



ETHICS IN ACTION

A Review of State Ethics Laws Applicable to County Commissioners

Presented by Caroline Klancke, JD, CCEP
Executive Director
Florida Ethics Institute

June 24, 2025

FLORIDA'S ETHICAL FOUNDATION: A TALE OF TWO BEDROCKS

Sunshine Amendment: Art. II, s. 8, Fla. Const.

- Adopted in 1976 creates constitutional guarantees concerning ethics in government
- The existence of the Code of Ethics, prescribed by law
- Financial disclosure by public officials/employees
- The existence of the Florida Commission on Ethics
- Amended in 2018 by popular vote creating NEW ethics requirements!

Code of Ethics for Public Officers & Employees: Part III, Ch. 112, F.S.

- Establishes standards of conduct for public officials on state and local levels
- Protects against conflicts of interest & misuse of public position
- Requires financial disclosure by certain public officials
- Promotes public's confidence in officials and the government

PERSONS SUBJECT TO THE FLORIDA CODE OF ETHICS

- Elected and appointed public officers (state and local)
- Public employees (state and local)
- Local government attorneys
- Candidates for public office
- Miscellaneous others (not within judicial branch)



FLORIDA COMMISSION ON ETHICS

Commission Composition

Nine member appointed board by the Governor (5), Senate President (2), and Speaker of the House (2).
Appointments are balanced between the two political parties.

Authority

Primarily interprets and enforces the Sunshine Amendment (Art. II, s. 8, Fla. Const.) and the Code of Ethics (Part III, Ch. 112, F.S.), via the issuance of advisory opinions and the investigation of ethics complaints/referrals concerning breach of the public trust by public officers/employees.



COMPLAINTS!

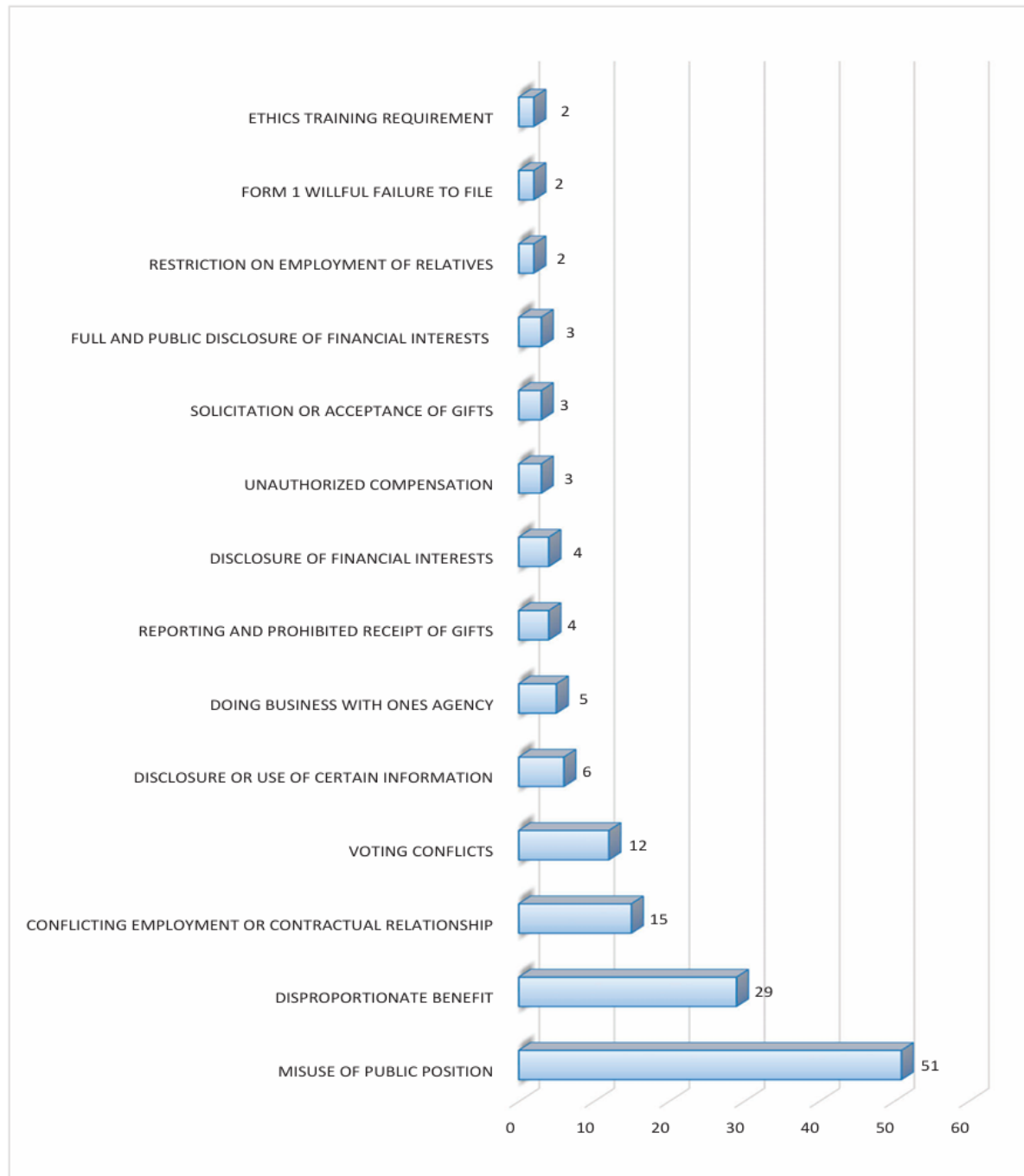
- May be filed by ANYONE possessing “personal knowledge or information other than hearsay”
- Must be filed on a notarized Form 50, “Complaint”
- Are confidential until a certain stage
- Cannot be initiated by Commission*
- 5-year statute of limitations. s. 112.3231, F.S.
- Since 2013 Commission also receives referrals from statutorily designated agencies

