

The Louisiana Code of Governmental Ethics

Transition Team - 2018





The Code of Governmental Ethics:

What do I need to know?

How does it affect me?

WHAT IS THE PURPOSE OF THE CODE OF GOVERNMENTAL ETHICS?



ADDRESSES CONFLICTS OF INTEREST



POLICY GOALS (SECTION 1101)

- Elected officials and public employees be independent and impartial
- Governmental decisions and policy be made through the proper channel
- Public office and employment not be used for private gain
- Public confidence in the integrity of Government

Do I need to file a Personal Financial Disclosure (PFD) report?

The following are required to file a personal financial disclosure statement with the Board of Ethics:

- ✦ **All elected officials**, who are subject to the Code of Ethics
- ✦ **Members of boards and commissions, and any designees thereof**, that have the authority to expend, invest, or disburse more than \$10,000 in a year
 - **Board or commission** means an entity created by the constitution, by law, by a political subdivision, or jointly by two or more political subdivisions, or jointly by 2 or more political subdivisions as a governing authority of a political subdivision

What type of PFD report do I need to file?

TIER 1

Statewide elected officials

TIER 2.1

Members of certain boards and commissions

TIER 2

Elected officials who represent a voting district with a population of 5,000, and all state legislators

TIER 3

Elected officials who represent a voting district with a population less than 5,000 and charter school board members

**SCHEDULE E
INCOME**

1. Check if Not Applicable.
The name, address, type, nature of services rendered, and amount of each source of income in excess of \$1,000 received by you or your spouse.
NOTE: If the income is derived from professional or consulting services and the disclosure of the name or address of the source of income is prohibited by law or by professional code, such income should be disclosed on Schedule F.
DO NOT include income derived from child support and alimony payments contained in a court order OR from disability payments from any source. INCOME SHALL BE REPORTED BY CATEGORY.
DO NOT INCLUDE INFORMATION WITH RESPECT TO INCOME DISCLOSED ON SCHEDULE D.

☐ **File** ☐ **Spouse**

Amount of Income: ☐ I ☐ II ☐ III ☐ IV ☐ V ☐ VI

Name of Source of Income _____ Type: _____

Address _____
Street _____ Suite # _____
City _____ State _____ Zip Code _____

Nature of Services Rendered _____

☐ **File** ☐ **Spouse**

Amount of Income: ☐ I ☐ II ☐ III ☐ IV ☐ V ☐ VI

Name of Source of Income _____ Type: _____

Address _____
Street _____ Suite # _____
City _____ State _____ Zip Code _____

Nature of Services Rendered _____

When do I need to file a PFD report?

- ✦ PFDs are due by May 15th and cover activity in the prior calendar year.
- ✦ Must be filed annually during each year of your term of office
- ✦ Must be filed the year following the last year of your term of office
- ✦ Each filer should file only one statement annually, regardless of the number of positions which he holds. The statement corresponding to the highest tier to which the elected official belongs should be filed.

When do I need to file a PFD report? (examples)

Q: I took office in April 2018, do I need to file a PFD by May 15, 2018, even if I did not serve in public office in 2017?

A: Yes, because you served in office sometime between January 1, 2018 and May 15, 2018, you are required to file a PFD by May 15, 2018.

Q: My term of office ended on July 15, 2017. Do I need to file a PFD by May 15, 2018, even though I am not serving in office in 2018?

A: Yes, because you served in office in 2017, you are required to file a PFD that covers calendar year 2017 by May 15, 2018. You are required to file the PFD due the year after your term of office ends.

How do I file my PFD report?

✦ Each filer should file only one statement annually, regardless of the number of positions which he holds. The statement corresponding to the highest tier to which the elected official belongs should be filed. (Hierarchy: Tier 1, 2, 2.1 and 3.)

✦ Filing methods:

- Electronic – Using the LEADERS system
- File upload – scan and upload through following link on the Board's website: <https://eap.ethics.la.gov/FileUpload/>
- Fax – 225/381-7271
- Mail – P. O. Box 4368, Baton Rouge, LA 70821
- Hand-deliver – 617 N. 3rd Street, Baton Rouge

What happens if I do not file my PFD report by May 15?

