Administrative Policies and Procedures Manual

602 CODE OF ETHICS

POLICY

All employees must comply with the Code of Ethics for Public Officials and State Employees as set forth in the Connecticut General Statutes, Chapter 10, Section 1. However, judges of all courts are excluded with respect to their employment as judges since they are subject to the code of Judicial Conduct.

GENERAL INFORMATION

The Code of Ethics (Code), contained in the Connecticut General Statutes beginning with Section 1-79, provides specific guidance concerning both prohibitions and limits on the conduct of persons employed by the state. It defines those who are covered and the broad areas of included conduct. It establishes an Office of State Ethics (Office) and a Citizen's Ethics Advisory Board (Board) within that Office whose responsibilities include receiving required reports filed by those covered by the Code, investigating complaints, conducting hearings, and imposing sanctions. The Board issues advisory opinions. An advisory opinion may be requested by any person subject to the provisions of the Code. Published in the Law Journal, the opinion is binding on the Board and an absolute defense for the person who requests and relies on it in an action brought under the Code of Ethics, (Connecticut General Statutes, Section 1-81). In order to obtain an accurate understanding of official ethical concerns, employees should be aware of the Code, as set forth in state statutes, as well as administrative regulations and the advisory opinions of the Board which interpret and apply the Code.

Links for this policy:

Summary of Revisions

CGS Chapter 10, Section 1

CGS Section 1-79

CGS Section 1-81

CGS Section 1-82

CGS Section 1-82a

CGS Section 1-84

CGS Section 1-85

CGS Section 1-86

CGS Section 1-88

CGS Section 1-89

CGS Section 4a-100

Policy 603

SUMMARY OF PRINCIPLE CODE PROHIBITIONS

Although a full discussion of the Code is beyond the scope of this manual, set forth below is a summary of its principal provisions. Most of the ethical rules are set forth in Sections 1-84 through 1-86 of the Connecticut General Statutes. Basically, these sections are intended to prevent one from using his or her public position or authority for personal financial benefit. (See also Sections 1-84b, concerning restrictions after leaving public office or employment; 1-86e, concerning prohibited activities by persons hired by the State as a consultant or independent contractor; and 1-101mm through 1-101qq, which generally concern contracting by the State.)

The principal provisions of Section 1-84 prohibit a public official or state employee from the following:

- having a financial interest in, or engaging in, any business, employment, transaction or professional activity which is in substantial conflict with the officer's or employee's proper discharge of his or her state duties;

- 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 employee's official actions. For example, the individual in his or her state capacity has regulatory or contractual authority over the private entity. A state employee 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, or an associated business (the terms family and associated business are defined in the Code);

- solicitation or acceptance of anything of value based on an understanding that one's official action will be influenced thereby;

- entering into contracts with the State valued at $100 or more, unless the contract has been awarded through an open and public process. There are a few exceptions to this prohibition. For example, contracts of employment as a state employee and contracts made by court appointment are exempt from the provision. This provision also applies to members of the public official's or state employee's immediate family, as that term is defined in the Code;

- acceptance of any gift or gifts from one known to be a registrant (that is, a registered lobbyist) or registrant's representative. Gift under the Code does not include food and drink totaling less than fifty dollars per person in a calendar year, if consumed on occasions at which the registrant, or a representative of the registrant, furnishing the food and drink is in attendance. Among the other items excluded from the term gift are presents given by an individual incident to a major life event, 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. The prohibition on receipt of gifts from a registrant extends to members of the public official's or state employee's immediate family, as defined by the Code. Also prohibited is acceptance of any gift or gifts from any person doing business with, seeking to do business with or directly regulated by the state employee's agency or department, or who is prequalified as a bidder pursuant to Connecticut General Statutes, Section 4a-100. (**NOTE**: the same exceptions to the registrant gift provision listed above also apply to this gift limitation except that the exclusion of items given for a major life event is not recognized.) Furthermore, the Judicial Branch has its own Receipt of Gift Policy (See Policy 603) which is more stringent than some of the Code of Ethics' provisions. Employees must comply with both the Code and Judicial's gift policy (whichever is more stringent);

