

ETHICS IN ACTION:

Introduction to Ethics for Public Pension Trustees

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AUTHORITY

- Article II, Section 8, Florida Constitution
- Ethics in Government – A public office is a public trust, the people shall have the right to secure and secure that trust against abuse.
- Part III, Chapter 112, Florida Statutes – Standards of conduct for public officers, employees of local governments
- Public officer – includes any person elected or appointed to hold office, including serving on an advisory board.
- Commission on Ethics rules.

ACTIONS TO AVOID

- Solicitation or acceptance of gifts – Cannot solicit or accept anything of value based on an understanding that the intent was to influence the vote, official action or judgement of the public officer.
- Doing Business with Agency – Cannot directly or indirectly do any business with any business entity doing business with plan sponsor or any service provider thereto. Extends to extended family.
- Salary and Expenses – Cannot accept any compensation for serving as public officer, may have related expenses reimbursed.
- Holding Office – Cannot hold office as a member of the governing agency while at the same time serving as a trustee.

GIFTS

- Donor giving gift valued at \$25 or more must report the gift on Form 30 quarterly (by last day of quarter following quarter when gift was given)
- Donor must notify recipient of gift at the time gift is made that gift will be disclosed.
- Filers of Form 1 may not accept (directly or indirectly) a gift valued at more than \$100 from a vendor, may accept gift on behalf of governmental entity or charity provided promptly transferred to the entity.
- Gifts valued at more than \$100 must be reported on form 9 by donor by 3/1 of year following giving of gift and Donee must disclose receipt of the gift on Form 1 the following 7/1,

MEAL CONSIDERED GIFT

- Ethics rules originally did not consider a one time meal as a gift but was amended to include any meal as a gift

Identifying & Applying Voting Conflicts Law

s. 112.3143, F.S.

- Prohibited from voting on any measure that would result in a special (economic) private gain or loss TO YOU personally . . .

OR

- Which you know would result in a special private gain or loss to:
 - A relative
 - A business associate
 - A principal/employer by whom you are retained or the parent or subsidiary of your principal/employer

What to do:

s. 112.3143(3) and (4), F.S.

Appointed Public Officers:

1. Publicly disclose conflict;
2. Abstain from voting; AND
3. File a memorandum (CE Form 8B) prior to vote or within 15 days.

Also, disclose conflict before participating in any discussion

Solicitation

- Prohibited from asking for favor, payment or employment.
- Includes extended family.

COMPENSATION

- Prohibited from receiving salary or any form of compensation for serving as trustee.
- Expenses related to duties or responsibilities may be reimbursed.
- Per Diem may be provided
- Required to have travel and education policy

DUAL OFFICE HOLDING

- Prohibited from holding two policy making positions with sponsoring agency
- Required to give up oldest position
- But see AGO 2004-05 (advising that a city council member may serve on the general employees pension board when such service is provided for by city code).

Sunshine Law

- Prohibited from discussing business of Plan outside a public meeting
- Meeting must be noticed and held in location accessible to general public.
- May engage in networking with trustees from other boards.

**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

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

You are a Sunshine City Pension Board Trustee. In your private capacity you own a company, ABC Actuarial, that provides actuarial services throughout Florida. The Board needs an actuarial services provider. During a Board meeting you state that there is no need to undertake a competitive bidding process for these services as your company should be selected immediately. Thereafter, the Board votes to approve a contract with ABC Actuarial, and you abstain from the vote. What ethics issues does this scenario raise, if any?

Financial Disclosure



Who Files Financial Disclosure?

Form 6

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

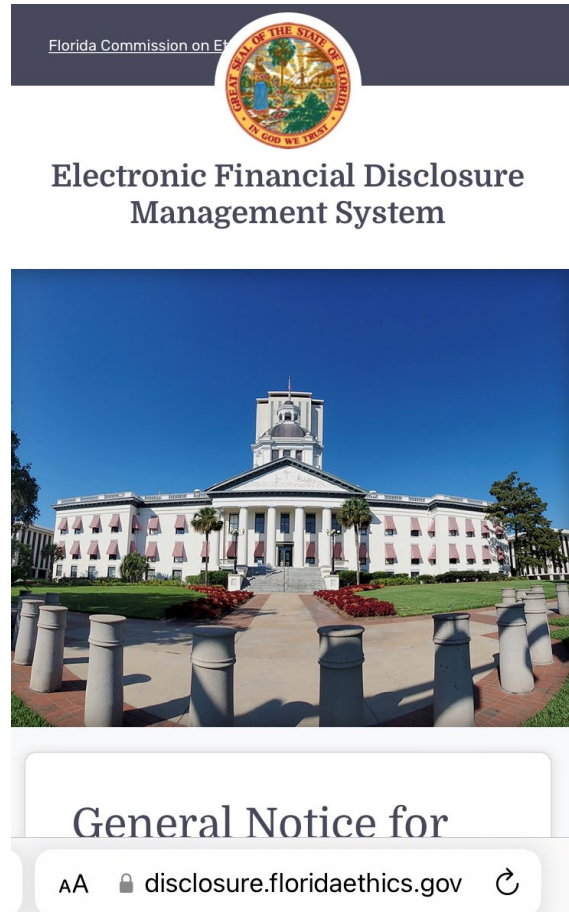
- All constitutional officers
- Art. II, s. 8(a), Fla. Const.
- Section 112.3144, F.S.

Form 1

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

- Local Officers (including
all pension trustees)
- State Officers
- Specified State
Employees
- Section 112.3145, F.S.

Electronic Financial Disclosure Management System



- Launched January 1, 2022.
- Enables the **electronic creation, submission, and publication** of financial disclosures.
- ALL Form 1 filers will use EFDMS to electronically create and publish their Form 1 in 2024 and beyond!
- <https://disclosure.floridaethics.gov>

KEY FINANCIAL DISCLOSURE FACTS

- Initially due within 30 days of appointment or election
- Due annually by **July 1** (with grace period until Sept. 1)
- After Sept. 1, fines of \$25/day for up to 60 days (\$1,500).
- Failure to file financial disclosure in any year can result in removal from public office if found to be willful.
- Final Form 1F due within 60 days of leaving position of trustee

KEY FORM 1 DISCLOSURE INFORMATION

- **Beginning in 2024** and thereafter the only manner of calculating reportable interests is the **Dollar Value Threshold** method
- **Dollar Value Threshold:**
 - Disclose primary sources of income over \$2,500
 - Secondary sources of income
 - Liabilities over \$10,000
 - Real property **in Fla.**
 - Intangible personal property over \$10,000

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.
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- ☐ 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.

Misuse of Public Position

s. 112.313(6), F.S.

All public officers and employees 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.



NEW

Prohibited Disproportionate Benefit

- Article II, Section 8 of the Florida Constitution.
- Effective **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.