- ✦ A notice of delinquency will be sent by certified mail.
- ✦ If the notice of delinquency is not accepted by certified mail, the notice will be served by state police.
- ✦ You have 7 business days from receipt of notice to file without penalty.
- ✦ If report is not filed within 7 days from receipt of notice, per day late fees will be assessed.
 - Tiers 1 and 2 - \$100/\$2,500
 - Tiers 2.1 and 3 - \$50/\$1,500
- ✦ Same process is followed for reports not accurately filed.

Are there other reports I need to file?

Section 1114 Disclosure

A public servant, or the immediate family member of a public servant, who derives any thing of economic value through a person who is :

- Regulated by the public servant's agency, or
- Has bid on or entered into or is in any way financially interested in any contract, subcontract or other transaction under the supervision or jurisdiction of the public servant's agency

MUST disclose the amount of income received to the Board of Ethics

What is my agency?

- ✦ “Agency” means a department, office, division, agency, commission, board, committee, or other organizational unit of a governmental entity.
- ✦ For members of a governing authority (city council) and the elected or appointed chief executive of a governmental entity (mayor), it shall mean the governmental entity.
- ✦ “Governmental entity” means the political subdivision to which the elected official is elected.
- ✦ For a public servant of a political subdivision, it shall mean the agency in which the public servant serves.
- ✦ “Governmental entity” means the political subdivision which employs the public servant.

CAN I RECEIVE A GIFT?

The questions you
need to ask yourself:



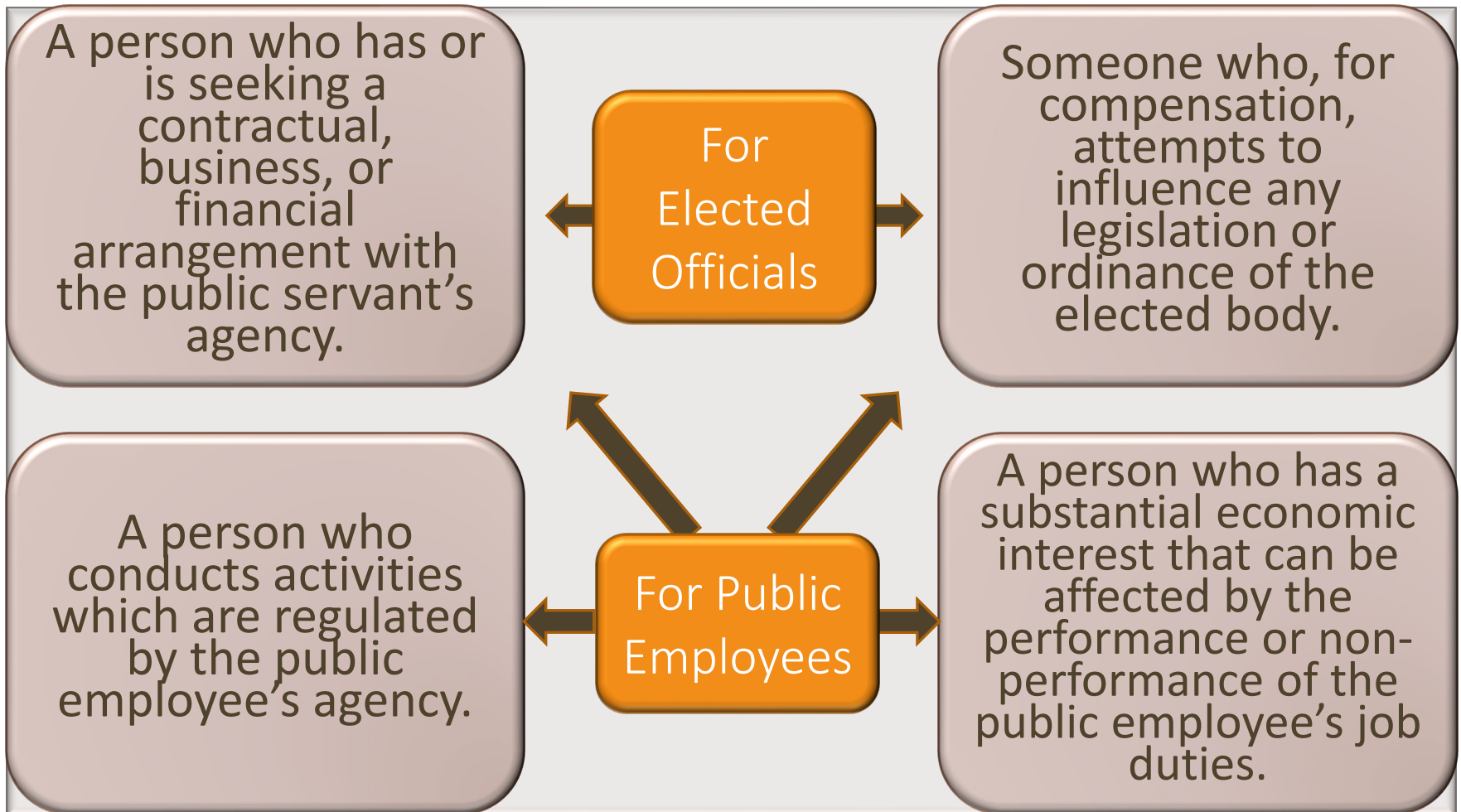
❖ Who is it from?

