

Palm Beach County Code of Ethics

Guide for Employees

2011 Edition

I. PROHIBITED CONDUCT

As public employees, you must carry out your duties fully, faithfully and ethically. Using your position for private benefit is a breach of the public trust. This law regulates the way you do your job. In addition to preventing the use of one's public office to obtain a special financial benefit, the code of ethics fosters transparency of relationships and transactions for those within government as well as those who do business with government.

The jurisdiction of the Commission on Ethics extends to county government, all municipalities within Palm Beach County, and all political subdivisions who have adopted the code of ethics by agreement.

A. Misuse of public employment

You cannot use your position in any way when you know or should know with the exercise of reasonable care that it would result in a *special* FINANCIAL BENEFIT to:

1. You;
2. A household member, spouse or domestic partner or their outside business or employer;
3. Your relatives or their outside business or employer;
4. An outside employer or business of yours or your spouse or domestic partner or someone who you know works for that business;
5. A customer or client of your outside employer or business;
6. Someone who owes you, or who you owe, at least \$10,000, NOT including a loan you might have with a financial institution;
7. A non-profit organization where you or your spouse serve as an officer or director.

What does FINANCIAL BENEFIT mean?

Anything of value that can be obtained through the exercise of your job that is *not shared* with similarly situated members of the general public. Similarly situated means that everyone affected by a decision benefits in the same way.

If you know, or should know that your official actions will financially benefit you or any of the above persons, organizations or businesses that are connected to you differently than others in the same situation, such an action would constitute a misuse of your public employment.

For example: In the course of her normal duties, a municipal clerk who accepts a fee from her brother does nothing wrong so long as the fee is no different from the fee charged to a stranger for the same public service.

B. Corrupt misuse of official position

You cannot use your official position, property or resource within your trust, to CORRUPTLY secure a special benefit, privilege or exemption for any person.

What does CORRUPTLY mean?

An official act taken with wrongful intent *and* for the purpose of receiving *any* benefit, not just financial benefit, which is inconsistent with the proper performance of your public duties.

Example: you may not wrongfully use your public position to threaten a member of the public or a business owner, even if you would not financially benefit from making that threat.

C. Contractual Relationships

Sections A and B regulate the way you do your job as a public employee. This section controls contracts you might have in your private capacity that could conflict with your public duties. The general rule is that you cannot enter into any contract or other transaction to provide goods or services to the public entity you serve (municipal, county, or taxing district). This includes any contract or transaction between your public employer and *you, your outside employer, or any business you may own* (minimum 5 percent of the business' assets). This section does not include;

- Your employment contract with your public employer;
- Any other contract you enter into as part of your official duties with your public employer;
- Any purchase of goods or services from your municipality/county available to the general public.

An **outside employer** includes any business that employs you for compensation and is not another government agency.

An **outside business** includes any business located in the county or which does business with or is regulated by your government employer where you own at least 5% of the business.

D. Exceptions to the contractual relationships prohibition

There are seven (7) additional exceptions to the contractual relationships provision.

1. Your outside employer is another government or government agency.
2. The contract is awarded under a system of sealed competitive bidding to the lowest bidder, and you, your relatives or members of your household; do not work in the department that will enforce, oversee or administer the contract, have not used or

attempted to use any influence to obtain the contract, and you file a statement with the Supervisor of Elections and the Commission on Ethics prior to submitting the bid disclosing your interest.

