

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

ETHICS AND ELECTIONS
Senator Latvala, Chair
Senator Sobel, Vice Chair

MEETING DATE: Monday, November 4, 2013

TIME: 4:00 —6:00 p.m.

PLACE: *Pat Thomas Committee Room, 412 Knott Building*

MEMBERS: Senator Latvala, Chair; Senator Sobel, Vice Chair; Senators Benacquisto, Braynon, Clemens, Diaz de la Portilla, Flores, Gardiner, Joyner, Lee, Legg, Soto, and Thrasher

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	Update on Project Integrity The Honorable Ken Detzner, Secretary of State Florida Department of State		Presented
2	Presentation on the implementation of CS/SB 2 (Ch. 2013-36) relating to Ethics and Legislative Priorities for 2014 Virindia Doss, Executive Director Florida Commission on Ethics		Presented
3	Presentation and discussion relating to local independent ethics commissions Steven P. Cullen, Esq., Executive Director Palm Beach County Commission on Ethics Joseph M. Centorino, Esq., Executive Director Miami-Dade County Commission on Ethics and Public Trust Carla Miller, Esq., Director Office of Ethics, Compliance and Oversight City of Jacksonville Ethics Commission		Presented
Other Related Meeting Documents			



Q&A

Who is eligible to register to vote?

In order to be eligible to register and vote in Florida, a person must be:

- A citizen of the United States of America. (A lawful permanent resident is not a U.S. citizen.)
- A Florida resident and resident of the county in which he or she resides.
- 18 years old (a 16-year-old may pre-register to vote, but cannot vote until becomes 18 years old).
- Not now adjudicated mentally incapacitated with respect to voting in Florida or any other state without having the right to vote restored.
- Not have been convicted of a felony without civil rights having been restored.

What records will be compared to create the initial ongoing list of potential ineligible registered non-U.S. citizens?

Existing voter registration records in the Florida Voter Registration System (FVRS) will be compared with the driver's license records in the Florida Department of Highway Safety and Motor Vehicles (DHSMV) Driver and Vehicle Information Database (DAVID) to generate an automated match of potentially ineligible registered voters. The Department of State will not use or rely upon any matches created in the past.

What will those initial potential matches contain?

If a match is found between the two records, the return match will contain a flag as to who is potentially a U.S. citizen and who is potentially a non-U.S. citizen (immigrant or non-immigrant) and whether an alien registration number is available for the non-U.S. citizen.

Is the identification process being directed at any particular group of registered voters on the basis of ethnic and racial grounds?

Florida will be checking the legal status of all registered voters. Additionally, Florida is simply performing its continuous duty under state and federal law to ensure the voter rolls are accurate which duty is a key part of administering elections effectively and fairly. The process is not directed at any group of registered voters. Only eligible voters should be registered. This activity is not distinct from the other routine list-maintenance activities that the Department of State and the Supervisor of Elections conduct year-round even during election cycles whenever it receives or has access to information that a registered voter may be potentially ineligible.

Will the Department of State remove those registered voters automatically?

The Department of State has no authority to remove voters from the rolls. Only the Supervisor of Elections can determine whether a voter is ineligible and remove the voter from the rolls based on the information provided from the Department or obtained from other sources. The Department must first manually evaluate each potential match to determine whether credible and reliable information indicates whether the identified registered voter is a potential non-U.S. citizen and prepare an individualized case file.

What is SAVE and how will the Supervisors of Elections use SAVE to verify non-U.S. citizen status?

SAVE is a federal database called the Systematic Alien Verification for Entitlements (SAVE) Program. It is an electronic, fee-based system operated by the United States Citizens and Immigration Services for the Department of Homeland Security (DHS) to verify a person's immigration status for government benefits, licensing, and other lawful purposes. An alien registration number for the potential non-U.S. citizen is required to conduct these searches. The Department of State first received access to SAVE in August 2012. SAVE is an integral part of the manual review process to verify whether a potentially ineligible registered voter is a non-U.S. citizen. If an alien registration number is available, an individualized search will be conducted for each potential match.

Will the Supervisors of Elections have access to SAVE?

Yes. The Supervisors of Elections will get access to SAVE through authority granted to the Department of State by way of an interagency agreement with the Department of Homeland Security executed in August 2012. In order to receive access, each Supervisor of Elections will enter into an interagency agreement with the Department of State to ensure that the conditions and terms for access, use, and cost under the primary agreement with the Department of Homeland Security are followed.

What will a case file contain?

Once the Department of State initially screens a registered voter as potentially ineligible person, an electronic case file will contain supporting information and documents compiled from the databases for the Florida Voter Registration System (FVRS), the Driver and Vehicle Information Database (DAVID) program, and the Systematic Alien Verification for Entitlements (SAVE) program. The Department of State will then electronically transfer the case to the Supervisor of Elections in the county where the voter is registered.

Will the Supervisor of Elections automatically remove the registered voter?

No. Before any registered voter can be removed from the rolls, the Supervisor of Elections must follow strict due process procedures set out in law. The notice and removal procedures are found in section 98.075(7), F.S., and apply in the same way that they are applied for other categories of registered voters who are identified as potentially ineligible for other reasons such as felony conviction and adjudication of mental incapacity. The voter must receive notice and must have the opportunity to respond before any final determination is made about potential ineligibility and removal.

How will a potentially ineligible registered voter be notified?

A Supervisor of Election must provide actual notice to the voter within 7 days of receiving credible and reliable information about a potentially ineligible registered voter from the Department of State. If a notice is undeliverable, the Supervisor must publish a notice in a newspaper of general circulation in the county. The law requires very specific statements about the registered voter's rights, responsibilities, and the process.

How many days does a registered voter have to respond to a notice?

The potentially ineligible voter has 30 days from the notice to respond and deny or admit that he or she is ineligible. If requested, a voter who denies ineligibility has a right to a hearing.

At what point does an ineligible person get removed from the rolls?

A registered voter can only be removed after the due process has been followed in the notice and removal process under section 98.075(7), F.S., and the Supervisor of Elections has determined based on the information available that the registered voter is ineligible and should be removed officially from the rolls.

May the ineligible person appeal the decision concerning his or her removal from the rolls?

A voter may appeal the Supervisor of Elections' decision to remove the voter from the rolls to the circuit court where the person was registered.

What can a registered voter do if he or she has been misidentified as potentially ineligible?

A registered voter who has been identified as potentially ineligible has the right to respond and present evidence to show that a mistake has been made or why he or she is not ineligible. Additionally, he or she has the right to request a hearing. The important thing is for the registered voter to respond timely to the notice from the Supervisor of Elections. The Supervisor of Elections will work with the registered voter to give him or her time to obtain the necessary documentary proof.

What happens if a voter is removed erroneously or illegally from the rolls?

An erroneously removed voter must be restored to the rolls automatically at any time including after registration deadlines and up to and including Election Day. The voter may show proof to the Supervisor of Elections or obtain a court order upon appeal to circuit court.



FLORIDA DEPARTMENT OF STATE

Proposed Process for Potential Ineligible Registered Non-Citizen

1

Who: Florida Department of State (DOS) and Florida Department of Highway Safety & Motor Vehicle (DHSMV)

What: Automated data match between voter registration records in Florida Voter Registration System (FVRS) and driver licensee records in Driver and Vehicle Information Database (DAVID)

When: Daily for newly registered voters and existing registered voter records

2a

Who: Division of Elections/Bureau of Voter Registration Services

What: Manual initial review process based on automated data match records in 1

- Assign match record to examiner
- Verify identity is same in both records
- Verify legal status data information by cross-checking with REAL ID documents in DAVID
- **Verify through SAVE** (if alien registration number available) (access per DOS-DHS Agreement)
- Cross-checks with secondary sources, if any available
- Prepare electronic case file
- Final review and provide valid potential match case files to Supervisor of Elections

When: Case-by-case; average 1 week to complete

2b

Who: DOS, SOE and U.S. Department of Homeland Security (DHS)

What: **SAVE** (Systematic Alien Verification for Entitlements – SAVE database program) **Verification** (to determine if legal status has changed from non-U.S. citizen to U.S. citizen)

When: Case-by-case individualized fee-based search

3a

Who: Supervisors of Elections (SOE)

What: Notice and right to be heard process under s. 98.075(7), F.S.

- *Recommended* **SAVE verification** before sending notice (access per DOS-SOE SAVE Agreement)
- Notice to voter (actual or if undeliverable, publish in newspaper)
- Opportunity to be heard (30 days for voter to respond to notice for basis of ineligibility and procedure to resolve the matter)
- Hearing if requested by voter denying ineligibility
- *Recommended* **SAVE verification** before making final determination of ineligibility
- Final determination of eligibility or ineligibility
- Removal of ineligible registered non-U.S. citizen (record removal reason in FVRS)

When: Case-by-case; estimated maximum time to complete 120 days

3b

4

Who: Any potential ineligible person

What and when: Due process rights

- Right to notice (initial notice of potential ineligibility) (s. 98.075(7)(a)1., F.S.) (before removal)
- Right to hearing (s. 98.075(7)(a)1.d, F.S.) (before removal)
- Right to notice of removal (after final determination of ineligibility)(s. 98.075(7)(a)5., F.S.) (after removal)
- Right to appeal (circuit court)(s. 98.0755, F.S) (after removal)
- Right to be automatically restored to rolls s. 98.081, F.S.)(at any time upon proof to Supervisor of Elections or court order)

Agencies located in Florida using SAVE

Agency Name	Type of Agency	State Code	Zip Code	Benefit Category
Brevard Police Testing and Selection Center	Local	FL	32935	Badging Agencies / Background Investigatio
Charlotte County Sheriff's Office	Local	FL	33982	Badging Agencies / Background Investigatio
FL Agency for Workforce Innovation	State	FL	32399	Labor
FL Department of Children and Families	State	FL	32399	Health and Social Service
FL Department of Highway Safety and Motor Veh	DMV	FL	32399	Driver's Licenses / Identification Cards
FL Dept of Agriculture and Consumer Services, Di	State	FL	32303	Professional / Commercial Licenses
FL Health Kids Corporation	State	FL	32310	Health and Social Service
Florida Board of Bar Examiners	State	FL	32399	Professional / Commercial Licenses
Florida Department of Elder Affairs	State	FL	32399	Badging Agencies / Background Investigatio
Florida Department of State/Division of Elections	State	FL	32399	Voters Registration
Hardee County Property Appraiser	Local	FL	33873	Tax Exemptions
Hernando County Property Appraiser	Local	FL	34601	Tax Exemptions
Hillsborough County Property Appraiser	Local	FL	33602	Tax Exemptions
Miami Dade County	Local	FL	33128	Tax Exemptions
NASA, John F. Kennedy Space Center	Federal	FL	32796	Badging Agencies / Background Investigatio
Orange County Property Appraiser's Office	Local	FL	32801	Tax Exemptions
Orange County Public Schools, PALMAS Refugee	Local	FL	32801	Education
Palm Beach County Property Appraisers Office	Local	FL	33401	Tax Exemptions
Pasco County Property Appraiser	Local	FL	33526	Tax Exemptions
Pinellas County Property Appraiser	Local	FL	33757	Tax Exemptions

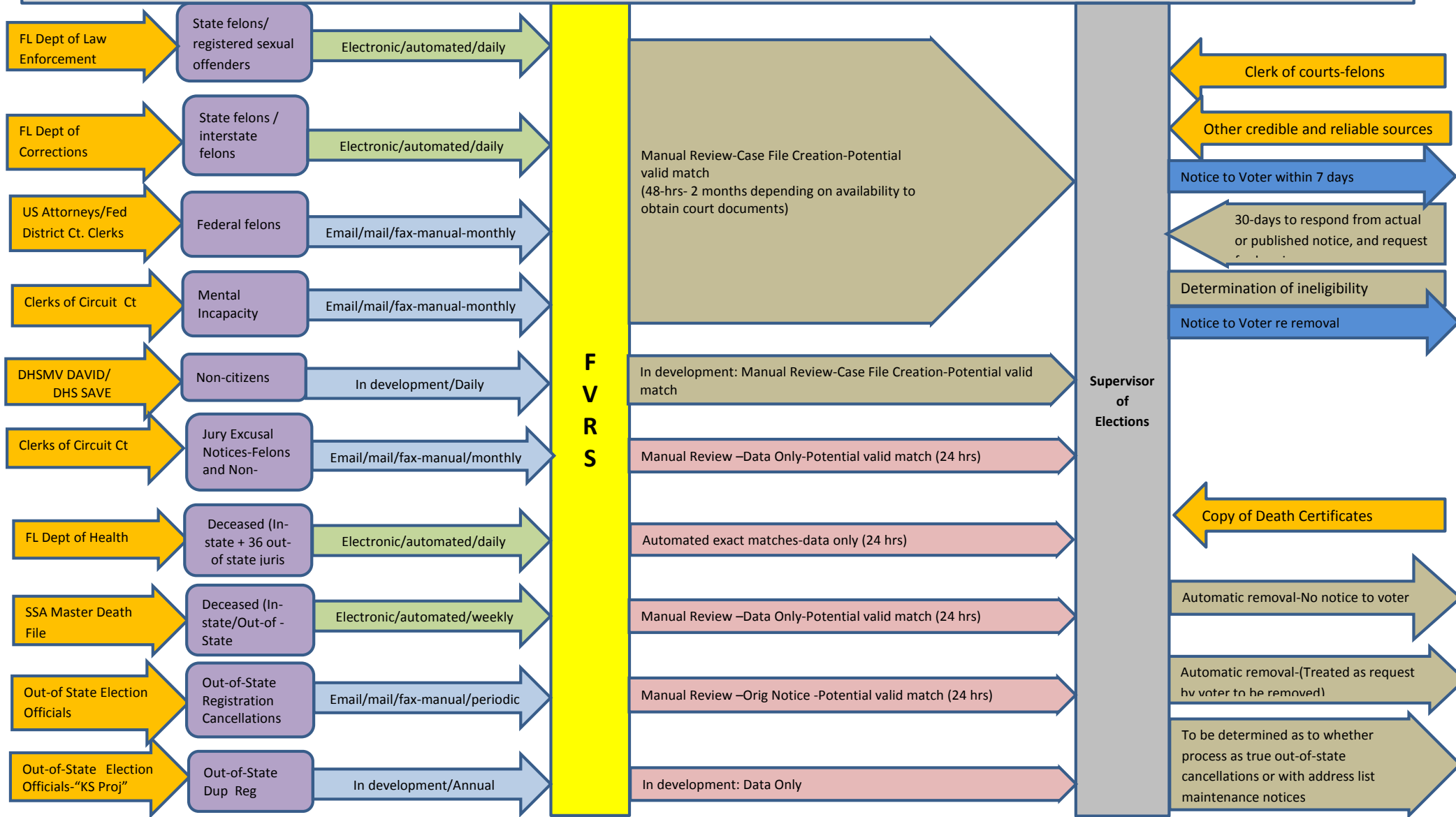
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Processes for Identifying Potentially Ineligible



THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4 November 2013

Meeting Date

Topic Elections - Project Integrity

Bill Number _____
(if applicable)

Name Ken Detzner

Amendment Barcode _____
(if applicable)

Job Title Secretary of State

Address 500 S Bronough St

Phone 245-6524

Street

Tallahassee FL

City

State

Zip

E-mail _____

Speaking: ☐ For ☐ Against ☒ Information

Representing Department of State

Appearing at request of Chair: ☒ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4 November 2013

Meeting Date

Topic Elections

Bill Number _____
(if applicable)

Name Maria Matthews

Amendment Barcode _____
(if applicable)

Job Title Director, Division of Elections

Address 500 S. Bronough St.
Street

Phone 245-6520

Tallahassee FL
City State Zip

E-mail maria.mathews@dos.myflorida.com

Speaking: ☐ For ☐ Against ☒ Information

Representing Dept. of State

Appearing at request of Chair: ☒ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

11/4/13

Meeting Date

Topic ETHICS

Bill Number —
(if applicable)

Name VIRLINDIA DOSS

Amendment Barcode ~
(if applicable)

Job Title EXECUTIVE DIRECTOR

Address 325 John Knox Rd
Street

Phone 488-7864

Tallah, FL 32308
City State Zip

E-mail DOSS.VIRLINDIA@leg.fl.us

Speaking: ☐ For ☐ Against ☒ Information

Representing FLA. COMM'N ON ETHICS

Appearing at request of Chair: ☒ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/20/11)



THE FLORIDA SENATE
COMMITTEE ON ETHICS AND ELECTIONS

Location
420 Knott Building

Mailing Address
404 South Monroe Street
Tallahassee, Florida 32399-1100
(850) 487-5828

Senator Jack Latvala, *Chair*
Senator Eleanor Sobel, *Vice Chair*

Professional Staff: Dawn K. Roberts, *Staff Director*

Senate's Website: www.flsenate.gov

October 11, 2013

Steven P. Cullen, Esq.
Executive Director
Palm Beach County Commission on Ethics
The 1916 Historic Courthouse
300 North Dixie Highway, Ste. 450
West Palm Beach, FL 33401

Dear Mr. Cullen,

The Senate Committee on Ethics and Elections will be meeting on Monday, November 4, 2013 from 4:00 p.m. to 6:00 p.m. in Room 412, Knott Building. You are requested to appear to discuss and address questions relating to local independent ethics commissions.

Please confirm your attendance to the Committee Administrative Assistant.
vause.diane@flsenate.gov

If you have any questions, please do not hesitate to contact Dawn Roberts, Staff Director for the Committee. Thank you in advance for your cooperation.

Sincerely,

A handwritten signature in black ink, appearing to read "Jack Latvala".

Senator Jack Latvala (SD – 20)
Chair
Senate Committee on Ethics and Elections

cc: The Honorable Don Gaetz, President of the Florida Senate
Members, Committee on Ethics and Elections

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

11/4/13

Meeting Date

Topic LOCAL ETHICS COMMISSIONS Bill Number _____
(if applicable)
Name STOUDY CULLOW Amendment Barcode _____
(if applicable)
Job Title ETHEL. DIR. P.B. CIVIL COMM. ON ETHICS
Address 300 N. DIXIE HIGHWAY Phone _____
Street
W. PALM BEACH FL E-mail _____
City State Zip
Speaking: ☐ For ☐ Against ☒ Information
Representing P.B. COMMISSION ON ETHICS
Appearing at request of Chair: ☒ Yes ☐ No Lobbyist registered with Legislature: ☐ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/20/11)

PALM BEACH COUNTY COMMISSION ON ETHICS

BY-LAWS

ARTICLE I –IDENTIFICATION

Section 1: Name

The Palm Beach County Commission on Ethics

Section 2: Offices

2366 Vista Parkway
West Palm Beach, FL 33411
Or such address where the Commission may be located from time to time

ARTICLE II-MISSION STATEMENT

Section 1: Mission

The mission of the Commission on Ethics is to ensure the integrity of the governmental decision-making process, restore public confidence in government and to serve as the guardian of the public trust.

Section 2: Strategy

In order to accomplish the mission the Palm Beach County Commission on Ethics shall:

1. Educate the public, elected and appointed officials and public employees, lobbyists, and vendors doing business with the county of exiting standards of ethical conduct.
2. Actively enforce the standards of conduct that apply to elected and appointed officials and public servants, lobbyists and former public employees.
3. Review ordinances under the Commission's jurisdiction and applicable state and federal statutes related to ethics in government to recommend changes that will lead to greater ethics compliance.
4. Serve as a model for elected and appointed officials and government employees and work to create an atmosphere conducive to ethical conduct and behavior for both the public and private sectors within Palm Beach County.

ARTICLE III- COMMISSION ON ETHICS

Section 1: Number, Appointing Authority and Qualifications

The Commission on Ethics shall consist of five (5) members. The President of the Palm Beach County Association of Chiefs of Police shall appoint a former law enforcement official with experience in investigating white collar crime or public corruption. The President of the Hispanic Bar Association of Palm Beach County, the President of the F. Malcolm Cunningham, Sr. Bar Association, and the President of the Palm Beach County Bar Association shall appoint an attorney with experience in ethics regulation of public officials and employees. The President of Florida Atlantic University (FAU) shall appoint a faculty member who teaches at an institution of higher education with a campus located in Palm Beach County and who has taught a course in professional legal ethics or has published or performed services in the field of professional legal ethics. The President of the Palm Beach Chapter of the Florida Institute of CPAs shall appoint a member who possesses at least five (5) years experience as a Certified Public Accountant (CPA) with forensic audit experience. The Board of Directors of the Palm Beach County League of Cities, Inc. shall appoint a person who has served as a former elected official for a governmental entity in Palm Beach County.

Section 2: Term of Appointment

The members of the Ethics Commission shall serve staggered terms of four (4) years each, provided that of the original members, the two (2) members appointed by the Palm Beach County Association of Chiefs of Police and The Presidents of the Hispanic, F. Malcolm Cunningham, Jr. and Palm Beach County Bar Associations shall be appointed to a term of two years and the remaining three (3) members shall be appointed for a initial term of four (4) years. Thereafter, all members shall serve terms of four (4) years.

Section 3: Conditions of Appointment

In addition to the requirement that each member take the prescribed oath of office pursuant to section 876.05, Florida Statutes, during their tenure members of the Commission may not hold or campaign for any elective political office, hold office in any political party or political committee, actively participate in or contribute to any political action committee or to any campaign for state or local office or for any U.S. Congressional or Senate office serving the State of Florida, be employed by Palm Beach County, any municipality within Palm Beach County or any other governmental entity subject to the authority of the Commission on Ethics or the Inspector General, or allow his or her name to be used by a campaign in support of or against any candidate for political office or any referendum or other ballot question.

Section 4: Vacancy and Removals

A vacancy occurring during or at the expiration of a member's terms on the Commission on Ethics shall be filled as provided in the Commission on Ethics ordinance, Article V. Section 2-255 no later than sixty (60) days after the vacancy occurs. A newly appointed member shall serve out the remainder of his or her predecessor's term.

Section 5: Compensation

Ethics Commissioners shall serve without compensation but shall be entitled to reimbursement for necessary expenses incurred in the discharge of their duties.

Section 6: Function

The Ethics Commission shall be empowered to review, interpret, render advisory opinions and letters of instruction and enforce the Palm Beach County Code of Ethics, Lobbyist Registration and Post-Employment Ordinances or similar ordinances, rules or regulations duly adopted by Palm Beach County.

Section 7: Duties and Responsibilities

The Ethics Commission shall:

1. Issue advisory opinions regarding county ordinances within the jurisdiction of the Commission as requested by elected and appointed officials and other public servants.
2. Make legal sufficiency and probable cause determinations, approve settlement agreements and issue public reports and final orders regarding disposition of complaints and impose penalties.
3. Develop educational programs and materials and engage in community outreach to inform and educate county and municipal officials and employees, county vendors, non-profit corporations and other entities that do business with the county as well as the public at large about county ethics ordinances and the importance of ethics to the public's confidence in county and municipal government.
4. Review ordinances and state and federal laws relating to ethics in government and report and make recommendations to the Board of County Commissioners as it deems appropriate.

Section 8: Grants, Contributions or Appropriations

The Commission on Ethics, through the Executive Director, may actively pursue and accept grants, contributions or appropriations from the federal government, state government, any municipality within Palm Beach County, or any academic institution or nonprofit entity which has not entered into a contract or transacted business with the County, or if having entered into such contract or business transaction with the County, by a Board of County Commission resolution of approval of such grant, contribution or appropriation by the academic institution or nonprofit entity.

Section 9: Procedures Upon Removal

Upon notification to the appointing body, The Commission on Ethics may remove a Commissioner for good cause upon a supermajority vote of the remaining Commissioners. Good cause includes, but is not limited to the following:

1. A conviction of a crime of moral turpitude or a felony crime.
2. A finding of a violation of the Palm Beach County Code of Ethics.
3. A failure to meet conditions of appointment as contained in Article III, section 3 of the Commission on Ethics By-Laws.

ARTICLE IV- OFFICES

Section 1: Officers

The officers of the Commission on Ethics are a Chairperson and a Vice-Chairperson.

Section 2: Term of Office

The term of each office is two years. No officer shall be permitted to serve two (2) consecutive terms in their respective offices.

Section 3: Chairperson

The Chairperson shall preside at all meetings of the Commission.

Section 4: Vice-Chairperson

In the absence or disability of the Chairperson, the Vice-Chairperson shall perform the duties of Chairperson.

ARTICLE V-COMMISSION STAFF

Section 1: Executive Director

The Executive Director is appointed by and serves at the pleasure of the Ethics Commission. The Executive Director is the chief executive of the department and shall be a member of the Florida Bar.

Section 2: Counsel to the Commission on Ethics

The Counsel to the Commission on Ethics is appointed by and serves at the pleasure of the Ethics Commission. Counsel shall be a member of the Florida Bar and may serve on a volunteer basis.

Section 3: Advocate

The Advocate is appointed by and serves at the pleasure of the Ethics Commission. The advocate shall prosecute cases before the Ethics Commission. The Executive Director may serve as Advocate. The Advocate may serve on a volunteer basis.

Section 4: Other Employees

The Executive Director shall have the authority to appoint, remove and suspend employees or agents of the Commission on Ethics within the constraints set forth by the Commission's budget. The Executive Director shall be further empowered to adopt personnel and management policies consistent with like policies in place for County personnel.

ARTICLE VI-COMMITTEES

Section 1: Committee Chairs

The Ethics Commission may appoint committee chairs to perform specific tasks or functions

Section 2: Personnel Committee

The Commission on Ethics shall establish a personnel committee to review personnel policies, hear formal employee grievances and complaints and perform other personnel related functions as determined by the Commission.

Section 3: Education and Public Outreach

The Ethics Commission shall establish an education and public outreach committee to assist the Executive Director and the staff in developing policies related to the Commission's education and public outreach functions.

Section 4: Other Ad Hoc Committees

The Chairperson and/or the Commission on Ethics may establish other committees to perform certain tasks as deemed necessary.

ARTICLE VIII-MEETINGS

Section 1: Agenda

The Executive Director, in collaboration with the Chairperson, or Vice-Chairperson shall establish the agenda for regular and special meetings. All action items for a Commission on Ethics agenda, including requests for opinions and motions regarding complaints, must be received at least five (5) days prior to the meeting to be placed on the agenda.

Section 2: Quorum

At all meetings of the full Commission, the presence of a majority of three members shall constitute a quorum for all purposes. The act of the majority of the members of the Commission shall be the act of the full membership.

Section 3: Attendance by Electronic Means

A member may attend a meeting by electronic means such as a speakerphone or videoconference as long as a quorum is physically present at the meeting.

Section 4: Public Input

All interested persons shall be allowed to express their views (oral and/or written) at Commission meetings regarding matters within the jurisdiction of the Commission.

Section 5: Meeting Minutes

Minutes shall be taken at every regular and special Commission meeting and shall be approved by a majority vote of the Commission. All meetings of the Ethics Commission shall be public and written minutes of the proceedings thereof shall be available to the public upon request.

Section 6: Regular Meetings

The Ethics Commission shall hold regular monthly meetings.

Section 7: Notice of Meetings

Notices of all regular and special Commission meetings shall be posted on the Palm Beach County Meeting Calendar. Agendas and attachments shall be hand delivered, e-mailed or faxed to each Ethics Commissioner at least 24 hours before the meeting. Notice of regular meetings shall be posted at least 72 hours before the meeting. Notices of special meetings shall be posted at least 24 hours before the meeting.

Section 8: Closed Sessions

The Ethics Commission may hold closed sessions at regular meetings for purposes of confidential discussion related to preliminary investigations, legal sufficiency and probable cause determinations.

Section 9: Special Meetings

Special meetings may be called to address specific matters pursuant to public notice requirements. Reasonable notice for the purposes of a special meeting is presumed to be 24 hours.

ARTICLE IX-VOTING

Section 1: Voting and Abstention

Each member at an Ethics Commission meeting shall vote on all matters put to a vote, unless that member is excused from voting or unless that member may have a conflict of interest regarding the item.

Section 2: Recusal

A member of the Commission may recuse himself or herself from voting on a matter if the member has a conflict of interest. If the member abstains from voting, the member must state the reason for the recusal on the record.

Section 3: Disqualification

A member of the Commission on Ethics may be disqualified from sitting as a member of the Commission at either the probable cause hearing or the final hearing for bias, prejudice or interest. Disqualification may be raised by the Respondent, The Advocate or any member of the Commission.

Section 4: Voting by Proxy

A member may not vote by proxy.

ARTICLE X-PARLIAMENTARY PROCEDURE

Section 1: Robert's Rules of Order

Except where the Code or other rules provide to the contrary, or in the case of emergency, meetings shall be governed by Robert's Rules of Order.

ARTICLE XI-BYLAWS AMENDMENTS

Section 1: Bylaws

These bylaws shall be reviewed as necessary. They may be amended at any regular meeting of the Commission by a majority vote of those present, provided such proposed amendments are circulated in writing to all Commissioners at least ten days prior to such meeting and ten days public notice shall be posted.