❖ Why are they giving it to me?



WHO IS GIVING ME THE GIFT?

- ✿ A public servant may not solicit or accept any thing of economic value as a gift or gratuity from a person that is a “**prohibited source.**”
- ✿ Prohibition extends to officers, directors, agents, or employees of persons who are prohibited sources.

A “PROHIBITED SOURCE” IS...



WHY ARE THEY GIVING ME THE GIFT?

-  A public servant may not receive any thing of economic value, other than compensation and benefits from the governmental entity to which he is duly entitled, for the performance of the duties and responsibilities of his office or position.
-  Prohibition applies to receiving a thing of economic value from either a public or a private source.

WHAT IS A THING OF ECONOMIC VALUE?

- ✿ A thing of economic value includes both tangibles and intangibles
- ✿ No minimum value
- ✿ Common examples:

**Tickets/Complimentary
admission**

Gift Cards

Discounts

Trips



PROMOTIONAL ITEMS HAVING NO SUBSTANTIAL RESALE VALUE ARE ALLOWED

ITEM MUST be imprinted
with a logo of a
business or an
organization

ITEM MUST have a minimal
value
an item of a
more substantial
retail value is
not considered a
promotional
item

EXAMPLES pens, pencils,
notepads, t-
shirts, caps, key
chains, cups

FOOD AND DRINK IS ALLOWED WHEN...

- ✿ It is consumed in the presence of the provider or representative of the company/organization that is providing.
- ✿ The exception allows a public servant to receive transportation and entertainment which is incidental to the food and drink.
- ✿ Gift cards and gift certificates for food or drink are not part of the exception for food and drink.

IS THERE A DOLLAR LIMIT ON THE FOOD AND DRINK?

✦ The limitation on the total dollar value of food and drink which a public servant may be given at a single event is \$60 per public servant per event.

An “event” is a single activity, occasion, reception, meal, or meeting at a given place and time.

✦ The food and drink dollar limitation is calculated by dividing the total cost of the food and drink by the total number of persons invited to the event.

✦ The dollar limitation does not include tax or gratuity.



DOLLAR LIMIT EXCEPTION

Dollar limitation on food and drink does NOT apply at:

A gathering held in conjunction with a meeting related to a national or regional organization or a meeting of a statewide organization of governmental officials or employees provided that at least ten persons associated with the organization are invited to the gathering.

“In conjunction” means an event held during the same time period and in the same general locale as a meeting of such an organization, or as part of the scheduled activities of the meeting and open to all persons attending the meeting.