- acceptance of any gift costing $100 or more from a supervisor or subordinate; and

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

Sections 1-85 (substantial conflict) and 1-86 (potential conflict) are distinct but related provisions to consider when a possible conflict is identified. If faced with taking official action which you can expect will directly affect your, your spouse's, a dependent child's or a business with which you are associated's financial interests, distinct from others in your occupation or group (for example, taking official action on the awarding of a contract to a private business you own) you have a substantial conflict of interest under section 1-85 and may not act under any circumstances. However, if your financial interest is shared by the other members of your profession, occupation, or group (for example., 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 Section 1-86. Specifically: (A) if one is a member of a regulatory agency, one must either be excused upon request or prepare, under penalty of false statement, a written statement (to be placed in the minutes of the individual's agency, with a copy to the Office) 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 Office for guidance on how to proceed.) A written statement is required if you are not a member of a regulatory agency for a substantial, as well as for a potential, conflict.

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

Each state employee must disclose to the Office, within thirty days, any necessary expense payments that the individual receives in his or her capacity as a public official or state employee if lodging and out-of-state travel is included, unless provided by the Federal Government or another State Government.

COMPLAINTS

A complaint may be made by any person or by the Office within five years of the alleged violation. The Office, if it finds sufficient evidence, investigates an alleged violation. It has subpoena powers and can use the services of the State Police. If a preliminary hearing indicates probable cause, the Office initiates a hearing before the Board. These latter hearings are open to the public. There can be an appeal from the Board's decision to the Superior Court by the respondent. If the respondent prevails, the respondent has a cause of action against the complainant for double damages, provided the complaint was made with the knowledge that it was without foundation in fact. Connecticut General Statutes, Section 1-82.

Unless and until there is a finding of probable cause, the complaint and any investigation are confidential except on the request of the respondent. However, this prohibition does not prevent reporting the possible commission of a crime to the Chief State's Attorney. Connecticut General Statutes, Section 1-82a.

SANCTIONS

If the Board finds a violation, it can order, among other things, that the respondent stop the violation, comply with the Code, and pay a civil penalty of up to $10,000.00 for each violation and a fine of up to $10.00 per day for failure to file any required report, statement or information required. In addition, it can report its findings to the Chief State's Attorney, since an intentional violation of the Code is a class A misdemeanor for a first offense (punishable by a fine of up to $2,000 or imprisonment of up to one year, or both) and if the violation resulted in a gain of $1,000.00 or more or if it is a second or subsequent intentional violation, a class D felony (punishable by a fine of up to $5,000.00, imprisonment of between one and five years, or both). Furthermore, if a person is believed liable for damages in the amount of an advantage illegally obtained and knowingly received, the Board shall immediately inform the Attorney General who may bring a civil action to recover compensatory and punitive damages. (Connecituct General Statutes, Section 1-88 and 1-89).

PROCEDURES

Employees are urged to familiarize themselves with the provisions of the statutory Code of Ethics in order to assess areas of individual applicability. If a supervisor or employee is confronted with a potential conflict of interest, an offer to pay expenses from other than the State Judicial Branch or has a question about the propriety of any action the supervisor or employee wishes to take, he/she should send it to his/her Executive Director. The Executive Director shall forward it, together with the Executive Director's recommendation and additional information, if any, to the Executive Director of Court Operations. The Executive Director of Court Operations, a Deputy Director for Legal Services and the Director of Human Resources shall decide the question with a majority vote prevailing. They may consult the Office if any of them deem it appropriate provided they give advance notice to the employee whose conduct is involved. If the employee opposes the consultation, has not yet engaged in the conduct and agrees not to engage in the conduct in the future, the matter will not be pursued. The Executive Director and the employee shall be informed of the decision. The Executive Director of Court Operations, Deputy Director for Legal Services and Director of Human Resources may act through a designee appointed on an ad hoc basis.

Questions on this policy: ✉ HR.JBAPPM@jud.ct.gov ☎ (860) 706-5280