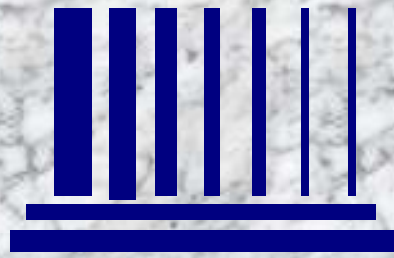


State Ethics Commission

Conflict of Interest Seminar-

Municipal Employees



State Ethics Commission

“The basis of effective government is public confidence, and that confidence is endangered when ethical standards falter or appear to falter.”

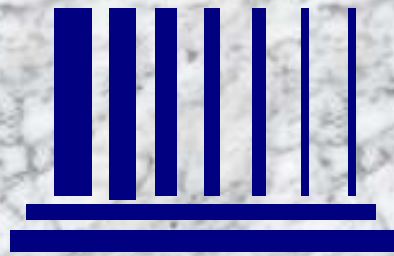
~ John F. Kennedy
Address to Congress
April 27, 1957



State Ethics Commission

THE COMMISSION

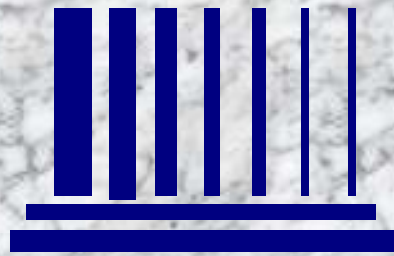
- ◆ is a five-member, independent, non-partisan authority.
- ◆ is an administrative law agency providing advice, education and enforcement of M.G.L. 268A and 268B.
- ◆ has jurisdiction over all state, county and municipal employees and volunteers, paid or unpaid, full time, part-time, intermittent or specials.



State Ethics Commission

THE COMMISSIONERS

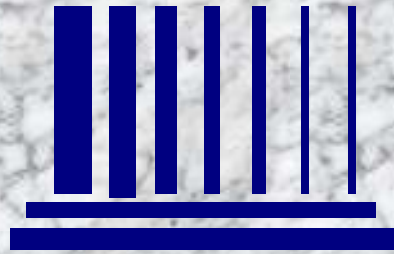
- ◆ Serve a single, five-year term.
- ◆ The governor appoints three members.
- ◆ The Attorney General and the Secretary of State each appoint one member.
- ◆ Only two of the Governor's appointees may be of the same political party; and only three of the five members may be of the same political party.



State Ethics Commission

THE DIVISIONS

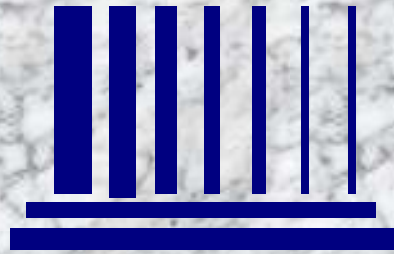
- ◆ **Public Education Division:**
Seminars, Website, Media.
- ◆ **Legal Division:**
Free, confidential, guidance, oral or written.
Statements of Financial Interests.
- ◆ **Enforcement Division:**
Investigates 900-1200 complaints a year;
Complainant identity kept confidential
Anonymous complaints accepted.



State Ethics Commission

Conflict of Interest Law: Gifts

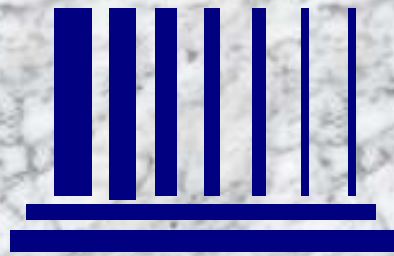
- **§ 2- Bribery: prohibits corrupt gifts, offers, and promises to influence official acts.**
 - **Quid Pro Quo/ Corruption.**
 - **Criminally or Civilly Enforced.**
 - **Possible \$25,000 civil penalty.**
 - **\$0 Threshold**
 - **Both Giver and Recipient Can Be Prosecuted.**



State Ethics Commission

Conflict of Interest Law: Gifts

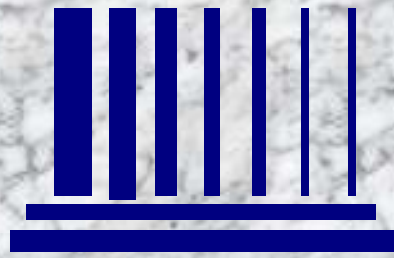
- § 3- Gifts and Gratuities: prohibits gifts given for or because of official acts performed or to be performed.
 - \$50 THRESHOLD
 - COMMISSION MAY AGGREGATE GRATUITIES
 - GIFT IS GIVEN TO:
 - INFLUENCE A PRESENT ACT;
 - INDUCE A FUTURE ACT; or
 - REWARD FOR A JOB WELL DONE.



