

# CASE Collaborative Mandated Legal Training 2020-2021

Ethics Summary  
of  
Conflict of Interest Law



## What is the Conflict of Interest Law?

- The Conflict of Interest law seeks to prevent conflicts between private interests and public duties, foster integrity in public service, and promote the public's trust and confidence in that service by placing restrictions on what municipal employees may do on the job, after hours, and after leaving public service

## Who has to complete the online training?

- Every state, county, and municipal employee must must complete the online training program once every 2 years.
- Do I have to do this if I am a volunteer?
  - Anyone performing services for a city or town or holding a municipal position, whether paid or unpaid, including full- and part-time municipal employees, elected officials, volunteers, and consultants, is a municipal employee under the conflict of interest law.

## On the Job Restrictions

- Bribes
  - Asking for and taking bribes is prohibited.
  - A bribe is anything of value corruptly received by a municipal employee in exchange for the employee being influenced in his official actions. Giving, offering, receiving, or asking for a bribe is illegal.
  - Bribes are more serious than illegal gifts because they involve corrupt intent. Bribes of any value are illegal.

## On the Job Restrictions

- Gifts and gratuities
- Asking for or accepting a gift because of your official position, or because of something you can do or have done in your official position, is prohibited.
- Municipal employees may not accept gifts and gratuities valued at \$50 or more
  - Meals, entertainment event tickets, golf, gift baskets, and payment of travel expenses can all be illegal gifts if given in connection with official action or position, as can anything worth \$50 or more. A number of smaller gifts together worth \$50 or more may also violate these sections.

## On the Job Restrictions

- Misuse of position
  - Using your official position to get something you are not entitled to, or to get someone else something they are not entitled to, is prohibited. Causing someone else to do these things is also prohibited.
  - Can use an official position to get something worth \$50 or more that would not be properly available to other similarly situated individuals.
  - Similarly, can not use her official position to get something worth \$50 or more for someone else that would not be properly available to other similarly situated individuals.
  - Causing someone else to do these things is also prohibited.

## On the Job Restrictions

- Self-dealing and nepotism
  - Participating as a municipal employee in a matter in which you, your immediate family, your business organization, or your future employer has a financial interest is prohibited.
  - Can not participate in any particular matter in which he or a member of his immediate family (parents, children, siblings, spouse, and spouse's parents, children, and siblings) has a financial interest.
  - Can not participate in any particular matter in which a prospective employer, or a business organization of which he is a director, officer, trustee, or employee has a financial interest.
    - Participation includes discussing as well as voting on a matter, and delegating a matter to someone else.

## On the Job Restrictions

- Self-dealing and nepotism
  - A financial interest may create a conflict of interest whether it is large or small, and positive or negative. In other words, it does not matter if a lot of money is involved or only a little. It also does not matter if you are putting money into your pocket or taking it out.
  - If you, your immediate family, your business, or your employer have or has a financial interest in a matter, you may not participate.
  - The financial interest must be direct and immediate or reasonably foreseeable to create a conflict.
  - Financial interests which are remote, speculative or not sufficiently identifiable do not create conflicts.

## On the Job Restrictions

- False claims
  - Presenting a false claim to your employer for a payment or benefit is prohibited, and causing someone else to do so is also prohibited.
  - A municipal employee may not present a false or fraudulent claim to his employer for any payment or benefit worth \$50 or more, or cause another person to do so.

## On the Job Restrictions

- Appearance of conflict
  - Acting in a manner that would make a reasonable person think you can be improperly influenced is prohibited.
  - A municipal employee may not act in a manner that would cause a reasonable person to think that she would show favor toward someone or that she can be improperly influenced.

## On the Job Restrictions

- Appearance of conflict
  - A municipal employee must consider whether her relationships and affiliations could prevent her from acting fairly and objectively when she performs her duties for a city or town.
  - If she cannot be fair and objective because of a relationship or affiliation, she should not perform her duties.
  - However, a municipal employee, whether elected or appointed, can avoid violating this provision by making a public disclosure of the facts. An appointed employee must make the disclosure in writing to his appointing official.