ETHICS COMPLAINTS BY THE NUMBERS

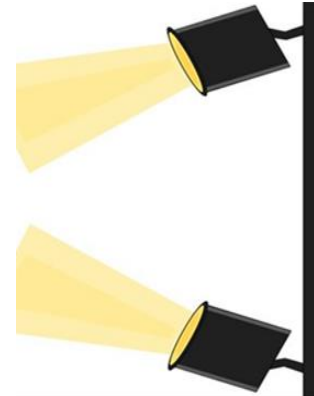
- On average the Commission receives 300 ethics complaints and referrals a year.
- In **2023 the Commission received 292 complaints** and referrals:
 - 32.2% filed against elected municipal officials
 - **23.6% filed against county elected officials**
 - 23.9% filed against state, county, and city employees
 - 6% filed against appointed officials
- Approximately 60% of complaints investigated annually.

Ethics Complaints by the Numbers

2023 Complaint Allegations



Spotlight on 2024 Changes to Ethics Complaint Process: SB 7014



- Creates expedited timelines for completion of specific steps of the State ethics investigatory process and imposes a “personal knowledge or information other than hearsay” requirement on all ethics complaints
- **Requires all local political subdivisions, including local ethics commissions, to:**
 - Require that ethics complaints must be written and signed under oath or affirmation—NO anonymous complaints
 - Require that ethics complaint must be based upon “personal knowledge or information other than hearsay”
 - Prohibit self-initiation of ethics complaints; and
 - Authorize recovery of costs and attorney fees by Respondents only

ETHICS ADVISORY OPINIONS

- The Commission provides guidance re the application of the Code of Ethics via Commission Ethics Opinions or CEOs.
- The Commission has issued more than 2,000 opinions. And has a process for informal written opinions as well.
- Once issued CEOs are legally binding on the requestor. *See* s. 112.322(3), F.S.
- Available via a searchable database located on the Commission's website: www.ethics.state.fl.us

ANNUAL ETHICS TRAINING REQUIREMENT

S. 112.3142, F.S.

- Requires all constitutional officers (including County Commissioners), elected municipal officers, and others to complete **4 hours of ethics training annually**.
- In **2024 expanded to include members of Independent Special Districts**. HB 199
- Training must cover: Art. II, s. 8, Fla. Const., Code of Ethics, open public meetings, and public records laws.

TIMING for NEW officers:

- Constitutional officers assuming **a new office on or before March 31** must complete the annual training on or **before** December 31, BUT
- A constitutional officer or elected municipal officer assuming a **new office *after* March 31 is not** required to complete ethics training for the calendar year in which the term of office began.

MULTI-LAYERED CAKE OF SOCIETAL GOOD



The more authority a public servant has in their public capacity — the more layers of ethics regulations are applicable to the public officer or employee.

WE WILL COVER

Key Ethics Laws

- Gifts, Bribes, & Unauthorized Compensation
- Conflicts of Interest
- Voting Conflict
- Misuse of Information

NEW Ethics Requirements

- New changes in financial disclosure requirements and process
- Prohibited Disproportionate





Spotlight on NEW Financial Disclosure Requirements & Legal Challenges

Financial Disclosure in Florida

Form 6

**Full & Public Disclosure of
Financial Interests (5,000+filers)**

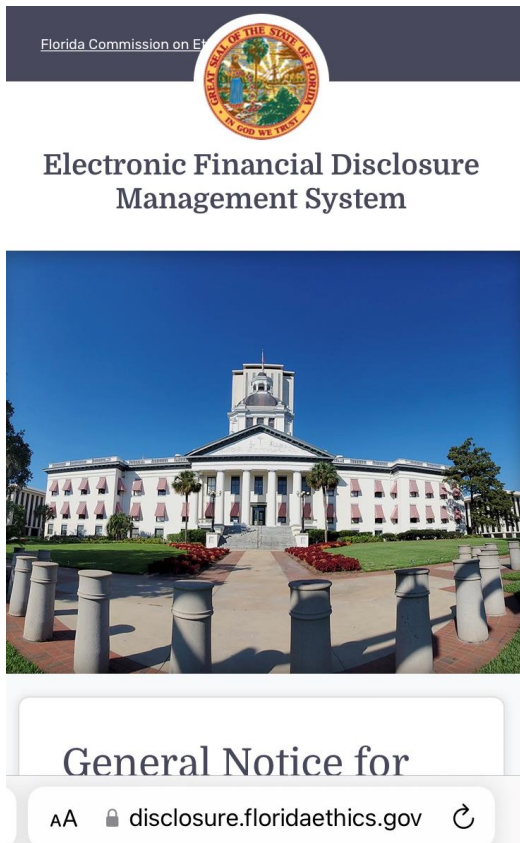
- All constitutional officers
- Candidates for constitutional offices
- Art. II, s. 8(a), Fla. Const.
- s. 112.3144, F.S.

Form 1

**Statement of Financial Interests
(35,000+ filers)**

- Local Officers
- State Officers
- Specified State Employees
- s. 112.3145, F.S.