State Ethics Commission

Conflict of Interest Law: Gifts

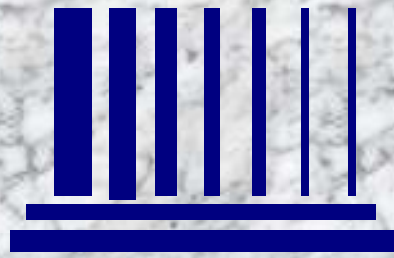
- § 23(b)(2)(i) - Gifts: prohibits gifts of substantial value to public employees for or because of official position.



State Ethics Commission

Conflict of Interest Law: Gifts

- **§ 23(b)(3) - Standards of Conduct:** prohibits gifts valued at less than \$50 if the receipt of a gift creates the appearance that the public employee could be improperly influenced in the performance of their duties, unless a written disclosure is filed.



State Ethics Commission

Conflict of Interest Law: Gifts

- **§ 26 - Gifts with Fraudulent Intent:** prohibits gifts to public employees given with fraudulent intent in the aggregate of more than \$1,000 in any 12 month period.
 - Both giver and recipient can be prosecuted.



State Ethics Commission

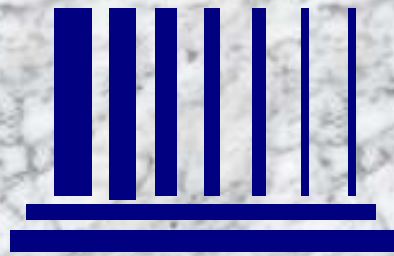
Regulatory Exemption: Gifts

930 CMR 5.06: Gifts Unrelated to Official Action, Position, or Performance of Duties

Public employees can accept gifts unrelated to official action but:

- if a matter involving the giver comes before the public during the six months following such acceptance, or
- if such a gift follows any official action by the employee involving the giver within six months

The employee must disclose the gift.



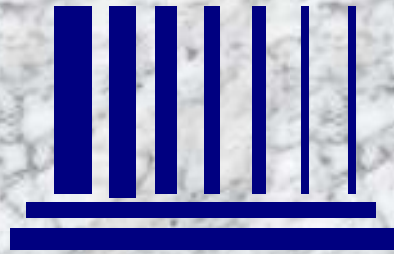
State Ethics Commission

Regulatory Exemption: Gifts

**930 CMR 5.08: Gifts Worth \$50 or More and Related to
Official Action or Position: Exemptions**

(Disclosure and Prior Approval Required in Certain Circumstances)

- **Travel Expenses where the purpose of the travel serves a legitimate public purpose**
- **Incidental Hospitality That Serves a Public Purpose**
- **Legitimate Speaking Engagements**
- **Honorary Degrees.**

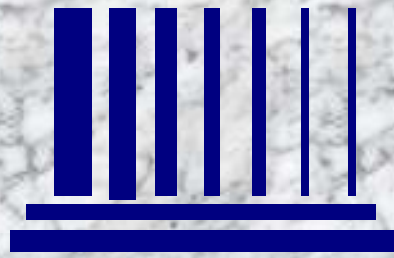


State Ethics Commission

Regulatory Exemption: Gifts

**930 CMR 5.08: Gifts Worth \$50 or More and Related to
Official Action or Position: Exemptions**
(Disclosure and Prior Approval Required in Certain Circumstances)

- **Awards for Meritorious Public Service or Lifetime Achievement.**
- **Public Employee Discounts and Waived Membership Fees.**
- **Gifts Among Public Employees.**
- **Ceremonial Gifts and Privileges.**



State Ethics Commission

Regulatory Exemption: Gifts

**930 CMR 5.08: Gifts Worth \$50 or More and Related to
Official Action or Position: Exemptions**
(Disclosure and Prior Approval Required in Certain Circumstances)