COMPLIMENTARY ADMISSION EXCEPTION

- ✦ Admission to a civic, non-profit, educational or political event, if the public servant is a program honoree, giving a speech, or a panel member participating in a debate or discussion at the event
- ✦ Admission to a fundraising event for a candidate or a political party
- ✦ A public servant under the supervision of an elected official may receive complimentary admission to assist the elected official if such assistance is a part of the public servant's ordinary job duties
- ✦ Does NOT include admission to any professional, semi-professional, or collegiate sporting event



COMPLIMENTARY ADMISSION EXCEPTION (continued)

A public servant may receive complimentary admission to a fundraising event held by or for the benefit of an educational institution or by or for the benefit of a nonprofit organization which conducts educational programs.

May I accept travel and lodging?

1st: Ask yourself whether a provision of the Ethics Code prohibits me from receiving the travel?

2nd: If the answer to the question is yes, then . . .

You may accept complimentary admission, reasonable lodging and transportation to an **educational, professional development seminar** or **conference** which is held within the U.S. or Canada and which is related to your public job duties of the public servant, provided that :

Educational and professional development seminars and conferences in the U.S. or Canada . . .

1. You are invited to attend by the sponsoring civic, nonprofit, educational, or political group or organization;
2. The sponsor is not a prohibited source seeking to influence legislation by your agency;
3. Your agency head approves the acceptance of travel, lodging and admission to the seminar/conference; and,
4. An affidavit is filed with Board of Ethics within 60 days, which includes the actual amount expended on your behalf.
 - No affidavit is required if your agency or governmental entity pays for your expenses to attend the seminar.

WHO CAN I WORK FOR IN MY PRIVATE CAPACITY?

NOT PROHIBITED SOURCES

A public servant, his spouse, or a legal entity which the public servant or the spouse exercises control, or owns an interest greater than 25%,

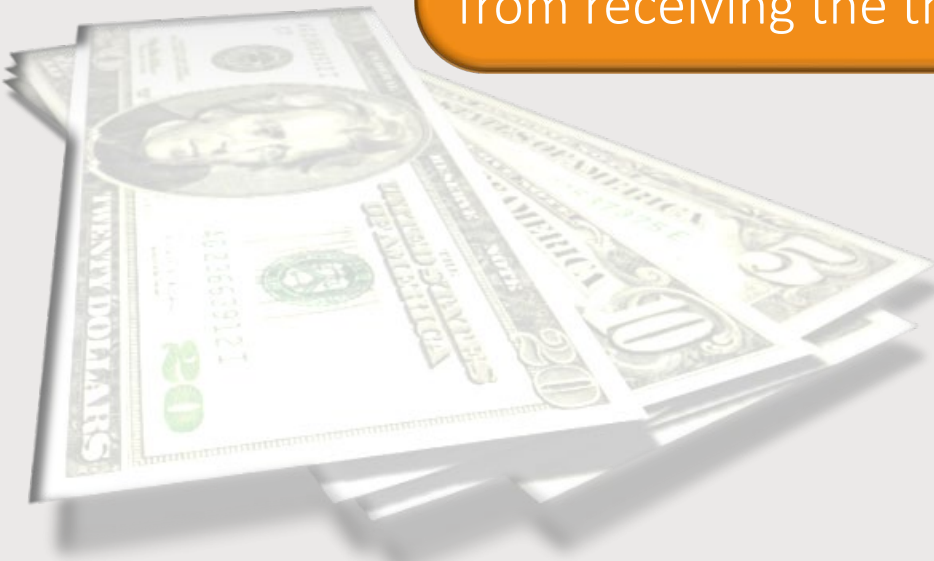
MAY NOT

Receive any thing of economic value for or in consideration of services which are performed for or compensated by a person from whom the public servant is prohibited from receiving a gift.

Service includes the performance of work, duties, or responsibilities, or the leasing, rental, or sale of movable or immovable property, which would include employment, contractual work, and selling property and goods.

IF I CANNOT RECEIVE IT, THE PERSON CANNOT GIVE IT.

R.S. 42:1117 prohibits a public servant or other person from giving a public servant or other person a thing of economic value, if the Ethics Code prohibits the public servant or other person from receiving the thing of economic value.



PROHIBITED TRANSACTIONS WITH AGENCY

For elected officials and employees

- ✿ A public servant,
- ✿ A public servant's immediate family member, and
- ✿ Legal entity in which the public servant and/or his immediate family members (collectively or separately) have an ownership interest exceeding 25%

MAY NOT

Bid on, or enter into, any contract, subcontract, or other transaction under the supervision or jurisdiction of the public servant's agency.