NEW Electronic Financial Disclosure Management System



- Launched on January 1, 2022.
- Enables the **electronic creation, submission, and publication** of financial disclosures.
- ALL Form 1 and Form 6 filers are now required to **electronically** create and file disclosures
- <https://disclosure.floridaethics.gov>

KEY FINANCIAL DISCLOSURE FACTS

Form 1, “Statement of Financial Interests”

- Filed electronically with FCOE
- Due July 1
- After Sept. 1, automatic fines of \$25/day for up to 60 days (\$1,500)
- A review of your finances over the course of the previous calendar year
- **NO DOLLAR VALUES HAVE TO BE DISCLOSED ON FORM 1!**

Form 6, “Full and Public Disclosure of Financial Interests”

- Filed electronically with FCOE
- Due July 1
- After Sept. 1, automatic fines of \$25/day for up to 60 days (\$1,500)
- A snapshot of your finances on 12/31 or more recent date
- Must disclose net worth (as of 12/31 or more recent date)

REDACTION REQUEST FOR PERSONAL INFO

Florida Commission on Ethics Public Records Exemption Request

Florida law provides that an agency shall treat social security numbers, bank account numbers, and debit, charge, and credit card numbers as automatically exempt from public disclosure. In addition, Florida law allows eligible persons to submit a written and notarized request that a non-employing agency maintain as exempt from public disclosure certain identification and/or location information contained in records within the agency's custody.

The person entitled to the additional exemptions must submit a written and notarized request directly to this agency to maintain the exemption to the records in our custody. § 119.071(4)(d)3., F.S. You are not required to use this form; however doing so will help us keep your information confidential. Please return this completed form or a written and notarized request to: Florida Commission on Ethics, P.O. Drawer 15709, Tallahassee, Florida 32317.

If you or your spouse qualify; or if you are the child of someone who qualifies; you are eligible to receive additional public records exemptions. Please check the box for any of the following that apply:

Active or Former:

- ☐ Sworn or civilian law enforcement personnel, including correctional and correctional probation officers.
- ☐ Department of Children and Families personnel whose duties include investigating criminal activities.
- ☐ Department of Health personnel whose duties are to support the investigation of child abuse or neglect.
- ☐ Department of Revenue or local government personnel whose responsibilities include revenue collection and enforcement or child support enforcement.

Current or Active:

- ☐ General magistrate, special magistrate, judge of compensation claims, administrative law judge of the Division of Administrative Hearings, or child support enforcement hearing officer.
- ☐ County Tax Collector.
- ☐ Child protection team members.

Current or Former:

- ☐ Department of Financial Services nonsworn investigative personnel whose duties include investigating criminal activities, workers' compensation coverage requirements and compliance, or state regulatory requirement violations.
- ☐ Supreme Court Justice, or judge of district court of appeal, circuit court, or county court.
- ☐ State attorney, assistant state attorney, statewide prosecutor, or assistant statewide prosecutor.
- ☐ Public defender, assistant public defender, criminal conflict and civil regional counsel, and assistant criminal conflict and civil regional counsel.
- ☐ Human resource, labor relations, or employee relations director, assistant director, manager, or assistant manager of any local government agency or water management district whose duties include hiring/firing employees, labor contract negotiation, administration, or other personnel-related duties.
- ☐ Code Enforcement Officer.
- ☐ Guardian ad litem, as defined in s. 39.820, F.S.
- ☐ Guardian ad litem, as defined in s. 39.820, F.S.
- ☐ Juvenile probation officer, juvenile probation supervisor, detention superintendent, assistant detention superintendent, juvenile justice detention officers I and II, juvenile justice detention officer supervisor, juvenile justice residential officer, juvenile justice

- residential officer supervisors I and II, juvenile justice counselor, juvenile justice counselor supervisor, human services counselor administrator, senior human services counselor administrator, rehabilitation therapist, or social services counselor of the Department of Juvenile Justice.
- ☐ Department of Business and Professional Regulation investigator or inspector.
- ☐ Department of Health personnel involved in determining or adjudicating eligibility for social security disability benefits, investigating or prosecuting complaints filed against health care practitioners, or inspecting health care practitioners or health care facilities licensed by the Department of Health.
- ☐ Impaired practitioner consultant retained by an agency, or employees of such a consultant.
- ☐ Certified emergency medical technician or paramedic.
- ☐ Personnel employed in an agency's office of inspector general or internal audit department whose duties include auditing or investigating activities that could lead to criminal prosecution or administrative discipline.
- ☐ U.S. Attorney or Assistant U.S. Attorney, U.S. Courts of Appeal judge, U.S. district judge, or U.S. magistrate.
- ☐ Victim of sexual battery, aggravated child abuse, aggravated stalking, harassment, aggravated battery, or domestic violence (if applicable, must attach official verification that crime occurred; exemption applies only to individual victim of specified crime, not to the spouse or child of the victim).^{**}
- ☐ Certified firefighter.
- ☐ Nonsworn investigative personnel of the Office of Financial Regulation whose duties include investigating fraud, theft, criminal activities related to fraud or theft, and violations of state regulatory requirements.
- ☐ Child Advocacy Center Directors, managers, supervisors, and clinical employees.
- ☐ County addiction treatment facility directors, managers, supervisors, nurses, and clinical employees.
- ☐ Public guardians, and those employees of public guardians with fiduciary responsibilities.
- ☐ Staff and domestic violence advocates of domestic violence centers certified by the Department of Children and Families under Chapter 39, F.S.

☐ Yes, I qualify ☐ Yes, my spouse qualifies ☐ Yes, my parent qualifies

Printed Name: _____ Phone Number: _____
The residence address(es) you wish us to maintain as confidential _____

OATH

I, the person whose name appears at the beginning of this form, do depose on oath or affirmation and say that the information disclosed on this form and any attachments hereto is true, accurate, and complete.