## On the Job Restrictions

- Confidential information
  - Improperly disclosing or personally using confidential information obtained through your job is prohibited.
  - Municipal employees may not improperly disclose confidential information, or make personal use of non-public information they acquired in the course of their official duties to further their personal interests.

## After-Hours Restrictions

- Taking a second paid job that conflicts with the duties of your municipal job is prohibited.
- A municipal employee may not accept other paid employment if the responsibilities of the second job are incompatible with his or her municipal job.

## After-Hours Restrictions

- Divided loyalties
  - Receiving pay from anyone other than the city or town to work on a matter involving the city or town is prohibited. Acting as agent or attorney for anyone other than the city or town in a matter involving the city or town is also prohibited whether or not you are paid.

## After-Hours Restrictions

- Divided loyalties.
  - Because cities and towns are entitled to the undivided loyalty of their employees, a municipal employee may not be paid by other people and organizations in relation to a matter if the city or town has an interest in the matter.
  - In addition, a municipal employee may not act on behalf of other people and organizations or act as an attorney for other people and organizations in which the town has an interest. Acting as agent includes contacting the municipality in person, by phone, or in writing; acting as a liaison; providing documents to the city or town; and serving as spokesman.

## After-Hours Restrictions

- Divided loyalties.
  - A municipal employee may always represent his own personal interests, even before his own municipal agency or board, on the same terms and conditions that other similarly situated members of the public would be allowed to do so. A municipal employee may also apply for building and related permits on behalf of someone else and be paid for doing so, unless he works for the permitting agency, or an agency which regulates the permitting agency.

## After-Hours Restrictions

- Inside track.
  - Being paid by your city or town, directly or indirectly, under some second arrangement in addition to your job is prohibited, unless an exemption applies.
  - A municipal employee generally may not have a financial interest in a municipal contract, including a second municipal job.
  - A municipal employee is also generally prohibited from having an indirect financial interest in a contract that the city or town has with someone else.
  - This provision is intended to prevent municipal employees from having an “inside track” to further financial opportunities.

## After you leave municipal employment.

- Forever ban
  - After you leave your municipal job, you may never work for anyone other than the municipality on a matter that you worked on as a municipal employee.
  - If you participated in a matter as a municipal employee, you cannot ever be paid to work on that same matter for anyone other than the municipality, nor may you act for someone else, whether paid or not.
  - The purpose of this restriction is to bar former employees from selling to private interests their familiarity with the facts of particular matters that are of continuing concern to their former municipal employer.
  - The restriction does not prohibit former municipal employees from using the expertise acquired in government service in their subsequent private activities.

## After you leave municipal employment

- One year cooling-off period
  - For one year after you leave your municipal job you may not participate in any matter over which you had official responsibility during your last two years of public service.
  - Former municipal employees are barred for one year after they leave municipal employment from personally appearing before any agency of the municipality in connection with matters that were under their authority in their prior municipal positions during the two years before they left.

## After you leave municipal employment

- Partners
  - Your partners will be subject to restrictions while you serve as a municipal employee and after your municipal service ends.
  - Partners of municipal employees and former municipal employees are also subject to restrictions under the conflict of interest law.
  - If a municipal employee participated in a matter, or if he has official responsibility for a matter, then his partner may not act on behalf of anyone other than the municipality or provide services as an attorney to anyone but the city or town in relation to the matter.

# Next Steps

- The next step in the completion of this mandated training is to participate in an online training developed by the State's Ethics Commission. **You only need to complete this once every 2 years.**
  - Website:  
<http://www.muniprogram.eth.state.ma.us/>
  - Plan for 30 minutes for completion of the online training. Print the "State Ethics Commission Receipt" that you will receive at the end of the training, sign it and submit it along with your Mandated Training Affidavit.
- Review the Summary of the Conflict of Interest Law for State Employees
  - Sent via email to all employees