- **Retirement Gifts.**
- **Unsolicited Perishable Items.**
- **Admission to Political Campaign Events for Elected Officials and their Staff Members.**
- **Gifts Received and Held Temporarily as Part of Charitable Activities.**



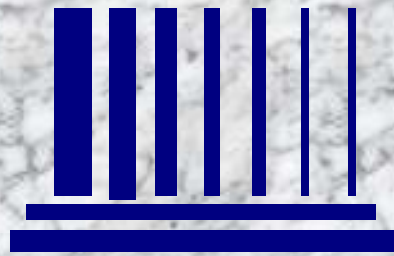
State Ethics Commission

Regulatory Exemption: Gifts

**930 CMR 5.08: Gifts Worth \$50 or More and Related to
Official Action or Position: Exemptions**

(Disclosure and Prior Approval Required in Certain Circumstances)

- **Class Gifts to Teachers.**
- **Passes to School Event given by the district for school sports and entertainment events.**
- **Random Drawings.**



State Ethics Commission *NEPOTISM*

A municipal employee may not in general participate in particular matters in which he, his immediate family, a partner, a business organization with which he has certain affiliations or someone with whom he is negotiating prospective employment has a financial interest.

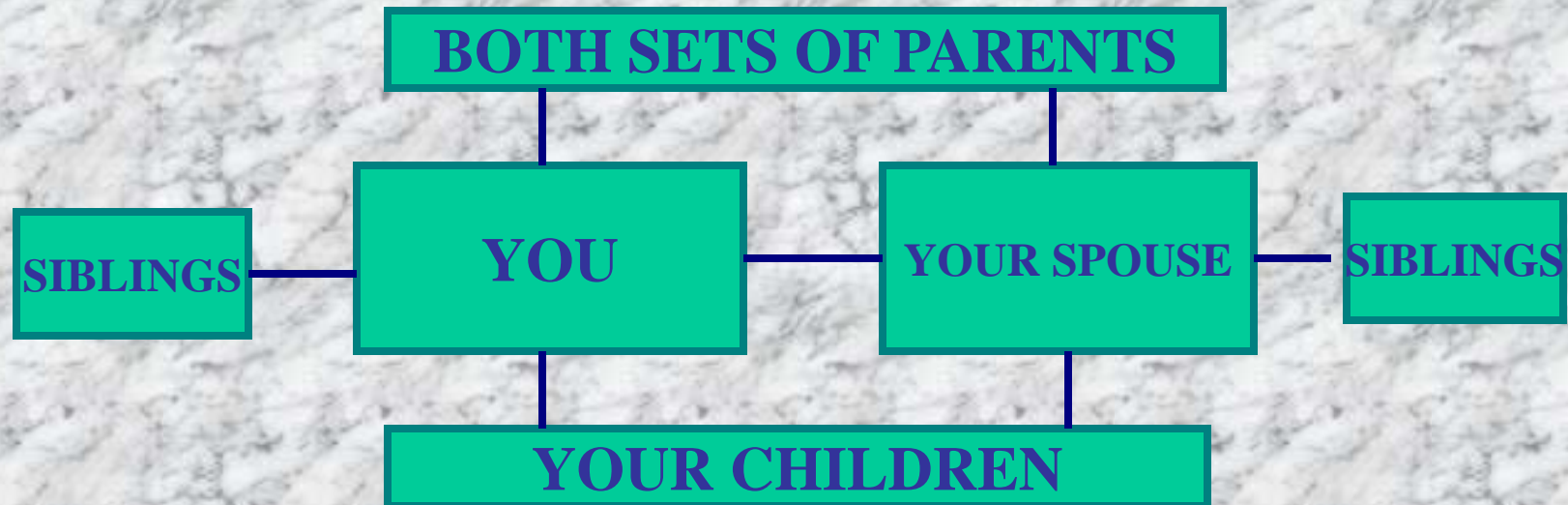


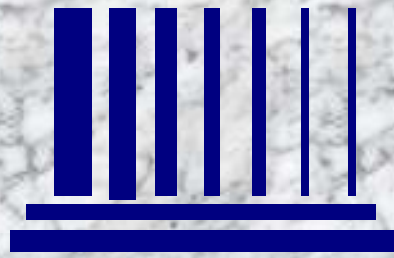
- 2 - Step disclosure and determination process for appointed municipal employees
- No exemptions for elected officials.
- Matters affecting abutters and competitors may affect official's financial interest.