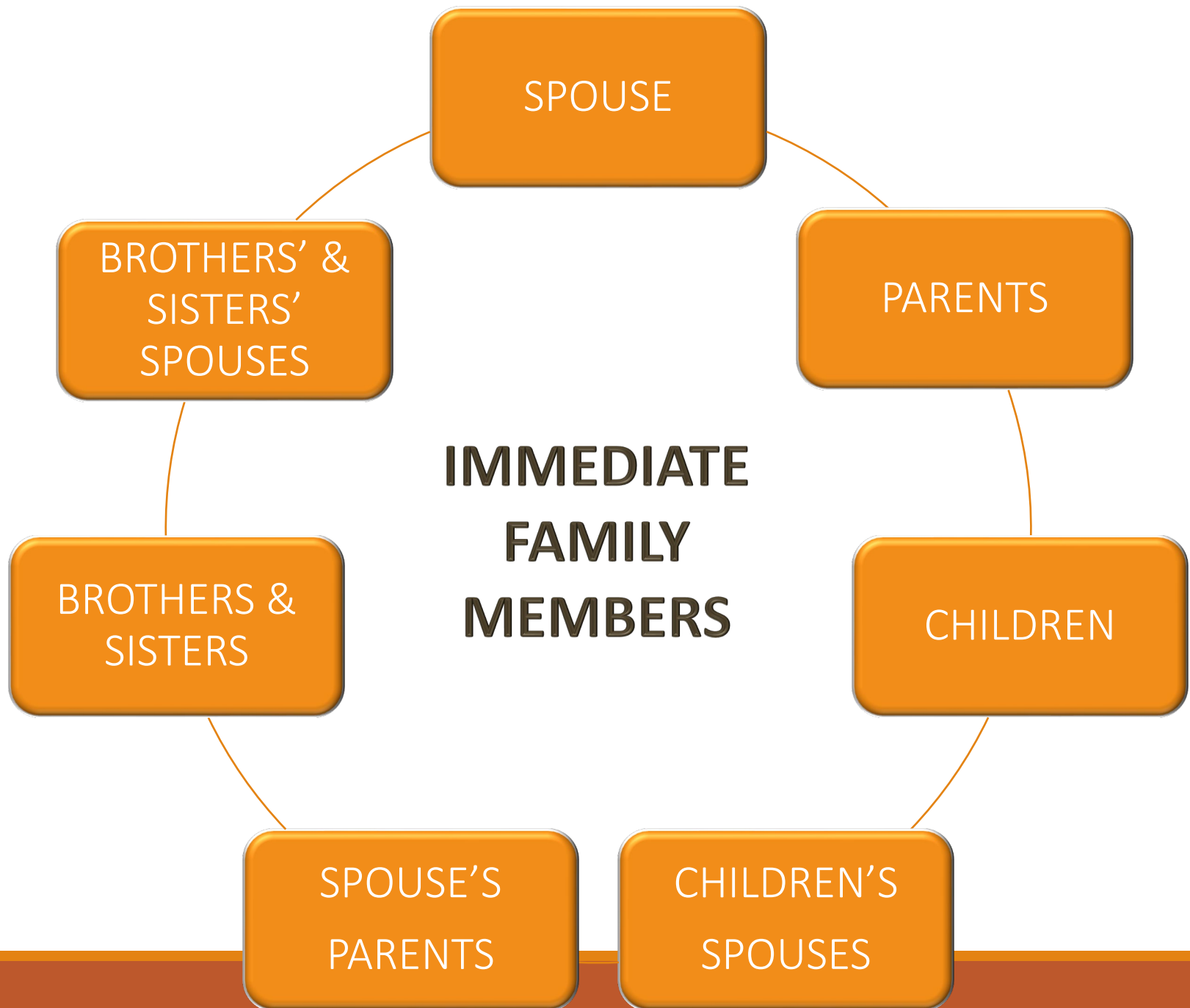
PROHIBITED TRANSACTIONS WITH AGENCY

For appointed members of board and commissions

- ✿ An appointed member of board or commission
- ✿ His immediate family members, and
- ✿ Legal entities in which the appointed member and/or his immediate family members (collectively or separately) have a substantial economic interest (can be less than 25%)

MAY NOT

Bid on, enter into, or be **in any way interested** in any contract, subcontract, or other transaction under the supervision or jurisdiction of the board or commission.