CODE OF ETHICS

(Effective date June 1, 2011)

Sec. 2-441. Title; statement of purpose.

This article shall be known as the Palm Beach County Code of Ethics. This code of ethics is enacted pursuant to Florida Constitution, Article VIII, Section 1(g), Florida Statutes, ch. 125, and the Charter of Palm Beach County. The Municipalities located within Palm Beach County are subject to the provisions of this Code of Ethics pursuant to referendum. The purpose of this code is to provide additional and more stringent ethics standards as authorized by Florida Statutes, §112.326. This code shall not be construed to authorize or permit any conduct or activity that is in violation of Florida Statutes, ch. 112, pt. III. This code of ethics shall be deemed additional and supplemental to any and all state and federal laws governing ethical conduct of officials and employees, as well as all local laws, rules, regulations and policies.

Officials and employees in the public service shall be conscious that public service is a public trust, shall be impartial and devoted to the best interests of the people of Palm Beach County, and shall act and conduct themselves so as not to give occasion for distrust of their impartiality.

Nothing herein shall abridge employees' constitutional right to collective bargaining.

Sec. 2-442. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Advisory board shall mean any advisory or quasi-judicial board created by the board of county commissioners, by the local municipal governing bodies, or by the mayors who serve as chief executive officers or by mayors who are not members of local municipal governing bodies.

Customer or client means any person or entity to which an official or employee's outside employer or business has supplied goods or services during the previous twenty-four (24) months, having, in the aggregate, a value greater than ten thousand dollars (\$10,000).

Domestic partner is an adult, unrelated by blood, with whom an unmarried or separated official or employee has an exclusive committed relationship and maintains a mutual residence.

Financial benefit includes any money, service, license, permit, contract, authorization, loan, travel, entertainment, hospitality, gratuity, or any promise of any of these, or anything else of value. This term does not include campaign contributions authorized by law.

Household Member includes anyone whose primary residence is in the official or employee's home, including non-relatives who are not rent payers or employees of the head of the household.

Inspector general shall mean the office established in article XII of this chapter.

Lobbying shall mean seeking to influence a decision through oral or written communication or an attempt to obtain the goodwill of any county commissioner, any member of a local municipal governing body, any mayor or chief executive officer that is not a member of a local municipal governing body, any advisory board member, or any employee with respect to the passage, defeat or modification of any item which may foreseeably be presented for consideration to the advisory board, the board of county commissioners, or the local municipal governing body lobbied as applicable.

Lobbyist shall mean any person who is employed and receives payment, or who contracts for economic consideration, for the purpose of lobbying on behalf of a principal, and shall include an employee whose principal responsibility to the employer is overseeing the employer's various relationships with government or representing the employer in its contacts with government. "Lobbyist" shall not include:

- (1) any employee, contract employee, or independent contractor of a governmental agency or entity lobbying on behalf of that agency or entity, any elected local official when the official is lobbying on behalf of the governmental agency or entity which the official serves, or any member of the official's staff when such staff member is lobbying on an occasional basis on behalf of the governmental agency or entity by which the staff member is employed.
- (2) any person who is retained or employed for the purpose of representing an employer, principal or client only during a publicly noticed quasi-judicial hearing or comprehensive plan hearing, provided the person identifies the employer, principal or client at the hearing.
- (3) any expert witness who is retained or employed by an employer, principal or client to provide only scientific, technical or other specialized information provided in agenda materials or testimony only in public hearings, so long as the expert identifies the employer, principal or client at the hearing.
- (4) any person who lobbies only in his or her individual capacity for the purpose of self-representation and without compensation.
- (5) any employee, contract employee, or independent contractor of the Palm Beach County League of Cities, Inc., lobbying on behalf of that entity.

Official or employee means any official or employee of the county or the municipalities located within the county, whether paid or unpaid. The term "employee" includes but is not limited to all managers, department heads and personnel of the county or the municipalities located within the county. The term also includes contract personnel and contract administrators performing a government function, and chief executive officer who is not part of the local governing body. The term "official" shall mean members of the board of county commissioners, a mayor, members of local municipal governing bodies, and members appointed by the board of county commissioners, members of local municipal governing bodies or mayors or chief executive officers that are not members of local municipal governing body, as applicable, to serve on any advisory, quasi judicial, or any other board of the county, state, or any other regional, local, municipal, or corporate entity.

Outside employer or business includes:

- (1) Any entity, other than the county, the state, or any other federal regional, local, or municipal government entity, of which the official or employee is a member, official, director, proprietor, partner, or employee, and from which he or she receives compensation for services rendered or goods sold or produced. For purposes of this definition, "compensation" does not include reimbursement for necessary expenses, including travel expenses; or
- (2) Any entity located in the county or which does business with or is regulated by the county or municipality as applicable, in which the official or employee has an ownership interest. For

purposes of this definition, an "ownership interest" shall mean at least five (5) percent of the total assets or common stock owned by the official or employee or any combination of the official or employee's household members, spouse, child, step-child, brother, sister, parent or step-parent, or a person claimed as a dependent on the official or employee's latest individual federal tax return.

- (3) The term outside employer or business shall not apply to an employee who is employed by a certified bargaining agent solely to represent employees.

Palm Beach County Commission on Ethics means the commission established in §2-254 et seq. to administer and enforce the ethics regulations set forth herein, and may also be referred to as the "commission on ethics" in this article.

Persons and entities shall be defined to include all natural persons, firms, associations, joint ventures, partnerships, estates, trusts, business entities, syndicates, fiduciaries, corporations, and all other organizations.

Relative unless otherwise specified in this ordinance, means an individual who is related to an official or employee as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, grandparent, great grandparent, grandchild, great grandchild, step grandparent, step great grandparent, step grandchild, step great grandchild, person who is engaged to be married to the official or employee or who otherwise holds himself or herself out as or is generally known as the person whom the official or employee intends to marry or with whom the official or employee intends to form a household, or any other natural person having the same legal residence as the official or employee.

Transaction shall refer to the purchase or sale by the county or municipality of goods or services for a consideration.

Vendor means any person or entity who has a pending bid proposal, an offer or request to sell goods or services, sell or lease real or personal property, or who currently sells goods or services, or sells or leases real or personal property, to the county or municipality involved in the subject contract or transaction as applicable. For the purposes of this definition a vendor entity includes an owner, director, manager or employee.

Sec. 2-443. Prohibited conduct.

- (a) ***Misuse of public office or employment.*** An official or employee shall not use his or her official position or office, or take or fail to take any action, or influence others to take or fail to take any action, in a manner which he or she knows or should know with the exercise of reasonable care will result in a special financial benefit, not shared with similarly situated members of the general public, for any of the following persons or entities:
 - (1) Himself or herself;
 - (2) His or her spouse or domestic partner, household member or persons claimed as dependents on the official or employee's latest individual federal income tax return, or the employer or business of any of these people;
 - (3) A sibling or step-sibling, child or step-child, parent or step-parent, niece or nephew, uncle or aunt, or grandparent or grandchild of either himself or herself, or of his or her spouse or domestic partner, or the employer or business of any of these people;

- (4) An outside employer or business of his or hers, or of his or her spouse or domestic partner, or someone who is known to such official or employee to work for such outside employer or business;
 - (5) A customer or client of the official or employee's outside employer or business;
 - (6) A substantial debtor or creditor of his or hers, or of his or her spouse or domestic partner-- "substantial" for these purposes shall mean at least ten thousand dollars (\$10,000) and shall not include forms of indebtedness, such as a mortgage and note, or a loan between the official or employee and a financial institution;
 - (7) A civic group, union, social, charitable, or religious organization, or other not for profit organization of which he or she (or his or her spouse or domestic partner) is an officer or director.
- (b) ***Corrupt misuse of official position.*** An official or employee shall not use his or her official position or office, or any property or resource which may be within his or her trust, to corruptly secure or attempt to secure a special privilege, benefit, or exemption for himself, herself, or others. For the purposes of this subsection, "corruptly" means done with a wrongful intent and for the purpose of obtaining, or compensating or receiving compensation for, any benefit resulting from some act or omission of an official or employee which is inconsistent with the proper performance of his or her public duties.
- (c) ***Disclosure of voting conflicts.*** County and municipal officials as applicable shall abstain from voting and not participate in any matter that will result in a special financial benefit as set forth in subsections (a)(1) through (7) above. The official shall publicly disclose the nature of the conflict and when abstaining from the vote, shall complete and file a State of Florida Commission on Ethics Conflict Form 8B pursuant to the requirements of Florida Statutes, §112.3143. Simultaneously with filing Form 8B, the official shall submit a copy of the completed form to the county commission on ethics. Officials who abstain and disclose a voting conflict as set forth herein, shall not be in violation of subsection (a), provided the official does not otherwise use his or her office to take or fail to take any action, or influence others to take or fail to take any action, in any other manner which he or she knows or should know with the exercise of reasonable care will result in a special financial benefit, not shared with similarly situated members of the general public, as set forth in subsections (a)(1) through (7).
- (d) ***Contractual relationships.*** No official or employee shall enter into any contract or other transaction for goods or services with their respective county or municipality. This prohibition extends to all contracts or transactions between the county or municipality as applicable or any person, agency or entity acting for the county or municipality as applicable, and the official or employee, directly or indirectly, or the official or employee's outside employer or business. Any such contract, agreement, or business arrangement entered into in violation of this subsection may be rescinded or declared void by the board of county commissioners pursuant to § 2-448(c) or by the local municipal governing body pursuant to local ordinance as applicable. This prohibition shall not apply to employees who enter into contracts with Palm Beach County or a municipality as part of their official duties with the county or that municipality. This prohibition also shall not apply to officials or employees who purchase goods from the county or municipality on the same terms available to all members of the public. This prohibition shall also not apply to advisory board members provided the subject contract or transaction is disclosed at a duly noticed public meeting of the governing body and the advisory board member's board provides no regulation, oversight, management, or policy-setting recommendations regarding the subject contract or transaction.
- (e) ***Exceptions and waiver.*** The requirements of subsection (d) above may be waived as it pertains to advisory board members where the advisory board member's board is purely advisory and

provides regulation, oversight, management, or policy-setting recommendations regarding the subject contract or transaction. No waiver shall be allowed where the advisory board member's board is not purely advisory and provides regulation, oversight, management, or policy-setting recommendations regarding the subject contract or transaction. Waiver may be effected by the board of county commissioners or by the local municipal governing body as applicable upon full disclosure of the contract or transaction prior to the waiver and an affirmative vote of a majority plus one of the total membership of the board of county commissioners or the local municipal governing body as applicable. In instances in which appointment to the advisory board is made by an individual, waiver may be effected, after full disclosure of the contract or transaction at a public hearing, by the appointing person. In addition, no official or employee shall be held in violation of subsection (d) if:

- (1) The business is awarded under a system of sealed, competitive bidding to the lowest bidder and:
 - a. The official or employee or member of his or her household has in no way participated in the determination of the bid specifications or the determination of the lowest bidder;
 - b. The official or employee or member of his or her household has in no way used or attempted to use the official or employee's influence to persuade the agency, governmental entity or any personnel thereof to enter such a contract other than by the mere submission of the bid; and
 - c. The official or employee, prior to or at the time of the submission of the bid, has filed a statement with the supervisor of elections and the commission on ethics, disclosing the nature of the interest in the outside employer or business submitting the bid.
- (2) An emergency purchase or contract which would otherwise violate a provision of subsection (d) must be made in order to protect the health, safety, or welfare of the citizens of the county or municipality as applicable.
- (3) The outside employer or business involved is the only source of supply within the county or municipality as applicable and there is full disclosure by the official or employee of his or her interest in the outside employer or business to the county or municipality as applicable and the ethics commission prior to the purchase, rental, sale, leasing, or other business being transacted.
- (4) The total amount of the contracts or transactions in the aggregate between the outside employer or business and the county or municipality as applicable does not exceed five hundred dollars (\$500) per calendar year.
- (5) Notwithstanding any provision to the contrary, subsection (d) shall not be construed to prevent an employee from seeking part-time employment with an outside employer who has entered into a contract for goods or services with the county or municipality as applicable provided that:
 - a. The employee or relative of the employee does not work in the county or municipal department as applicable which will enforce, oversee or administer the subject contract; and
 - b. The outside employment would not interfere with or otherwise impair his or her independence of judgment or otherwise interfere with the full and faithful performance of his or her public duties to the county or municipality as applicable; and
 - c. the employee or relative of the employee has not participated in determining the subject contract requirements or awarding the contract; and
 - d. the employee's job responsibilities and job description will not require him or her to be involved in the outside employer's contract in any way including, but limited to, its enforcement, oversight, administration, amendment, extension, termination or forbearance; and

- e. the employee demonstrates compliance with applicable merit rules regarding outside employment and obtains written permission from his or her supervisor; and
 - f. The employee has obtained a conflict of interest waiver from the chief administrative officer and the employee's department head of the county or municipality based on a finding that no conflict exists. The employee shall submit the request for waiver in writing and under oath. The request for the waiver shall be signed by the employee under oath or affirmation on an approved form provided by the Commission on Ethics. The document shall contain written acknowledgment of compliance with the provisions of (5)a. through (5)e. of this subsection, together with such pertinent facts and relevant documents that support such waiver. A waiver under this subsection must be approved by both the employee's supervisor and chief administrative officer of the county or municipality. The county or municipality shall record such waiver in the employee's personnel file and shall submit a copy of the waiver and all related documents to the commission on ethics. The commission on ethics in its discretion may elect to review, comment on, or investigate any waiver. The commission on ethics review or investigation shall not delay an employee's ability to take the part time employment.
 - g. Official law enforcement overtime or extra duty details. The provisions of subsection (d) shall be waived for outside employment when that employment consists of a certified police agency uniformed external security or extra duty detail, contracted or administered by the police agency as applicable. For the purpose of this subsection, all records of external, extra duty or overtime security details, including supervisor approval, identity of contracting parties, and including time, date and manner of detail shall be maintained by the individual contracting police agency, records of which shall be accessible to the public subject to state public records disclosure exemptions.
- (f) *Accepting travel expenses.* No official or employee shall accept, directly or indirectly, any travel expenses including, but not limited to, transportation, lodging, meals, registration fees and incidentals from any county or municipal contractor, vendor, service provider, bidder or proposer as applicable. The board of county commissioners or local municipal governing body as applicable may waive the requirements of this subsection by a majority vote of the board or local municipal governing body. The provisions of this subsection shall not apply to travel expenses paid by other governmental entities or by organizations of which the county or municipality as applicable is a member if the travel is related to that membership.
- (g) *Contingent fee prohibition.* No person shall, in whole or in part, pay, give or agree to pay or give a contingency fee to another person. No person shall, in whole or in part, receive or agree to receive a contingency fee. As used herein, "contingency fee" means a fee, bonus, commission, or nonmonetary benefit as compensation which is dependent on or in any way contingent on the passage, defeat, or modification of: an ordinance, resolution, action or decision of the board of county commissioners or local municipal governing body as applicable, any employee authorized to act on behalf of the board of county commissioners or local municipal governing body as applicable, the county administrator or municipal administrator as applicable, or any action or decision of an advisory board or committee. This prohibition does not apply to real estate brokers when acting in the course of their profession as regulated by §§475.001-475.5018, Florida Statutes, as may be amended. Nothing in this section may be construed to prohibit any salesperson from engaging in legitimate government business on behalf of a company from receiving compensation or commission as part of a bona fide contractual arrangement with that company provided such compensation or commission is ordinary and customary in the industry. Nothing in this section may be construed to prohibit an attorney

from representing a client in a judicial proceeding or formal administrative hearing pursuant to a contingent fee arrangement.

- (h) *Honesty in applications for positions.* No person seeking to become an official or employee, or seeking to enter into a contract to provide goods or services to the county or municipality as applicable, may make any false statement, submit any false document, or knowingly withhold information about wrongdoing in connection with employment by or services to the county or municipality as applicable.
- (i) *Disclosure or use of certain information.* A current or former official or employee shall not disclose or use information not available to members of the general public and gained by reason of his or her official position, except for information relating exclusively to governmental practices, for his or her personal gain or benefit or for the personal gain or benefit of any other person.

Sec. 2-444. Gift law.

- (a) (1) No county commissioner, member of a local governing body, mayor or chief executive when not a member of the governing body, or employee, or any other person or business entity on his or her behalf, shall knowingly solicit or accept directly or indirectly, any gift with a value of greater than one hundred dollars (\$100) in the aggregate for the calendar year from any person or business entity that the recipient knows, or should know with the exercise of reasonable care, is a vendor, lobbyist or any principal or employer of a lobbyist who lobbies, sells or leases to the county or municipality as applicable.
- (2) No lobbyist, vendor or principal or employer of a lobbyist that lobbies the county or a municipality shall knowingly give, directly or indirectly, any gift with a value greater than one hundred dollars (\$100) in the aggregate for the calendar year to a person who the vendor, lobbyist, or principal knows is an official or employee of that county or municipality. For the purposes of this subsection 2-444(a)(2), the term vendor also includes any person or entity that, because of the nature of their business, may respond to an invitation to bid, request for proposal or other procurement opportunity that has been published by the county or a municipality.
- (b) (1) No advisory board member, or any other person on his or her behalf, shall knowingly solicit or accept directly or indirectly, any gift with a value of greater than one hundred dollars (\$100) in the aggregate for the calendar year from any vendor, lobbyist, or any principal or employer of a lobbyist, who lobbies the recipient's advisory board, or any county or municipal department as applicable that is subject in any way to the advisory board's authority.
- (2) No lobbyist, vendor, or principal or employer of a lobbyist who lobbies an advisory board or any county or municipal department that is subject in any way to the advisory board's authority, influence or advice, shall knowingly give, directly or indirectly, any gift with a value greater than one hundred dollars (\$100) in the aggregate for the calendar year to a person who the vendor, lobbyist, or principal knows is a member of that advisory board. For the purposes of this subsection 2-444(b)(2), the term vendor also includes any person or entity that, because of the nature of their business, may respond to an invitation to bid, request for proposal or other procurement opportunity that has been published by the county or a municipality.
- (c) No county commissioner, member of a local governing body, mayor or chief executive officer when not a member of the governing body, or employee, or any other person or business entity on his or her behalf, shall knowingly solicit a gift of any value from any person or business entity that the recipient knows is a vendor, lobbyist or any principal or employer of a lobbyist where the gift is for the personal benefit of the official or employee, another official or employee, or any relative or household member of the official or employee. No advisory board member or

any other person or business entity on his or her behalf, shall knowingly solicit a gift of any value from any person or business entity that the recipient knows is a vendor, lobbyist or any principal or employer of a lobbyist who lobbies the recipient's advisory board, or any county or municipal department as applicable that is subject in any way to the advisory board's authority, influence or advice, where the gift is for the personal benefit of the advisory board member, another advisory board member, or an official, or any relative or household member of the official or employee.

- (d) For purposes of this section, a principal or employer of a lobbyist shall include any officer, partner or director of the principal entity, or any employee of a principal who is not an officer, partner or director, provided that the employee knows or should know with the exercise of reasonable care that the principal employs a lobbyist.
- (e) No person or entity shall offer, give, or agree to give an official or employee a gift, and no official or employee shall accept or agree to accept a gift from a person or entity, because of:
 - (1) An official public action taken or to be taken, or which could be taken;
 - (2) A legal duty performed or to be performed or which could be performed; or
 - (3) A legal duty violated or to be violated, or which could be violated by any official or employee.
- (f) Gift reports. Any official or employee who receives a gift in excess of one hundred dollars (\$100) shall report that gift in accordance with this section.
 - (1) *Gift reports for officials and employees identified by state law as reporting individuals.* Those persons required to report gifts pursuant to state law shall report those gifts in the manner provided by Florida Statutes, §112.3148, as may be amended. A copy of each report shall be filed with the county commission on ethics.
 - (2) *All other officials and employees who are not reporting individuals under state law.*
 - a. *Personal Gifts.* All officials and employees who are not reporting individuals under state law are not required to report gifts in excess of one hundred dollars (\$100) so long as those gifts are given to the official or employee by a personal friend or co-worker and the circumstances demonstrate that the motivation for the gift was the personal or social relationship rather than an attempt to obtain the goodwill or otherwise influence the official or employee in the performance of his or her official duties. Factors to be considered in determining whether a gift was motivated by a personal or social relationship may include but shall not be limited to: whether the relationship began before or after the official or employee obtained his or her office or position; the prior history of gift giving between the individuals; whether the gift was given in connection with a holiday or other special occasion; whether the donor personally paid for the gift or sought a tax deduction or business reimbursement; and whether the donor gave similar gifts to other officials or employees at or near the same time. If the personal friend or co-worker is a vendor, lobbyist or principal or employer of a lobbyist that lobbies the county or municipality as applicable, then the official or employee shall not accept a gift in excess of \$100 in accordance with subsections (a)(1) and (b)(1).
 - b. *All other gifts.* All officials or employees who are not reporting individuals under state law and who receive any gift in excess of one hundred dollars (\$100), which is not otherwise excluded or prohibited pursuant to this subsection, shall complete and submit an annual gift disclosure report with the county commission on ethics no later than November 1 of each year beginning November 1, 2011, for the period ending September 30 of each year. All officials or employees who are not reporting individuals under state law and who do not receive a gift in excess of one hundred dollars (\$100) during a given reporting period shall not file an annual gift disclosure report. The annual gift disclosure report shall be created by

the county commission on ethics and shall be in a form substantially similar in content as that required by state law.

- (g) For the purposes of this section, "gift" shall refer to the transfer of anything of economic value, whether in the form of money, service, loan, travel, entertainment, hospitality, item or promise, or in any other form, without adequate and lawful consideration. Food and beverages consumed at a single setting or a meal shall be considered a single gift, and the value of the food and beverage provided at that sitting or meal shall be considered the value of the gift. In determining the value of the gift, the recipient of the gift may consult, among other sources, §112.3148, Florida Statutes and the Florida Administrative Code as may be amended.

(1) Exceptions. The provisions of subsection (g) shall not apply to:

- a. Political contributions specifically authorized by state or federal law;
- b. Gifts from relatives, domestic partners, and dependents named on the official's or employee's latest federal income tax return, or one's household member;
- c. Awards for professional or civic achievement;
- d. Materials such as books, reports, periodicals or pamphlets which are solely informational or of an advertising nature;
- e. Gifts solicited or accepted by county or municipal officials or employees as applicable on behalf of the county or municipality in performance of their official duties for use solely by the county or municipality for a public purpose;
- f. Publicly advertised offers for goods or services from a vendor under the same terms and conditions as are offered or made available to the general public;
- g. Inheritance or other devise;
- h. Registration fees and other related costs associated with educational or governmental conferences or seminars and travel expenses either properly waived or inapplicable pursuant to §2-443(f), provided that attendance is for governmental purposes, and attendance is related to their duties and responsibilities as an official or employee of the county or municipality;
- i. A ticket, pass or admission in connection with public events, appearances or ceremonies related to official county or municipal business, if furnished by a nonprofit sponsor organization of such public event, or if furnished pursuant to a contract between the event's non-profit sponsor and the county or municipality as applicable, provided the sponsor organization does not employ a lobbyist, and further provided the ticket, pass or admission is given by a representative of the sponsor organization who is not otherwise a vendor, lobbyist, principal or employer of a lobbyist. Notwithstanding the exception as provided in this subsection, the ticket, pass or admission must be disclosed in accordance with the gift law reporting requirements of subsections 2-444(f)(1) and (f)(2);
- j. Expenditures made in connection with an event sponsored by a nonprofit organization funded in whole or in part with public funds whose primary function is to encourage and attract tourism or other business opportunities for the benefit of Palm Beach County or the municipalities as applicable, provided the sponsor organization does not employ a lobbyist, and further provided that the invitation to the event is made by a representative of the sponsor organization and the representative is not otherwise a vendor, lobbyist, principal or employer of a lobbyist. Notwithstanding the exception as provided in this subsection, the expenditure must be disclosed in accordance with the gift law reporting requirements of subsections 2-444(f)(1) and (f)(2).

- (h) Solicitation of Contributions on Behalf of a Non-Profit Charitable Organization.
- (1) Notwithstanding the prohibition on gifts as outlined in subsection 2-444(a) and (b), the solicitation of funds by a county or municipal official or employee for a non-profit charitable organization, as defined under the Internal Revenue Code, is permissible so long as there is no quid pro quo or other special consideration, including any direct or indirect special financial benefit to the official or employee or to the person or entity being solicited. The solicitation by an official or employee as contemplated herein, is expressly prohibited if made to any person or entity with a pending application for approval or award of any nature before the county or municipality as applicable.
 - (2) To promote the full and complete transparency of any such solicitation, officials and employees shall disclose, on a form provided by the Commission on Ethics, the name of the charitable organization, the event for which the funds were solicited, the name of any person or entity that was contacted regarding a solicitation or pledge by the official or employee, and the amount of the funds solicited or pledged if known. The form shall be completed legibly and shall be filed with the Commission on Ethics. The form shall be filed within 30 days from the occurrence of the event for which the solicitation was made, or if no event, within 30 days from the occurrence of the solicitation.
 - (3) Officials and employees may not use county or municipal staff or other county or municipal resources in the solicitation of charitable contributions described in this subsection.

Sec. 2-445. Anti-nepotism law.

An official may not appoint, employ, promote, advance, or advocate for appointment, employment, promotion, or advancement in or to a position in the county or municipality as applicable in which the official is serving or over which the official exercises jurisdiction or control, any individual who is a relative or domestic partner of the official. An individual may not be appointed, employed, promoted, or advanced in or to a position in the county or a municipality if such appointment, employment, promotion, or advancement has been advocated by an official, serving in or exercising jurisdiction or control over the county or municipality as appropriate, who is a relative or domestic partner of the individual or if such appointment, employment, promotion, or advancement is made by a collegial body of which a relative of the individual is a member. However, this section shall not apply to appointments to boards other than those with land-planning or zoning responsibilities in those municipalities with less than 35,000 population. This section does not apply to persons serving in a volunteer capacity who provide emergency medical, firefighting, or police services. Such persons may receive, without losing their volunteer status, reimbursements for the costs of any training they get relating to the provision of volunteer emergency medical, firefighting, or police services and payment for any incidental expenses relating to those services that they provide. Mere approval of budgets shall not be sufficient to constitute "jurisdiction or control" for the purposes of this section.

- (1) For the purposes of this section, " official" means any official or employee in whom is vested the authority by law, rule, or regulation, or to whom the authority has been delegated, to appoint, employ, promote, or advance individuals or to recommend individuals for appointment, employment, promotion, or advancement in connection with employment in the county or municipality as applicable.
- (2) For the purposes of this section, "relative" means spouse, parent, child, sibling, uncle, aunt, first cousin, nephew, niece, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, or half-sister.

Sec. 2-446. Ethics training.

- (a) Officials and employees, as public servants, are considered stewards of the public trust and should aspire to the highest level of integrity and character. Officials and employees shall be informed of their ethical responsibilities at the start of their public service, and shall receive updates and training materials on ethics issues throughout the span of their public service. The county administrator or municipal administrator as applicable shall establish by policy a mandatory training schedule for all officials and employees which shall include mandatory periodic follow-up sessions. This policy may also address ethics training for entities that receive county or municipal funds as applicable.
- (b) The commission on ethics shall develop and deliver, or contract with other entities to develop and deliver, training programs. The commission on ethics shall coordinate and cooperate with all affected county or municipal entities, departments, agencies, boards, councils and commissions to ensure that effective and meaningful training experiences are delivered in a timely and efficient manner.

Sec. 2-447. Noninterference.

It shall be a violation of this article for any person: (a) to retaliate against, punish, threaten, harass, or penalize any person for communicating, cooperating with, or assisting the commission on ethics or the inspector general; or (b) to interfere, obstruct or attempt to interfere or obstruct without valid legal basis any investigation conducted by the commission on ethics or the inspector general.

Sec. 2-448. Administration, enforcement and penalties.

- (a) The commission on ethics shall be empowered to review, interpret, render advisory opinions, and enforce this code of ethics pursuant to the procedures established in the county commission on ethics ordinance. Jurisdiction of the commission on ethics with respect to advisory opinions rendered shall extend to all county and municipal officials and employees, and all other persons and entities required to comply with the provisions of this code and the county lobbyist registration ordinance, including but not limited to lobbyists, their employers and principals, and contractors and vendors.
- (b) A finding by the commission on ethics of a violation of any part of this article shall subject the person or entity to public reprimand, a fine of up to five hundred dollars (\$500), or both. The commission on ethics may also order the person or entity to pay restitution when the person or entity or a third party has received a pecuniary benefit as a result of the person's violation.
- (c) Upon a finding of the commission on ethics that a violation of this article or the lobbyist registration ordinance resulted in a contract, grant, subsidy, license, permit, franchise, use, certificate, development order or other benefit conferred by the county or municipality as applicable, then such contract, grant, subsidy, license, permit, franchise, use, certificate, development order or other benefit may be rescinded or declared void by the board of county commissioners or the local municipal governing body as applicable.
- (d) The commission on ethics may in its discretion refer willful violations of §§2-443, 2-444(a), 2-444(b), 2-444(c), 2-444(e), or 2-447 to the state attorney. Pursuant to Florida Statutes, §125.69, a person who violates the sections of the article set forth in this §2-448(d) shall be subject to prosecution in the name of the state in the same manner as first degree misdemeanors are prosecuted, and upon conviction, such person shall be punished by a fine not to exceed one thousand dollars (\$1,000), imprisonment not to exceed one (1) year, or both.