3. An emergency purchase or contract in order to protect the health, safety, or welfare of the public.
4. Your outside employer or business is the only source of supply in your municipality/county and you fully disclose your interest to your public employer and the Commission on Ethics prior to the transaction.
5. The amount of the transaction is not, in total, more than \$500 per calendar year.
6. Part-Time Employment Exception: the contractual relationships prohibition does not apply to part-time outside employment provided that:
 - a. Your outside part-time employer does not have contracts or transactions that you or your department administer, oversee, or enforce; and
 - b. Your part-time employment will not impair or interfere with the performance of your public job; and
 - c. Neither you nor any of your relatives participated in awarding or determining the requirements of the contract; and
 - d. Your responsibilities at your part-time job do not require you to be involved with the contract between your part-time employer and your public employer in any way; and
 - e. You have complied with all merit rules regarding outside employment and receive permission from your immediate supervisor; and
 - f. You fill out a conflict of interest waiver form, available at the Commission on Ethics website, sign it under oath or affirmation, and submit it to your supervisor and the chief administrative officer of your public employer for approval and forwarding to the Commission on Ethics.
7. These rules do not apply to outside employment where municipal police agencies administer overtime or extra duty uniformed external security. Your police department will monitor and record all details of this outside employment.

E. Travel Expenses

Unless waived by your governing body, as a public employee, you cannot accept payment or reimbursement of any travel expenses from any *contractor, vendor, service provider, bidder or proposer* doing business with your public employer.

1. Travel expenses include, but are not limited to, transportation, lodging, meals, registration fees and incidentals.
2. This prohibition does not extend to expenses reimbursed or paid directly by your government employer.
3. This prohibition does not extend to expenses reimbursed or paid by other governmental entities or by organizations of which your public employer is a member if your travel is related to that membership.

- Example: The National Association of Counties or the League of Cities
4. Your governing body may waive this prohibition by majority vote.

F. Contingent Fee Prohibition

No person can offer, give or accept a contingency fee which is dependent on the passage or defeat or other decision by an elected or appointed body or an employee authorized to act on its behalf. This does not apply to real estate brokers, attorneys representing clients in judicial proceedings or formal administrative hearings, and salespeople who are paid by commission as part of a compensation package which is ordinary and customary within the industry.

Contingency Fee: a fee, bonus, commission or non-monetary benefit as compensation dependant on an action or decision taken.

G. Honesty in Applications for Positions

No person applying for employment or seeking a contract with county or municipal governments may make any false statement, submit any false document, or knowingly withhold information about wrongdoing in connection with that employment or application.

H. Disclosure or Use of Certain Information

As a public employee, you cannot disclose or use information gained through your job, but not available to members of the public, for personal gain or benefit, or the personal gain or benefit of others.

II. GIFT LAW DEFINITIONS:

- A. Gift** – Anything of value, whether in the form of money, service, loan, travel, entertainment, hospitality, or goods that you do not pay for. Food and beverage consumed at a single setting or a meal are considered a single gift. State statute and the Florida Administrative Code are used to establish the value of certain gifts.
- B. Vendor** – A person or entity that sells goods or services, sells or leases real or personal property, or has a pending bid to sell or lease to your municipality/county government.
- C. Lobbying** – To seek to influence a decision of government through oral or written communication or an attempt to obtain the good will of an employee or official of that government.
- D. Lobbyist** – Someone who is paid to lobby on behalf of a principal. A lobbyist can be an outside contractor or an employee whose principal responsibility is lobbying government on behalf of their employer.

E. Know or should know – If you know you have accepted a gift valued at more than \$100 from a vendor, lobbyist, principal or employer of a lobbyist doing business or lobbying your public employer, you may have violated the code of ethics. Similarly, if you have reason to believe that the person giving you a gift valued at more than \$100 is a vendor or a lobbyist, principal or employer of a lobbyist, you have an obligation to check before accepting the gift.

1. Lobbyists are required to register with Palm Beach County and to identify their employers. You can access county lobbyist information at: http://www.pbcgov.org/plrapplication/asp/PLRSearchPublicView_New.aspx
2. Palm Beach County has a vendor database. You can access county vendor information at: <http://pbcgov.com/registeredvendors/>.
3. Your municipality may or may not have a list of lobbyists or vendors accessible to you. Currently, the Commission on Ethics is working to establish municipal lobbyist and vendor databases.