State Ethics Commission

IMMEDIATE FAMILY





State Ethics Commission

Regulatory Exemption: Nepotism

**930 CMR 6.09: Exemption for School Committee
Members and Charter School Trustees**

- **May participate in general school fees that will affect a child of the committee member or trustee if the member first files a disclosure of the financial interest with the Commission (trustee) or with the city or town clerk (committee member).**



State Ethics Commission

CODE OF CONDUCT

A public official or employee shall not knowingly:

- Act in a manner such that a reasonable person might conclude that he or she might act with bias.
 - *One-step written disclosure to dispel appearance of conflict*
- Secure unwarranted privileges for his/herself or others.
- Use inherently coercive authority.
- Use official resources for private or personal use.
- Disclose confidential information.
- Accept inherently incompatible employment.

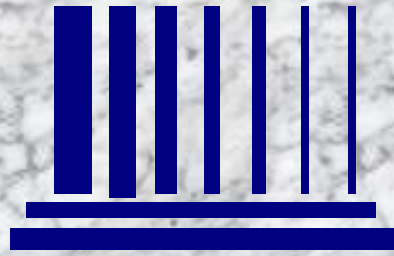




State Ethics Commission

POLITICAL ACTIVITY

- **SOLICITING CAMPAIGN SUPPORT FROM COLLEAGUES, SUBORDINATES OR CONSTITUENTS**
- **CAMPAIGN ACTIVITIES IN PUBLIC BUILDINGS**
- **CANNOT USE PUBLIC RESOURCES FOR POLITICAL PURPOSES**



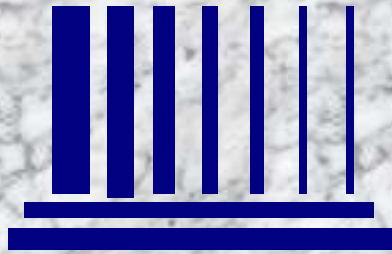
State Ethics Commission



AFTER HOURS

*Agency: Representing 3rd Parties
before Government*

*Contracts: Financial Interests in
other Municipal Contracts*



State Ethics Commission *AGENCY*



An employee may not act on the behalf of, or receive compensation from, a third party in connection with anything of direct and substantial interest to the municipality.



- Divided loyalties / Serving two masters
- You may never appear before your own agency
- Special Municipal Employees who work less than 60 days may appear before other municipal departments, under some circumstances.
- You may always represent yourself before any municipal board or department.

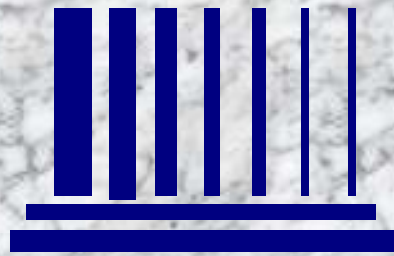


State Ethics Commission

Acting As Agent

Exceptions to the rule:

- *Disciplinary/Personnel issues if uncompensated.*
- *Family members if appointing authority approves.*
- *Testimony/Sworn Statements.*
- *Municipal employees can obtain building, wiring, plumbing, gas fitting or septic permits unless employed by issuer.*

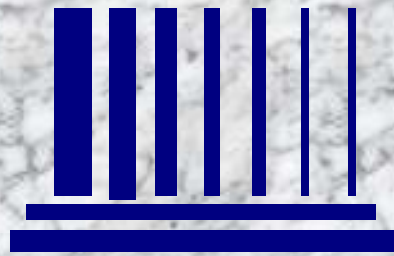


State Ethics Commission

Regulatory Exemption: AGENCY

930 CMR 6.03: Exemption to Permit Public Employees Who Are Parents to Advocate for Their Children

- **A public employee may advocate for their children provided that they follow established procedures and do not seek special consideration for their child.**
- **Persons holding supervisory positions with a school department or agency related to education must disclose, but the disclosure may omit identifying information to the extent necessary to protect a student's privacy rights.**



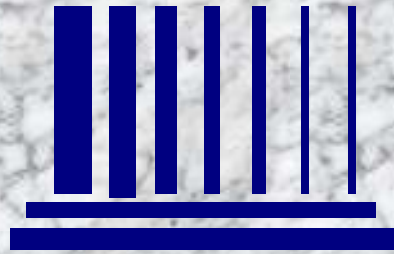
State Ethics Commission

*MULTIPLE CONTRACTS, FINANCIAL
INTEREST IN CONTRACT*

A municipal employee may not have a financial interest in a contract in which the municipality is an interested party.