**DIVISION 2. POST-EMPLOYMENT
ETHICS***

***Editor's note:** Ord. No. 88-30, adopted Nov. 15, 1988, effective Nov. 18, 1988, amended this Code by adding provisions designated by the editor as ch. 2, art. IV, div. 2, §§ 2-141--2-146. The existing provisions of the article, §§ 2-136--2-138, were designated div. 1.

Sec. 2-141. Short title.

This division shall be known and may be cited as the Palm Beach County Post-Employment Ethics Ordinance.

(Ord. No. 88-30, § 1, 11-15-88)

Sec. 2-142. Definitions.

For purposes of this division, the following definitions shall apply:

- (1) *County commissioner* means any county commissioner of Palm Beach County.
- (2) *Level 1 employee* means all individuals employed by the board of county commissioners in the position of:
 - a. County administrator;
 - b. County attorney;
 - c. Internal auditor;
 - d. Fire rescue administrator;
 - e. County engineer;
 - f. Deputy county administrator;
 - g. Chief deputy county attorney;
 - h. Deputy county engineer; and
 - i. Director of planning, building and zoning.
- (3) *Level 2 employee* means:
 - a. Assistant county administrators;
 - b. Assistant county attorneys;
 - c. Department heads;
 - d. Assistant department heads;
 - e. Division heads;

- f. Auditors (within internal audit department; and
- g. Deputy fire chiefs.

(4) *Represent or representation* means actual physical attendance on behalf of an individual or entity, for compensation, at a proceeding before the board of county commissioners in any of their official capacities or before an advisory body of the board of county commissioners or personal communications made with any officials, employees, or advisory board members of the county in their official capacity, on behalf of an individual or entity, including the filing of documents or the writing of letters on behalf of said individual or entity.

(5) *Entity* means a sole proprietorship, partnership, limited partnership, corporation (profit or not-for-profit), professional corporation or association, holding company, joint stock company, receivership, trust or any other entity recognized by law through which business may be conducted.

(6) *Ministerial matter* means actions that a person takes in a prescribed manner in obedience to the mandate of legal authority without the exercise of the person's own judgment or discretion as to the propriety of the action taken.

(7) *Affected person(s)* means all individuals defined in paragraphs (1), (2) and (3) above.

(Ord. No. 88-30, § 2, 11-15-88)

Sec. 2-143. Prohibited conduct after termination of employment or office with the county.

(a) No former county commissioner shall knowingly represent anyone other than the county or another public entity in connection with any matter for a period of two (2) years after the cessation of his or her term of office with the county.

(b) No former level 1 employee shall knowingly represent anyone other than the county or another public entity in connection with any matter for a period of six (6) months after the cessation of his or her employment with the county; additionally no level 1 employee shall knowingly represent anyone other than the county or another public entity in connection with any particular matter involving common issues of law and fact in which the county is a party or has an interest and in which the former employee participated personally, substantially and directly for the county for an additional period of eighteen (18) months (for a total of two (2) years) after the cessation of his or her employment with the county.

(c) No former level 2 employee shall knowingly represent anyone other than the county or another public entity in connection with any matter for a period of six (6) months after the cessation of his or her employment with the county; additionally no former level 2 employee shall knowingly represent anyone other than the county or another public entity in connection with any particular matter involving common issues of laws and fact in which the county is a party or has an interest and in which the employee participated personally, substantially and directly for the county for an additional period of six (6) months (for a total of one (1) year) after the cessation of his or her employment with the county.

(Ord. No. 88-30, § 3, 11-15-88)

Sec. 2-144. Violation.

Any violation of the provisions of this division shall be punishable as provided by law.

(Ord. No. 88-30, § 4, 11-15-88)

Cross references: General penalty, § 1-11.

Sec. 2-145. Exemptions.

(a) Nothing in this division shall prevent an affected person from giving testimony under oath, or from making statements required to be made under penalty of perjury.

(b) Nothing in this division shall apply to appearances or communications by an affected person concerning matters of a personal and individual nature, provided that no compensation is thereby received by the person.

(c) Nothing in this division shall prevent an affected person from appearing before the board of county commissioners, advisory boards or county employees on ministerial matters.

(d) Nothing in this division shall prevent an affected person from appearing before the county commissioners on a matter relating to collective bargaining.

(e) Nothing in this division shall prevent an affected person from receiving compensation from the county for services performed by the person for the county (such as legal representation or consulting services) pursuant to a contract between the person (or his/her employer) and the county.

(Ord. No. 88-30, § 5, 11-15-88)

Sec. 2-146. Applicability.

(a) The provisions of this division shall apply to all county commissioners, the county attorney, and the county administrator as of the effective date of this division [November 18, 1988].

(b) The provisions of this division shall not apply to any affected person (except those set forth in (a) above) employed by the county as of the effective date of this division.

(c) The provisions of this division shall apply to all affected persons hired by the county or obtaining office as a county commissioner from any time after the effective date of this division.

(Ord. No. 88-30, § 6, 11-15-88)



THE FLORIDA SENATE
COMMITTEE ON ETHICS AND ELECTIONS

Location

420 Knott Building

Mailing Address

404 South Monroe Street
Tallahassee, Florida 32399-1100
(850) 487-5828

Senator Jack Latvala, *Chair*

Senator Eleanor Sobel, *Vice Chair*

Professional Staff: Dawn K. Roberts, *Staff Director*

Senate's Website: www.flsenate.gov

October 11, 2013

Joseph M. Centorino, Esq.
Executive Director
Miami-Dade County Commission
on Ethics and Public Trust
19 West Flagler Street
Miami, FL 33130

Dear Mr. Centorino,

The Senate Committee on Ethics and Elections will be meeting on Monday, November 4, 2013 from 4:00 p.m. to 6:00 p.m. in Room 412, Knott Building. You are requested to appear to discuss and address questions relating to local independent ethics commissions.

Please confirm your attendance to the Committee Administrative Assistant.
vause.diane@flsenate.gov

If you have any questions, please do not hesitate to contact Dawn Roberts, Staff Director for the Committee. Thank you in advance for your cooperation.

Sincerely,

A handwritten signature in black ink, reading "Jack Latvala".

Senator Jack Latvala (SD – 20)
Chair
Senate Committee on Ethics and Elections

cc: The Honorable Don Gaetz, President of the Florida Senate
Members, Committee on Ethics and Elections

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

11/4/13

Meeting Date

Topic Local Ethics Commissioners Bill Number _____
Name Joseph M. Centorino (if applicable)
Job Title Executive Director & General Counsel
Miami-Dade Commission on Ethics and Public Trust Amendment Barcode _____
Address 19 W. Flagler Street Ste 220 Phone 305-579-2594
Miami FL 33316 E-mail Centorino@miamidade.gov
City State Zip

Speaking: ☐ For ☐ Against ☐ Information

Representing Miami-Dade Commission on Ethics and Public Trust

Appearing at request of Chair: ☒ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

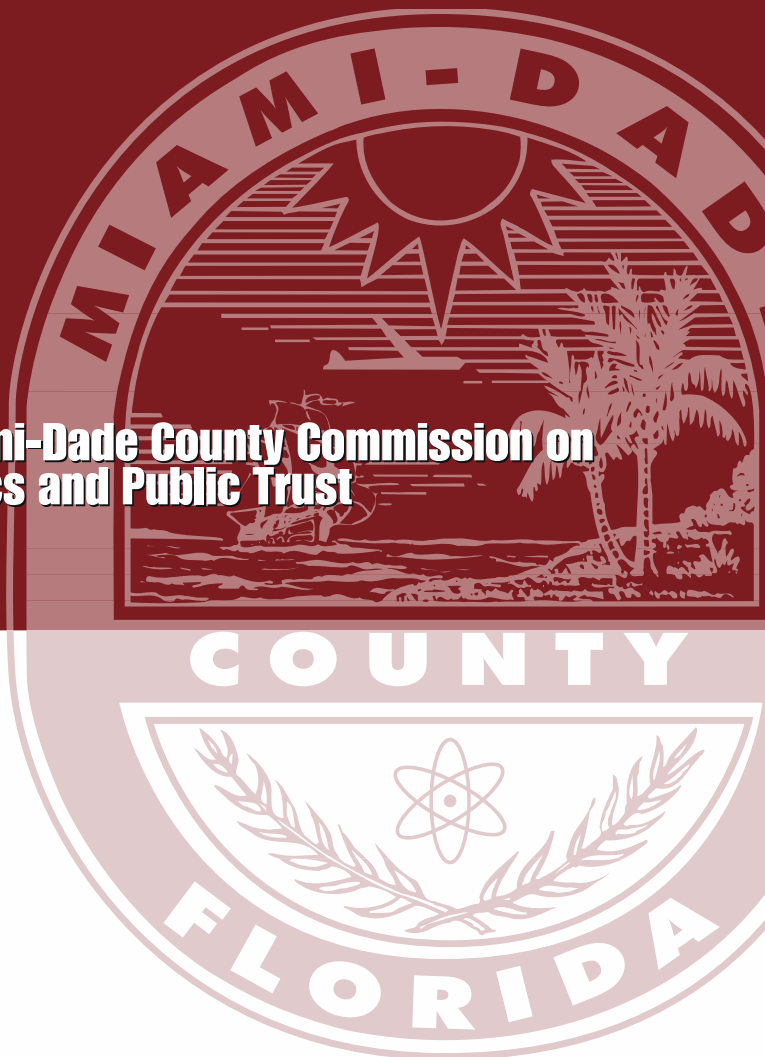
This form is part of the public record for this meeting.

S-001 (10/20/11)

The
Conflict of Interest
and Code of Ethics
Ordinance

AS AMENDED THROUGH DECEMBER 2010

**Miami-Dade County Commission on
Ethics and Public Trust**



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The following is a summary of Section 2-11.1 of the Code of Miami-Dade County, the County's Conflict of Interest and Code of Ethics Ordinance. For a complete understanding of the provisions of this ordinance, the appropriate section or sections should be read in their entirety. If a legal interpretation is needed, a request should be made pursuant to the provisions of Section (r).

Sec. 2-11.1. Conflict of Interest and Code of Ethics Ordinance.

(a) *Designation.* This section shall be designated and known as the “Miami-Dade County Conflict of Interest and Code of Ethics Ordinance.” This section shall be applicable to all County personnel as defined herein, and shall also constitute a minimum standard of ethical conduct and behavior for all municipal officials and officers, autonomous personnel, quasi-judicial personnel, advisory personnel, departmental personnel and employees of municipalities in the County insofar as their individual relationships with their own municipal governments are concerned. References in the section to County personnel shall therefore be applicable to municipal personnel who serve in comparable capacities to the County personnel referred to.

(b) *Definitions.* For the purposes of this section the following definitions shall be effective:

- (1) The term “*commissioners*” shall refer to the Mayor and the members of the Board of County Commissioners as duly constituted from time to time.
- (2) The term “*autonomous personnel*” shall refer to the members of semi-autonomous authorities, boards and agencies as are entrusted with the day-to-day policy setting, operation and management of certain defined County functions or areas of responsibility, even though the ultimate responsibility for such functions or areas rests with the Board of County Commissioners.
- (3) The term “*quasi-judicial personnel*” shall refer to the members of the Community Zoning Appeals Board and such other boards and agencies of the County as perform quasi-judicial functions.
- (4) The term “*advisory personnel*” shall refer to the members of those County advisory boards and agencies whose sole or primary responsibility is to recommend legislation or give advice to the Board of County Commissioners.
- (5) The term “*departmental personnel*” shall refer to the Manager, his or her department heads, the County Attorney and all Assistant County Attorneys.
- (6) The term “*employees*” shall refer to all other personnel employed by the County.
- (7) The term “*compensation*” shall refer to any money, gift, favor, thing of value or financial benefit conferred in return for services rendered or to be rendered.
- (8) The term “*controlling financial interest*” shall refer to ownership, directly or indirectly, to ten (10) percent or more of the outstanding capital stock in any corporation or a direct or indirect interest of ten (10) percent or more in a firm, partnership or other business entity.

- (9) The term “*immediate family*” shall refer to the spouse, domestic partner, parents, stepparents, children and stepchildren of the person involved.
- (10) The term “*transact any business*” shall refer to the purchase or sale by the County of specific goods or services for a consideration.
- (11) The term “*Ethics Commission*” shall refer to the Miami-Dade County Commission on Ethics and Public Trust.
- (12) The term “*domestic partner*” shall mean a person who is a party to a valid domestic partnership relationship as described in section 11A-72(b)(1), (2), (3), (4) and (6) of the Code.
- (13) The term “*contract staff*” shall mean any employee and/or principal of an independent contractor, subcontractor (of any tier), consultant or sub-consultant (of any tier), designated in a contract with the County as a person who shall be required to comply with the provisions of Subsections 2-11.1 (g), (h), (j), (l), (m), (n) and (o) of the Conflict of Interest and Code of Ethics Ordinance. Prior to determining whether to designate a person as contract staff in an RFP, RFQ, bid or contract, the Mayor or his or her designee shall seek a recommendation from the Executive Director of the Ethics Commission.
- (c) *Prohibition on transacting business within the County.*
 - (1) No person included in the terms defined in Subsection (b)(1) through (6) and in Subsection (b)(9) shall enter into any contract or transact any business, except as provided in Subsections (c) (2) through (c)(6), in which he or she or a member of his or her immediate family has a financial interest, direct or indirect, with Miami-Dade County or any person or agency acting for Miami-Dade County, and any such contract, agreement or business engagement entered in violation of this Subsection shall render the transaction voidable. Willful violation of this Subsection shall constitute malfeasance in office and shall effect forfeiture of office or position.
 - (2) County employees’ limited exclusion from prohibition on contracting with the County. Notwithstanding any provision to the contrary herein, Subsections (c) and (d) shall not be construed to prevent any employee as defined in Subsection (b)(6) [excluding departmental personnel as defined in Subsection (b)(5)] or his or her immediate family as defined in Subsection (b) (9) from entering into any contract, individually or through a firm, corporation, partnership or business entity in which the employee or any member of his or her immediate family has a

controlling financial interest, with Miami-Dade County or any person or agency acting for Miami-Dade County, as long as 1) entering into the contract would not interfere with the full and faithful discharge by the employee of his or her duties to the County, 2) the employee has not participated in determining the subject contract requirements or awarding the contract, and 3) the employee's job responsibilities and job description will not require him or her to be involved in the contract in any way including, but not limited to, its enforcement, oversight, administration, amendment, extension, termination or forbearance. However, this limited exclusion shall not be construed to authorize an employee or his or her immediate family member to enter into a contract with Miami-Dade County or any person or agency acting for Miami-Dade County if the employee works in the County department which will enforce, oversee or administer the subject contract.

- (3) Limited exclusion from prohibition on autonomous personnel, advisory personnel and quasi-judicial personnel contracting with County. Notwithstanding any provision to the contrary herein, Subsections (c) and (d) shall not be construed to prohibit any person defined in Subsection (b)(2), (b)(3) and (b)(4) from entering into any contract, individually or through a firm, corporation, partnership or business entity in which the board member or any member of his or her immediate family has a controlling financial interest, with Miami-Dade County or any person or agency acting for Miami-Dade County. However, any person defined in Subsection (b)(2), (b)(3) and (b)(4) is prohibited from contracting with any agency or department of Miami-Dade County subject to the regulation, oversight, management, policy-setting or quasi-judicial authority of the board of which the person is a member.
- (4) Any person defined in Subsections (b)(2) through (b)(4) and Subsection (b)(6) shall seek a conflict of interest opinion from the Miami-Dade County Commission on Ethics and Public Trust ("the Ethics Commission") prior to submittal of a bid, response or application of any type to contract with the County by the person or his or her immediate family. A request for a conflict of interest opinion shall be made in writing and shall set forth and include all pertinent facts and relevant documents. If the Ethics Commission finds that the requirements of this section pertaining to exclusions for persons defined in Subsections (b)(2) through (b)(4) and Subsection (b)

(6) are not met and that the proposed transaction would create a conflict of interest, the person defined in Subsections (b)(2), (b)(3), (b)(4) or (b)(6) may request a waiver from the Board of County Commissioners within ten (10) days of the Ethics Commission opinion by filing a notice of appeal to the Ethics Commission. The Ethics Commission shall forward the notice of appeal and its opinion and any pertinent documents to the Clerk of the Board of County Commissioners (the "Clerk") forthwith. The Clerk shall place the request on the commission agenda for consideration by the Board. The Board of County Commissioners may grant a waiver upon an affirmative vote of two-thirds (2/3) of the entire Board of County Commissioners, after a public hearing, if it finds that the requirements of this ordinance pertaining to the exclusion for a County employee from the Code have been met and that the proposed transaction will be in the best interest of the County. The Board of County Commissioners may, as provided in Subsection (c)(6), grant a waiver to any person defined in Subsection (b)(2) through (b)(4) regarding a proposed transaction. Such findings shall be included in the minutes of the board. This Subsection shall be applicable only to proposed transactions, and the Board may in no case ratify a transaction entered into in violation of this Subsection.

If the affected person or his or her immediate family member chooses to respond to such solicitation to contract with the County, such person shall file with the Clerk a statement in a form satisfactory to the Clerk disclosing the person's interest or the interest of his or her immediate family in the proposed contract and the nature of the intended contract at the same time as or before submitting a bid, response or application of any type to contract with the County. Along with the disclosure form, the affected person shall file with the Clerk a copy of his or her request for an Ethics Commission opinion and any opinion or waiver from the Board. Also, a copy of the request for a conflict of interest opinion from the Ethics Commission and opinion or waiver must be submitted with the response to the solicitation to contract with the County.

Notwithstanding any provision herein to the contrary, the County and any person or agency acting for Miami-Dade County shall not award a contract to any person defined in Subsections (b)(2) through (b)(4) and Subsection (b)(6) or his or her immediate family individually or through a firm, corporation, partnership or business entity in which the person or any member of

his or her immediate family has a controlling financial interest, unless the Ethics Commission has rendered an opinion that entering into the contract would not be a conflict of interest or the Board waives the conflict in accordance with the provisions of this ordinance.

The County Manager is directed to include language in all solicitations for County contracts advising persons defined in Subsections (b) (2) through (b)(4) and Subsection (b)(6) of the applicable conflict of interest code provisions, the provisions of this ordinance, including the requirement to obtain an Ethics Commission opinion and make disclosure and the right to seek a legal opinion from the State of Florida Ethics Commission regarding the applicability of state law conflict of interest provisions.

- (5) Nothing herein shall prohibit or make illegal
- (1) the payment of taxes, special assessments or fees for services provided by County government;
 - (2) the purchase of bonds, anticipation notes or other securities that may be issued by the County through underwriters or directly from time to time;
 - (3) the participation of the persons included in the terms defined in Subsection (b) (1) through (b)(6), except for employees of the General Services Administration and their "immediate family" as defined in (b)(9), in the public auction process utilized by the County for the disposal of surplus motor vehicles;
 - (4) the purchase of surplus personal property, pursuant to administrative order, by persons defined in Subsection (b)(1) through (6) and (9);
 - (5) an application for direct assistance from the Miami-Dade County Department of Housing and Urban Development or an application to participate in a program administered by the Department of Special Housing, submitted by an applicant who is a County person as defined in Subsection (b) and who would but for this section be eligible for such assistance from said department; provided, however, that the exception provided in this paragraph shall not extend to an employee of the Miami-Dade County Department of Housing and Urban Development or the Department of Special Housing who participates in the administration of said programs; or
 - (6) an application to participate in a single-family mortgage loan program sponsored by the Housing Finance Authority of Miami-Dade County, submitted by a County person as defined in Subsection (b), and would but for this section be eligible for participation in said program; provided, however, that the exception provided in this paragraph shall not extend to an employee

of the Miami-Dade County Finance Department who participates in the administration of said single-family mortgage loan program.

- (6) Extension of waiver to County Commissioners, autonomous personnel, quasi-judicial personnel and advisory personnel. The requirements of this Subsection may be waived for a particular transaction only by affirmative vote of two-thirds (2/3) of the entire Board of County Commissioners, after public hearing. Such waiver may be affected only after findings by two-thirds (2/3) of the entire Board that:
 - (1) An open-to-all sealed competitive bid has been submitted by a County person as defined in Subsection (b)(2), (3) and (4), or
 - (2) The bid has been submitted by a person or firm offering services within the scope of practice of architecture, professional engineering, or registered land surveying as defined by the laws of the State of Florida and pursuant to the provisions of the Consultants' Competitive Negotiation Act, and when the bid has been submitted by a County person defined in Subsection (b)(2), (3) and (4), or
 - (3) The property or services to be involved in the proposed transaction are unique and the County cannot avail itself of such property or services without entering a transaction which would violate this Subsection but for waiver of its requirements, or
 - (4) That the property or services to be involved in the proposed transaction are being offered to the County at a cost of no more than 80% of fair market value based on a certified appraisal paid for by the provider, and
 - (5) That the proposed transaction will be to the best interest of the County.

Such findings shall be spread on the minutes of the Board. This Subsection shall be applicable only to prospective transactions, and the Board may in no case ratify a transaction entered in violation of this Subsection.

Provisions cumulative. This Subsection shall be taken to be cumulative and shall not be construed to amend or repeal any other law pertaining to the same subject matter.

(d) *Further prohibition on transacting business with the County.* No person included in the terms defined in Subsections (b)(1) through (6) and in Subsection (b)(9) shall enter into any contract or transact any business through a firm, corporation, partnership or business entity in which he or any member of his immediate family has a controlling financial interest, direct or indirect, with Miami-Dade County or any person or agency

acting for Miami-Dade County, and any such contract, agreement or business engagement entered in violation of this Subsection shall render the transaction voidable. The remaining provisions of Subsection (c) will also be applicable to this Subsection as though incorporated herein by recitation.

Additionally, no person included in the term defined in Subsection (b)(1) shall vote on or participate in any way in any matter presented to the Board of County Commissioners if said person has any of the following relationships with any of the persons or entities which would be or might be directly or indirectly affected by any action of the Board of County Commissioners: (i) officer, director, partner, of counsel, consultant, employee, fiduciary or beneficiary; or (ii) stockholder, bondholder, debtor, or creditor, if in any instance the transaction or matter would affect the person defined in Subsection (b)(1) in a manner distinct from the manner in which it would affect the public generally. Any person included in the term defined in Subsection (b)(1) who has any of the above relationships or who would or might, directly or indirectly, profit or be enhanced by the action of the Board of County Commissioners shall absent himself or herself from the Commission meeting during the discussion of the subject item and shall not vote on or participate in any way in said matter.

(e) *Gifts.*

- (1) *Definition.* The term “gift” shall refer to the transfer of anything of economic value, whether in the form of money, service, loan, travel, entertainment, hospitality, item or promise or in any other form, without adequate and lawful consideration. Food and beverages consumed at a single sitting or meal shall be considered a single gift, and the value of the food and beverage provided at that sitting or meal shall be considered the value of the gift.
- (2) *Exceptions.* The provisions of Subsection (e)(1) shall not apply to:
 - (a) Political contributions specifically authorized by state law;
 - (b) Gifts from relatives or members of one’s household;
 - (c) Awards for professional or civic achievement;
 - (d) Material such as books, reports, periodicals or pamphlets which are solely informational or of an advertising nature;
 - (e) Gifts solicited by County employees or departmental personnel on behalf of the County in performance of their official duties for use solely by the County in conducting its official business;

- (f) Gifts solicited by Commissioners on behalf of the County in performance of their official duties for use solely by the County in conducting its official business.
 - (g) Gifts solicited by Commissioners, or their staff members, on behalf of any nonprofit organization for use solely by that organization where neither the Commissioner nor his or her staff receives any compensation as a result of the solicitation. As used in this subsection, a "nonprofit organization" shall mean any entity described in section 501(c)(3) of the Internal Revenue Code (the "Code") that is tax exempt under section 501(a) of the Code. As used in this subsection, "compensation" means any money, gift, favor, political contribution, thing of value or other financial benefit.
- (3) *Prohibitions.* A person described in Subsection (b) (1) through (6) shall neither solicit nor demand any gift. It is also unlawful for any person or entity to offer, give, or agree to give to any person included in the term defined in Subsection (b)(1) through (6) or for any person included in the term defined in Subsection (b)(1) through (6) to accept or agree to accept from another person or entity, any gift for or because of:
- (a) An official public action taken or to be taken, or which could be taken;
 - (b) A legal duty performed or to be performed, or which could be performed; or
 - (c) A legal duty violated or to be violated, or which could be violated by any person included in the term defined in Subsection (b)(1).
- (4) *Disclosure.* Any person included in the term defined in Subsection (b)(1) through (6) shall disclose as provided herein any gift, or series of gifts from any one person or entity, having a value in excess of one hundred dollars (\$100.00). Said disclosure shall be made by filing a copy of the disclosure form required by Chapter 112, Florida Statutes, for "local officers" with the Clerk of the Board of County Commissioners simultaneously with the filing of the form with the Secretary of State.

(f) *Compulsory disclosure by employees of firms doing business with the County.* Should any person included in the terms defined in Subsections (b)(1) through (6) be employed, either himself or herself or through a member of his or her immediate family, by a corporation, firm, partnership or business entity in which he or she does not have a controlling financial interest, and should the said corporation, firm, partnership or business entity have

substantial business commitments to or from the County or any County agency, or be subject to direct regulation by the County or a County agency, then said person shall file a sworn statement disclosing such employment and interest with the Clerk of the Circuit Court in and for Miami-Dade County.

(g) *Exploitation of official position prohibited.* No person included in the terms defined in Subsections (b)(1) through (6) and (b)(13) shall use or attempt to use his or her official position to secure special privileges or exemptions for himself or herself or others except as may be specifically permitted by other ordinances and resolutions previously ordained or adopted or hereafter to be ordained or adopted by the Board of County Commissioners.

(h) *Prohibition on use of confidential information.* No person included in the terms defined in Subsections (b)(1) through (6) and (b)(13) shall accept employment or engage in any business or professional activity which he or she might reasonably expect would require or induce him or her to disclose confidential information acquired by him or her by reason of his or her official position, nor shall he or she in fact ever disclose confidential information garnered or gained through his or her official position with the County, nor shall he or she ever use such information, directly or indirectly, for his or her personal gain or benefit.

(i) *Financial disclosure.*

(1) All persons and firms included within Subsections (a) and (b)(2), (3) and (4) of this section shall file, no later than 12:00 noon of July 1st of each year, including the July 1st following the last year that person is in office or held such employment, one (1) of the following:

- (a) A copy of that person's or firm's current federal income tax return; or
- (b) A current certified financial statement on a form of the type approved for use by state or national banks in Florida listing all assets and liabilities having a value in excess of one thousand dollars (\$1,000.00) and a short description of each; or
- (c) An itemized source of income statement, under oath and on a form approved by the County for said purpose.

Compliance with the financial disclosure provisions of Chapter 112 (Part III) Florida Statutes, as amended, or with the provisions of Article II, Section 8 of the Florida Constitution, as amended by the voters on November 2, 1976, and any general laws promulgated thereunder shall constitute compliance with this section.

- (2) County and municipal personnel. The following County personnel shall comply with the filing requirements of Subsection (i)(1) above: the Mayor and members of the Board of County Commissioners; County Attorney and Assistant County Attorneys; County Manager; Assistant County Manager(s); Special Assistant(s) to the County Manager; heads or directors of County departments and their assistant or deputy department heads; employees of the Miami-Dade Police with the rank of captain, major and chief; Building and Zoning inspectors. References herein to specified County personnel and boards shall be applicable to municipal personnel and boards that serve in comparable capacities to the County personnel and boards referred to.
- (3) Candidates for County and municipal office. All candidates for County and municipal elective office shall comply with the filing requirements of Subsection (i)(1) above at the same time that the candidate files qualifying papers.
- (4) Consultants. All persons or firms providing professional services as defined by Section 2-10.4 (1) (a) and (b) of the Code of Miami- Dade County, to Miami-Dade County or any municipalities, their agencies or instrumentalities, shall comply with the filing requirements of Subsection (i)(1) above within ninety (90) days of the effective date hereof. All persons or firms subsequent to the effective date of this section, which engage in competitive negotiation with Miami-Dade County or any of its municipalities, their agencies or instrumentalities under and pursuant to Section 2-10.4 of the Code of Miami-Dade County shall comply with the reporting requirements of Subsection (i)(1) of this section within thirty (30) days of execution of a contract arising out of said competitive negotiations and prior to any payments from said County, municipalities or other agencies or instrumentalities. Failure to comply with the terms hereof by such persons or firms shall render existing contracts voidable and shall automatically void any contracts negotiated and executed subsequent to the effective date of this section where the required information is not furnished within thirty (30) days of the execution of said contract as noted herein.
- (5) Reports; filing. All documents required to be filed hereunder by County persons or consultants shall be filed with the Supervisor of Elections. Documents required to be filed hereunder by municipal persons or consultants shall be filed with the municipal clerk of that entity.
- (6) Public disclosure. All documents filed pursuant to this Subsection shall constitute public records within the meaning of Chapter 119, Florida Statutes.