SIGNATURE OF REPORTING OFFICIAL OR CANDIDATE _____

STATE OF FLORIDA

COUNTY OF _____

Sworn to (or affirmed) and subscribed before me by means of
☐ physical presence or ☐ online notarization, this _____ day of

_____, 20____ by _____

(Signature of Notary Public--State of Florida)

(Print, Type, or Stamp Commissioned Name of Notary Public)

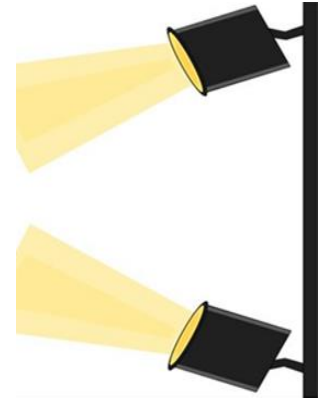
Personally Known _____ OR Produced Identification _____

Type of Identification Produced _____

^{*}— If this category is selected, person also certifies, by signing this form, that he or she has made reasonable efforts to protect such information from being accessible through other means available to the public.

^{**}— Exemption valid for 5 years from date of request.

SPOTLIGHT ON 2025 ADOPTION OF HUGE EXEMPTION IN SB 268

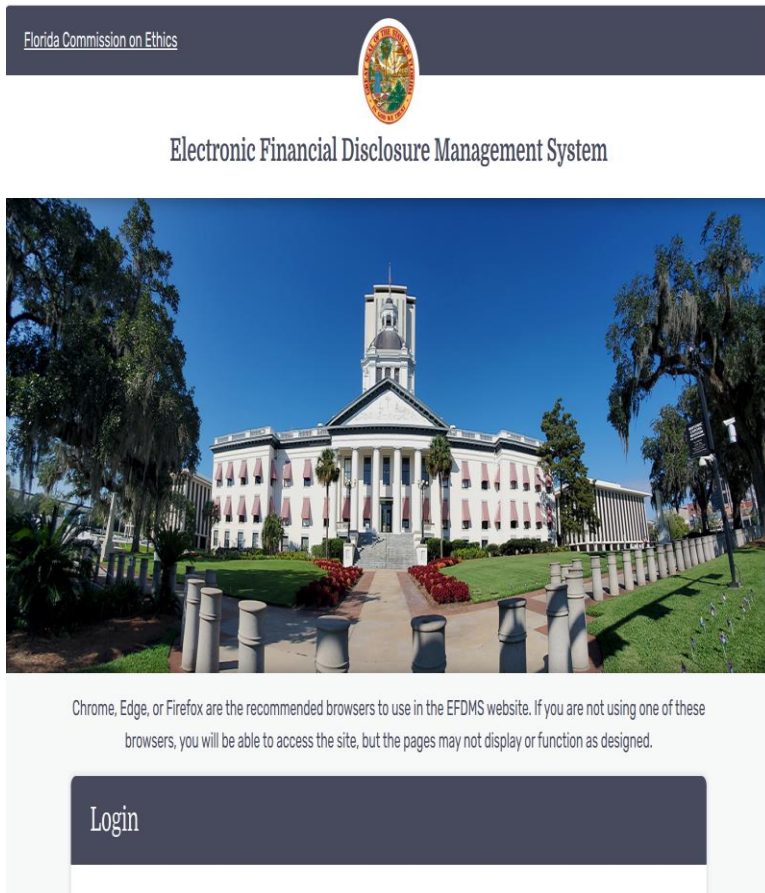


- Passage of SB 268 creates a NEW exemption to Fla's Public Records Law, s. 119.07(1), F.S., to exempt from disclosure:
 - The home addresses and telephone numbers of all current congressional members and public officers (including city and county commissioners), and their spouses and adult children, and
 - The names, home addresses, telephone numbers, and dates of birth of, and the names and locations of schools and day care facilities attended by, the minor children of such officials.
- Effective July 1, 2025

What Happened to the Constitutional Challenges to Financial Disclosure?

- *Town of Briny Breezes et al v. Lukis*, Case No. 2004 CA 000283 (Fla. 2nd Cir. Ct.)
- *Loper et al v. Lukis et al*, Case No. 1:2024cv20604 (US District Court for the Southern District of Florida)
 - **2023 passage of SB 774 requiring city commissioners to file Form 6 (instead of Form 1)!**
 - **City Commissioners file suits challenging law as unconstitutional!**
 - **June 10, 2024:** Plaintiff's Expedited Preliminary Injunction GRANTED—SB 774 violates the First Amendment rights of candidates/mayors/city commissioners by compelling content-based speech. Decision APPEALED!
 - City Commissioners required to file Form 1 while the appeal remains pending

EFDMS TROUBLESHOOTING & QUESTIONS



- **Questions About EFDMS or Financial Disclosure Requirements?**
 - **Call the Commission on Ethics** and ask to speak with Financial Disclosure staff or the “Attorney of the Day” at: **(850) 488-7864**
 - Email financial disclosure staff at disclosure@leg.state.fl.us.
 - Read the Commission’s E-filing Tips & FAQs available at <https://ethics.state.fl.us>
- **File financial disclosure EARLY and do not wait until the July 1 filing deadline!**

ETHICS POP QUIZ!

Who is subject to the Code of Ethics?

- a) All public officers and employees on the State and local level, candidates for public office, and local government attorneys
- b) Only public officers & employees on the State level
- c) Only candidates for public office
- d) Only elected public officers and candidates for public office

ETHICS POP QUIZ!

Who can file an ethics complaint with the Commission on Ethics?

- a) Any Florida resident
- b) Only public officials
- c) Only attorneys
- d) Anyone with personal knowledge/info other than hearsay

GIFTS, BRIBES & UNAUTHORIZED COMPENSATION!



