics Code:

- Commissioners and Deputy Commissioners;
- State Agency Heads and Deputy Heads;
- Quasi-public Agency Heads and Deputy Heads; and
- Persons in charge of state agency procurement and contracting.

These designees are required to report a belief that a person has violated the Ethics Code to the OSE. General Statues § 1-101pp. (**Note:** Ethics compliance officers and liaisons are ***not***, by virtue of that position alone, mandatory reporters.)

ETHICS ENFORCEMENT

Procedures and Penalties

Enforcement of the Code is initiated by a complaint, filed by the Ethics Enforcement Officer or any member of the public. In most cases, a complaint by the Ethics Enforcement Officer is preceded by a confidential staff evaluation.

A two-stage process follows:

1. Confidential investigation and confidential probable cause hearing; and
2. If probable cause is found, a public hearing to determine if a violation has occurred.

At any stage of this process, the OSE and the Respondent may negotiate a settlement.

After a finding or admission of a violation, the CEAB can order the Respondent to comply with the Ethics Code in the future, file any required report or statement, and/or pay a civil penalty.

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

The OSE may refer matters to the Chief State's Attorney for criminal prosecution. An intentional violation of the Ethics Code is a misdemeanor for the first violation, unless the individual has derived a financial benefit of at least $1,000. In that case, the violation is a class D felony.

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 Ethics Code.

Public officials are encouraged to review the "*Citizen's Guide to Filing a Complaint*," available on the OSE website, for a detailed overview of the complaint process and associated confidentiality provisions.