- (7) Construction. The construction of this Subsection shall be considered as supplemental to and not in substitution of any requirements of Chapter 112, Florida Statutes, or any rules and regulations promulgated thereunder.

(j) *Conflicting employment prohibited.* No person included in the terms defined in Subsections (b)(1) through (6) and (b)(13) shall accept other employment which would impair his or her independence of judgment in the performance of his or her public duties.

(k) *Prohibition on outside employment.*

- (1) No person included in the terms defined in Subsections (b)(5) [departmental personnel] and (6) [employees] shall receive any compensation for his or her services as an officer or employee of the County, from any source other than the County, except as may be permitted by Section 2-11 of this Code of Ordinances.

- (2) All full-time County and municipal employees engaged in any outside employment for any person, firm, corporation or entity other than Miami-Dade County, or the respective municipality, or any of their agencies or instrumentalities, shall file, under oath, an annual report indicating the source of the outside employment, the nature of the work being done pursuant to same and any amount or types of money or other consideration received by the employee from said outside employment. Said County employee's reports shall be filed with the Supervisor of Elections no later than 12:00 noon on July 1st of each year, including the July 1st following the last year that person held such employment. Municipal employee reports shall be filed with the clerk of their respective municipalities. Said reports shall be available at a reasonable time and place for inspection by the public. The County Manager or any city manager may require monthly reports from individual employees or groups of employees for good cause.

(l) *Prohibited investments.* No person included in the terms defined in Subsections (b)(1) through (6) and (b)(13) shall have personal investments in any enterprise, either himself, herself, or through a member of his or her immediate family, which will create a substantial conflict between his or her private interests and the public interest.

(m) *Certain appearances and payment prohibited.*

- (1) No person included in the terms defined in Subsections (b)(1), (5), (6) and (13) [commissioners, the Mayor, departmental personnel, employees

and contract staff] shall appear before any County board or agency and make a presentation on behalf of a third person with respect to any license, contract, certificate, ruling, decision, opinion, rate schedule, franchise, or other benefit sought by the third person. Nor shall such person receive compensation, directly or indirectly or in any form, for services rendered to a third person, who has applied for or is seeking some benefit from the County or a County agency, in connection with the particular benefit sought by the third person. Nor shall such person appear in any court or before any administrative tribunal as counsel or legal advisor to a party who seeks legal relief from the County or a County agency through the suit in question.

- (2) No person included in the terms defined in Subsections (b)(2), (3) and (4) [autonomous personnel, quasi-judicial personnel and advisory personnel] shall appear before the County board or agency on which he or she serves, either directly or through an associate, and make a presentation on behalf of a third person with respect to any license, contract, certificate, ruling, decision, opinion, rate schedule, franchise, or other benefit sought by the third person. Nor shall such person receive compensation, directly or indirectly or in any form, for services rendered to a third party, who has applied for or is seeking some benefit from the County board or agency on which such person serves, in connection with the particular benefit by the third party. Nor shall such person appear in any court or before any administrative tribunal as counsel or legal advisor to a third party who seeks legal relief from the County board or agency on which such person serves through the suit in question. However, this section shall not prohibit an architect serving without compensation on the Miami-Dade County Board of Energy Regulation or on any architectural board, whose sole function is to pass on the aesthetics of plans submitted, from submitting plans on behalf of a client so long as such member makes known his representation of the applicant and disqualifies himself from speaking or voting or otherwise participating on such application.

(n) *Actions prohibited when financial interests involved.* No person included in the terms defined in Subsections (b)(1) through (6) and (b)(13) shall participate in any official action directly or indirectly affecting a business in which he or any member of his immediate family has a financial interest. A financial interest is defined as a special financial interest, direct or indirect, as that term is used in Section 4.03 of the County's Charter; or as a financial interest as defined in Section 769 of the Restatement of the Law of Torts as an

investment or something in the nature of an investment. This section shall not prohibit any official, officer, employee or person from taking official action (1) to promote tourism or downtown development or redevelopment within the County or any portion thereof, or (2) to authorize the expenditure of public funds for promoting tourism or downtown development or redevelopment, so long as no such authorized public funds are to be paid to such person or a member of his or her immediate family or any business in which he or she or any member of his or her immediate family has a financial interest.

(o) *Acquiring financial interest.* No person included in the terms defined in Subsections (b)(1) through (6) and (b) (13) shall acquire a financial interest in a project, business entity or property at a time when he or she believes or has reason to believe that the said financial interest will be directly affected by his or her official actions or by official actions by the County or County agency of which he or she is an official, officer, employee or contract staff.

(p) *Recommending professional services.* No person included in the terms defined in Subsections (b)(1) through (6) may recommend the services of any lawyer or law firm, architect or architectural firm, public relations firm or any other person or firm, professional or otherwise, to assist in any transaction involving the County or any of its agencies, provided that such recommendation may properly be made when required to be made by the duties of office and in advance at a public meeting attended by other County officials, officers or employees.

(q) *Continuing application for two (2) years after County service.*

- (1) No person who has served as an elected County official, i.e., Mayor, County Commissioner or a member of the staff of an elected County official, or as County Manager, senior assistant to the County Manager, department director, departmental personnel or employee shall, for a period of two (2) years after his or her County service or employment has ceased, lobby any County officer, departmental personnel or employee in connection with any judicial or other proceeding, application, RFP, RFQ, bid, request for ruling or other determination, contract, claim, controversy, charge, accusation, arrest or other particular subject matter in which Miami-Dade County or one (1) of its agencies or instrumentalities is a party or has any interest whatever, whether direct or indirect. Additionally, no person who has served as a community council member shall, for a period of two (2) years after his or her County service or employment has ceased, lobby, with regard to any zoning or land use issue, any County officer, departmental personnel or employee in connection with any judicial or other proceeding, application, request for ruling or other

determination, contract, claim, controversy, charge, accusation, arrest or other particular subject matter in which Miami-Dade County or one (1) of its agencies or instrumentalities is a party or has any interest whatever, whether direct or indirect. Nothing contained in this Subsection (q)(1) shall prohibit any individual included within the provisions of this Subsection from submitting a routine administrative request or application to a County department or agency during the two (2) year period after his or her County service has ceased.

- (2) The provisions of this Subsection (q) shall not apply to officials, departmental personnel or employees who become employed by governmental entities, 501(c)(3) non-profit entities or educational institutions or entities and who lobby on behalf of such entities in their official capacities.
- (3) The provisions of this section shall apply to all individuals as described in Subsection (q)(1) who leave the County after the effective date of the ordinance from which this section derives.
- (4) Any former County officer, departmental personnel or employee who has left the County within two (2) years prior to the effective date of this ordinance and has entered into a lobbying contract prior to the effective date of this ordinance shall, for a period of two (2) years after his or her County service has ceased, comply with Subsection (q) as it existed prior to the effective date of the ordinance from which this section derives as modified by this Subsection (q) (4) when lobbying pursuant to said contract. No former County officer, departmental personnel or employee who has left the County within two (2) years prior to the effective date of the ordinance from which this section derives shall for a period of two years after his or her County service or employment has ceased enter into a lobbying contract to lobby any County officer, departmental personnel or employee in connection with any judicial or other proceeding, application, RFP, RFQ, bid, request for ruling or other determination, contract, claim, controversy, charge, accusation, arrest or other particular subject matter in which Miami-Dade County or one (1) of its agencies or instrumentalities is a party or has a direct and substantial interest; and in which he or she participated directly or indirectly as an officer, departmental personnel or employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation or otherwise during his or her County service or employment. As used herein, a person participated "directly" where he or she was substantially involved in

the particular subject matter through decision, approval, disapproval, recommendation, the rendering of advice, investigation or otherwise during his or her County service or employment. As used herein, a person participated "indirectly" where he or she knowingly participated in any way in the particular subject matter through decision, approval, disapproval, recommendation, the rendering of legal advice, investigation or otherwise during his or her County service or employment. Former County officers, departmental personnel and employees who have left the County within two (2) years prior to the effective date of the ordinance from which this section derives shall execute an affidavit on a form prepared by the Office of Inspector General prior to lobbying any County officer, departmental personnel or employee stating that the requirements of this section do not preclude said person from lobbying any officer, departmental personnel or employee of the County. The Inspector General shall verify the accuracy of each affidavit executed by former County officers, departmental personnel or employees.

- (5) Any individual who is found to be in violation of this Subsection (q) shall be subject to the penalties provided in either Subsection (cc)(1) or Subsection (cc)(2).

(r) *Ethics Commission to render opinions on request.*

Whenever any person included in the terms defined in Subsection (b)(1) through (6), (b)(9) and (b)(13) is in doubt as to the proper interpretation or application of this Conflict of Interest and Code of Ethics Ordinance as to himself or herself, or whenever any person who renders services to the County is in doubt as to the applicability of the said ordinance as to himself or herself, he or she may submit to the Ethics Commission a full written statement of the facts and questions he or she has. The Ethics Commission shall then render an opinion to such person and shall publish these opinions without use of the name of the person advised unless such person requests the use of his or her name.

(s) *Lobbying.*

- (1) (a) As used in this section, "County personnel" means those County officers and employees specified in Section 2-11.1(i)(2) of the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance.
- (b) As used in this section, "Lobbyist" means all persons, firms, or corporations employed or retained by a principal who seeks to encourage the passage, defeat, or modifications of (1) ordinance, resolution, action or decision

of the County Commission; (2) any action, decision, recommendation of the County Manager or any County board or committee; or (3) any action, decision or recommendation of County personnel during the time period of the entire decision-making process on such action, decision or recommendation which foreseeably will be heard or reviewed by the County Commission, or a County board or committee. "Lobbyist" specifically includes the principal, as well as any employee whose normal scope of employment includes lobbying activities.

The term "Lobbyist" specifically excludes the following persons: attorneys or other representatives retained or employed solely for the purpose of representing individuals, corporations or other entities during publicly noticed quasi-judicial proceedings where the law prohibits ex-parte communications; expert witnesses who provide only scientific, technical or other specialized information or testimony in public meetings; any person who only appears as a representative of a neighborhood association without compensation or reimbursement for the appearance, whether direct, indirect or contingent, to express support of or opposition to any item; any person who only appears as a representative of a not-for-profit community-based organization for the purpose of requesting a grant without special compensation or reimbursement for the appearance; and employees of a principal whose normal scope of employment does not include lobbying activities.

- (2) All lobbyists shall register with the Clerk of the Board of County Commissioners within three (3) business days of being retained as a lobbyist or before engaging in any lobbying activities, whichever shall come first. Every person required to so register shall:
 - (a) Register on forms prepared by the Clerk;
 - (b) State under oath his or her name, business address and the name and business address of each person or entity which has employed said registrant to lobby. If the lobbyist represents a corporation, the corporation shall also be identified. Without limiting the foregoing, the lobbyist shall also identify all persons holding, directly or indirectly, a five (5) percent or more ownership interest in such corporation, partnership or trust. Registration of all lobbyists shall be required prior to

January 15 of each year, and each person who withdraws as a lobbyist for a particular client shall file an appropriate notice of withdrawal. The fee for annual registration shall be four hundred and ninety dollars (\$490.00). Every registrant shall be required to state the extent of any business or professional relationship with any current person described in Subsection (b)(1). The registration fees required by this Subsection shall be deposited by the clerk into a separate account and shall be expended for the purpose of recording, transcribing, administration and other costs incurred in maintaining these records for availability to the public. There shall be no fee required for filing a notice of withdrawal and the Board of County Commissioners may, in its discretion, waive the registration fee upon a finding of financial hardship.

- (c) Prior to conducting any lobbying, all principals must file a form with the Clerk of the Board of County Commissioners, signed by the principal or the principal's representative, stating that the lobbyist is authorized to represent the principal. The principal and the lobbyist must also submit a joint affidavit stating that the principal has not offered and the lobbyist has not agreed to accept any contingency or success fees as defined in subsection (s)(7). Failure of a principal to file the required forms may be considered in the evaluation of a bid or proposal as evidence that a proposer or bidder is not a responsible contractor. Each principal shall file a form with the Clerk of the Board at the point in time at which a lobbyist is no longer authorized to represent the principal.
- (3) (a) Any public officer, employee or appointee who only appears in his or her official capacity shall not be required to register as a lobbyist.
- (b) Any person who only appears in his or her individual capacity for the purpose of self-representation without compensation or reimbursement, whether direct, indirect or contingent, to express support of or opposition to any item, shall not be required to register as a lobbyist. A principal of any corporation, partnership or other entity who appears as a lobbyist on behalf of that entity, without special compensation or reimbursement for the appearance, whether direct, indirect or contingent, to express support of or opposition to any item, shall register with the Clerk as

required by this subsection, but shall not be required to pay any registration fees.

- (4) Any person who only appears as a representative of a not-for-profit corporation or entity (such as a charitable organization, a trade association or trade union), without special compensation or reimbursement for the appearance, whether direct, indirect or contingent, to express support or opposition to any item, shall register with the Clerk as required by this Subsection, but, upon request, shall not be required to pay any registration fees. Any principal who only appears as a representative of a certified Micro Enterprise, as defined in section 2-8.1.1.1.1 of the Code, as a representative of a certified Level I Community Small Business Enterprise, as defined in section 10-33.02 or as a representative of a certified Tier 1 Community Business Enterprise, as defined in section 2-10.4.01, without special compensation or reimbursement for the appearance, whether direct, indirect or contingent, to express support of or opposition to any item, shall register with the Clerk as required by this subsection, but, upon request, shall not be required to pay any registration fees.
- (5) Any person who appears as a representative for an individual or firm for an oral presentation before a County certification, evaluation, selection, technical review or similar committee, shall list on an affidavit provided by the County, all individuals who may make a presentation. The affidavit shall be filed by staff with the Clerk's office at the time the proposal is submitted. For the purpose of this Subsection only, the listed members of the presentation team shall not be required to pay any registration fees. No person shall appear before any committee on behalf of an individual or firm unless he or she has been listed as part of the firm's presentation team pursuant to this paragraph or unless he or she is registered with the Clerk's office and has paid all applicable fees.
- (6) (a) Commencing July 1, 1986, and on July 1 of each year thereafter, the lobbyist shall submit to the Clerk of the Board of County Commissioners a signed statement under oath, as provided herein, listing all lobbying expenditures in excess of twenty-five dollars (\$25.00) for the preceding calendar year. A statement shall be filed even if there have been no expenditures during the reporting period. The statement shall list in detail each expenditure by category, including food and beverage, entertainment, research, communi-

cations, media advertising, publications, travel, lodging and special events.

- (b) The Clerk of the Board of County Commissioners shall notify any lobbyist who fails to timely file an expenditure report. In addition to any other penalties which may be imposed as provided in Subsection (s)(9), a fine of fifty dollars (\$50.00) per day shall be assessed for reports filed after the due date. Where a fine of fifty dollars (\$50.00) per day is assessed, the Ethics Commission shall not impose a fine as provided in Subsection (cc).

Any lobbyist who fails to file the required expenditure report by September 1st shall be automatically suspended from lobbying until all fines are paid unless the fine has been appealed to the Ethics Commission.

- (c) The Clerk of the Board of County Commissioners shall notify the Commission on Ethics and Public Trust of the failure of a lobbyist or principal to file a report and/or pay the assessed fines after notification.
- (d) A lobbyist or principal may appeal a fine and may request a hearing before the Commission on Ethics and Public Trust. A request for a hearing on the fine must be filed with the Commission on Ethics and Public Trust within fifteen (15) calendar days of receipt of notification of the failure to file the required disclosure form. The Commission on Ethics and Public Trust shall have the authority to waive the fine, in whole or in part, based on good cause shown. The Commission on Ethics and Public Trust shall have the authority to adopt rules of procedure regarding appeals from the Clerk of the Board of County Commissioners.

- (7) No person may, in whole or in part, pay, give or agree to pay or give a contingency fee to another person. No person may, in whole or in part, receive or agree to receive a contingency fee. As used herein, "contingency fee" means a fee, bonus, commission, or nonmonetary benefit as compensation which is dependent on or in any way contingent on the passage, defeat, or modification of: (1) an ordinance, resolution, action or decision of the County Commission; (2) any action, decision or recommendation of the County Manager or any County board or committee; or (3) any action, decision or recommendation of County personnel during the time period of the entire decision-making process regarding such action, decision or recommendation which foreseeably will be

heard or reviewed by the County Commission, or a County board or committee.

- (8) The Clerk shall publish logs on a quarterly and an annual basis reflecting the lobbyist registrations which have been filed in accordance with this Subsection (s). All logs required by this ordinance shall be prepared in a manner substantially similar to the logs prepared for the Florida Legislature pursuant to Section 11.045, Florida Statutes.
- (9) The Ethics Commission shall investigate any person engaged in lobbying activities who may be in violation of this Subsection (s). In the event that a violation is found to have been committed, the Ethics Commission may, in addition to the penalties set forth in Subsection (cc), prohibit such person from lobbying before the County Commission or any committee, board or personnel of the County as provided herein. Every lobbyist who is found to be in violation of this section shall be prohibited from registering as a lobbyist or lobbying in accordance with the following schedule:

1st violation for a period of ninety (90) days from the date of determination of violation;

2nd violation for a period of one (1) year from the date of determination of violation;

3rd violation for a period of five (5) years from the date of determination of violation;

A bidder or proposer shall be subject to the debarment provisions of Section 10-38 of the Code of Miami-Dade County as if the bidder or proposer were a contractor where the bidder or proposer has violated this section, either directly or indirectly or any combination thereof, on three (3) or more occasions. As used herein, a "direct violation" shall mean a violation committed by the bidder or proposer and an "indirect violation" shall mean a violation committed by a lobbyist representing said bidder or proposer. A contract entered into in violation of this section shall also render the contract voidable. The County Manager shall include the provisions to this Subsection in all County bid documents, RFP, RFQ, CBO and CDBG applications; provided, however, the failure to do so shall not render any contract entered into as the result of such failure illegal per se.

- (10) All members of the County Commission, and all County personnel, shall be diligent to ascertain whether persons required to register pursuant to this Subsection have complied. Commissioners or County personnel may not knowingly permit a person who is not registered pursuant to this

Subsection to lobby the Commissioner or the relevant committee, board or County personnel.

- (11) Except as otherwise provided in Subsection (s) (9), the validity of any action or determination of the Board of County Commissioners or County personnel, board or committee shall not be affected by the failure of any person to comply with the provisions of this Subsection (s).

(t) *Cone of Silence.*

1. Contracts for the provision of goods and service other than audit and independent private sector inspector general (IPSIG) contracts.

- (a) "Cone of Silence" is hereby defined to mean a prohibition on: (i) any communication regarding a particular RFP, RFQ or bid between a potential vendor, service provider, bidder, lobbyist or consultant and the County's professional staff including, but not limited to, the County Manager and his or her staff; (ii) any communication regarding a particular RFP, RFQ or bid between the Mayor, County Commissioners or their respective staffs and any member of the County's professional staff including, but not limited to, the County Manager and his or her staff; (iii) any communication regarding a particular RFP, RFQ or bid between a potential vendor, service provider, bidder, lobbyist or consultant and any member of the selection committee therefor; (iv) any communication regarding a particular RFP, RFQ or bid between the Mayor, County Commissioners or their respective staffs and any member of the selection committee therefor; and (v) any communication regarding a particular RFP, RFQ or bid between a potential vendor, service provider, bidder, lobbyist, or consultant and the Mayor, County Commissioners and their respective staffs; and (vi) any communication regarding a particular RFP, RFQ or bid between any member of the County's professional staff and any member of the selection committee therefor. The County Manager and the Chairperson of the selection committee may communicate about a particular selection committee recommendation, but only after the committee has submitted an award recommendation to the Manager and provided that should any change occur in the committee recommendation, the content of the communication and of the corresponding change as well as the reasons for such change shall be described in writing and filed by the Manager with the Clerk of the Board and be included in any recommendation

memorandum submitted by the Manager to the Board of County Commissioners. Notwithstanding the foregoing, the Cone of Silence shall not apply to (i) competitive processes for the award of CDBG, HOME, SHIP and Surtax Funds administered by the Miami-Dade County Office of Community and Economic Development and the community-based organization (CBO) competitive grant processes administered by the Park and Recreation, Library, Water and Sewer, and Solid Waste Departments, Cultural Affairs and Tourist Development Councils and the Department of Environmental Resources Management; (ii) communications with the County Attorney and his or her staff; (iii) communications between a potential vendor, service provider, bidder, consultant or lobbyist and employees of the Management and Technical Assistance Unit of the Department of Business Development regarding small business and/or minority business programs, the Community Business Enterprise and Equitable Distribution Programs; (iv) communications between a potential vendor, service provider, bidder, consultant or lobbyist and employees responsible for administering disadvantaged business enterprise programs in County departments receiving federal funds, provided the communications are limited strictly to matters of programmatic process or procedure; (v) duly noticed site visits to determine the competency of bidders regarding a particular bid during the time period between the opening of bids and the time that the County Manager makes his or her written recommendation; (vi) any emergency procurement of goods or services pursuant to Administrative Order 3-2; (vii) communications regarding a particular RFP, RFQ or bid between any person and the Vendor Information Center staff, the procurement agent or contracting officer responsible for administering the procurement process for such RFP, RFQ or bid, provided the communication is limited strictly to matters of process or procedure already contained in the corresponding solicitation document; and (viii) communications between a potential vendor, service provider or bidder and employees of the Department of Procurement Management or other department identified in the solicitation document as the issuing department; and (ix) consultations by employees of the Department of Procurement Management with professional

procurement colleagues in determining an appropriate approach or option involving a solicitation in progress.

(b) *Procedure.*

- (i) A Cone of Silence shall be imposed upon each RFP, RFQ and bid after the advertisement of said RFP, RFQ or bid. At the time of imposition of the Cone of Silence, the County Manager or his or her designee shall provide for public notice of the Cone of Silence. The County Manager shall include in any public solicitation for goods and services a statement disclosing the requirements of this ordinance.
- (ii) The Cone of Silence shall terminate at the time the Manager makes his or her written recommendation to the County Commission; provided, however, that if the Commission refers the Manager's recommendation back to the Manager or staff for further review, the Cone of Silence shall be reimposed until such time as the Manager makes a subsequent written recommendation. The foregoing notwithstanding, for contracts and purchases which the County Manager has the delegated authority to award under Sec. 2-8.1(b) of this Code, the Cone of Silence shall terminate: (i) at the time the award recommendation letter is issued and filed with the Clerk of the Board for such contracts and purchases involving the expenditure of over one hundred thousand dollars (\$100,000); (ii) at the time the written award recommendation is posted in accordance with Section III of A.O. 3-21 for such contracts or purchases involving the expenditure of over \$25,000 up to \$100,000; or (iii) at the time the award recommendation is issued in accordance with Section IV of A.O. 3-21 for contracts and purchases involving the expenditure of \$25,000 or less.
- (iii) While the Cone of Silence is in effect, County staff shall create a written record of any oral communications with potential vendor, service provider, bidder, lobbyist, or consultant related to or regarding a solicitation, bid, proposal, or other competitive process. The record shall indicate the date of such communication, the persons to whom

staff communicated, and a general summation of the communication. This subsection applies to all communications made while the Cone of Silence is in effect for a particular solicitation.

(c) *Exceptions.*

- (i) The provisions of this ordinance shall not apply to oral communications at pre-bid conferences, oral presentations before selection committees, contract negotiations during any duly noticed public meetings, public presentations made to the Board of County Commissioners during any duly noticed public meeting or communications in writing at any time with any County employee, official or member of the Board of County Commissioners unless specifically prohibited by the applicable RFP, RFQ or bid documents. The bidder or proposer shall file a copy of any written communication with the Clerk of the Board. The Clerk of the Board shall make copies available to any person upon request.
- (ii) The provisions of this ordinance shall also not apply to oral communications at briefings held by County Commissioners and the County Mayor or his designee, after the selection committee or other evaluating group makes its recommendation to the County Manager, provided that the briefings are not intended to influence the outcome of the selection committee or other evaluating group's recommendation to the County Manager; provided, however, that this exception shall not apply to outside groups such as lobbyists or representatives of the responding or bidding companies or entities.

2. *Audit and IPSIG contracts.*

- (a) "Cone of Silence" is hereby defined to mean a prohibition on: (a) any communication regarding a particular RFP, RFQ or bid between a potential vendor, service provider, bidder, lobbyist or consultant and the Mayor, County Commissioners or their respective staffs and any member of the County's professional staff including, but not limited to, the County Manager and his or her staff; (b) any oral communication regarding a particular RFP, RFQ or bid between the

Mayor, County Commissioners or their respective staffs and any member of the County's professional staff including, but not limited to, the County Manager and his or her staff. Notwithstanding the foregoing, the Cone of Silence shall not apply to (a) communications with the County Attorney and his or her staff; (b) communications between a potential vendor, service provider or bidder and employees of the Department of Procurement Management or other department identified in the solicitation document as the issuing department; and (c) consultations by employees of the Department of Procurement Management with professional procurement colleagues in determining an appropriate approach or option involving a solicitation in progress.

- (b) Except as provided in Subsections 2(c) and 2(d) hereof, a Cone of Silence shall be imposed upon each RFP, RFQ and bid for audit and IPSIG services after the advertisement of said RFP, RFQ or bid. At the time of the imposition of the Cone of Silence, the County Manager or his or her designee shall provide for the public notice of the Cone of Silence. The Cone of Silence shall terminate when the County Manager executes a particular audit or IPSIG contract.
- (c) Nothing contained herein shall prohibit any bidder or proposer: (i) from making public presentations at duly noticed pre-bid conferences or before duly noticed selection committee meetings; (ii) from engaging in contract negotiations during any duly noticed public meeting; or (iii) from communicating in writing with any County employee or official for purposes of seeking clarification or additional information from the County or responding to the County's request for clarification or additional information, subject to the provisions of the applicable RFP, RFQ or bid documents. The bidder or proposer shall file a copy of any written communication with the Clerk of the Board. The Clerk of the Board shall make copies available to the general public upon request.
- (d) Nothing contained herein shall prohibit any lobbyist, bidder, proposer or other person or entity from publicly addressing the Board of County Commissioners during any duly noticed public meeting regarding action on any audit or IPSIG contract. The County Manager shall include in any public

solicitation for auditing or IPSIG services a statement disclosing the requirements of this ordinance.

3. *Penalties.* In addition to the penalties provided in Subsections (s) and (cc) hereof, violation of this Subsection (t) by a particular bidder or proposer shall render any RFP award, RFQ award or bid award to said bidder or proposer voidable. Any person who violates a provision of this ordinance shall be prohibited from serving on a Miami-Dade County competitive selection committee. In addition to any other penalty provided by law, violation of any provision of this ordinance by a Miami-Dade County employee shall subject said employee to disciplinary action up to and including dismissal. Additionally, any person who has personal knowledge of a violation of this ordinance shall report such violation to the State Attorney and/or may file a complaint with the Ethics Commission.
4. The requirements of Section 2-11.1(t) shall not apply to any municipality in Miami-Dade County that has adopted an ordinance providing that the Cone of Silence shall not apply to that municipality. Any municipality that opts out of the requirements of Section 2-11.1(t) shall provide the Ethics Commission with a copy of the ordinance.
5. Within thirty days of a recommendation from a selection committee, the County Mayor or his designee shall either appoint a negotiation committee or take other affirmative action with respect to the solicitation, including but not limited to rejection of proposals or recommendation for award. In the event that negotiations have not commenced within thirty days, or if such other affirmative action has not been taken within thirty days, the County Mayor or his designee shall report such event, and the reasons therefore, to the Board of County Commissioners. Additionally, the County Mayor or his designee shall present the Clerk of the Board with a recommendation for award, or a recommendation to reject proposals, within ninety days from the date a selection committee makes a recommendation. In the event that the County Mayor or his designee has not provided such recommendation to the Clerk of the Board within ninety days, the County Mayor or his designee shall provide a report on the status of the solicitation to the Board of County Commissioners, including the reasons for any delay.