III. GIFT LAW PROHIBITIONS

- A. You cannot ask for or accept a gift of *any value* in return for, or because of, the way you perform your duties as a public employee. This includes thank you gifts or tips for an official public action or legal duty performed, withheld or violated.
- B. You cannot solicit gifts of any value from someone you know is a vendor, lobbyist, principal or employer of a lobbyist doing business with your public employer if the gift is for your financial benefit, the benefit of your relative or household member or another employee.
- C. Over the course of the calendar year, you cannot accept or ask for gifts worth more than \$100 in the aggregate from a person *who you know or should know* with the exercise of reasonable care, is a vendor, lobbyist, or any principal or employer of a lobbyist who sells or leases real or personal property, provides goods or services or lobbies your public employer.
- D. Over the course of the calendar year, a vendor, lobbyist, principal or employer of a lobbyist may not give gifts worth more than \$100 to a person he or she knows is an employee of the county or municipality doing business with the vendor or being lobbied. The definition of vendor extends to any person or entity that, due to the nature of their business, may respond to a published invitation to bid or other procurement opportunities.

E. Gift Law Reporting

1. *Employees who are reporting individuals under state law.* You will continue to file quarterly reports with the state, and send a copy of that report to the Palm Beach County Commission on Ethics. You do not have to fill out an additional annual report.

2. *All other employees.* Beginning November 1, 2011, employees who receive any gift worth more than \$100 must file an annual gift disclosure report with the Palm Beach County Commission on Ethics no later than November 1st for the period ending September 30th of each year. If you do not receive a gift worth more than \$100 you do not have to file an annual gift disclosure report. (Keep in mind that you may not accept a gift greater than \$100 from a vendor, lobbyist, principal or employer of a lobbyist.) The gift form is available on our website at www.palmbeachcountyethics.com and requires the following information:
 - a. Date received; and
 - b. Description of gift; and
 - c. Value of gift; and
 - d. Name and address of the person giving the gift.

3. The following are exceptions to the county gift law reporting requirements (you do not have to report these gifts):
 - a. Political contributions specifically authorized by state or federal law;
 - b. Gifts from relatives or members of one's household;
 - c. Personal gifts over \$100 so long as the gift is *NOT from a vendor, lobbyist, or principal or employer of a lobbyist* and the circumstances demonstrate that the gift was motivated by a personal or social relationship, not an attempt to influence the performance of your official duties.
 - d. Awards for professional or civic achievement
 - e. Materials such as books, reports, periodicals, or pamphlets which are solely informational or of an advertising nature;
 - f. Gifts solicited by public employees on behalf of their government for a public purpose;
 - g. Inheritance or other devise;
 - h. Registration fees and other costs associated with educational or governmental conferences as long as your attendance is for a government purpose and is related to your duties and responsibilities as an employee.

4. The following gifts *must be reported* but may be accepted according to the following provisions:
 - a. You may accept a ticket, pass or admission to public events, appearances or ceremonies that are related to county or municipal business from a non-profit sponsor that does not employ lobbyists. If the value exceeds \$100, you may only accept the ticket, pass or admission from a representative who is not otherwise a vendor, lobbyist, principal or employer of a lobbyist who transacts business with or lobbies your public employer.

- b. You may accept a ticket, pass or admission from a sponsor organization if tickets are part of the sponsor organizations contract with the county or municipality. Again, you may only accept the ticket from a representative who is not otherwise a vendor, lobbyist, principal or employer of a lobbyist who transacts business with or lobbies your public employer.
- c. You may accept expenditures made and value received in connection with events sponsored by non-profit organizations that receive public funds for attracting business or tourism to the county or your municipality, so long as that organization does not employ a lobbyist. You must be invited by a representative of the organization and that representative may not be a vendor, lobbyist or principal or employer of a lobbyist who transacts business with or lobbies your public employer.