ANTI-BRIBERY ETHICS REQUIREMENTS

Prohibited Solicitation or Acceptance of Things of Value s. 112.313(2)

- Prohibits all public officers, public employees, local government attorneys, and candidates from asking for or accepting *anything of value* based upon an understanding that their vote, official action, or judgment would be influenced.

Unauthorized Compensation s. 112.313(4), F.S.

- Prohibits all public officers, public employees, and local government attorneys, **or their spouse or minor child**, from accepting *anything of value* when the official knows, or under the circumstances should know, that it was given to influence a vote or other official action.

GHOST CANDIDATE EXAMPLE



In re Alexis Pedro Rodríguez

Complaint No. 20-225, Final Order No. 21-031

In a 2020 tight Senate race involving then-incumbent candidate Sen. José Javier Rodríguez, the Respondent agreed to accept \$44,000 in exchange for changing his party affiliation, falsifying information on his financial disclosure filing as a candidate and running as a no-party affiliation candidate.

Fined \$20,000 and public censure/reprimand.

➤ In **Oct 2024** the bribe giver, former Sen. Frank Artiles, convicted of three federal charges related to a "ghost candidate" scheme!

ADVISORY OPINIONS APPLYING

S. 112.313(2) & (4), F.S.

- **CEO 21-1:** Finding that a police officer's acceptance of an offer from a landlord of reduced rent in exchange for off duty work at complex would not violate s. 112.313(2) or (4), F.S.
- **CEO 14-26:** Finding that a City Council member's acceptance of a chamber of commerce designation of the councilmember's business as an "endorsed vendor" did not violate s. 112.313(2) or (4), F.S.
- **CEO 80-27:** Finding that s. 112.313(4) would be violated where a university administrator received a "meal card" which could be used for unlimited free meals from a food service company contracting with the university.

ADDITIONAL GIFTS RESTRICTIONS APPLICABLE TO REPORTING INDIVIDUALS

- The traditional Gifts Law —s. 112.3148, F.S.
- Gifts from political committees —s. 112.31485, F.S.
- Honoraria Law —s. 112.3149, F.S.
- See also* Locality-Specific Restrictions Imposed by County

REPORTING INDIVIDUALS & PROCUREMENT EMPLOYEES (RIPES)

- “Reporting Individuals”-any individual required to file financial disclosure annually. s. 112.3148(2)(d), F.S.
- “Procurement Employees”-means any employee of the executive or legislative branch who has in the last year participated in the procurement of contractual services or commodities that exceeds or is expected to exceed \$10,000. s. 112.3148(2)(e), F.S.

THE GIFTS LAW

s. 112.3148, F.S.



- X Cannot solicit gifts from lobbyists, employers of lobbyists, and vendors of your agency.
- X Cannot accept gifts worth more than \$100 from lobbyists, principal/employers of lobbyists, vendors, certain others.
- ✓ Must report gifts worth more than \$100 received from non-restricted sources on Form 9
- ✓ May accept gifts of any value from relatives!
- ✓ Restricted donor giving gift valued at \$25 to \$100 must report the gift on Form 30 quarterly

LEXICON OF GIFTS LAW: WHAT IS A “GIFT”?

Anything that you get, for which you did not give equal or greater consideration . . . within 90 days. s. 112.312(12)(a), F.S.

Generally valued on a **per occurrence** basis. s. 112.3148(7)(i), F.S.

DEFINITION OF “GIFT”

Definition of “gift”

Includes:

- Tangible or intangible personal property
- Food or beverages
- Transportation
- Real property and use of real property
- Flowers and floral arrangements
- Entrance fees and tickets
- Preferential rates
- Membership dues
- Any other similar service or thing having an attributable value

Definition of “gift” does

NOT Include:

- Salary/benefits/expenses associated with **private** "employment, business, or service as an officer or director of a corporation or organization"
- Campaign contributions
- Honorarium and honorarium event related expenses
- Awards in recognition of one's "public, civic, charitable, or professional service"
- The use of public facility/property for public purpose
- And more!

WHO ARE “LOBBYISTS” AND “VENDORS”?

PAID TO PERSUADE

- **“Lobbyist”**: Anyone who, for compensation, is seeking or has sought in the last 12 months to influence the governmental decisions of a RIPE or his or her agency. s. 112.3148(2)(b), F.S.
- **“Vendor”**: A business entity doing business directly with an agency, such as renting, leasing, or selling any realty, goods, or services. s. 112.3148(2)(f), F.S.

ANTI-SOLICITATION FROM RESTRICTED DONORS

s. 112.3148(3), F.S.

- A RIPE **cannot solicit a gift**, regardless of value, **from a “lobbyist”** who lobbies their agency (or the principal/partner/firm or employer of such a lobbyist), a **“vendor,”** or political committee, *if* the gift is for the personal benefit of the RIPE, another RIPE, or immediate family of either.
- Limited exception for charitable solicitations not benefiting the RIPE or their family—CEO 91-52 and CEO 95-25.

PROHIBITION OF ACCEPTANCE OF GIFTS FROM RESTRICTED SOURCES

s. 112.3148(4), F.S.

A RIPE **cannot accept**, directly or indirectly, **a gift from a lobbyist** who lobbies their agency (or the principal/partner/firm or employer of such a lobbyist), a **vendor**, or political committee **IF valued at over \$100**.

- Reporting an impermissible gift will not cure its unacceptability.