(u) *Prohibition on certain business transactions.* No person who is serving as an elected County official or a member of the staff of an elected County official, or as County Manager, senior assistant to the County Manager

or department director shall enter into a business transaction with any person or entity that has a contract with Miami-Dade County or any shareholder, partner, officer, director or employee of said contractor, unless said business transaction is an arms-length transaction made in the ordinary course of business. The provisions of this Subsection (u) shall not apply to a business transaction between an elected County official, the County Manager, a senior assistant to the County Manager or a department director and a not-for-profit entity. As used herein, a "shareholder" shall mean any person holding ten (10) percent or more of the outstanding capital stock of any corporation. As used herein, "elected County official" shall mean the Mayor, County Commissioners and community council members. As used herein, "business transaction" shall mean any contract wherein persons either sell, buy, deal, exchange, rent, lend or barter real, personal or intangible property, money or any other thing of value or render services for value.

(v) *Voting Conflicts: Members of Advisory and Quasi-Judicial Boards.* No person included in the terms defined in Subsections (b)(3) (quasi-judicial personnel) and (b)(4) (advisory personnel) shall vote on any matter presented to an advisory board or quasi-judicial board on which the person sits if the board member will be directly affected by the action of the board on which the member serves, and the board member has any of the following relationships with any of the persons or entities appearing before the board: (i) officer, director, partner, of counsel, consultant, employee, fiduciary or beneficiary; or (ii) stockholder, bondholder, debtor or creditor.

(w) *Prohibition on acceptance of travel expenses from County vendors.* Notwithstanding any other provision of this section, no person included in subsections (b) (1) [Mayor and Commissioners], (b)(5) [departmental personnel] or (b)(6) [employees] shall accept, directly or indirectly, any travel expenses including, but not limited to, transportation, lodging, meals, registration fees and incidentals from any County contractor, vendor, service provider, bidder or proposer. The Board of County Commissioners may waive the requirements of this subsection by a majority vote of the Commission. The provisions of this subsection (w) shall not apply to travel expenses paid by other governmental entities or by organizations of which the County is a member if the travel is related to that membership.

(x) *Prohibition on County employees and departmental personnel performing contract-related duties.* No person included in subsections (b)(5) [departmental personnel] and (b)(6) [employees], who was previously employed by or held a controlling financial interest in a for-profit firm, partnership or other business entity (hereinafter "business entity") shall, for a period of two years following termination of his or her prior relationship

with the business entity, perform any County contract-related duties regarding the business entity, or successor in interest, where the business entity is a County bidder, proposer, service provider, contractor or vendor. As used in this subsection (x), "contract-related duties" include, but are not limited to, service as a member of a County certification, evaluation, selection, technical review or similar committee; approval or recommendation of award of contract; contract enforcement, oversight or administration; amendment, extension or termination of contract; or forbearance regarding any contract. Notwithstanding the foregoing, the provisions of this subsection (x) shall not apply to the County Manager or the Director of Procurement Management.

(y) *Powers and jurisdiction of Ethics Commission.* The Ethics Commission shall be empowered to review, interpret, render advisory opinions and letters of instruction and enforce the Conflict of Interest and Code of Ethics Ordinance. Jurisdiction of the Ethics Commission shall automatically extend to Commissioners, the Mayor, autonomous personnel, quasi-judicial personnel, departmental personnel, employees, contract staff, advisory personnel, immediate family, lobbyists as defined in Subsections (b) and (s) who are required to comply with the Conflict of Interest and Code of Ethics Ordinance; and any other person required to comply with the Conflict of Interest and Code of Ethics Ordinance including, but not limited to, contractors, consultants and vendors. In the event that the Ethics Commission does not assume jurisdiction as provided in the preceding sentence, the Ethics Commission may refer the complaint to the State Attorney for appropriate action. Notwithstanding the foregoing, the Ethics Commission shall not have jurisdiction to consider an alleged violation of Subsection (c) if the requirements of Subsection (c) have been waived for a particular transaction as provided therein.

(z) *Prohibition on participation in settlement negotiations.* Neither the Mayor, a County Commissioner nor any member of their staff shall participate in settlement negotiations of claims or lawsuits, including, but not limited to, contract scope or compensation adjustments involving the County without prior approval of the Board of County Commissioners.

(aa) *County Attorney's office participation in contract adjustments.* County staff shall request the participation of the County Attorney's Office to provide legal advice regarding the scope or compensation adjustments which increase by more than one million dollars (\$1,000,000), the value of a construction contract or a contract involving the purchase of goods or services.

(bb) *Affidavit required.* Each person who is elected to serve as a member of the Board of County Commissioners or as Mayor of Miami-Dade County shall execute an affidavit, on a form prepared by the Ethics Commission,

stating that he or she has read the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance and agrees to comply with the provisions of said ordinance. Each elected official covered by the requirements of this subsection shall file the required affidavit with the Ethics Commission prior to being sworn into office.

(cc) *Penalty.*

- (1) *Proceeding before Ethics Commission.* A finding by the Ethics Commission that a person has violated this section shall subject said person to an admonition or public reprimand and/or a fine of five hundred dollars (\$500.00) for the first such violation and one thousand dollars (\$1,000.00) for each subsequent violation. Where the Ethics Commission finds that a person has intentionally violated this section and determines that a fine is appropriate, said person shall be subject to a fine of one thousand dollars (\$1,000.00) for the first such violation and two thousand dollars (\$2,000.00) for each subsequent violation. Actual costs incurred by the Ethics Commission, in an amount not to exceed five hundred dollars (\$500.00) per violation, may be assessed where the Ethics Commission has found an intentional violation of this section. The Ethics Commission may also order the person to pay restitution when the person or a third party has received a pecuniary benefit as a result of the person's violation. The procedure for determining restitution shall be governed by an administrative order adopted by the County Commission and rules of procedure promulgated by the Ethics Commission.
- (2) *Prosecution by State Attorney in State Court.* Every person who is convicted of a violation of this section in State court shall be punished by a fine not to exceed five hundred dollars (\$500.00) or imprisonment in the County Jail for not more than thirty (30) days, or by both such fine and imprisonment.

[illegible]

MIAMI-DADE COUNTY COMMISSION ON ETHICS & PUBLIC TRUST

Robert Meyers, Executive Director

Biscayne Building
19 West Flagler Street, Suite 820
Miami, Florida 33130

General Number (305) 579-2594

Fax Number (305) 579-0273

e-mail ethics@miamidade.gov

Web www.miamidadeethics.com

The Miami-Dade County Commission on Ethics & Public Trust is an independent agency authorized to interpret and enforce the County Conflict of Interest and Code of Ethics Ordinance, the Citizens' Bill of Rights, and the Ethical Campaign Practices Ordinance. Written requests for legal interpretation of these laws may be made via regular mail, fax, or e-mail.

The Ethics Commission website includes official opinions and decisions, information on ethics laws and ordinances, Ethics Commission agendas, press releases, and other recent news. Individuals may also download forms to meet requirements of the ethics code or register an ethics complaint.

Ethics Hotline (786) 314-9560. Anyone with personal knowledge of an ethics violation enforceable by the Miami-Dade County Ethics Commission may submit the information anonymously by calling the Ethics Hotline.

Request a Speaker (305) 350-0630. The Ethics Commission welcomes opportunities to address groups in both the public and private sectors and/or to conduct ethics training workshops tailored to the needs of the organization. Training sessions and public speakers may be scheduled by calling the "Request a Speaker" number.

MIAMI-DADE COUNTY

Carlos Alvarez
Mayor



BOARD OF COUNTY COMMISSIONERS

Joe A. Martínez
Chairman

Audrey M. Edmonson
Vice Chairperson

Barbara J. Jordan
District 1

Jean Monestime
District 2

Audrey M. Edmonson
District 3

Sally A. Heyman
District 4

Bruno A. Barreiro
District 5

Rebeca Sosa
District 6

Carlos A. Giménez
District 7

Lynda Bell
District 8

Dennis C. Moss
District 9

Senator Javier D. Souto
District 10

Joe A. Martínez
District 11

José “Pepe” Díaz
District 12

Natacha Seijas
District 13

Harvey Ruvin
Clerk of Courts

Pedro J. Garca
Property Appraiser

George M. Burgess
County Manager

Robert A. Cuevas Jr.
County Attorney

Miami-Dade County provides equal access and equal opportunity in employment and services and does not discriminate on the basis of disability.

It is the policy of Miami-Dade County to comply with all of the requirements of the Americans with Disabilities Act.

ETHICS COMMISSIONERS

Kerry E. Rosenthal, Chair

Dawn E. Addy, Vice-Chair

Nelson Bellido

Charlton Copeland

Seymour Gelber

Miami-Dade County Commission on Ethics and Public Trust

HIGHLIGHTS OF THE MIAMI-DADE COUNTY ETHICS CODE

Miami-Dade Commission on Ethics & Public Trust

Dawn Addy, Chair
Charlton Copeland, Vice Chair
Nelson Bellido
Seymour Gelber
Kerry Rosenthal

Joseph Centorino, Executive Director

19 West Flagler St., Suite 820, Miami, FL 33130

Phone: 305 579-2594

Fax: 305 579-0273

Hotline: 786 314-9560

www.miamidadeethics.com

ethics@miamidade.gov

KEY RESPONSIBILITIES

The Conflict of Interest and Code of Ethics Ordinance (Miami-Dade County Code at Sec. 2-11.1) establishes minimum standards of ethical conduct for County and municipal elected officials, employees, members of advisory boards and quasi-judicial bodies and designated County contract workers. Certain requirements may also affect immediate family members, defined as a spouse, domestic partner, parents, stepparents, children and stepchildren. Specific questions should be sent to the Ethics Commission.

Exploitation of official position. A person cannot use his or her public position to obtain a special privilege or exemption for him- or herself or for others.

Confidentiality. A person cannot disclose confidential information acquired through his or her public position.

Financial disclosure. Elected officials, members of advisory boards and quasi-judicial bodies, certain employees and contract staff must file financial disclosure statements every year.

LOYALTY TO ONE'S GOVERNMENT

Recommendations of services prohibited. Elected officials, public employees and members of advisory boards and quasi-judicial bodies may not recommend the services of another to assist in any transaction involving one's government.

Outside employment must be approved annually. Supervisors must ensure that outside employment will not impair an employee's independence of judgment in the performance of his or her public duties. If approved, the employee must file a statement of income earned from outside employment each year.

GIFTS

Definition. A gift is anything of value that the recipient has not paid for. Examples include tickets or passes to events, entertainment performances and charitable galas, holiday baskets, flowers, lodging, meals, beverages, rebates or discounts, if not also offered to the general public.

Prohibited gifts. Elected officials, public employees and members of advisory boards and quasi-judicial bodies may never request or accept gifts intended to persuade them to take (or not take) an official action or to perform (or not perform) a duty required by their government service.

Travel expenses. Vendors and service providers may not pay the travel expenses of elected officials and public employees. Typically, these include costs associated with transportation, lodging, meals, registrations fees and incidental expenses.

Acceptable gifts, if disclosed. Gifts that are not intended to influence an official action and that are not travel expenses paid for by a government vendor may be accepted.

If the total value of a gift from one person or entity exceeds \$100 during a calendar quarter, the gift must be disclosed in the quarter after it is received.

Acceptable solicitations of gifts. Gifts may be solicited if used solely—

- by the government to conduct official business or
- to benefit nonprofit organizations, but only if solicited by commissioners and their staffs when the commissioners and their staffs receive no compensation for the solicitation.

GOVERNMENT PROCUREMENT

Cone of Silence. Oral communications are prohibited between bidders for County contracts and County officers and employees, from the time a bid has been advertised until the County Manager issues a written recommendation to the Board of County Commissioners. Numerous other provisions related to the Cone of Silence can be found in the County Ethics Code.

DOING BUSINESS WITH GOVERNMENT

Employees may do business with their government, individually or through a private company. But not with the employee's *department*, if the employee or immediate family have an ownership interest in the company.

Elected officials, managers, department heads and local government attorneys may *not* do business with their respective governments. Nor may their immediate family members do business with their respective governments.

Members of advisory boards and quasi-judicial bodies may do business with their governments. But not through a company in which the board member has an ownership interest, if the company is regulated by the member's board.

Disclosure of private business associations. If public officers and employees, members of advisory boards and quasi-judicial bodies or immediate family members are employed by a private firm with substantial business relationships to, or regulation by, their respective governments, the private employment must be disclosed.

Transactions with private companies that do business with one's government. Local elected officials and their staffs, managers, senior assistant managers and department heads may transact business with these private companies, but only at arm's length, as in ordinary commercial dealings between equal parties.

Two-year rule for former employees of private entities. Government employees may not perform contract-related duties regarding their former private employers for two years following departure from that employer. The prohibition does not apply to County or municipal managers or to directors of procurement departments.

Conflicting personal investments. Elected officials, members of advisory boards and quasi-judicial bodies, public employees and designated contract workers may *not* —

- own personal investments directly or through an immediate family member that would create a substantial conflict between private interests and the public interest,
- participate in any official action, directly or indirectly, involving a business in which they or an immediate family member has a financial interest of 10% or more,
- acquire a financial interest in an entity directly or through an immediate family member that may be affected by their official actions.

LOBBYISTS

Elected officials and government personnel must determine whether persons seeking to influence them have registered as lobbyists. Meetings with unregistered individuals are prohibited.

Prohibition on lobbying one's own government. Elected officials, public employees and designated contract staff may not represent third parties before their respective governments. Members of advisory boards and quasi-judicial bodies may not represent third parties before their respective boards.

Two-year rule for former officers and employees. Public officers and employees may not lobby or appear before their respective governments for two years following departure from public service, except if employed by another government or a nonprofit or educational entity.

VOTING CONFLICTS

Commissioners and council members. Elected officials may not vote if *either* of the following were to occur: the vote would affect them differently than it would affect the public generally *or* the vote would directly or indirectly affect a person with whom they have certain business relationships.

Board members. Members of advisory boards and quasi-judicial bodies may not vote if *both* of the following were to occur: they will be directly affected by the action of their board *and* they have certain business relationships with the persons or entities appearing before their board on the matter.



THE FLORIDA SENATE
COMMITTEE ON ETHICS AND ELECTIONS

Location
420 Knott Building

Mailing Address
404 South Monroe Street
Tallahassee, Florida 32399-1100
(850) 487-5828

Senator Jack Latvala, *Chair*
Senator Eleanor Sobel, *Vice Chair*

Professional Staff: Dawn K. Roberts, *Staff Director*

Senate's Website: www.flsenate.gov

October 11, 2013

Carla Miller, Esq.
Director
Office of Ethics, Compliance and Oversight
City of Jacksonville
117 West Duval Street, Ste. 450
Jacksonville, FL 32202

Dear Ms. Miller,

The Senate Committee on Ethics and Elections will be meeting on Monday, November 4, 2013 from 4:00 p.m. to 6:00 p.m. in Room 412, Knott Building. You are requested to appear to discuss and address questions relating to local independent ethics commissions.

Please confirm your attendance to the Committee Administrative Assistant.
vause.diane@flsenate.gov

If you have any questions, please do not hesitate to contact Dawn Roberts, Staff Director for the Committee. Thank you in advance for your cooperation.

Sincerely,

A handwritten signature in black ink, reading "Jack Latvala".

Senator Jack Latvala (SD – 20)
Chair
Senate Committee on Ethics and Elections

cc: The Honorable Don Gaetz, President of the Florida Senate
Members, Committee on Ethics and Elections

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

NOV 4, 2013
Meeting Date

Topic ETHICS

Bill Number _____
(if applicable)

Name CARIA MILLER

Amendment Barcode _____
(if applicable)

Job Title ETHICS DIRECTOR

Address 8120 Merganser Dr.

Phone 904 502 2254

Ponte Vedra FL 32082
City State Zip

E-mail ETHICS@coj.net

Speaking: ☒ For ☐ Against ☐ Information

Representing CITY OF JACKSONVILLE

Appearing at request of Chair: ☒ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

TITLE XVI - JUDICIAL CODE
Chapter 602 - JACKSONVILLE ETHICS CODE
PART 12. - GENERAL PROVISIONS

Chapter 602 - JACKSONVILLE ETHICS CODE ^[248]

⁽²⁴⁸⁾ **Editor's note**— Ord. 97-890-E, § 1, effective June 4, 1999, amended the Code by repealing former Ch. 602, §§ 602.101—602.114, and added a new Ch. 602. Former Ch. 602 pertained to offenses relating to official duties, and derived from Ord. 83-591-400, § 1, and Ord. 92-1458-1427, § 1.

PART 1. - IN GENERAL
PART 2. - DEFINITIONS
PART 3. - RESERVED
PART 4. - CONFLICTS OF INTEREST
PART 5. - RESERVED
PART 6. - OFFICE OF ETHICS, COMPLIANCE AND OVERSIGHT
PART 7. - GIFTS AND HONORARIA
PART 8. - LOBBYING
PART 9. - JACKSONVILLE ETHICS COMMISSION
PART 10. - ETHICS EDUCATION
PART 11. - ETHICS OFFICERS
PART 12. - GENERAL PROVISIONS

⁽²⁴⁸⁾ **State Law reference**— Public officers, Fla. Const. Art. II, § 5; ethics in government, Fla. Const. Art. II, § 8; code of ethics, F.S. § 112.311 et seq.; bribery, F.S. § 838.015; unlawful compensation or reward for official behavior, F.S. § 838.016; offenses by public officers and employees, F.S. Ch. 839; allowing escape, F.S. § 843.09 et seq. (Back)

PART 1. - IN GENERAL

[Sec. 602.101. - Legislative intent and declaration of policy; aspirational goals.](#)

Sec. 602.101. - Legislative intent and declaration of policy; aspirational goals.

It is declared to be the policy of the City of Jacksonville that all officials, officers and employees of the City of Jacksonville and its independent agencies are public servants of the people and hold their positions for the benefit of the public, and that imposing ethical standards upon officials, officers, and employees of all of these agencies serves an important public purpose and serves the public welfare. These public servants shall perform efficiently and faithfully their duties under the laws of the federal, state, and local governments. Such officers and employees shall strive to meet the highest standards of ethics consistent with this Code, regardless of personal considerations, recognizing that maintaining the respect of the people must be their foremost concern. This Code shall serve not only as a basis for discipline of public servants who violate these provisions, but also as an aspirational guide for conduct.

The City of Jacksonville consolidated in 1968 in an attempt to create a more responsible government.

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Since that time, various provisions from state and local law have been created or adapted to guide the ethical behavior of local public servants. This Code coordinates existing laws, adds new provisions outlining guidelines for appropriate behavior, and includes new substantive provisions which impose higher standards and expectations on public servants. Although the people of Jacksonville have learned from and responded to past mistakes, there should be an aspiration to much higher standards.

Ethics is defined as the study of the general nature of morals and moral choices to be made by the individual in his or her relationships with others. Ethics is more than the avoidance of criminal behavior. It is a commitment for public servants to take individual responsibility in creating a government that has the trust and respect of its citizens. There needs to be a proactive approach in strengthening the emphasis on ethics and in guiding City officers and employees in upholding them. To preserve and maintain the integrity of responsible government and its decision-making process, the City of Jacksonville believes it is necessary that the identity, activities and expenditures of certain persons who engage in efforts to influence officers and employees of the City on matters within their official cognizance, either by direct communication or by solicitation of others to engage in such efforts, be publicly and regularly disclosed. The provisions and requirements of this Code shall apply to every person who attempts to influence government action, unless such person is clearly exempt herefrom by an express provision hereof.

With the above in mind, the City of Jacksonville hereby adopts the following goals for the City ethics program:

- (a) Promulgate and implement a comprehensive approach to ethics and integrity in Jacksonville government.
- (b) Promote public confidence in public officers and employees and the ethical operation of government.
- (c) Promote and ensure compliance with local, state, and federal ethics law.
- (d) Centralize laws and regulations on the ethical conduct of City officers and employees.
- (e) Heighten knowledge and understanding of the laws and ethical principles which are the inherent obligations of City officers and employees.
- (f) Establish a system to train City officers and employees to encourage compliance with these standards and to also provide for periodic review, education and certification on ethics.
- (g) Enact an Ethics Officer system that will continue to evolve and update our City's ethics program and to provide guidance and education to all City departments.
- (h) Educate City officers and employees to avoid the appearance of impropriety.

Through this comprehensive code and the above-stated goals, the City will strive to elevate the level of ethics in local government, to provide honest and responsible service to the citizens of Jacksonville, and to maintain the confidence and trust of the public that this government serves.

(Ord. 97-890-E, § 1; Ord. 2008-839-E, § 1)

PART 2. - DEFINITIONS

[Sec. 602.201. - Definitions.](#)

Sec. 602.201. - Definitions.

For purposes of this Chapter, the words and phrases defined in this Section shall have the following meanings:

- (a) *Advisory body* means any board, commission, committee, council or authority, however selected, whose total budget, appropriations, or authorized expenditures constitute less than one percent of the budget of each agency it serves or \$100,000, whichever is less, and whose powers, jurisdiction, and authority are solely advisory and do not include the final determination or adjudication of any personal or property rights, duties, or obligations, other than those relating to its internal operations. Any board, commission or authority which has the authority to appropriate money or to exercise quasi-judicial functions is specifically excluded.
- (b) *Advisory body official* means any person appointed to an advisory body.
- (c) *Appointed employee* means a person holding one of the following public positions:
 - (1) Executive branch employees, appointed by the Mayor or by Constitutional Officers and confirmed by the Council;
 - (2) Any other person appointed by the Mayor or by Constitutional Officers, except persons employed solely in maintenance, clerical, secretarial or similar positions; the Mayor, working in coordination with the Constitutional Officers shall, on July 1 of each year, provide a list of appointees who qualify as "Appointed Employees" to the Ethics Office.
 - (3) Any person appointed by the City Council, except persons employed solely in maintenance, clerical, secretarial, or similar positions; the Council Secretary shall, on July 1st of each year, provide a list of appointees who qualify as "Appointed Employees" to the Ethics Office.
 - (4) The executive director or chief executive officer of any agency.
- (d) *Appointed official* means any person appointed to any board, commission, or authority, but excludes any advisory body official.
- (e) *Business entity* means a corporation, partnership, limited partnership, limited liability corporation, limited liability partnership, proprietorship, firm, enterprise, franchise, association, self-employed individual or trust, whether fictitiously named or not, doing business in the City.
- (f) *City* means the Consolidated City of Jacksonville.
- (g) *Civil service employee* means any individual, other than an individual exempted by Section 17.06, Charter of the City of Jacksonville, receiving compensation for services performed for the city, except individuals performing services as independent contractors.
- (h) *Compensation*, as used in Sections 602.801-803, Jacksonville Ordinance Code, means any payment received or to be received by a lobbyist for the performance of lobbying activities, whether the compensation is in the form of a fee, salary, retainer, forbearance, forgiveness, or

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other form of valuable recompense, or any combination thereof.

(i) *Code* means the Jacksonville Ethics Code, Chapter 602, Ordinance Code.

(j) *Controlling interest* means that the person owns or has an interest in a business entity sufficient to allow him or her to control its operations. In the absence of evidence to the contrary, (1) ownership of (i) ten percent of the voting stock in a corporation or (ii) any interest in a partnership, limited partnership (if this interest is other than as a limited partner with no legal right of control, management or operation), firm, enterprise, franchise or association or (2) the holding of an office in the corporate or business structure which is associated with the management and operation of the business entity, shall be deemed to be a controlling interest.

(k) *Elected official* means any individual elected to any office created by the Charter of the City of Jacksonville.

(l) *Employee* means any individual, other than an elected official, receiving compensation for services performed for the City except individuals who perform services as independent contractors.

(m) *Ethics commission* means the Jacksonville Ethics Commission.

(n) *Executive branch department* means a department of the City created in Chapters 20-40, Ordinance Code.

(o) *Fair market value* means the price that would be paid by a willing buyer to a willing seller in a good faith transaction in which neither party is compelled to enter.

(p) *Gift*

(1) *Gift* means that which is accepted by a donee or by another on the donee's behalf, or that which is paid or given to another for or on behalf of a donee, directly, indirectly, or in trust for his or her benefit or by any other means, for which equal or greater consideration is not given. Among other things, a gift may be:

(i) Real property;

(ii) The use of property;

(iii) Tangible or intangible personal property;

(iv) The use of tangible or intangible personal property;

(v) A preferential rate or terms on a debt, loan, goods, or services, which rate is below the customary rate and is not either a government rate available to all other similar situated government employees or officials or a rate which is available to similarly situated members of the public by virtue of occupation, affiliation, age, religion, sex, or national origin;

(vi) Forgiveness of indebtedness;

(vii) Transportation, other than that provided to a public officer or employee by an agency in relation to officially approved governmental business, lodging or parking;

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- (viii) Food or beverage;
 - (ix) Membership dues;
 - (x) Entrance fees, admission fees, or tickets to events, performance or facilities;
 - (xi) Plants, flowers, or floral arrangements;
 - (xii) Services provided by persons pursuant to a professional license or certificate;
 - (xiii) Other personal services for which a fee is normally charged by the person providing the services;
 - (xiv) Any other similar service or thing having an attributable value not already provided for in this Section.
- (2) *Gift* does not include:
- (i) Salary, benefits, services, fees, commissions, or expenses associated primarily with the donee's employment or business, or provided to the donee as part of the donee's bona fide fact finding efforts on behalf of his or her agency, or provided to the donee by the city, and does not include gifts provided by the City or any governmental agency, to the extent that such gift is not inconsistent with the applicable provisions of Section 112.3148, Florida Statutes;
 - (ii) Contributions or expenditures reported pursuant to F.S. Ch. 106, campaign-related personal services provided without compensation by individuals volunteering their time, or any other contribution or expenditure by a political party;
 - (iii) An award, plaque, certificate, or similar personalized item given in recognition of the donee's public, civic, charitable, or professional service;
 - (iv) An honorary membership in a service or fraternal organization presented merely as a courtesy by such organization;
 - (v) The use of a public facility or public property, made available by a governmental agency, for a public purpose;
 - (vi) An honorarium or an expense related to an honorarium event paid to a person or a person's spouse;
 - (vii) Transportation provided to an officer or employee by an agency in relation to officially approved governmental business.
 - (viii) Gifts provided directly or indirectly by a state, regional or national organization which promotes the exchange of ideas between, or the professional development of, governmental officials, officers, or employees, and whose membership is primarily composed of elected or appointed officials, officers, or staff, to members of that organization or officials, officers, or staff of a governmental agency that is a member of that organization.
 - (ix) Gifts solicited or accepted from a relative, as that term is defined in F.S. §

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112.312(21).

(3) For purposes of Section (1) above, *intangible personal property* means property as defined in F.S. § 192.001(11)(b).

(q) *Governmental action* means any administrative or legislative action other than an action which is ministerial or quasi-judicial in nature.

(r) *Honorarium*

(1) *Honorarium* means a payment of money or anything of value, directly or indirectly, to a reporting individual or procurement employee, or to any other person on his or her behalf, as consideration for:

(i) A speech, address, oration or other oral presentation by the reporting individual or procurement employee, regardless of whether presented in person, recorded, or broadcast over the media;

(ii) A writing by the reporting individual or procurement employee, other than a book, which has been or is intended to be published.

(2) The term *honorarium* does not include:

(i) The payment for services related to employment held outside the reporting individual's public position which resulted in the person becoming a reporting individual;

(ii) Any ordinary payment or salary received in consideration for services related to the reporting individual's or procurement employee's public duties;

(iii) A campaign contribution reported pursuant to F.S. Ch. 106

(iv) The payment or provision of actual and reasonable transportation, lodging, and food and beverage expenses related to the honorarium event, including any event or meeting registration fee, for a reporting individual or procurement employee and spouse.

(s) *Immediate family* means:

(1) A spouse and

(2) Any dependent minor child;

while "family" includes a spouse, parent, grandparent, grandchild, child, or sibling.

(t) *Independent agency* means the Duval County School Board, the Jacksonville Transportation Authority, the Jacksonville Port Authority, the Jacksonville Aviation Authority, the Police and Fire Pension Fund, JEA, the Jacksonville Housing Authority, and the Water and Sewer Expansion Authority.

(u) *Lobbying principal* means any person providing compensation to a lobbyist in consideration of his or her performance of lobbying activities, regardless of the technical or legal form of the relationship between the principal and the lobbyist. Principal specifically includes a person whose employee or agent lobbies on behalf of the employer or for the benefit, or in the name of the

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employer.

(v) *Lobbyist* means any natural person who, for compensation seeks, or sought during the preceding 12 months, to influence the governmental decision making of an officer or employee of the City or seeks, or sought during the preceding 12 months, to encourage the passage, defeat, or modification of any proposal or recommendation by an officer or employee of the City.

(w) *Material interest* means the direct ownership of more than five percent of the total assets or capital stock of a business entity.