- Contracts to provide goods or services.
- Multiple positions, one of which is paid.

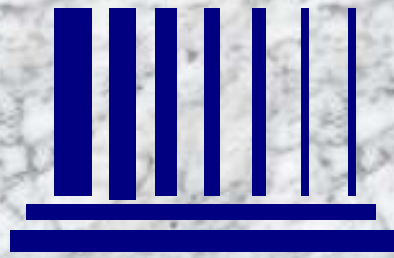




State Ethics Commission

FINANCIAL INTERESTS IN CONTRACTS

- *LAW APPLIES LESS RESTRICTIVELY TO SPECIALS*
- *MUNICIPAL EMPLOYEES CAN ALSO SERVE AS SELECTMEN, BUT CONDITIONS APPLY*

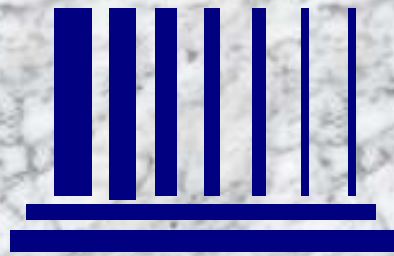


State Ethics Commission

→ *WHEN YOU LEAVE*

Revolving Door Provisions

Restrictions on Appointments



State Ethics Commission

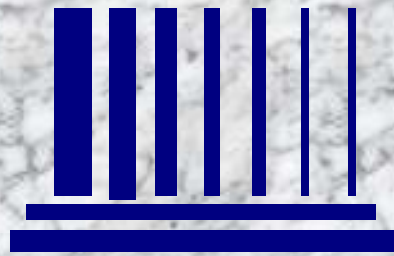
REVOLVING DOOR PROVISIONS

- **THE FOREVER BAN**

A former municipal employee is prohibited from receiving compensation from or representing a third party in any particular matter in which he participated as a municipal employee.

- **THE ONE YEAR COOLING OFF PERIOD**

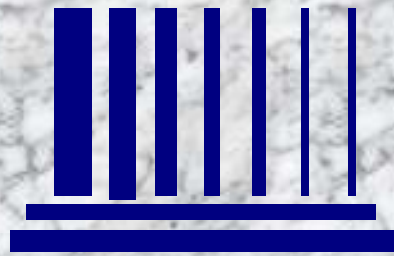
A former municipal employee is prohibited for one year from appearing personally on behalf of a third party if, within two years prior to his last day of employment, the matter was under his official responsibility.



State Ethics Commission

RESTRICTIONS ON APPOINTMENT

- *Board members are ineligible for appointment to positions supervised by the committee until 30 days after they resign from the board.*
- *Municipal employees who also serve on the Board of Selectmen/Board of Aldermen/City Council are ineligible for any other municipal appointment while a Selectman, Alderman or City Councilor and for 6 months thereafter.*



State Ethics Commission

ETHICS REFORM LEGISLATION

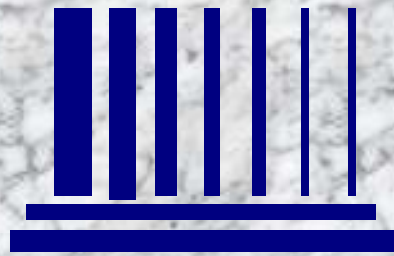
- *Increases civil penalties from \$2,000 to \$10,000 for all sections except for bribery.*
- *Adds section to Code of Conduct prohibiting gifts to public employees because of their official position.*
- *Adds section to Code of Conduct prohibiting public employees from submitting false claims for payment to their employer.*
- *Adds a mandatory training requirement for all public employees.*



State Ethics Commission

2011 GAMING LEGISLATION

- *Public employees who worked on any gaming legislation, at the state, county or municipal level, are prohibited from working in connection with a gaming license for one year after leaving public employment.*
- *A gaming licensee is considered a legislative agent (lobbyist) subject to the gift restrictions in c. 268B, section 6.*



State Ethics Commission Quick Tips

When in doubt **DON'T**

If a bell goes off or a flag goes up..... **CALL**

617/371-9500 or **888/485-4766**

Visit us on the Web at **www.mass.gov/ethics**