ADVISORY OPINIONS APPLYING

S. 112.3148(3) & (4), F.S.

- **CEO 19-17:** Analyzing complimentary tickets given to the city by nonprofits and intended to be distributed to specific agency officials who are RIPES.
- **CEO 16-1:** Finding that s. 112.3148(4), F.S., would prohibit a School Board member from accepting gifts valued at more than \$100 from a boyfriend who is a partner in a law firm contracting with the District as the boyfriend and firm are lobbyists and vendors of her agency.
- **CEO 13-3:** Analyzing gifts in the form of transportation expenses given to a mayor and paid for by third parties.
- **CEO 93-27:** Finding, in part, that s. 112.3148(4), F.S., would prohibit Sheriffs attending a Florida Sheriff's Association conference from accepting door prizes worth more than \$100 given by lobbyists.

GIFTS FROM RELATIVES v. FRIENDS

S. 112.3148(8), F.S.

- Applies only to RIPLEs.
- Gifts from “**relatives**” of any amount can be accepted. **No reporting requirement.**
 - “Relative” broadly defined in s. 112.312(21), F.S.
- **Friends/Acquaintances:** Gifts from friends in community of any amount can be accepted . . . BUT
 - **Have to REPORT if over \$100 on a “Quarterly Gift Disclosure,” Form 9.**
 - CEO 16-1 – Do not accept gift of over \$100 if friend is a lobbyist/vendor!

Form 9		QUARTERLY GIFT DISCLOSURE	
(GIFTS OVER \$100)			
LAST NAME -- FIRST NAME -- MIDDLE NAME:		NAME OF AGENCY:	
MAILING ADDRESS:		OFFICE OR POSITION HELD:	
CITY:	ZIP:	COUNTY:	FOR QUARTER ENDING (CHECK ONE):
			<input type="checkbox"/> MARCH <input type="checkbox"/> JUNE <input type="checkbox"/> SEPTEMBER <input type="checkbox"/> DECEMBER
			YEAR 20__

PART A — STATEMENT OF GIFTS

Please list below each gift, the value of which you believe to exceed \$100, accepted by you during the calendar quarter for which this statement is being filed. You are required to describe the gift and state the monetary value of the gift, the name and address of the person making the gift, and the date(s) the gift was received. If any of these facts, other than the gift description, are unknown or not applicable, you should so state on the form. As explained more fully in the instructions on the reverse side of the form, you are not required to disclose gifts from relatives or certain other gifts. You are not required to file this statement for any calendar quarter during which you did not receive a reportable gift.

DATE RECEIVED	DESCRIPTION OF GIFT	MONETARY VALUE	NAME OF PERSON MAKING THE GIFT	ADDRESS OF PERSON MAKING THE GIFT

☐ CHECK HERE IF CONTINUED ON SEPARATE SHEET

PART B — RECEIPT PROVIDED BY PERSON MAKING THE GIFT

If any receipt for a gift listed above was provided to you by the person making the gift, you are required to attach a copy of that receipt to this form. You may attach an explanation of any differences between the information disclosed on this form and the information on the receipt.

☐ CHECK HERE IF A RECEIPT IS ATTACHED TO THIS FORM

PART C — OATH

I, the person whose name appears at the beginning of this form, do depose on oath or affirmation and say that the information disclosed herein and on any attachments made by me constitutes a true accurate, and total listing of all gifts required to be reported by Section 112.3148, Florida Statutes. SIGNATURE OF REPORTING OFFICIAL _____	STATE OF FLORIDA COUNTY OF _____ Sworn to (or affirmed) and subscribed before me this _____ day of _____, 20____ by _____ _____ (Signature of Notary Public-State of Florida) _____ (Print, Type, or Stamp Commissioned Name of Notary Public) Personally Known _____ OR Produced Identification Type of Identification Produced _____
--	--

PART D — FILING INSTRUCTIONS

This form, when duly signed and notarized, must be filed with the Commission on Ethics, P.O. Drawer 15709, Tallahassee, Florida 32317-5709; physical address: 325 John Knox Road, Building E, Suite 200, Tallahassee, Florida 32303. The form must be filed no later than the last day of the calendar quarter that follows the calendar quarter for which this form is filed (For example, if a gift is received in March, it should be disclosed by June 30.)

ADVISORY OPINIONS APPLYING S. 112.3148(8), F.S., REPORTING REQUIREMENT

- **CEO 16-10:** Analyzing how a Village Council member would value and report a set of complimentary polo tickets (featuring Prince Harry!) given by a non-prohibited donor reflecting no dollar value but rather simply marked "not for resale."
- **CEO 06-27:** Analyzing gifts in the form of travel expenses for companions of city officials given by non-prohibited donors.
- **CEO 92-33:** City Commissioners receiving complimentary tickets to events at City-owned auditorium.

HONORARIA LAW

S. 112.3149, F.S.

- Applies to RIEs.
- Contained in s. 112.3149, F.S.
- Implicated when a RIE is asked to give a talk.
- NOT implicated when RIE is invited to hang out at event.
- Like s. 112.3148, F.S., identifies “lobbyists,” “vendors,” and certain others as restricted givers.

HONORARIUM DEFINED

- “Honorary” means a payment of money or anything of value, to a RIPE as payment for a speech, address, or oration. s. 112.3149(1)(a), F.S.
- Definition of “honorary” **does NOT include:**
 - Payment for outside employment
 - Salary or payments for public duties
 - Campaign contributions
 - Actual and reasonable transportation, lodging, food/beverage expenses associated with an honorary event including the waiver of a registration fee.

HONORARIA LAW

S. 112.3149, F.S.

RIPEs **cannot** *solicit*, from anyone, an honorarium related to their public duties.



RIPEs **cannot** accept an honorarium from a lobbyist, principal/partner/firm of a lobbyist, political committee, or vendor.

Honoraria Law DOES Permit

- The acceptance of **actual and reasonable** 'honorarium event related expenses' including:
 - Transportation
 - Lodging
 - Food & Beverages
 - Waiver of registration fees
 - For RIPE and spouse
- *See also* CEO 91-4 and Rule 34-13.220, F.A.C.