(x) *Officer* means any person elected to any City office and any appointed official.

(y) *Permitting employee* means any employee of the City who participates through decision, approval, disapproval, recommendation or preparation of a permit or permit application.

(z) *Person* includes individuals, firms, associations, joint ventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations, and all other groups or combinations.

(aa) *Procurement employee* means any employee of the City who participates through decision, approval, disapproval, recommendation or preparation of any part of a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation or auditing or in any other advisory capacity in the procurement of contractual services or commodities as defined in Section 287.012, Florida Statutes, and Chapter 126, Ordinance Code.

(bb) *Public official* means:

- (1) Member of the City Council and Council-appointed aides;
- (2) The Mayor and the Mayor's appointed assistants and aides;
- (3) Chief Administrative Officer;
- (4) Head of an Executive department, appointed by the Mayor and confirmed by the Council, which also includes the Executive Director of the Human Rights Commission;
- (5) Deputy director of an executive department, appointed by the Mayor and confirmed by the Council;
- (6) Chief of a division of an executive department, appointed by the Mayor and confirmed by the Council;
- (7) Administrative Aide to the Mayor, appointed by the Mayor under § 6.06 of the Charter; and
- (8) Personal secretary to the Mayor, appointed by the Mayor under § 6.06 of the Charter; and
- (9) Any individual whose title under civil service is exempt or unclassified;

(cc) *Reporting individual* means and includes:

- (1) Elected officials;

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- (2) Appointed officials;
- (3) Appointed employees;
- (4) Procurement employees.
- (5) Permitting employees;
- (6) Zoning employees.

(dd) *Zoning employee* means any employee of the City who participates through decision, approval, disapproval, recommendation or preparation of a zoning matter or application.

(Ord. 97-890-E, § 1; Ord. 1999-796-E, §§ 1, 2; Ord. 2007-329-E, § 3; Ord. 2008-839-E, § 2)

PART 3. - RESERVED

Editor's note— Ord. No. 2011-232-E, §§ 2 and 3 effectively repealed former Pt. 3, which pertained to misuse of city employment or city property, by renumbering the former §§ 602.301—602.312, as new §§ 601.114, 601.101, 602.703, 601.401, 601.402, 601.403, 601.404, 601.107, 601.109, 602.401, 601.111 and 601.501, respectively.

PART 4. - CONFLICTS OF INTEREST

SUBPART A. - CONFLICTING RELATIONSHIPS

SUBPART B. - RESERVED

SUBPART A. - CONFLICTING RELATIONSHIPS

[Sec. 602.401. - Misuse of position, information, etc.](#)

[Sec. 602.402. - Activities of officers and employees in matters affecting City.](#)

[Sec. 602.403. - Moonlighting provisions.](#)

[Sec. 602.404. - Soliciting future employment or compensation.](#)

[Sec. 602.405 - Responsibility of contracts with former employer prohibited.](#)

[Sec. 602.406. - Public official bid and contract disclosure.](#)

[Sec. 602.407. - Obstruction of proceedings by City officers or employees.](#)

[Secs. 602.408—602.410. - Reserved.](#)

[Sec. 602.411. - Disqualification of former officers and employees in matters connected with former duties or official responsibilities; disqualification of partners.](#)

[Sec. 602.412. - Prohibited future employment.](#)

Sec. 602.401. - Misuse of position, information, etc.

(a) It is unlawful for an officer or employee of the City or an independent agency to intentionally use his or her official position to secure, by coercion or threat, a special privilege or exemption for himself, herself or others, or to secure confidential information for any purpose other than official responsibilities.

(b) It is unlawful for an officer or employee of the City or an independent agency to intentionally or knowingly disclose any confidential information gained by reason of said officer or employee's position concerning the property, operations, policies, or affairs of the City or an independent agency, or use such confidential information for pecuniary gain.

(c) It is unlawful for an officer or employee of the city or an independent agency, to directly or indirectly lend or borrow over \$100, to or from a higher ranking or subordinate employee in the chain of command. It is also unlawful for an officer or employee of the City or an independent agency, to directly or indirectly lend or borrow over \$500 to or from anyone else in the officer or employee's department. This subsection shall not be applicable to lending between family members.

(Ord. 97-890-E, § 1; Ord. 2007-329-E, § 3; Ord. 2011-232-E, § 3)

Note—Former § 602.310.

Sec. 602.402. - Activities of officers and employees in matters affecting City.

(a) It shall be unlawful and a class C offense for an officer or employee of the City or an independent agency, otherwise than in the proper discharge of his or her official duties:

(1) To act as agent or attorney for prosecuting any claim against the City or an independent agency, or to receive any gratuity or any share of or interest in any claim against the City or an independent agency, in consideration of assistance in the prosecution of the claim;

(2) To act as agent or attorney for anyone before any unit of government in connection with any proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest or other particular matter in which the City or an independent agency is a party or has a direct and substantial interest;

(3) To act as agent or attorney for anyone before any unit of government in connection with a proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge or other particular matter with respect to which he or she, or a unit of government of which he or she is a member, has acted upon in an official capacity either before or concurrently with his or her acting as agent or attorney.

(4) To testify as an expert witness in any proceeding before any body or court over the objection of the City or an independent agency.

(b) Nothing in this Section shall prevent an officer or employee of the City or an independent agency, if not inconsistent with the faithful performance of his or her duties, from acting without compensation as agent or attorney for a person who is the subject of disciplinary or other personnel administrative proceedings in connection with those proceedings.

(c) Nothing in this Section shall prevent an officer or employee of the City or an independent agency from acting, with or without compensation, as agent or attorney for his or her parents, spouse, child or

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any person for whom, or for any estate for which, he or she is serving as personal representative except in those matters in which he or she has participated personally and substantially as an officer or employee of the City or an independent agency, through decision, approval, disapproval, recommendation, the rendering of advice, investigation or otherwise, or which are the subject of his or her official responsibility; provided, that the official responsible for appointment to his or her position approves.

(d) Other than the restrictions in paragraph (a)(4) above, nothing in this Section shall prevent an officer or employee of the City or an independent agency from giving testimony under oath or from making statements required to be made under penalty for perjury or contempt.

(e) It shall be unlawful and a class C offense for any person, who is a partner of an officer or employee of the City or an independent agency, knowingly to act as agent or attorney for anyone other than the City or an independent agency in connection with any administrative or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest or other particular matter involving a specific party or parties in which the City or an independent agency is a party or has a direct and substantial interest and in which the officer or employee of the City or an independent agency participates or has participated personally and substantially as an officer or employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation or otherwise, or which is the subject of his or her official responsibility.

(f) The provisions in subsection (a)(1), (2), (3), and (4) do not apply to advisory body officials.

(Ord. 97-890-E, § 1; Ord. 2011-232-E, § 3)

Note—Former § 602.401

Sec. 602.403. - Moonlighting provisions.

(a) No employee of the City shall have any other employment if that employment could reasonably be expected to impair independence in judgment or performance of City duties;

(b) No employee of the City shall have any interest, financial or otherwise, direct or indirect, or engage in any business or activity or incur any obligation of any nature which is in substantial conflict with the proper discharge of his or her duties in the public interest.

(c) All full-time compensated officers or employees of the City shall disclose any private, non-City employment upon obtaining said employment or upon becoming an officer or employee, whichever occurs first.

(d) All full-time compensated City officers or employees shall file the disclosure required in subsection (c) above with the City Ethics Office, copy to the City's Human Resources Chief and the officer or employee's department head, on a form approved by the Ethics Office.

(e) All full-time compensated officers or employees of the City shall file an updated disclosure form whenever any of the information required by the form changes.

(f) All appointed employees, except for those employees appointed by City Council, while full-time employees of the City, must obtain prior approval from the Mayor, or an individual designated by the Mayor, before accepting non-City employment or engaging in any work for an employer other than the City. All employees appointed by City Council, while full-time employees of the Council, must obtain prior approval from the Council President, or an individual designated by the Council President, before

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accepting non-City employment or engaging in any work for an employer other than the City. All employees appointed by a Constitutional Officer, while full-time employees of the Constitutional Officer, must obtain prior approval from the Constitutional Officer, or an individual designated by the Constitutional Officer, before accepting non-City employment or engaging in any work for an employer other than the City. A registry of appointed persons working non-City employment shall be maintained by the Constitutional Officers, the Mayor, and the Council Secretary or their designees; and shall be published on the City website, showing the employee, the outside employment, and the number of hours spent per year on such employment.

(g) It shall be unlawful and a class C offense for any officer or employee of the City to violate any of the provisions of this Section.

(Ord. 97-890-E, § 1; Ord. 2007-329-E, § 3)

Sec. 602.404. - Soliciting future employment or compensation.

(a) No employee of the City shall accept or solicit any other employment, if the employment could reasonably be expected to impair independence in judgment or performance of City duties;

(b) No employee of the City shall solicit or accept compensation for any other employment, which compensation is to be paid while still an employee of the City, if the compensation could reasonably be expected to impair independence in judgment or performance of City duties.

(Ord. 97-890-E, § 1; Ord. 2007-329-E, § 3; Ord. 2011-232-E, § 3)

Sec. 602.405 - Responsibility of contracts with former employer prohibited.

For a period of two years from ceasing employment with a former employer, no employee of the City shall negotiate, supervise or manage a contract with the employee's former employer.

(Ord. 2007-329-E, § 3)

Editor's note— Ord. 2007-329-E, § 3, amended the Code by repealing former § 602.405, and adding a new § 602.405. Former § 602.405 pertained to disclosure of noncity employment, and derived from Ord. 97-890-E, § 1.

Sec. 602.406. - Public official bid and contract disclosure.

(a) A public official of the City or an independent agency, who knows that he or she has a financial interest in a bid to be submitted to their own agency or contract with their own agency, shall make disclosure in writing to the Procurement Division or using agency, whichever is receiving or has received the bid contract, (i) at the time that the bid or contract is submitted or subsequently no later than the close of the second, full, regular work day after the bid or contract is submitted (not including the day that the bid is submitted or any Saturday, Sunday or City holiday), or (ii) prior to or at the time that the public official acquires a financial interest in the bid or contract and such disclosure shall include but not be limited to the following: the bid number, the name of the public official and his or her public office or position, the name and address of the business entity in which the public official has a financial interest, and the position or relationship of the public official with that business entity.

(b) It shall be unlawful and a Class D offense for a public official of the City or an independent agency, to fail or refuse to make the disclosure required in subsection (a) of this Section.

(c) For purposes of this Section, bid means any telephone or written bid, written proposal, written

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quote or written offering of any kind or description whatsoever submitted for the purpose of being awarded or entering into a contract, purchase agreement, sales transaction, or other contractual agreement with the City under the provisions of the Procurement Code, Section 126.110, Ordinance Code, or with an independent agency of the City under its procurement code.

(d) For purposes of this Section, contract means any contract, agreement, purchase order or other document used to evidence the existence of a purchase or sales transaction under the provisions of the Procurement Code, Chapter 126, Ordinance Code, or with an independent agency under its procurement code, or any subsequent change order or amendment to any such contract document.

(e) For purposes of this Section public official means any one or more individuals who have been elected to any state or local office and which office has a geographical jurisdiction or description covering all of, more than but including all or a portion of, or less than but including a portion of, Duval County, Florida, any one or more individuals who have been appointed to the governing body of any independent agency of the City, or an appointed employee of the City.

(f) For purposes of this Section, financial interest means any ownership interest of a public official in any proposer, bidder, contractor, or first tier subcontractor (that is, a person or business entity under contract to provide or providing capital improvement services, professional design services, professional services, labor, materials, supplies or equipment directly to the proposer, bidder, or contractor) whereby the public official knows that he or she has received or will receive any financial gain resulting from or in connection with the soliciting, procuring, awarding, or making of a bid or contract; provided, however, financial interest shall not include any interest in any increase in value of, or dividends paid on, any stock which is publicly traded on any public stock exchange.

(g) The City, independent agency, or using agency, as the case may be, acting by and through its awarding authority may: (i) nullify and terminate the purchase and sales transaction and any contract arising from or in connection with any bid or contract involving failure or refusal to disclose a financial interest of a public official as described in this Section; (ii) declare the same null and void.

(h) In addition to all other penalties described herein, any person or company that violates this Part shall be subject to withholding of payments under the contract, termination of the contract for breach, contract penalties, decertification and/or being debarred from or deemed nonresponsive to future City solicitations and contracts for up to three years (for less egregious violations, as determined by the Chief, a period of probation may be proposed, any violations during which period will result in debarment of no less than three years). For purposes of this Chapter, the words and phrases defined in this Section shall have the following meanings:

(Ord. 97-890-E, § 1; Ord. 2007-329-E, § 3; Ord. 2008-839-E, § 3; Ord. 2011-232-E, § 3)

Note—Former § 602.453.

Sec. 602.407. - Obstruction of proceedings by City officers or employees.

It is unlawful and a class D offense for an officer or employee of the City to:

(a) Corruptly, or by threat of force, or by any intimidating letter or communication, to endeavor to influence, intimidate or impede any witness in any proceeding pending before any City agency or in connection with any inquiry or investigation being had by a City agency. However, this subsection is not intended to prevent the normal information gathering and witness interviewing process associated with the preparation for any filing, hearing, or trial.

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(b) With intent to avoid, evade, prevent or obstruct compliance in whole or in part with any investigative demand duly and properly made under any law or rule made pursuant to law, wilfully to remove from any place, conceal, destroy, mutilate, alter or by other means falsify any documentary material which is the subject of the demand.

(c) Corruptly, or by threat of force, or by any intimidating letter or communication, to influence, obstruct or impede or to endeavor to influence, obstruct or impede the due and proper administration of the law in any proceeding before any City agency or in connection with any inquiry or investigation being had by any City agency.

(d) Intentionally to disrupt, obstruct or impede or to endeavor to disrupt, obstruct or impede the conduct of any public meeting of any City agency.

(e) Intentionally to do any act or attempt to do any act which any reasonable person would know would disrupt, obstruct or impede the conduct of any public meeting before any City agency.

(f) To refuse to comply with the directives, requests or orders of any presiding officer of any public meeting of any City agency.

(g) Intentionally do or act or attempt to do any act which any reasonable person would know would prevent any person from appearing or speaking before any City agency at any public meeting.

(h) Intentionally refusing, after warning, to obey the rules of decorum before any City agency at any public meeting.

(Ord. 97-890-E, § 1; Ord. 2007-329-E, § 3; Ord. 2011-232-E, § 3)

Note—Former § 602.507.

Secs. 602.408—602.410. - Reserved.

Editor's note— Ord. 2007-329-E, § 3, amended the Code by repealing former § 602.408 in its entirety. Former § 602.408 pertained to approval required for noncity employment performed by appointed employees, and derived from Ord. 97-890-E, § 1. Former §§ 602.409 and 602.410 have been renumbered as §§ 602.1210 and 602.1211, respectively, by Ord. 2011-232-E, § 3.

Sec. 602.411. - Disqualification of former officers and employees in matters connected with former duties or official responsibilities; disqualification of partners.

(a) It shall be unlawful and a class C offense for any person, who was an officer or employee of the City or an independent agency, after his or her employment has ceased, knowingly to act as agent or attorney for anyone other than the City or an independent agency in connection with any administrative or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest or other particular matter involving a specific party or parties in which the City or an independent agency is a party or has a direct and substantial interest and in which he or she participated personally and substantially as an officer or employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation or otherwise while employed by the City or an independent agency.

(b) It shall be unlawful and a class C offense for any person, who was an officer or employee of the City or an independent agency, after his or her employment has ceased, to appear personally before any unit of government as agent or attorney for anyone other than the City or an independent agency in

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connection with any proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest or other particular matter involving a specific party or parties in which the City or an independent agency is a party or has a direct and substantial interest and which was under his or her official responsibility as an officer or employee of the City or an independent agency at any time within a period of one year prior to the termination of his or her responsibility.

(c) Nothing in subsection (a) or (b) shall prevent a former officer or employee of the City or an independent agency with professional, scientific or technological qualifications, from acting as agent or attorney or from appearing personally in connection with a particular matter in a professional, scientific or technological field if the head of the unit of government concerned with the matter shall certify in writing that the public interest would be served by the action or appearance by the former officer or employee.

(Ord. 97-890-E, § 1; Ord. 2011-232-E, § 2)

Note—Former § 602.402

Sec. 602.412. - Prohibited future employment.

It shall be unlawful and a class C offense for any person, who was an officer or employee of the City or an independent agency, after his or her employment has ceased, to be employed by or enter into any contract for personal services, with a person or company who contracted with, or had a contractual relationship with the City or the independent agency, while the contract is active or being completed, or within two years of the cessation, completion, or termination of the person's or company's contractual relationship with the City or the independent agency, where (1) the contract with the City or the independent agency had a value that exceeded \$250,000, and (2) the officer or employee had a substantial and decision-making role in securing or negotiating the contract or contractual relationship, or in the approval of financial submissions or draws in accordance with the terms of the contract; except that this prohibition shall not apply to an employee whose role is merely as a review signatory, or to contracts entered into prior to January 1, 2008, or to contracts that have been competitively procured. With respect to this subsection a contract is competitively procured if it has been obtained through a sealed low bid award. A "substantial and decision-making role" shall include duties and/or responsibilities that are collectively associated with: (i) approving solicitation or payment documents; (ii) evaluating formal bids and proposals; and (iii) approving and/or issuing award recommendations for final mayoral, City Council, or independent agency approval. The contract of any person or business entity who hires or contracts for services with any officer or employee prohibited from entering into said relationship shall be voidable at the pleasure of the City or independent agency. This prohibition shall not apply to any former officer or employee after two years from cessation from City or independent agency employment. An officer or employee subject to the prohibition of this Section who believes his or her role in the applicable contract does not create an ethical dilemma, may appeal to a committee of the City Council Rules Chair, the Chairperson of the Ethics Commission, and the Chief of Procurement for relief from this Section. Said appeal shall be considered and ruled upon within ten business days of a written request.

(Ord. 97-890-E, § 1; Ord. 2007-329-E, § 3)

Note—Former § 602.404(c).

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SUBPART B. - RESERVED ^[249]

⁽²⁴⁹⁾ **Editor's note**— Ord. 2011-232-E, § 5, repealed former Subpart B, §§ 602.450, 602.452 and 602.455. Former Subpart B pertained to reporting requirements, and derived from Ord. 97-890-E, § 1; and Ord. 2007-329-E, § 3.

[Secs. 602.450—602.455. - Reserved.](#)

Secs. 602.450—602.455. - Reserved.

PART 5. - RESERVED ^[250]

⁽²⁵⁰⁾ **Editor's note**— Ord. 2011-232-E, §§ 2, 3, in effect repealed former Pt. 5, which pertained to miscellaneous malfeasance or misfeasance, by renumbering former §§ 602.501—602.505 as §§ 601.206, 601.115, 601.116, 601.110, and 602.1204, respectively, and specifically repealing former § 602.506. Former § 602.506 pertained to forfeiture of pension rights, and derived from Ord. 97-890-E, § 1.

PART 6. - OFFICE OF ETHICS, COMPLIANCE AND OVERSIGHT

SUBPART A. - CREATION AND ORGANIZATION
SUBPART B. - DUTIES
SUBPART C. - INDEPENDENT AUTHORITIES

SUBPART A. - CREATION AND ORGANIZATION

[Sec. 602.611. - Office of Ethics, Compliance and Oversight; Creation.](#)
[Sec. 602.612. - Organization.](#)

Sec. 602.611. - Office of Ethics, Compliance and Oversight; Creation.

(a) There is hereby created, pursuant to Section 1.203 of the Charter of the City of Jacksonville, the Office of Ethics, Compliance and Oversight, the purpose of which is to coordinate and handle citywide

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ethics training, compliance, and oversight issues. In furtherance of the above, the Office shall ensure the investigation of all situations involving fraud, waste, corruption and conflicts of interest by city officials and employees, and to staff the Jacksonville Ethics Commission. The organization and administration of the office shall be independent to assure that no external interference or influence adversely affects the independence and objectivity of the office.

(b) The Office of Ethics, Compliance and Oversight is an independent office which is:

- (1) Administratively housed in the Office of General Counsel, but separately budgeted and accounted for; and
- (2) Whose executive director is appointed by the Jacksonville Ethics Commission subject to Council confirmation; and
- (3) Whose budget is recommended to the Mayor by the Director of the Office of Ethics, Compliance and Oversight and approved by Council.

(Ord. 2011-197-E, § 1)

Sec. 602.612. - Organization.

(a) *Staffing.*

(1) *General staffing.* The Office of Ethics, Compliance and Oversight shall be staffed, at the discretion of the Ethics Commission, and subject to available funding, with a director and such other executive positions approved by Council, each of whom must be knowledgeable and experienced in management, leadership, auditing, oversight, investigation, training, contract administration, and clerical functions deemed necessary to the proper functioning of the office.

(2) *Director.*

(i) *Appointment.* The director of the Office of Ethics, Compliance and Oversight shall be a registered Duval County voter at the time of hire, or shall relocate to Duval County within six (6) months of hire, and shall be appointed for a term of three (3) years by the Jacksonville Ethics Commission, and the appointment shall be confirmed by Council. The Director shall be exempt from civil service.

(ii) *Separation.* The director may be separated from employment by the Jacksonville Ethics Commission before the completion of his or her term for cause, which shall include misfeasance, malfeasance, or conduct unbecoming or detrimental to the performance of his or her position or the integrity of the Office of Ethics, Compliance and Oversight. Separation shall only be effected at a public meeting, and only after the employee has been provided a minimum of 60 business days written notice of the basis for cause and has been provided an opportunity to be informally heard at the public meeting. The 60-day written notice shall be reduced to 15 days written notice in the event of the director's arrest for a felony.

(iii) *Vacancy.* In the event of a director vacancy, the position shall be filled temporarily by a non-confirmed appointment by the Ethics Commission for a period not to exceed 180 days, and then as provided for in subsection (i) above.

(3) *Volunteers.* The Director may utilize the services of such volunteer personnel who have agreed to perform services without compensation, in accordance with the volunteer policies of the

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Division of Human Resources. Such volunteer personnel shall act with such authority as granted by the Ethics Commission.

(b) *Administrative support.*

(1) *Additional staffing.* The Director of the Office of Ethics, Compliance and Oversight shall have the power to appoint, employ, and remove such other personnel as is deemed necessary for the efficient and effective administration of the activities of the office, subject to the budget approval of City Council. All such appointees shall serve at the pleasure of the Director and shall be exempt from civil service.

(2) *Supplemental support.* To the extent that additional support is necessary beyond that which is funded by Council, administrative support shall be provided by the Office of General Counsel, and investigative support shall be provided both by the Council Auditor's Office and the Office of General Counsel, all at the request of the Ethics Commission.

(3) *Legal Support.* Pursuant to the Charter, the Office of General Counsel shall provide legal services to the Office of Ethics, Compliance and Oversight. Recognizing that legal conflicts may present themselves from time to time, special counsel may be retained in accordance with Section 108.505 Ordinance Code.

(c) *Qualifications.* The Executive Director shall have a bachelor's degree or higher from an accredited college or university, with a preference for an advanced degree in applied ethics, law, or public administration; at least ten years experience in related activities such as administration of an ethics office or activity, ethics related legal work, criminal justice administration; and administrative experience.

(Ord. 2011-197-E, § 1)

SUBPART B. - DUTIES

[Sec. 602.621. - Duties.](#)

[Sec. 602.622 - Department/Independent Agency Ethics Officers.](#)

[Sec. 602.623. - Confidentiality/Whistleblowing.](#)

Sec. 602.621. - Duties.

The Office of Ethics, Compliance and Oversight, through its executive officials, shall have authority to:

- (a) Encourage compliance with the spirit and letter of ethics laws, and provide advice and training to departments and agencies;
- (b) Develop policies, programs and strategies to deal with all ethics-related matters;
- (c) Develop training and education programs with assistance of the General Counsel and City training personnel;
- (d) Organize a citywide Ethics Coordination Council with one representative each from the

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executive branch, the legislative branch, each constitutional officer and each independent agency, with the purpose of avoiding duplication of ethics resources, sharing best practices and training, evaluating risk areas and devising plans to eliminate any city fraud, waste or corruption;

(e) Review periodically this Code and other applicable laws and regulations and recommend appropriate changes to this Code;

(f) Administer a confidential "Hotline" for the discovery of government waste, fraud, and ethics violations;

(g) Respond to requests for assistance from all public officers and employees subject to this Ethics Code;

(h) Act as the executive officer of the Jacksonville Ethics Commission, responsible for its administration and operation;

(i) Work with the human resources and procurement offices and other appropriate divisions to integrate ethics into procurement, hiring, retention and promotion policies of the executive branch of the City and to share these practices with the Ethics Coordination Council;

(j) Lead, direct, and be responsible for the development of the citywide ethics plan and report to be created by the Ethics Coordination Council;

(k) Investigate, review and report on City issues, and past, present and proposed programs, activities, accounts, records, contracts and transactions all as related to the prevention and remediation of conflicts of interest, fraud, waste, and corruption;

(l) Request and obtain data relevant to its authorized investigations and to receive full access to the records of all elected and appointed city officials and employees, and departments, divisions, agencies and contractors and other persons and entities doing business with the City and/or receiving City funds, that is not otherwise deemed confidential by law, regarding any such contracts or transactions with the City. All elected and appointed City and county officials and employees, and contractors and other parties doing business with the City and/or receiving City funds shall fully cooperate with the Office of Ethics, Compliance and Oversight.

(m) Where possible violations of any state, federal or local law are suspected, to notify the appropriate civil, criminal or administrative agencies, and assist those agencies as appropriate. In the case of a possible violation of a human resource rule, regulation or policy governing a City employee, the official shall also notify the City administrator and the head of the department for which the employee works, unless to do so would otherwise jeopardize an ongoing investigation.

(n) Personnel within the office shall not interfere with any ongoing criminal investigation or prosecution of the state attorney or the U.S. Attorney for the Middle District of Florida. When the state attorney or the U.S. Attorney for the Middle District of Florida has explicitly notified the office in writing that the investigation is interfering with an ongoing criminal investigation or prosecution, then all investigative activities shall be suspended.

(o) Respond to requests for assistance from all public officers subject to this Ethics Code.

(Ord. 2011-197-E, § 1)

Sec. 602.622 - Department/Independent Agency Ethics Officers.

(a) The Mayor, the Council President, each constitutional officer, and each executive director of the independent agencies of the City shall designate one of their employees as an "Ethics Officer." Each Ethics Officer's duties are in addition to his or her principal operational role unless there is an approved budget for a separate position dealing exclusively with ethics and oversight functions. Specific responsibilities assigned to these Ethics Officers include, but are not limited to the following:

- (1) Conduct periodic meetings with senior management, boards and employee groups to assess risk areas and to provide advice on ethics issues and to work to instill an ethical culture in their agency;
- (2) Assist their department head or senior management in the development of an overall internal ethics plan;
- (3) Participate in a citywide Ethics Coordination Council, which shall identify risks, recommend programs to implement national best practices to combat fraud, waste and corruption, and provide department and agency reports to be included in the citywide ethics.
- (4) Assist in the receipt of ethics, fraud, waste, and corruption complaints from employees and the general public, and to assure that such complaints and information are directed to an appropriate authority, in a manner that best protects the complaining parties. When an Ethics Officer is in doubt about the relief available within a chain of command, or the consequences of reporting within the chain of command, the Ethics Officer shall have a duty to report complaints to the Director of the Office of Ethics, Compliance and Oversight.

(b) In addition to those Ethics Officers set forth in subsection (a) above, there may be appointed within the executive branch additional department ethics officers (DEOs) to assist the Ethics Officer in the duties required by this section at the department or division level. These duties shall be in addition to the principal operational role of the department ethics officer.

(Ord. 2011-197-E, § 1)

Sec. 602.623. - Confidentiality/Whistleblowing.

(a) It is the policy of the City that employees, ethics officers, administrators, complainants, whistleblowers and innocent parties shall be protected to the maximum extent of the law.

(b) All records of complaints and investigations shall remain confidential to the extent authorized by F.S. 112.3188 (2) and any other state law so applicable.

(c) In furtherance of the City policy set forth herein, the director and such authorized personnel in the Office of Ethics, Compliance and Oversight are deemed "safe havens" and whistleblower report-to authorities for the receipt of information and complaints related to ethics, waste, fraud, and corruption. A complainant or ethics officer shall not be penalized or retaliated against in any way for disclosing information to the Office of Ethics, Compliance and Oversight. The director shall take all such action as is appropriate under the circumstances to address the allegations disclosed to them.

(Ord. 2011-197-E, § 1)

SUBPART C. - INDEPENDENT AUTHORITIES

[Sec. 602.631. - Investigations related to officers and employees of independent agencies.](#)

Sec. 602.631. - Investigations related to officers and employees of independent agencies.