F. Solicitations of Contributions on Behalf of a Non-Profit Charitable Organization

While you may never solicit a gift for an organization in exchange for the performance of your official duties as a public employee, you may solicit funds on behalf of non-profit organizations (charities) from anyone so long as they do not have a pending application or award of any nature before your public employer. You may not use county or municipal staff or resources to solicit contributions. Any solicitation must be disclosed on a form available at the Palm Beach County Commission website at www.palmbeachcountyethics.com and must contain the following information:

- 1. Name of the non-profit organization; and
- 2. The name of any person or entity that was contacted; and
- 3. The amount of funds solicited and pledged.

This form must be filed within 30 days after the event or if it is not related to an event then within 30 days from the date of the solicitation.

IV. NEPOTISM

Employees who are authorized to appoint, employ, promote, or advance fellow employees in your agency may not do so if that fellow employee is a relative or domestic partner.

V. NONINTERFERENCE WITH COMMISSION ON ETHICS AND INSPECTOR GENERAL

- A.** Public employees shall not retaliate against, punish, threaten, harass, or penalize anyone for communicating, cooperating with, or assisting the Commission on Ethics or the Inspector General.
- B.** Public employees shall not interfere with, obstruct or attempt to interfere with or obstruct any investigation conducted by the Commission on Ethics or the Inspector General unless they have a valid legal basis.

VI. PALM BEACH COUNTY COMMISSION ON ETHICS

A. The Commission on Ethics

The Commission on Ethics is an independent body that will interpret and enforce the Code of Ethics, provide advisory opinions to all Public employees upon request, and provide for an ongoing public employee training program. If you are in doubt as to the applicability or interpretation of any provision within the code of ethics in a particular context, you may submit the facts of the situation in writing to the Commission on Ethics with a request for an opinion as to the standard of public duty, if any.

B. The Commission on Ethics will hear cases involving violations of the Code of Ethics

1. A violation of the Code of Ethics subjects an employee to public reprimand, a fine of up to \$500 and restitution for any pecuniary gain by the violator or any third party received as a result of a violation of the ethics code. In addition, the county or municipality may dismiss the employee. Any contracts, permits, or any other government approvals gained as a result of a violation may be rescinded or declared void by the appropriate Board, Counsel or Commission of your public employer.
2. The Commission on Ethics may refer willful violations of the Code of Ethics to the State Attorney to be prosecuted as a first degree misdemeanor, punishable up to one year in the Palm Beach County Jail, \$1000 fine, or both.

Provisions that may subject you to prosecution are:

- (a) Misuse of public position; and
- (b) Entering into prohibited contractual relationships; and
- (c) Prohibition on accepting payment for travel expenses; and
- (d) Using false information in employment applications; and
- (e) Accepting or soliciting gifts that are prohibited by the Code of Ethics; and
- (f) Interfering with investigations of the Commission on Ethics or the Inspector General.

VII. Advisory Opinions

Public employees may seek guidance from the Commission on Ethics as to whether a particular course of action or series of facts would violate the code of ethics. Employees may submit all pertinent facts and circumstances in writing to the Commission on Ethics, 2633 Vista Parkway, West Palm Beach, FL 33411 or by e-mail to ethics@palmbeachcountyethics.com.

VIII. Other Rules, Codes and Statutes

As a public employee, you are required to adhere to State Statute as well as the Palm Beach County Code of Ethics. There may be additional municipal codes that govern your behavior as an employee of that municipality. In addition, you may be subject to various county, municipal and departmental policies and procedures that may be more stringent than the requirements of the county ethics code. It is your responsibility to adhere to the appropriate rules and codes adopted by your public employer. In any conflict whereby a local code or policy is less stringent than the county code of ethics, you are required to obey the county code.

VIII. Revisions to the Code of Ethics

The Code of Ethics may be revised periodically by a Drafting Committee as provided by the 2010 county-wide referendum. Please refer to our website, www.palmbeachcountyethics.com, for any changes or updates to this edition of the Palm Beach County Code of Ethics Guide for Employees.