**CONFLICTS
OF
INTEREST**
s. 112.313, F.S.

**Doing Business with
One's Own Agency**

&

**Conflicting
Employment and
Contractual
Relationships**

WHAT IS A CONFLICT OF INTEREST?

“Conflict” or “conflict of interest” means a situation in which regard for a private interest tends to lead to disregard of a public duty or interest.

s. 112.312(8), F.S.



CONFLICTS OF INTEREST

s. 112.313(3) and (7), F.S.

Doing Business with One's Own Agency

- Cannot do business with a company in which you or your spouse or child are an officer/director, or own a material interest (of more than 5%)
- Cannot sell realty, goods, or services to your own agency

Conflicting Employment & Contractual Relationship

- Cannot have an employment or contractual relationship with any businesses that is doing business with your agency/board
- Nor can you have employment or contractual relationships that causes a frequently recurring conflict with public duties

EXEMPTIONS

- **Grandfathering**— Contracts entered into prior to qualification for elective office, **appointment to public office**, or beginning public employment are **automatically exempted**. *See* CEO 96-30 and CEO 09-1.
- Exemptions in s. 112.313(12), F.S.
 - Waiver of conflict by appointing board
 - Sole source of supply
 - Sealed competitive bid
 - Sales of less than \$500 in any calendar year
 - And more!
- Additional exemption in s. 112.313(16), F.S. *See* CEO 91-55.

CONFLICTS OF INTEREST CASE STUDY

Nick Niceguy is a County Commissioner in Sunny County. In his private capacity he is the sole owner of a hardware store that sells goods to the County and maintains charge accounts with several County departments, including the Maintenance Department.

What conflicts of interest issues does this raise, if any?

Conflicts Case Study Analysis:

CEO 20-6

- **Doing Business with One's Own Agency:** The second part of s. 112.313(3), F.S., prohibits the Commissioner from acting in his private capacity as a store owner to sell goods, services, or realty to his public agency (the County) or to any part of political subdivision.
- **Conflicting Employment or Contractual Relationship:** s. 112.313(7)(a) prohibits the Commissioner from holding employment or a contractual relationship with a business entity (hardware store) if the business entity is subject to the regulation of, or is doing business with, his public agency (the County).
- **Exemptions: s. 112.313(12), F.S.**
 - s. 112.313(12)(a), F.S., provides an exemption from conflicts of interests prohibitions when the business transactions **are rotated among all qualified suppliers** of the goods or services within the county.
 - County Manager integral to facilitating application of exemption!

LAWS PERTAINING TO PROHIBITED CONDUCT



ANTI-NEPOTISM PROHIBITIONS

S. 112.3135, F.S.

Prohibits public officials from appointing, employing, or promoting a relative.

AND

Prohibits one from advocating for the appointment, employment, or promotion of a relative.

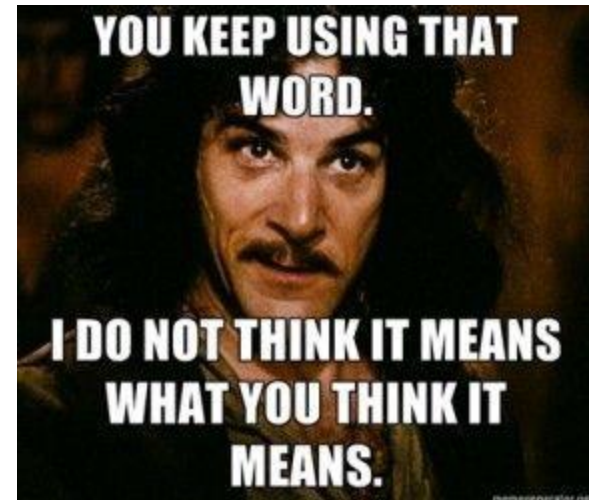


ANTI-NEPOTISM LAW DOES NOT PROHIBIT

S. 112.3135, F.S.

Anti-nepotism law does not prohibit two relatives from being employed within the same agency/county. *See* CEO 90-62, CEO 93-1, and CEO 94-26.

Anti-nepotism law does not address nor prohibit supervising or assigning work to a relative. *See* CEO 90-62 and CEO 00-17.



MISUSE OF PUBLIC POSITION

S. 112.313(6), F.S.

Public officers, employees, and local government attorneys are prohibited from **corruptly** using or attempting to use their public position or resources to secure a special **benefit, privilege, or exemption** for **themselves or others**.



Misuse of Public Information

S. 112.313(8), F.S.

- Applies to current and former public officers and employees.
- Prohibits using info gleaned in public capacity and not available to public for their personal benefit or for the benefit of persons or entities connected to them.



There is a New Sheriff in Town!

Art. II, s. 8(h)(2),
Fla. Const.:

Prohibited
Disproportionate
Benefit!

PROHIBITED DISPROPORTIONATE BENEFIT

- Article II, Section 8 of the Florida Constitution.
- Effective on **December 31, 2020.**
- Rule 34-18.001, Florida Administrative Code.
- CEO 19-23 and CEO 21-1.
- Prohibits all public officers and employees from **abusing** their position in order to obtain a **disproportionate benefit** for:
 - Themselves
 - Spouse or Children
 - Employer
 - Any business entity with whom they contract or serve as officer, partner, director, **or** own an interest.

ETHICS POP QUIZ!

I am a County Commissioner with access to a database containing criminal information of county residents. I should use this database to:

- a) Conduct searches on my ex-wife and her new “friends”
- b) Conduct searches for my private business
- c) Conduct searches for my friends and their business
- d) Only for public business

ETHICS POP QUIZ!

