



# Massachusetts Mandated Ethics Training: Summary of the Conflict of Interest Law 2013-2014



Concord Public Schools  
Concord-Carlisle Regional School District

# 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 complete the online training program prepared by the Commission.
- ▶ 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

---

- ▶ **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/her 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 & Gratuities

---

- ▶ 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: Gifts & Gratuities (cont.)

---

- ▶ In general, a public employee may not accept any gift worth \$50 or more that is given because of the position he or she holds. Public employees may accept gifts that are worth less than \$50, but they have to disclose in writing that they have done so if, based on the specific circumstances, a reasonable person would think that the public employee might unduly show favor to the giver or the giver's child, or be influenced by the giver.
- ▶ The law prohibits gifts to public employees, not gifts to public agencies. You may give gifts to a public school, or a particular classroom, and the \$50 limit does not apply. Your school district may have its own additional rules about gifts, which you should follow.
- ▶ Example: A Parent-Teacher Organization wants to give \$75 gift cards to teachers to buy classroom supplies. The teachers may accept the gift cards but must use them to buy classroom supplies, and should keep receipts to show that they did so. Supplies bought with the gift cards are the property of the school, not the teachers.



# On the Job Restrictions: New Exemption

---

- ▶ **Class Gift(s):** The Ethics Commission recently created an exemption to permit class gifts to teachers. A teacher may accept a gift, or several gifts during the school year, from public school students and/or their parents and guardians, with an aggregated value of up to \$150, if the gift is identified only as being from the class, and the identity of the givers and the individual amounts given are not identified to the recipient.
- ▶ Gifts received pursuant to this exemption are not required to be disclosed. The donor is unknown, so a reasonable person would not conclude that the gift would influence the teacher's conduct with regard to any individual or would cause the teacher to favor any individual.
- ▶ **Example:** A teacher has a class with 23 students. Parents of 20 of the students collect money and give the teacher a \$150 gift certificate to a book store, indicating that it is a class gift. The teacher may accept the \$150 class gift certificate and no disclosure is required. The teacher may not knowingly accept any additional gift from any of the parents who participated in the class gift.



# On the Job Restrictions: New Exemption (cont.)

---

- ▶ Individual Gift(s): A teacher may accept a class gift and also individual gifts from persons who did not contribute to the class gift. Unlike class gifts, which are not required to be disclosed, individual gifts must be disclosed if, based on the specific circumstances, a reasonable person might think that the teacher's actions would be influenced by the gift.
- ▶ Example: A child who did not participate in the class gift gives a plate of homemade cookies to the teacher. The teacher may accept the cookies, and no disclosure is required, because a reasonable person would not think that the teacher would be influenced by a gift that has no retail value. Similarly, a teacher would not be required to disclose acceptance of other homemade food items, hand-picked (not purchased) bouquets of flowers, and handmade gifts, candy, or other gift items worth less than \$10, because a reasonable person would not think that the teacher might unduly show favor to the giver of such gifts or the giver's child, or be influenced by the giver.
- ▶ Example: Parents of a child who did not contribute to a class gift and whose child is awaiting a college recommendation gives the teacher who is writing the recommendation a bottle of wine worth \$40. The teacher must disclose the gift in writing to her appointing authority, because a reasonable person might think that such a gift might influence the teacher to write a better recommendation for the student.



# On the Job Restrictions: Misuse of Position

---

- ▶ 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.
- ▶ Cannot use an official position to get something worth \$50 or more that would not be properly available to other similarly situated individuals.
- ▶ Similarly, cannot use his/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 & Nepotism

---

- ▶ 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.
  - ▶ Cannot participate in any particular matter in which he/she or a member of his/her 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/she 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 & Nepotism (cont.)

---

- ▶ 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

---

- ▶ 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

---

- ▶ 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 (cont.)

---

- ▶ 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

---

- ▶ 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: Second Paid Job

---

- ▶ 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

---

- ▶ 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 (cont.)

---

- ▶ 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 (cont.)

---

- ▶ 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

---

- ▶ **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 (cont.)

---

- ▶ 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 (cont.)

---

- ▶ 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.



# QUESTIONS?

---

- ▶ Call the State Ethics Commission at (617) 371-9500 and ask to speak to the Attorney of the Day.



# 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.
  - ▶ Website:
    - ▶ <http://www.muniprogram.eth.state.ma.us/>
- ▶ Allow for 30 minutes to complete 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.
- ▶ The online training is required every two years.
- ▶ If you are newly hired, you have 30 days to complete the online training.



# End of the presentation.

---