In accordance with section 1.202 of the Charter, officers and employees of independent agencies are subject to the jurisdiction of the Ethics Code. The Office of Ethics, Compliance and Oversight shall defer handling any investigations when the applicable independent agency has an established ethics program with investigatory functions and is appropriately undertaking the investigation. Nothing contained herein shall limit an independent agency from seeking cooperation and assistance from the Office of Ethics, Compliance and Oversight and such assistance being provided.

(Ord. 2011-197-E, § 1)

PART 7. - GIFTS AND HONORARIA

[Sec. 602.701. - Prohibited receipt of gifts.](#)

[Sec. 602.702. - Prohibited offering of gifts.](#)

[Sec. 602.703. - Receipt or charge of commissions or gifts for official transactions.](#)

[Sec. 602.704. - Honoraria.](#)

Sec. 602.701. - Prohibited receipt of gifts.

(a) No officer or employee of the City or of an independent agency, or any other person on his or her behalf, shall knowingly accept, directly or indirectly, any one gift with a value greater than \$100 or an accumulation of gifts in any one calendar year that exceeds \$250 from any person or business entity that the recipient knows is:

- (1) A lobbyist who lobbies the recipient's agency or executive department;
- (2) Any principal or employer of a lobbyist who lobbies the recipient's agency or executive department;
- (3) A person or business entity which is doing business with, or has made written application within the previous six months, to do business with an agency of which he or she is an officer or employee;
- (4) A person or business entity which is subject to the permit approval of an agency of which he or she is an officer or employee.

For purposes of the \$250 annual accumulation of gifts, gifts of food and beverage not exceeding \$25 on any given day shall not be included.

(b) No officer or employee of the City or of an independent agency, or any other person on his or her

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behalf, shall knowingly accept, directly or indirectly, any one gift with a value greater than \$100, or an accumulation of gifts in any one calendar year that exceeds \$250 dollars, from any person or business entity, when the gift is given as a result of the officer or employee's official position, or as a result of the business relationship developed as a result of the officer or employee's position or employment. For purposes of the \$250 annual accumulation of gifts, gifts of food and beverage not exceeding \$25 on any given day shall not be included.

(c) The Mayor and the Council Secretary shall identify a mayoral and a council representative who will be officers or employees responsible for the receipt of and distribution of business-related gifts to the City through its executive and legislative branches. The chief executive officer of an independent agency shall identify a designee or designees who will be officers or employees responsible for the receipt of and distribution of business-related gifts to the independent agency. Registries shall be established wherein gifts will be identified by date, donor, type, purpose, and City or independent agency officer or employee carrying out the purpose; and shall be posted on a City or independent agency internet site. (Examples of gifts covered by this subsection include, but are not limited to, tickets or travel to events where City or independent agency official or employee presence is requested, or travel and per diem to inspect products and equipment, or gifts of personal property to the City or independent agency.)

(d) It shall be unlawful and a class A offense for any officer or employee of the City or an independent agency, or any person on his or her behalf, to violate subsections (a) and (b) of this Section.

(Ord. 97-890-E, § 1; Ord. 2002-117-E, § 1; Ord. 2007-329-E, § 3; Ord. 2008-839-E, § 4)

Sec. 602.702. - Prohibited offering of gifts.

It is unlawful and a Class A offense for a lobbyist, or principal or employer of a lobbyist, or any person or entity listed in Section 602.701, to knowingly offer a gift to an officer or employee of the City or an independent agency which would cause a violation of Section 602.701 if accepted.

(Ord. 97-890-E, § 1; Ord. No. 2002-117-E, § 1; Ord. 2008-839-E, § 4)

Sec. 602.703. - Receipt or charge of commissions or gifts for official transactions.

(a) It shall be unlawful and a Class D offense for an officer or employee of the City or an independent agency to charge, be the beneficiary of or receive, directly or indirectly, any fee, commission, gift, gratuity, loan or other consideration for or in connection with any transaction or business done, performed or rendered in the course of his or her official duties and responsibilities. This prohibition is not intended to prohibit inconsequential food or flower gifts delivered to the worksite at holidays, or in appreciation for courtesy and efficiency.

(b) In addition to any penalty prescribed by law, the city or an independent agency shall be entitled to recover from the officer or employee the amount of the fee, commission, gift, gratuity, loan or other consideration. This recovery may be imposed as a fine by the court adjudicating the person guilty or in a civil action in the name of the city or an independent agency.

(c) This Section shall not apply to officers or employees who are entitled by law to receive a fee or commission for their services.

(d) An employee who receives a gift under circumstances which are unauthorized in accordance with this Section, shall return the gift to the sender. If the gift is of food or flowers wherein it is infeasible to

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return, shall place the gift in a location wherein it can be enjoyed by a larger group of employees or donated to an appropriate non-profit organization in the name of the sender, with notice thereof to the donor. An employee handling a gift in accordance with this subsection shall not be deemed as having committed a violation.

(Ord. 97-890-E, § 1; Ord. 2007-329-E, § 3; Ord. 2011-232-E, § 3)

Note—Former § 602.303.

Sec. 602.704. - Honoraria.

(a) A reporting individual is prohibited from soliciting an honorarium which is related to the reporting individual's public office or duties.

(b) A reporting individual is prohibited from knowingly accepting an honorarium from a political committee or committee of continuous existence, as defined in F.S. § 106.011, from a lobbyist or from the employer, principal, partner, or firm of such a lobbyist.

(c) A political committee of continuous existence, as defined in F.S. § 106.011, a lobbyist or the employer, principal, partner or firm of a lobbyist is prohibited from giving an honorarium to a reporting individual.

(d) A person who is prohibited by subsection (c) from paying an honorarium to a reporting individual but who provides a reporting individual or reporting individual and his or her spouse, with expenses related to an honorarium event, shall provide to the reporting individual, no later than 60 days after the honorarium event, a statement listing the name and address of the person providing the expenses, a description of the expenses provided each day, and the total value of the expenses providing for the honorarium event.

(e) A reporting individual who receives payment or provision of expenses related to any honorarium event from a person who is prohibited by subsection (c) from paying an honorarium to a reporting individual shall publicly disclose on an annual statement the name, address, and affiliation of the person paying or providing the expenses; the amount of the honorarium expenses; the date of the honorarium event; a description of the date of the expenses paid or provided on each day of the honorarium event; and the total value of the expenses provided to the reporting individual in connection with the honorarium event. The annual statement of honorarium expenses shall be filed by July 1 of each year for such expenses received during the previous calendar year. The reporting individual shall attach to the annual statement a copy of each statement received by him or her in accordance with subsection (d) regarding honorarium expenses paid or provided during the calendar year for which the annual statement is filed. Such attached statement shall become a public record upon the filing of the annual report. The annual statement of a reporting individual shall be filed in compliance with state law. Where this Chapter requires a person to file a report and that person is not required to file a report pursuant to state law, the report shall be on a form which is substantially the same in content as that required by state law, and the form shall be submitted annually, by July 1, to the Human Resources Chief.

(Ord. 97-890-E, § 1)

Editor's note— Ordinance 2007-839-E, § 18, authorized updated department/division names pursuant to reorganization.

PART 8. - LOBBYING

[Sec. 602.801. - Registration of lobbyists; registration statements.](#)

[Sec. 602.802. - Restricted activities.](#)

[Sec. 602.803. - Fee disclosure.](#)

[Sec. 602.804. - Penalties.](#)

Sec. 602.801. - Registration of lobbyists; registration statements.

(a) For purposes of the registration provisions of this Part, lobbying is defined as the attempt to influence the governmental decision making of an officer or employee of the City, or of an independent agency, or the attempt to encourage the passage, defeat, or modification of any legislation, proposal or recommendation of the City or of an independent agency, or of an officer or employee of the City or of an independent agency. Lobbying shall not include the following:

- (1) Legal or settlement discussions directed toward an attorney for the City or of an independent agency; or
- (2) Participation in a quasi-judicial proceeding involving the City or an independent agency (except that all ex-parte communication to a decision maker or non-lawyer City or independent agency employee constitutes lobbying).

(b) Each person who lobbies, for compensation as a lobbyist, any officer or employee of the City, or of an independent agency, shall, prior to commencement of lobbying activities on any issue, register his or her name, the person or entity for which the lobbying is taking place (principal), and the purpose and issue for which the lobbying is taking place, with the City's Council Secretary. Registration may be for an annual period or for a lesser, stated period, but no person may lobby unless he or she is first registered. A person may register as a lobbyist on his or her own volition or he or she may be required by any officer or employee to register before he or she addresses such officer or employee if he or she is not already registered with the Council Secretary. The Council Secretary shall maintain a book in which the registration statements and oaths submitted by lobbyists shall be entered, together with corrections and amendments as herein authorized and required. If a person shall cease to be a lobbyist, his or her registration statement and oath shall be removed from the book of active lobbyists and shall be placed in a book of inactive or former lobbyists; but no person may have a registration statement and oath on file in both books.

(c) (1) When a person registers as a lobbyist, he or she shall file a registration statement and oath in the form developed from time to time by the Office of General Counsel, in consultation with the City Ethics Officer, the Council Secretary and the Ethics Commission. The Council Secretary, in consultation with the Office of General Counsel, is authorized to reject or strike non-conforming registrations. No person may commence or continue lobbying activity related to a rejected or stricken registration statement until such time as a corrected registration statement is submitted and accepted by the Council Secretary.

- (2) A registration statement may be corrected or amended at any time by the registrant by the submission of a subsequent registration statement and oath setting forth the correcting or additional information that the registrant wishes to place on file. A statement that the subsequent registration statement corrects or amends the previous registration statement shall be inserted in

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the body of the statement, above the lobbyist's signature, noting the substance of the correction or amendment. A registration statement shall be corrected or amended if any material fact concerning the purpose for which or persons on whose behalf the registrant filed the registration statement changes.

(3) A registration statement and oath that is not renewed by the end of the period for which it is filed shall expire and may not thereafter be relied upon by the lobbyist in support of lobbying activities.

(d) The following persons shall not be required to register as lobbyists:

(1) A public official, City or independent agency employee or salaried employee of a public agency acting in his or her official capacity or in connection with his or her job responsibilities or as authorized or permitted to lobby pursuant to a collective bargaining agreement;

(2) A person who only addresses the Council or independent agency board during the "public comment" portion of its meeting agenda;

(3) A person who appears at the specific request or under compulsion of the Council or a Council committee; or of the board or committee of the board of an independent agency;

(4) Expert witnesses and other persons who give factual testimony about a particular matter or measure, but do not advocate passage or defeat of the matter or measure or any amendment thereto;

(5) A person, not exempt under paragraphs (1) through (4) and otherwise meeting the definition of a lobbyist who received no compensation as a lobbyist;

(6) A Principal or an officer or employee of a principal who performs lobbying activities as part of his or her assigned duties.

(e) This section is limited to registration issues only, and nothing contained in this section shall be interpreted to limit the gift and honoraria solicitation and acceptance prohibitions set forth in Part 7 of this Chapter.

(Ord. 97-890-E, § 1; Ord. 2007-329-E, § 3; Ord. 2008-470-E, § 2; Ord. 2008-839-E, § 5)

Sec. 602.802. - Restricted activities.

No information obtained from registration statements required by Section 602.801, Jacksonville Ordinance Code, or from lists compiled from such statements, shall be sold or utilized by any person for the purpose of soliciting campaign contributions or selling tickets to a testimonial or similar fund-raising affair or for commercial purposes.

(Ord. 97-890-E, § 1)

Sec. 602.803. - Fee disclosure.

A lobbyist who attempts to persuade or influence a Council Member, a Council committee, or the Council as a whole; or an independent agency board member, committee, or the independent agency as a whole; on any project, contract, development, ordinance, resolution, or agenda item, shall, prior to commencing lobbying efforts, file with the City's Council Secretary a disclosure revealing whether the

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lobbyist has a financial interest in the contract, development or project that extends beyond its approval, and the percent of that interest.

(Ord. 2007-329-E, § 3; Ord. 2008-839-E, § 5)

Editor's note— Ord. No. 2007-329-E, § 3, amended the Code by adding a new § 602.803, and renumbering former § 602.803 as a new § 602.804

Sec. 602.804. - Penalties.

A person who, knowingly and willfully:

- (a) Being at the time required to register as a lobbyist and not exempt from registration, fails or refuses to do so; or
- (b) Having registered as a lobbyist, fails or refuses to properly file with the Council Secretary a corrected or amended registration statement when required by Section 602.801(c) to do so; or fails to disclose on the registration statement any information required by this Part;
- (c) Continues to act as a lobbyist after the expiration of the period for which the registration statement was filed with the Council Secretary; or
- (d) Commits, or procures or acquiesces in the commission of, any violation of this Part;

shall be guilty of a class D offense against the City.

(Ord. 97-890-E, § 1; Ord. 2007-329-E, § 3; Ord. 2008-470-E, § 2)

Note—See editor's note, § 602.803

PART 9. - JACKSONVILLE ETHICS COMMISSION ^[251]

⁽²⁵¹⁾ **Editor's note**— Ord. 2011-167-E, §§ 1, 2, amended the Code by repealing former Pt. 9, §§ 602.901—602.904, and adding a new Pt. 9. Former Pt. 9 pertained to similar subject matter, and derived from Ord. 97-890-E, § 1; Ord. 2001-1092-E, § 1; Ord. 2005-1462-E, § 1; and Ord. 2007-329-E, § 3.

SUBPART A. - CREATION AND ORGANIZATION
SUBPART B. - POWERS AND DUTIES
SUBPART C. - PROCEDURES AND DUE PROCESS

SUBPART A. - CREATION AND ORGANIZATION

[Sec. 602.911. - Jacksonville Ethics Commission; Creation.](#)

[Sec. 602.912. - Membership, terms, appointment.](#)

Sec. 602.911. - Jacksonville Ethics Commission; Creation.

There is hereby created, pursuant to Section 1.202 of the Charter of the City of Jacksonville, the Jacksonville Ethics Commission, the purpose of which is to provide a local forum for consideration and investigation of ethical problems and issues.

(Ord. 2011-167-E, § 2)

Sec. 602.912. - Membership, terms, appointment.

(a) *Number; terms.* The Commission shall be composed of nine members each of whom shall be registered voters of Duval County for six months prior to the introduction of their nomination for confirmation, and who shall be appointed to serve for fixed January 1 to December 31 three-year terms. The terms of the members shall be so staggered that the terms of no more than three members shall expire in any one year. No person shall serve more than two consecutive full terms. If, because of a delay in appointment, a member serves less than two years during the term, then in that event, the term shall not have been considered a full term for purposes of reappointment. A member made ineligible by reason of service of two consecutive full terms may be appointed for another term following a waiting period of three years.

(b) *Qualifications.* Except as provided for in subsection (d) below, each member shall have one or more of the following qualifications: an attorney; a certified public accountant with forensic audit experience; a former elected official; a former judge; a higher education faculty member or former faculty member with experience in ethics; a former law enforcement official with experience in investigating public corruption; a corporate official with a background in human resources or ethics; a former board member of a City of Jacksonville independent authority; a former government executive with ethics experience.

(c) *Limitations.*

(1) No member shall be an elected or appointed official, or an employee of the City of Jacksonville or any of its independent agencies, or of any governmental agency subject to the authority of the Commission. No member shall be an active judge, an assistant state attorney or assistant public defender, or an officer of a political party.

(2) Ethics Commission members shall not use their position in any manner that decreases public trust or gives the appearance of impropriety. The Ethics Commission shall establish internal operating rules or bylaws to effectuate this provision.

(3) Any Commission member who files to be a candidate for public office shall immediately resign from the Commission and their position shall be deemed vacant upon filing.

(4) No individual while a member of the Commission shall allow his or her name and title as a commission member to be used by a campaign in support of or against any candidate for public office. Nothing herein shall preclude a member from signing a petition in support of or against any referendum, ballot question or candidate. This rule does not prohibit any campaign contributions by a member, or a member supporting any candidate in his or her own name.

(d) *Selection.* Each of the following persons or entities shall make an appointment of one of six

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Commission members whose qualifications are set forth above, to wit: the Mayor, the President of the Council, the Sheriff, the Chief Judge for the Fourth Judicial Circuit, the State Attorney for the Fourth Judicial Circuit, and the Public Defender for the Fourth Judicial Circuit. Three Commission members whose only qualifications are that they have been registered voters in Duval County for six months prior to the introduction of their nomination for confirmation, shall be appointed by the Ethics Commission. All appointments should be made within 30 days of a vacancy occurring. All appointees shall be confirmed by Council but shall serve until Council confirmation or denial.

(Ord. 2011-167-E, § 2)

SUBPART B. - POWERS AND DUTIES

[Sec. 602.921. - Duties and powers.](#)

Sec. 602.921. - Duties and powers.

The Jacksonville Ethics Commission (Commission) shall be authorized to exercise such powers and shall be required to perform such duties as are hereinafter provided. The Commission shall be empowered to review, interpret, render advisory opinions and enforce Chapter 602, *Ordinance Code*; and, in accordance with Section 1.202 of the Charter, to exercise the following powers and duties:

- (a) The Commission is authorized to receive, and to investigate and issue findings with regard to any sworn written complaint alleging a violation of this Chapter or by a complaint initiated by a minimum vote of six members of the Commission alleging a violation of this Chapter. All complaints and records shall be confidential as allowed by Section 112.324, Florida Statutes, or any other applicable state law. In support of this power, the Commission is authorized to establish an ethics "hotline" to receive tips and information, each of which shall be treated with confidentiality as authorized by Florida law. The General Counsel, with the assistance of all appropriate and available offices of the City, shall assist the Ethics Commission in the investigation of complaints. The Ethics Commission may refer matters brought to its attention to the State Attorneys' Office or the Florida Commission on Ethics if it determines jurisdiction is vested in, and action is more appropriate if taken by said agencies.
- (b) Provide assistance and input into the management and coordination of the training and education of local officers and employees in state and local ethics, including the City's Ethics Education Program as set forth in Section 602.1001, as well as all public records and sunshine law training throughout the government.
- (c) The Commission may, upon employee or citizen complaint, or upon its own initiative, seek information and gather facts for the purpose of reviewing any circumstance or situation of which the Commission may become aware that appears to violate or may potentially violate an acceptable standard of ethics conduct for City officers and employees as delineated in Section 1.202(d) of the Charter. Based upon such review the Commission may make such recommendations to the Mayor and the Council as it deems appropriate;
- (d) Have jurisdiction to levy those civil fines or penalties authorized in this Chapter 602 for

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violations of the City's ethics code;

(e) Act as the hiring committee, subject to Council confirmation, for the executive director of the Ethics Oversight and Compliance office.

(Ord. 2011-167-E, § 2)

SUBPART C. - PROCEDURES AND DUE PROCESS

[Sec. 602.931. - Process for the imposition of sanctions and penalties.](#)

[Sec. 602.932. - Documents and testimony.](#)

[Sec. 602.933. - Cooperation of other City agencies.](#)

[Sec. 602.934. - Dismissal of complaints.](#)

[Sec. 602.935. - Frivolous or groundless complaints.](#)

[Sec. 602.936. - Effect on other laws.](#)

[Sec. 602.937. - Prospective jurisdiction.](#)

[Sec. 602.938. - Personnel or other regulatory proceedings.](#)

[Sec. 602.939. - Statute of limitations.](#)

[Sec. 602.940. - Advisory opinions.](#)

[Sec. 602.941. - Review.](#)

Sec. 602.931. - Process for the imposition of sanctions and penalties.

In accordance with Section 602.921(d), and the Charter, the Commission shall perform the following duties in association with the enforcement of Chapter 602 and the imposition of sanctions and penalties including the imposition of public censures and civil penalties.

- (a) The Commission shall establish and post rules and procedures to provide for the investigation of citizen, hotline, employee and self-initiated complaints of violations of Chapter 602
- (b) The Commission shall establish and post rules and procedures to provide for due process in the charging and prosecution of violations of Chapter 602
- (c) Meetings of the Commission exempted from the provisions of section 286.011 Florida Statutes, shall be recorded and such recording shall become public upon the conclusion of the investigatory matter, by either a finding of no probable cause to proceed or a final determination by the Commission.

(Ord. 2011-167-E, § 2)

Sec. 602.932. - Documents and testimony.

The Commission is authorized to exercise and utilize all procedures and processes available to city agencies, which are authorized by ordinance, the Charter, or Chapter 119, Florida Statutes, to secure the production of documents and testimonial evidence relevant to the investigation and prosecution of complaints and charges authorized by this Chapter; except that, the issuance of a subpoena to compel the production of documents or testimony shall be authorized by a circuit or county judge of the Fourth Judicial Circuit upon a facial demonstration of the relevancy of the documentation or testimony to the

enforcement of a provision of Chapter 602, Ordinance Code, the City of Jacksonville's Ethics Code.

(Ord. 2011-167-E, § 2)

Sec. 602.933. - Cooperation of other City agencies.

The services of other departments, boards and agencies of the City shall be made available to the Commission at its request, subject to their ability and capacity to provide them. Other City agencies shall cooperate with the Commission in the exercise of the Commission's responsibilities.

(Ord. 2011-167-E, § 2)

Sec. 602.934. - Dismissal of complaints.

Notwithstanding any other provisions of this Part, the Commission may, at its discretion: (a) dismiss any complaint at any stage of disposition should it determine that the public interest would not be served by proceeding further, or (b) dismiss any complaint at any stage of disposition and issue a letter of instruction to the respondent when it appears that the alleged violation was inadvertent, unintentional or insubstantial. In the event the Commission dismisses a complaint as provided in this subsection, the Commission shall issue a public report stating with particularity its reasons for the dismissal. The Commission, at the request of the state attorney or any other law enforcement agency, shall stay an ongoing proceeding. The Commission shall not interfere with any ongoing criminal investigation of the state attorney or the U.S. Attorney for the Middle District of Florida.

(Ord. 2011-167-E, § 2)

Sec. 602.935. - Frivolous or groundless complaints.

In any case in which the Commission determines that the complaining party filed a frivolous or groundless complaint as defined in Florida Statutes, § 57.105, or a complaint filed with malicious intent or with knowledge that the complaint contains one or more false allegations, or filed with reckless disregard for whether the complaint contains material false allegations, the Commission may, upon proper notice and hearing, order the complaining party to pay any costs and attorneys' fees incurred by the Commission and/or the alleged violator. Such order may be enforced by the Circuit Court, as are other board orders of the City.

(Ord. 2011-167-E, § 2)

Sec. 602.936. - Effect on other laws.

The provisions of Chapter 602 shall be deemed supplemental to any other applicable county ordinance or state or federal law and are not intended to replace or repeal any provision of state or federal law, or of this Code.

(Ord. 2011-167-E, § 2)

Sec. 602.937. - Prospective jurisdiction.

The Commission shall be empowered to consider alleged violations within its jurisdiction committed on or after the effective date of this Subpart.

(Ord. 2011-167-E, § 2)

Sec. 602.938. - Personnel or other regulatory proceedings.

Where an officer or employee subject to the jurisdiction of this Chapter is alleged to have violated an ordinance within the jurisdiction of the Commission, and, based upon the same set of facts, is subject to an ongoing disciplinary, regulatory administrative, or criminal action initiated by the officer or employee's agency or employer, or by any other governmental entity with jurisdiction over the officer or employee, the Commission shall stay consideration of a complaint under this Part applicable to said officer or employee until the conclusion of the administrative, civil, or criminal proceeding. Nothing herein shall abridge employees' constitutional right to collective bargaining.

(Ord. 2011-167-E, § 2)

Sec. 602.939. - Statute of limitations.

No action may be taken on a complaint filed more than two (2) years after the violation is alleged to have occurred unless a person, by fraud or other device, prevents discovery of the violation. Where the allegations are the subject of a personnel, criminal or administrative proceeding or where the complainant is required to exhaust his or her administrative remedies prior to filing a complaint, the statute of limitations shall be tolled until the termination of said proceeding or the exhaustion of administrative remedies.

(Ord. 2011-167-E, § 2)

Sec. 602.940. - Advisory opinions.

Any person within the jurisdiction of the Commission, when in doubt about the applicability or interpretation of any provision within the Commission's jurisdiction to himself or herself in a particular context, may submit in writing the facts of the situation to the Commission with a request for an advisory opinion to establish the standard of public duty, if any. A person requesting an advisory opinion may withdraw the request at any time up to ten days before the Commission convenes a public meeting to consider the request. An advisory opinion shall be rendered by the Commission on a timely basis, and each such opinion shall be numbered, dated and published.

(Ord. 2011-167-E, § 2)

Sec. 602.941. - Review.

Any final order of the Commission imposing civil penalties, censure, or costs or attorneys' fees may be reviewed by the Circuit Court, in such manner as is authorized for review of quasi judicial board decisions.

(Ord. 2011-167-E, § 2)

PART 10. - ETHICS EDUCATION

[Sec. 602.1001. - Ethics education program.](#)

Sec. 602.1001. - Ethics education program.

Officers and employees of the City, as public servants, are considered stewards of the public's trust and should aspire to the highest level of integrity and character. Officers and employees shall be informed of their ethical responsibilities at the start of their work with the City and shall receive updates and training materials on ethics issues throughout the span of their public service, as designated by the City Ethics Office and Ethics Officer(s).

- (a) Every officer and employee of the City must be responsible for understanding and complying with the provisions of this Chapter.
- (b) Every elected official shall attend an Ethics in Government Program within 90 days of certification of each election won. Upon fulfillment of this requirement, each elected official will be issued a certificate of completion by the Jacksonville Ethics Office.
- (c) Every appointed employee shall attend an Ethics in Government Program within the first six months of his/her employment with the City. Upon fulfillment of this requirement, each appointed employee will be issued a certificate of completion by the City Ethics Office.
- (d) Every employee of the City shall complete an Employee Ethics Training Program within the first six months of his/her employment with the City. Current employees shall complete training as designated in a schedule developed by the City Ethics Office. Upon fulfillment of this requirement, each employee will be issued a certificate of completion by the City Ethics Office.
- (e) The City Ethics Office shall provide ethics education materials to appointed officials, and encourage appointed officials to attend an Ethics in Government Program.
- (f) The Ethics in Government Program and Employee Ethics Training Program shall be created and delivered by the City Ethics Office with assistance from the City's Ethics Officer(s), the General Counsel's Office and the Jacksonville Ethics Commission.
- (g) The programs shall include topics as determined necessary to explain the provisions of this chapter, the Florida Statutes concerning ethics and general ethics issues. Topics may include but are not limited to:

- (1) Ethics in government and aspirational goals;
- (2) Campaign finances;
- (3) Gifts;
- (4) City contracts;
- (5) Potential conflicts with City employees/businesses;
- (6) Jacksonville Ethics Commission;
- (7) Public Records and Sunshine Law;
- (8) Reporting procedures;
- (9) Punishment and discipline procedures;

(10) Awards and incentives.

(Ord. 97-890-E, § 1; Ord. 2007-770-E, § 1; Ord. 2007-329-E, § 3)

PART 11. - ETHICS OFFICERS

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[Sec. 602.1102. - Mission and duties of the City Ethics Officer.](#)
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Sec. 602.1101. - City Ethics Officer position established.

The position of City Ethics Officer is hereby established. The City Ethics Officer shall be appointed by the Mayor and confirmed by the Council. The Ethics Officer shall serve during the term of the Mayor, except that he or she may be removed by the Mayor with the approval of the Council. The Ethics Officer shall not be entitled to Charter Article 17 civil service protections and shall report independently to the Mayor and Council President or their designees. The Ethics Officer may serve in a compensated full or part time employment position with the City or may be an independent contractor.

(Ord. 97-890-E, § 1; Ord. 2007-1090-E, § 1)

Sec. 602.1102. - Mission and duties of the City Ethics Officer.

The mission of the City Ethics Officer is to encourage and assist each of the officers and employees of the City to act ethically in all actions. This mission requires that the City Ethics Officer not only encourage compliance with various laws, but more importantly, encourage each employee and officer to adhere to the highest standards of ethical behavior as set forth in aspirational goals of section 602.101 of this Code. In pursuing that broad mission, the duties of the City Ethics Officer include, but are not limited to the following:

- (a) Implement, in coordination with the Office of General Counsel, and with the voluntary support of the Council Auditor's Office, a confidential "Hotline" for the discovery of government waste, fraud, and ethics violations;
- (b) Proactively develop and implement systems for:
 - (1) The timely and accurate preparation of disclosures required by the State and the City;
 - (2) Orienting candidates for boards and commissions of their obligations under the State and City ethics codes;
 - (3) Informing elected and appointed officers and employees of their obligations under State and City ethics codes;
- (c) Facilitate and enhance programs for the ethics training of, at a minimum, every director,

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chief, manager, mayoral aide, and procurement employee of the Executive Branch of the City.