PARTICIPATION – SECTION 1112

A public servant **may not** participate in a transaction involving the governmental entity in which the public servant or one of the following persons has a substantial economic interest:

A public servant's immediate family members.

Any person of which the public servant is an officer, director, trustee, partner, or employee; or, in which the public servant has a substantial economic interest.

Any person with whom the public servant is negotiating or has a contract concerning prospective employment.

Any person who is a party to an existing contract with or owes any thing to the public servant (or legal entity the public servant exercises control or owns in excess of 25%) , and who thereby can affect the economic interest of the public servant.

PARTICIPATION – SECTION 1112

What does it mean to “Participate” in a transaction?

“Participate” means to take part in, or have or share responsibility, for an action of the governmental entity or a proceeding, personally, as a public servant of the governmental entity through:

- Approval
- Disapproval
- Decision
- Recommendation
- Rendering of advice
- Investigation
- Failure to act or perform a duty

PARTICIPATION – SECTION 1112

What is a “transaction involving the governmental entity”? Any:

- Proceeding
- Application
- Submission
- Request for ruling or other determination
- Contract
- Case
- Claim
- Or other such particular matter which the public servant **knows or should know** is, or will be, the subject of action by the governmental entity, to which the governmental entity will be a party, or in which the governmental entity has a direct interest

PARTICIPATION – SECTION 1112

What is a “substantial economic interest”?

- ✦ An economic interest which is of greater benefit to the public servant or other persons than to a general class or group of persons
- ✦ A substantial economic interest does **NOT** include:
 - A public servant’s interest in his own position, office, rank, salary, per diem or other matter
 - An interest that a person has as a member of the general public

HOW DO I AVOID A PARTICIPATION VIOLATION?

Elected Officials:

Recuse self from the vote.

Can still participate in debate and discussion, if discloses his conflict on the record of his agency prior to participation in discussion and debate and prior to vote.

Appointed board members/ commissioners:

Recuse from vote.
Do not participate in debate and discussion

Public Employees:

Do not participate. File a disqualification plan with the Board.

CAN I HIRE MY FAMILY MEMBER?

No member of the immediate family of an **agency head** shall be employed in his agency.

An “agency head” is the chief executive or administrative officer of an agency, or any member of a board or commission that exercises supervision or jurisdiction over an agency.

Persons held liable for a willful violation of nepotism provisions:

- **Agency head**
- **Member of the governing authority**
- **Person having authority to hire and fire**
- **Immediate supervisor**



NEPOTISM EXCEPTION

The nepotism rules do not prohibit:

The continued employment and normal promotional advancement of a public employee, provided the public employee has been employed by the agency for at least **one year** prior to the public employee's immediate family member becoming the agency head.

WHAT CAN I DO AFTER I LEAVE OFFICE?

Every elected official and public employee is subject to certain post employment restrictions after the end of his term of office or employment

All post employment restrictions in the Code of Ethics are in effect for a period of **two** years following the end of his public service

POST EMPLOYMENT RESTRICTIONS: AGENCY HEADS AND ELECTED OFFICIALS

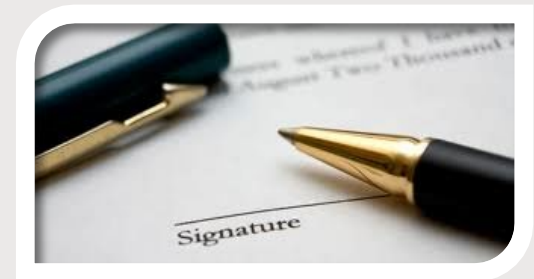
✪ A former agency head/elected official shall not, for a period of two years following the termination of his public service:

- Assist another person, for compensation, in a transaction, or in an appearance in connection with a transaction, involving that agency, or
- Render any service on a contractual basis to or for such agency


POST EMPLOYMENT RESTRICTIONS: MEMBERS OF BOARDS AND COMMISSIONS

✪ A former member of a board or commission (which would include a collective governing body such as a city council) shall not, for a period of two years following the termination of his public service on such board or commission:

- Contract with;
- Be employed in any capacity by; or,
- Be appointed to any position by that board or commission.