All of the following could constitute a misuse of public position violation EXCEPT:

- a) A city council member using a publicly provided purchasing card to buy alcohol for a personal friend's birthday party.
- b) An elected official requiring his publicly provided support staff to clean his boat and dock at his home.
- c) A county employee participating in reproductive health education that is opposed by some members of the community at a County sponsored event.
- d) A mayor using her publicly provided phone to demand that the police chief reduce her speeding fines.

VOTING CONFLICT

s. 112.3143, F.S.

- Memorandum of Voting Conflict (Form 8B)
- Applies only to members of collegial bodies



VOTING CONFLICTS LAW: LOCAL PUBLIC OFFICERS

S. 112.3143(3), F.S.

- Applies to elected or appointed county, municipal, and other local public officers.
- Prohibited from voting on any measure which inure to their own “**special private gain or loss**” or to that of:
 - A principal by whom they have been retained;
 - The parent organization or subsidiary of a corporation by which they have been retained;
 - A relative; or
 - A business associate.

WHO IS A “PRINCIPAL BY WHOM RETAINED”?

- One's employer
- One's client
- The parent, subsidiary, or sibling organization of one's client or employer
- A corporation for which officer serves as a compensated director

WHAT IS A “SPECIAL PRIVATE GAIN OR LOSS”?

- Requires an **economic benefit or harm** that will inure to the officer, his or her relative, business associate, or principal.
- Determining “special private gain or loss”:
 - Size of the class
 - Unique impact
 - Remote and speculative
 - Preliminary and procedural



WHAT TO DO

S. 112.3143(3), F.S.

Local Public Officers MUST:

1. Publicly disclose conflict prior to vote;
2. Abstain from voting; AND
3. File a Form 8B, Memorandum of Voting Conflict, within 15 days.

POST OFFICE HOLDING RESTRICTIONS

- Two year communications/representation restrictions of s. 112.313(14), F.S.

AND

- Constitutional Post Officeholding Six Year Lobbying Ban



POST OFFICE HOLDING RESTRICTION: LOCAL PUBLIC OFFICIALS S. 112.313(14), F.S.

- *Elected* members of county, municipal, special district, or school district cannot **represent** another person or entity before their agency for a period of two (2) years after leaving office.
 - “Former government body or agency” defined within s. 112.313(14)(a)-(e), F.S.
 - “Representing” broadly defined in s. 112.312(22), F.S., to include more than traditional lobbying activities.



EXAMPLES OF POST OFFICEHOLDING RESTRICTIONS INVOLVING LOCAL PUBLIC OFFICIALS

- **CEO 19-6:** Former Jacksonville city councilmembers prohibited from “representing” executive branch depts before city council during 2-year period after leaving public office.
- **CEO 16-15:** Former county commissioner prohibited for 2 years from representing clients of his LLC before the county commission, the county administrator, and immediate support staff.
- **CEO 06-22:** Former county commissioner prohibited for 2 years from representing clients before the county commission collegially, its individual members, commissioners' aides and the "immediate support staff" of the county manager.

NEW PROHIBITED CONSTITUTIONAL LOBBYING RESTRICTIONS

- Art. II, s. 8(f), Fla. Const.
 - Effective on **December 31, 2022.**
 - Implementing statutes: ss. 112.3121 and 112.3122, F.S.
 - Applicable to “**public officers**” as defined in Art. II, s. 8(f)(1), Fla. Const.
 - **In Office Lobbying Ban:** prohibited “**public officers**” from lobbying on issues of “**policy, appropriations, or procurement**” while in office.
 - **Post Officeholding Ban:** Prohibits lobbying for a period of SIX years after leaving office.
 - Garcia v. Stillman et al., Case No. 22-CV-24156, 20235095540 (S.D. Fla. August 9, 2023), **Permanent injunction issued Aug. 9, 2023!**
 - In Office Lobbying Ban found to be unconstitutional abridgement of free speech
 - Post Office Lobbying Ban “narrowly tailored based on the public official’s office”
 - Commission appealed the ruling to the 11th U.S. Circuit Court of Appeals
 - **Nov. 30, 2023:** Panel determination that the In-Office Lobbying Ban will remain enforceable during the period while the appeal is pending
- Bottom Line . . . For Now:** Current and former “public officials” should not lobby in contravention of In-Office *or* Post Office-Holding Lobbying Bans

Six-Year Constitutional Post-Officeholding Lobbying Ban

- Effective **December 31, 2022.**
- s. 112.3121 and 112.3122, F.S.
- “Public officer” expansively defined in Art. II, s. 8(f)(1) to include:
 - Statewide elected officers and members of Legislature
 - County Commissioners
 - Elected municipal officers
 - School Board members
 - And more!
- Prohibits “public officers” from **lobbying** for compensation on issues of **policy, appropriations, or procurement**, for a period of **6 years after vacating their public position.**
- **Art. II, s. 8(f)(3)a.-c.** application language re positions
- **Art. II, s.8(f)(3)c.:** “county commissioner...shall not lobby his or her former agency or governing body.”

PENALTIES

- s. 112.317, F.S., provides non-criminal penalties for current and former public officers and public employees, candidates for public office, and others.
 - Impeachment,
 - Removal/suspension from public office or employment,
 - Public censure and reprimand,
 - Forfeiture of up to one third of public salary,
 - Civil penalties \$20,000 (as of May 2023)
 - Restitution of pecuniary benefits received because of the violation.

Thank You!

Caroline Klancke

Executive Director

Florida Ethics Institute

2241 N. Monroe St. #1441

Tallahassee, FL 32303

Ph: 850.404.1113

www.floridaethics.org

info@floridaethics.org