POST EMPLOYMENT RESTRICTIONS: PUBLIC EMPLOYEES

-  A former public employee shall not, for a period of two years following the termination of his public service:
- Assist another person, for compensation, in a transaction, or in an appearance in connection with a transaction, involving his former governmental entity, and in which he participated during his public employment; or,
 - Render any service on a contractual basis to or for such agency, when he rendered such service during his public employment.

WHAT DO I DO IF I HAVE A QUESTION ABOUT SOME ACTION I WANT TO TAKE?

You may request an advisory opinion. You must be the person that is the subject of the opinion request.

Request must be submitted in writing

Request should be submitted prior to taking action

Advisory opinions and requests for opinions are public record and considered by the Board at its monthly meeting.

HOW DO I ASK THE BOARD TO LOOK INTO WHAT SOMEONE ELSE DID?

Any person who is at least 18 years of age or older who is qualified to vote may submit a complaint

May be sworn or non-sworn

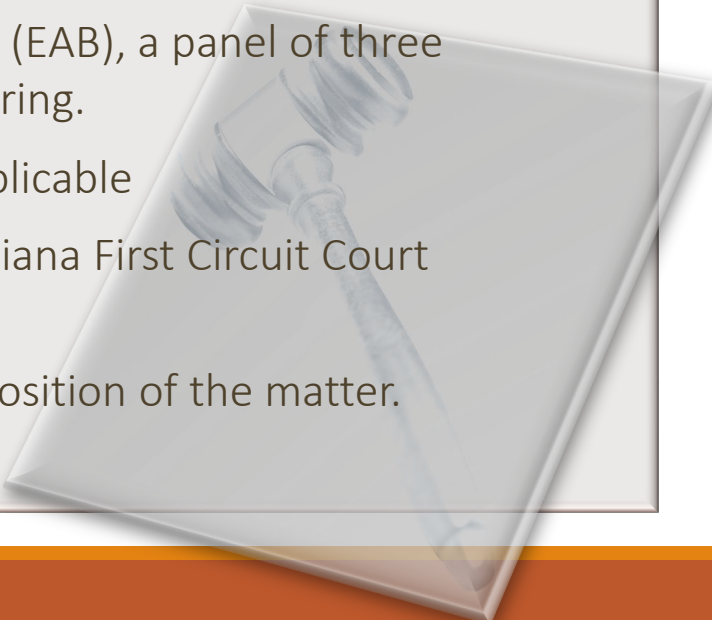
Must be written and signed

Issue must have occurred within the past 4 years

Agency heads are required to report any potential issues (Section 1161)



WHAT HAPPENS TO MY COMPLAINT?

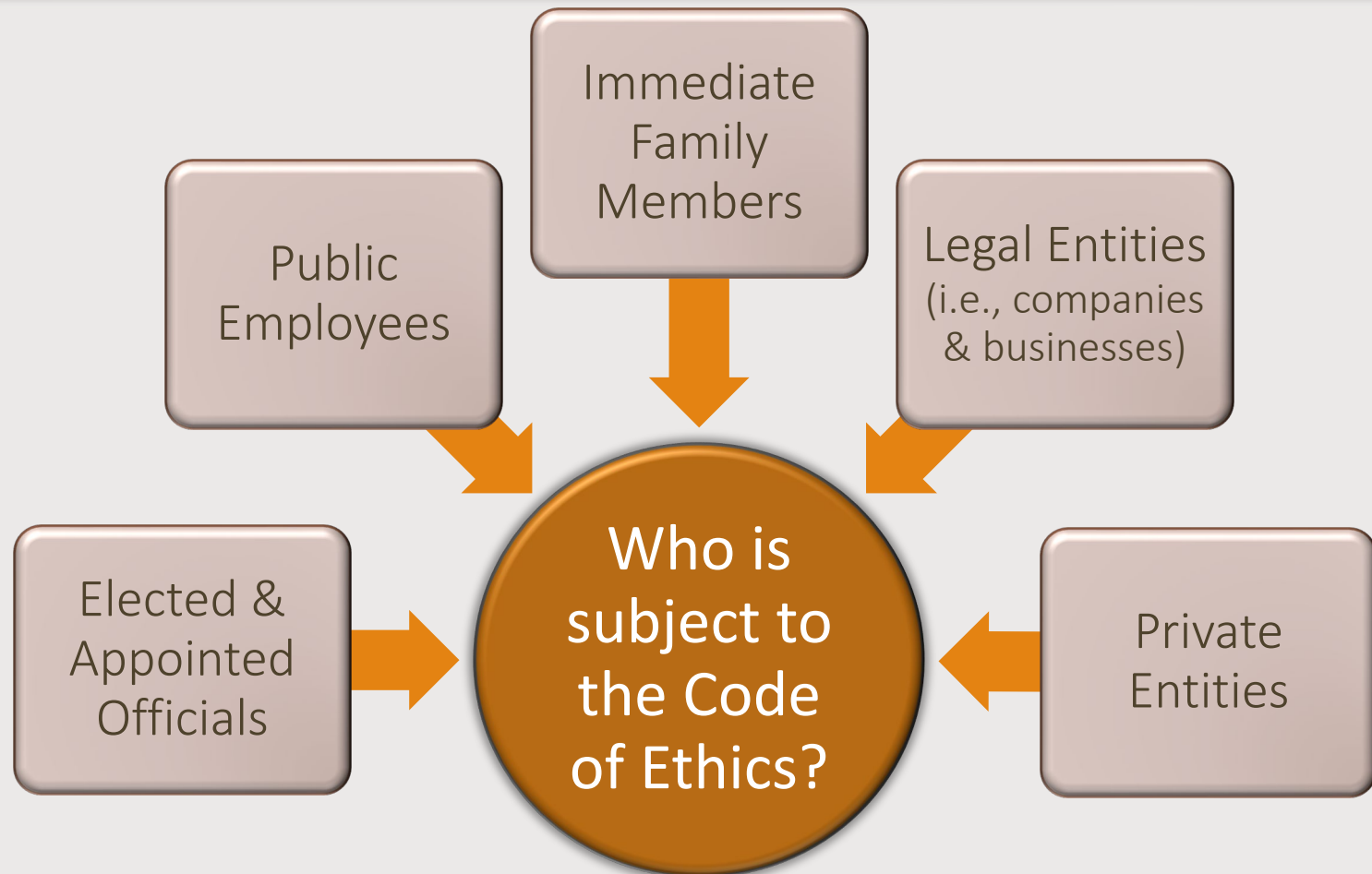
- ✦ Considered by the Board of Ethics during its executive meeting, which is closed to the public. If the Board refers a matter to investigation, the investigation is confidential;
 - ✦ If a person is referred to investigation, he is provided with a copy of the complaint with your name and signature removed.
 - ✦ After the investigation, if the Board believes a law under its jurisdiction has been violated, charges may be issued.
 - ✦ Charges are filed with the Ethics Adjudicatory Board (EAB), a panel of three administrative law judges who will conduct a public hearing.
 - ✦ EAB issues opinions and determines penalties, if applicable
 - ✦ Respondent may appeal EAB decision with the Louisiana First Circuit Court of Appeal
 - ✦ As the complainant, you are notified of the final disposition of the matter.
- 

IF SOMEONE VIOLATES THE CODE, WHAT CAN BE DONE?

PENALTIES:

- ✠ Censure
- ✠ Fine of up to \$10,000, or amount of economic gain plus additional 50%
- ✠ Forfeiture of gifts and payment
- ✠ Remove, suspend, or order a reduction in pay, or demotion of the public employee

IN SUMMARY



HOW DO I GET MORE INFORMATION?



Ethics Website:

ethics.la.gov



Informal Advice:

(225) 219-5600

or

(800) 842-6630