- (d) Create informational brochures, pamphlets, notices and bulletins necessary to alert all candidates for appointment to boards and commissions of the ethics laws that govern their official behavior after appointment;
- (e) Meet regularly but independently with the Mayor and Council President to discuss the status of the ethics programs;
- (f) Work to integrate ethics into procurement, hiring, retention and promotion policies;
- (g) Coordinate with the City's procurement officials in the development and implementation of outreach programs to City vendors on ethics policies and the City's hotline.
- (h) Develop policies, programs and strategies to deal with all ethics-related matters;
- (i) Develop training and education programs in coordination with the General Counsel and the Jacksonville Ethics Commission;
- (j) Approve the selection and retention of departmental ethics officers;
- (k) Assist departmental and agency ethics officers in training and education;
- (l) Conduct meetings with any or all of the departmental and agency ethics officers as well as senior management to discuss or provide advice on ethics issues;
- (m) Obtain copies of all reports and disclosures made pursuant to State law by persons subject to this Code if such reports and disclosures are substantially similar to reports and disclosures required under this Code and if a person may rely on such State report or disclosure pursuant to Section 602.455 to eliminate filing similar information under this Code;
- (n) Maintain a directory of where all reports and disclosures filed pursuant to this Code may be obtained;
- (o) Encourage compliance with the spirit and letter of ethics laws;
- (p) Review periodically this Code and other applicable laws and regulations and recommend to the Ethics Commission appropriate changes to this Code;
- (q) The City Ethics Officer shall be the liaison between the Ethics Commission and the officers and employees of the city and provide informal guidance to officers and employees regarding state and local ethics laws;
- (r) The City Ethics Officer may seek formal opinions from the Jacksonville Ethics Commission on interpretation of his or her duties or of this Code; and
- (s) Accomplish other duties as requested by the Mayor or Council President.

(Ord. 97-890-E, § 1; Ord. 2007-1090-E, § 1)

Sec. 602.1103 - Designation of department ethics officer.

Each Constitutional Officer and the head of each executive department of the City shall appoint an

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employee to the position of department or office ethics officer with the concurrence of the City Ethics Officer. The City's Ethics Officers are authorized to remove and request a replacement for any department or office ethics officer. Appointment of additional personnel will be at the discretion of the Mayor; except that the Mayor and the Council Secretary are encouraged to provide liaisons to all department ethics officers activities. Each department or office ethics officer's duties are in addition to his or her principal operational role within the department. The Constitutional Officer or the head of the department shall communicate the selection of the department's ethics officer to all employees in the department, while emphasizing his/her personal support for the person and the program. Employees should be encouraged to communicate directly with the department or City Ethics Officer on issues or questions that are ethics-related.

(Ord. 97-890-E, § 1; Ord. 2007-329-E, § 3)

Sec. 602.1104. - Responsibilities of the department ethics officer.

Specific responsibilities assigned to the department or office ethics officer include, but are not limited to the following:

- (a) Conduct periodic meetings with the Constitutional Officer or department director, senior management, and employee groups to discuss or provide advice on ethics issues.
- (b) Conduct a review of and disseminate within his/her department or office the appropriate City, office, and department policies and regulations that relate to the Code of Ethics for employees.
- (c) Assist the City Ethics Officers in the formulation of ethics awareness training sessions, conferences, and seminars that are developed for and presented to department employees.
- (d) Assist the Constitutional Officer or department head in the development of an overall internal ethics plan.
- (e) Report compliance with the ethics code to the City Ethics Office.
- (f) Make recommendations for improvement in training to the City Ethics Office.
- (g) Accomplish such other duties as are delegated by the City Ethics Office, or Ethics Officers including conducting investigations or complaints as authorized by the City Ethics Officers.

(Ord. 97-890-E, § 1; Ord. 2007-329-E, § 3)

Sec. 602.1105. - Ethics Office Established.

There is hereby established an Ethics Office staffed and budgeted as may be required. The Ethics Office shall be separately funded and shall provide all manner of assistance to the Jacksonville Ethics Commission, the Ethics Officer, and the Office of General Counsel in the furtherance of their responsibilities set forth in this chapter. All records required to be maintained by the Jacksonville Ethics Commission or the Ethics Officer shall be maintained in the Ethics Office. The Ethics Office shall assist all officers and employees in their disclosure and compliance obligations.

(Ord. 2007-329-E, § 3)

Editor's note— Ord. 2007-329-E, § 3, amended the Code by adding a new § 602.1105 and renumbering former § 602.1105 as a new § 602.1106

Sec. 602.1106. - Reporting of violations by Council Auditor.

The Council Auditor, in addition to the reporting requirements of Section 102.103, Ordinance Code, shall, when he or she has reasonable grounds to believe that a violation of the City's Ethics Code has occurred, report the facts relating to the probable violation in writing to the General Counsel and the City's Ethics Officer.

(Ord. 97-890-E, § 1; Ord. 2007-329-E, § 3)

Note—See editor's note, § 602.1105

PART 12. - GENERAL PROVISIONS

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Sec. 602.1201. - Voiding transactions in violation of Chapter; recovery by City.

The Mayor may declare void and rescind any contract, loan, grant, subsidy, license, right, permit, franchise, use, authority, privilege, certificate, ruling, decision, opinion or other benefit that has been awarded, granted, paid, furnished or published, in relation to which there has been any violation of this Chapter. The City shall be entitled to recover, in addition to any penalty prescribed by law or in a contract, the amount expended or the thing transferred or delivered on its behalf, or the reasonable value thereof.

(Ord. 97-890-E, § 1; Ord. 2007-329-E, § 3)

Sec. 602.1202. - The Constitution of the State of Florida.

All officers and employees of the City and independent agencies shall comply with all applicable provisions of the Constitution of the State of Florida, including, but not limited to the following:

- (a) Article I, Section 24 (Access to public records and meetings);
- (b) Article II, Section 8 (Ethics in government).

(Ord. 97-890-E, § 1)

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Sec. 602.1203. - State statutes.

In addition to the provisions of this Code, all of officers and employees of the City and independent agencies are expected to comply with the applicable provisions of state laws, including, but not limited to the following:

- (a) Chapter 99 (Candidates, campaign expenses, and contesting elections);
- (b) Section 100.361 (Municipal recall);
- (c) Section 102.031 (Maintenance of good order at polls; authorities; persons allowed in polling rooms; unlawful solicitation of voters);
- (d) Section 104.071 (Remuneration by candidate for services, support, etc.,; penalty);
- (e) Section 104.271 (False or malicious charges against, or false statements about, opposing candidates; penalty);
- (f) Section 104.31 (Political activities of state, County, and municipal officers and employees);
- (g) Chapter 106 (Campaign financing);
- (h) Section 111.075 (Elected officials; prohibition concerning certain committees);
- (i) Section 112.042 (Discrimination in County and municipal employment; relief);
- (j) Section 112.043 (Age discrimination);
- (k) Section 112.044 (Public employers, employment agencies, labor organizations, discrimination based on age prohibited; exceptions; remedy);
- (l) Chapter 112, Part III (Code of ethics for public officers and employees);
- (m) Chapter 119 (Public records);
- (n) Section 163.367 (Public officials, commissioners, and employees subject to code of ethics);
- (o) Section 286.011 (Public meetings and records; public inspection; criminal and civil penalties);
- (p) Section 286.0115 (Access to local officials);
- (q) Section 286.012 (Voting requirements at meeting of government bodies);
- (r) Chapter 838 (Bribery; misuse of public office);
- (s) Chapter 839 (Offenses by public officers and employees).

(Ord. 97-890-E, § 1)

Sec. 602.1204. - Liability for breach of public trust.

(a) Article II, Section 8(c) of the Constitution of the State of Florida applies to all officers and employees of the City and independent agencies. Section 8(c) states the following:

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Any public officer or employee who breaches the public trust for private gain and any person or entity inducing such breach shall be liable to the state for all financial benefits obtained by such actions. The manner of recovery and additional damages may be provided by law.

(b) Any officer or employee of the City or an independent agency who breaches the public trust for private gain and any person or entity inducing such breach shall be liable to the City or an independent agency for all financial benefits obtained by such actions.

(Ord. 97-890-E, § 1; Ord. 2011-232-E, § 3)

Note—Former § 602.505.

Sec. 602.1205. - Additional ordinances.

All officers and employee of the City and independent agencies are expected to comply with the applicable provisions of additional ordinances listed in other Chapters of the Ordinance Code, including, but not limited to the following:

- (a) Section 86.107 (Cooperation with the Jacksonville Equal Opportunity Commission);
- (b) Chapter 102 (Auditing regulations);
- (c) Section 106.331 (Indebtedness in excess of appropriates prohibited);
- (d) Section 106.332 (Transfer of expense funds or expense credits prohibited);
- (e) Section 106.334 (Personal liability for authorizing expenditures in excess of the amount appropriated);
- (f) Section 106.336 (Penalties for violation of Sections 106.331 and 106.332);
- (g) Section 106.431 (Maximum indebtedness required in all City contracts);
- (h) Section 106.433 (Personal liability for indebtedness in violation);
- (i) Section 106.434 (Penalties for violation);
- (j) Section 106.713 (Fraudulent claims re travel expense reimbursement);
- (k) Section 122.811 (Sales of tangible personal property; prohibition of sales to certain persons);
- (l) Sections 124.201—207 (Records retention and disposition);
- (m) Section 126.104 (Integrity of public contracting and purchasing process);
- (n) Section 126.110 (Unauthorized purchases and contracts);
- (o) Section 134.108 (Refusal to obey order during investigation);
- (p) Section 320.302 (Building and Zoning Inspection Division employees; conflicts);
- (q) Chapter 400 (Equal opportunity);
- (r) Chapter 402 (Equal employment opportunity);

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(s) Section 656.144 (Improper influence).

(Ord. 97-890-E, § 1; Ord. 2007-329-E, § 3)

Sec. 602.1206. - Personnel rules and regulations.

All employees of the City shall comply with the applicable provisions of Sections 11.01—11.04, Civil Service and Personnel Rules and Regulations, to the extent that they do not conflict with the provisions of this code of ethics.

(Ord. 97-890-E, § 1)

Sec. 602.1207. - Public records.

Subject to confidentiality provisions otherwise provided for in this chapter or state law, any record or document required to be filed pursuant to this chapter shall be a public record.

(Ord. 97-890-E, § 1; Ord. 2007-329-E, § 3)

Sec. 602.1208. - Government in sunshine.

(a) All meetings of the Council and of its committees and subcommittees and meetings of the boards and commission of the City are declared to be public meetings open to the public at all times, unless otherwise exempted by Florida law, including section 112.324. No ordinance, resolution, rule, regulation or formal action shall be passed or considered binding except when made at a public meeting.

(b) The public meetings required by this Section shall be held in premises owned or leased by federal, state, or local governments, or in premises which otherwise provide full and reasonable access to the public.

(c) A person who is a member of a governmental body named in this Section who willfully violates the provisions of this Section by attending a meeting not held in accordance with its provisions shall be guilty of a class D offense.

(Ord. 97-890-E, § 1; Ord. 2007-329-E, § 3; Ord. 2010-172-E, § 2)

Sec. 602.1209. - Severability.

It is not the intent of this Code to conflict with any applicable state law. If any Section, sentence, clause, phrase or word of this Chapter is for any reason held or declared to be unconstitutional, inoperative or void, such holding or invalidity shall not affect the remaining portion of this Chapter; and it shall be construed to have been the legislative intent to pass this Chapter without such unconstitutional, invalid or inoperative part therein; and the remainder of this Chapter, after exclusion of such part or parts, shall be deemed and held to be valid as if such part or parts had not been included therein.

(Ord. 97-890-E, § 1)

Sec. 602.1210. - Cooperation by appointed employees in official investigations.

All appointed employees, as a condition of employment, shall agree to cooperate truthfully, honestly, and completely with official government investigations including but not limited to, investigations by the Ethics Commission, Ethics Officer, State Attorney's Office, or United States Attorneys' Office, concerning his or her official duties or matters related to City government or business.

(Ord. 97-890-E, § 1; Ord. 2011-232-E, § 3)

Note—Former § 602.409.

Sec. 602.1211. - Testimony and questioning of public officials and employees relating to public affairs.

(a) No officer or employee of the City or an independent agency, who is called as a witness by or before any City, State or Federal administrative or judicial tribunal, shall refuse to answer before the tribunal any proper question concerning the performance of his or her official duties or to produce books, records and other papers and documents of his or her office or concerning his or her official duties properly required to be produced by or before the tribunal; provided, that the officer or employee shall retain his or her privileges and immunities against self-incrimination provided under the Constitution and laws of the state and the United States.

(b) No employee of the City or an independent agency shall refuse to answer any question when directed to by a supervisor related to the employee's performance or fitness to serve; provided, that the employee shall retain those privileges and immunities provided under the Constitution and laws of the state and the United States, relating to the use of said information in a criminal prosecution.

(Ord. 97-890-E, § 1; Ord. 2007-329-E, § 3; Ord. 2011-232-E, § 3)

Note—Former § 602.410.

Sec. 602.1212. - Disclosure of criminal records required.

A person, when applying for or when appointed to a City position, with or without compensation, shall be required to disclose to the appointing or hiring authority any criminal conviction and record thereof, with the exception of crimes that are classified or, if not committed in Florida, would be classified if committed in Florida, as misdemeanors of the second degree. Disclosures shall be made in writing and failure to disclose shall result in automatic removal or dismissal from the position, subject to the rules and regulations of the civil service system where applicable. If, at any time after the person is appointed to a City position, there is an allegation that the disclosure required by this Section is false or incomplete, the matter shall be submitted to the appointing or hiring authority for determination. If, after proper notice and hearing the cognizant authority determines that the disclosure is correct, no action shall be taken; but if, after proper notice and hearing, the cognizant authority determines that the disclosure is incorrect, the person submitting the same shall be deemed to have failed to make any disclosure.

(Ord. 97-890-E, § 1; Ord. 2011-232-E, § 3)

Note—Former § 602.411

Sec. 602.1213. - Penalty provisions.

Unless otherwise set forth in this Chapter, any violation of this Chapter, which is declared to be unlawful, shall be a class C offense.

(Ord. 2011-232-E, § 4)



HARVARD UNIVERSITY
Edmond J. Safra Center for Ethics

Institutional Corruption and the Crisis of Liberal Democracy

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Lab Fellow, Edmond J. Safra Center for Ethics

Edmond J. Safra Working Papers, No. 15

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Institutional Corruption and the Crisis of Liberal Democracy

by William English

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Abstract

The inevitability and stability of liberal democracy is taken for granted in contemporary political discourse, although many of the architects of modern politics viewed democracies as fragile and prone to corruption and disintegration. A close look at the historical record reveals that a number of unique conditions enabled modern democratic states to be economically productive and socially cohesive—conditions that are not inevitable and which must be cultivated outside of the logic of democratic bargaining if the goods we associate with democratic governance are to resist corruption. Two of these conditions are paramount and warrant our attention more than ever today: first, a cultural commitment to “liberal ethics;” and, second, the ability to generate wealth without holding political power. When combined in the right way with democratic institutions these help explain the genius of western prosperity. However, democratic politics inherently generate forces that threaten to undermine these pillars of social cohesion and economic growth. In particular, democracy provides powerful incentives for rent seeking, grandstanding, and unsustainable borrowing. This paper explores the logics that give rise to these three phenomena, and further argues they are aggravated by complexity and the centralization of political power. The corrupting tendencies of democracy can be resisted, this paper concludes, through two principle means: investigative efforts that uncover and communicate abuses, and ideological commitments that limit the scope of political bargaining—both of which are necessary to preserve the “liberal” character of liberal democracies.

Keywords: Institutional Corruption, Liberal Democracy, Political Economy, Rent Seeking, American Politics, Open Access, Grandstanding

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Introduction

The last decade was a disappointing one for the US and Europe. First, there were the terrorist attacks, followed by a very costly and ongoing war. Then, the financial crisis and the prolonged recession it put in motion. A number of European states now face dire fiscal crises, and the structural causes—aging populations, anemic economic growth, large public sectors, and shortsighted politics—appear unlikely to change. Meanwhile, geopolitical developments have been decidedly mixed. Some authoritarian regimes fell in the Arab Spring, only to be replaced by parties that, although democratically elected, lack both liberal commitments and administrative competence. And the so called BRIC countries—Brazil, Russia, India, and China—have grown in wealth and power, but without much meaningful political reform. Finally, the US economy remains weak, with high rates of unemployment, stagnating income, and unsustainable government spending. Although a familiar trope, talk of the decline of America and the West now has a plausible ring and it provokes a basic question: what went wrong?

The force of this question can only be understood against the backdrop of the 1990s—a time when US hegemony appeared secure after the end of the Cold War, economic growth robust, and liberal democracy the manifest destiny of the world. Indeed, when Francis Fukuyama developed his famous “end of history” thesis, the inevitability and stability of liberal market democracies appeared a solid bet. Globalization and the extension of markets were raising incomes worldwide, and democratization and human rights were thought to follow from the development of a middle class. Although Europe and America offered different models of social democracy, few doubted that the underlying institutions of electoral representation, market competition, and the protection of civil liberties were the most legitimate and productive forms of social organization known to human history. They were not only morally superior to authoritarian regimes but also led to greater prosperity and might.

The strength of liberal democracy was only reinforced by the weakness of alternatives. Fascism and Communism remain utterly discredited; and despite much hand-wringing about the threat of fundamentalist Islam over the last decade, modern Islamicist states appear incapable of sustaining their social fabric except when propped up by extraordinary oil wealth. Although the ultimate trajectory of

China and Russia are uncertain, we can confidently assert today, as Fukuyama did in 1989, that no alternative political-economic systems pose a serious, existential threat to Western liberal democracy.

However, the more troubling thought to emerge from recent events is that liberal democracy may itself be less stable than its champions envisioned. Its existential threat may come, not from outside, but from its own internal weaknesses. This is not an accusation to be taken lightly, for it contradicts a dominant narrative of the modern era. According to that account, liberal democracy provides a comprehensive procedural solution to the conflicts that arise among people—conflicts that are often magnified by greed, the need for recognition, and the lust for power. Electoral institutions are thought to make those in power responsive to the public interest, freedoms of press and assembly are thought to guide a rational public discourse, and guarantees of due process are thought to restrain abuses of power through transparent decision procedures. Although *economic competition* has often been viewed with suspicion and regulated, the larger framework of *democratic competition* has been viewed as self-regulating and competent to police subsidiary social institutions.

This view has won out against an older, alternative perspective, which viewed modern democracies as fragile and prone to corruption and disintegration. This view was ubiquitous, for example, amongst America's founding generation, which expressed distinct worries about majoritarian tyranny, demagoguery, and the exploitation of political power by factions, particularly for economic gain. We are familiar with the safeguards they devised—divisions of power, checks and balances, regular elections, etc.—but a close examination of the historical record reveals their frequent failure and need for reform. Not only could the constitutional designs of American democracy not prevent a devastating civil war; but, as the historian John Wallis has noted, individual states went through numerous crises throughout the 19th century, requiring many of them to rewrite their constitutions and default on their debts.¹

¹ John Joseph Wallis, "The Other Foundings: Federalism and the Constitutional Structure of American Government," in Douglas A. Irwin and Richard Sylla, eds., *Founding Choices: American Economic Policy in the 1790s* (University of Chicago, 2011), 177-213, <http://www.nber.org/chapters/c11742>.

The viability of democracy remained an open question well into the 20th century, with Progressive reformers railing against the corrupting influences of both party machines and concentrated business interests in America (sometimes in ways that proved counterproductive). Moreover, in a Europe torn apart by the rabid nationalism of the First World War, doubts about the stability of democracy appeared vindicated by the collapse of the Weimar Republic and the horrors that followed in the Second World War.

It is essential to view the success and spread of liberal democracy in the post-WWII era in historical perspective. What that perspective suggests is that a number of unique conditions enabled modern democratic states to be economically productive and socially cohesive—conditions that are not inevitable and which must be cultivated outside of the logic of democratic bargaining if the goods we associate with democratic governance are to resist corruption. Two of these conditions are paramount and warrant our attention more than ever today: first, a cultural commitment to “liberal ethics;” and, second, the ability to generate wealth without holding political power. However, in order to appreciate how these conditions have contributed to the flourishing of the West, we must first consider what we mean by “corruption,” and understand the forms it can take.

Corruption: Petty and Institutional

The concept of “corruption” draws from a biological metaphor—the corruption of an organism. It indicates that things are not as they should be; that they are not healthy. When used to describe social arrangements, corruption suggests a deviation from some *realistic* ideal. Thus the normative weight of the accusation—something is wrong precisely where we know it should and could be better.

Talk of corruption typically conjures up images of the developing world, where the rule of law is weak and government offices are distributed to political allies who then exploit them for personal gain. We are familiar with examples of so-called “petty corruption:” bribes paid to police in order to avoid harassment, to bureaucrats in order to obtain a license, or to politicians in order to obtain a government contract. It is precisely in comparison with the functional civil service systems of the West and the strong norms we have about impartiality that such practices strike us as so wrong.

The Ambiguity of Petty Corruption

Upon closer analysis, however, the standard condemnation of petty corruption demands more nuance. As hard-headed economists have pointed out, it's often difficult to distinguish petty corruption from fees or taxes that have been made legal in more developed countries. We find it outrageous for an Indian bureaucrat to demand a bribe to process a license with reasonable speed, but is that really so different from the "expedited service fee" one can pay to receive a US passport or business license in a timely manner? From an economic perspective, petty corruption can simply be a form of efficient rationing.

Still, the personal discretion that corruption officials yield over the enormous powers of the state seems ripe for more egregious abuse. We'd like to see officials constrained by clear rules and procedures rather than let them rule by caprice. Ironically, however, it is precisely in trying to navigate the Kafkaesque bureaucracies that characterize poorly governed states that the ability to bypass "the official rules" is so valuable. Petty corruption can provide a path around stultifying red tape, oiling the wheels of government so that things can get done.

This virtue, however, only magnifies concerns about abuse, which can take two particularly harmful forms. First, consider the corrupt police officer who pulls over drivers at random, threatening them with trumped up charges unless they pay a bribe. This practice has no public benefit, and the police officer has every incentive to do it as often as possible. This sort of corruption encourages the proliferation of extortion rackets, and these rackets erect barriers to activities constitutive of free and prosperous societies.

Second, consider the prosecutor who declines to press charges against someone guilty of serious wrongdoing, simply because the accused can pay a substantial bribe. The result is a serious miscarriage of justice and a blow to the social order. The practice sends a message that the law doesn't apply to those who can afford to buy immunity. Rather, bribes paid to avoid criminal prosecution can simply be calculated as part of the cost of doing business, and those harmed by injustice have no recourse.

Both the proliferation of extortion rackets and legal immunity secured by wealth are ways in which petty corruption poses a threat to the common good of societies.

Both phenomena undermine rule of law, understood as legitimate rules that should apply impartially to all, and both have high social and economic costs.

In light of the complex ways in which petty corruption can aid as well as hinder a society, we can better understand the virtues of societies without petty corruption, while also appreciating how difficult it is to achieve this status. This requires some broader considerations of political economy.

Who Do Institutions Serve?

The state is defined by its monopoly on force, as the sociologist Max Weber observed a century ago. Maintaining a state's power and determining whose interests it will serve are two of the most basic problems of politics, which in turn depend crucially on economics. Indeed, the dictum that "money is power" speaks to the difficulty of separating these two domains.

The standard account one gets from the study of comparative politics goes something like this: in many under-developed countries, those who hold political power use this power to extract wealth from the larger society for their own personal benefit. It is no coincidence that Mubarak, Chavez, Putin, Assad, Gaddafi, and many of the delegates to China's National People's Congress are (or were) all billionaires, while no billionaires are to be found in the US Congress, Supreme Court, or even occupying the Oval Office. The coincidence of extreme wealth and political power found in the developing world is an artifact of corruption writ large.

On the bright side, this parasitic arrangement gives political elites an interest in maintaining social order and a functional economy. If an economy collapses or the rule of law breaks down into anarchy, leaders lose their source of income and power. However, the bad news is that political elites have little reason to be responsive to broader public interests, and they have every reason to fear a dynamic and growing economy. This is because a dynamic economy produces wealth that can empower those who are not part of the political elite, and thus threatens to upset the established order.

So, in these states, we witness the development of institutions that limit economic innovation or ensure that when new wealth is created it benefits those in power. This logic helps explain the existence of large bureaucracies that provide jobs for political supporters and keep a tight rein on businesses, state ownership of enterprises, and licenses that are issued or revoked by the grace of politicians. It

also explains the persistence of one-party rule and the authoritarian character of many such states.

This sketch of the political economy of the developing world makes clearer how petty corruption can be both a symptom of, and a partial solution to, larger institutional arrangements that are themselves corrupt. Petty corruption can improve the responsiveness of institutions that otherwise provide few incentives to serve the average citizen, while also providing a convenient source of income for those in power. Moreover, political elites have an interest in making sure petty corruption does not get out of hand, for egregious abuses could foment unnecessary political instability.

Thus, a stable but unfortunate equilibrium prevails in the under-developed world. Political power is used to control economic opportunities for the benefit of those who are already in power. This results in economies that underperform and social institutions that are concerned more with securing order than with catering to the needs of citizens.

That is not to say that political stability doesn't have considerable value in its own right. Indeed, one must be careful that attempts to root out petty corruption do not destabilize patronage networks that contribute to social stability. Ultimately, however, in order to overcome the incentives that make petty corruption thrive, these societies need a fundamental reorientation of their underlying political economy.

One of the most troubling thoughts to emerge from recent scholarship is that this sort of transition is not inevitable, that authoritarian exploitation can continue for a very long time. Even more troubling is the thought that the great alternative, exemplified by Western liberal democracies, may itself be short-lived; that it is more likely that liberal democracies revert to corrupt states than *vice versa*. In order to evaluate this thought, we need to better understand the conditions that enabled Western liberal democracies to enjoy such spectacular economic and social success over the last century.

Open Access and the Foundations of Western Prosperity

The institutional arrangements that have facilitated Western prosperity are easy to describe, although their emergence and persistence are more difficult to explain.

Of foremost importance, liberal democracies succeeded in separating the domains of economics and politics to a degree not seen in predatory authoritarian states. Moreover, each of these domains has come to be governed by the logic of competition that produces public benefits. In economics, businesses compete for customers on the basis of price and quality, rather than seeking monopolies or other rents from the government. In politics, candidates compete for votes by appealing to the interests of citizens and promises of better government, rather than via force, censorship, or oppression. Crucial to both of these domains is an overarching ideal of government by law, in which rules that promote justice and fair competition are publicly promulgated and applied impartially to all.

This, at least, is the theory of liberal democracy articulated over time by a range of broadly liberal thinkers who place great value upon individual rights and social welfare. Stated in these abstract terms, the normative appeal of liberal democracy is easy to appreciate and has no doubt galvanized important and effective political movements. However, at least as important as the normative ideal of democracy has been the economic dynamism unleashed by genuinely open, market economies. The nearly tenfold increase in per capita GDP observed in the US over the course of the 20th century is staggering. This explosion of wealth provided a level of material abundance unprecedented in human history, as well the hopefulness that comes with the continual promise of better future.

Economists have increasingly emphasized that the West's growth cannot be explained simply by the division of labor and gains from trade. Rather, growth has been propelled by innovations in science, technology, and forms of organization that displaced old and less efficient ways of doing things—a process that the economist Joseph Schumpeter famously described as “creative destruction.” Schumpeter's account helps explain this distinctive feature of Western growth, and shows how it is connected to impartial legal institutions and the political independence of the economy. Because everyone is equal before the law, economic and political opportunities are open to fair and productive competition.

It is for this reason that the Nobel Laureate economist Doug North and his colleagues have coined the term “open access order” to summarize the genius of

Western political economy.² The point is that economics and politics are open, in principle, to new entrants who can experiment with new ideas in order to improve how things are done. Entrepreneurs don't have to rely on the good graces of political elites in order to start a legal business. Moreover, established elites, which generally include those with existing business interests, can't use the power of the state to exclude the new entrants whose success may ultimately depose those currently in power. It is this ideal of open access that provides the standard compared to which the political economies of less developed countries appear as a corrupt bargain. Open-access orders benefit a much wider range of people, through both rising incomes and more equitable treatment under the law, than do underdeveloped countries that limit opportunities in order to keep political and economic elites in power.

How Strong is Liberal Democracy?

Obviously this account, although insightful, is idealized. In reality, open access is a matter of degree, and there will always be strong interests opposed to the dynamism it creates. Open access orders persist in part because of the incentives built in to the political institutions of liberal democracy. These include regular, competitive elections and the formal separation of judicial, legislative, and executive powers (even if parliamentary systems can blur the executive/legislative distinction).

According to the dominant narrative of modern politics, the incentive structures enshrined by these institutions, combined with the larger principle of democracy, are sufficient to ensure the integrity and success of liberal states. However, this view is naïve for two reasons.

First, it neglects the contribution that technological discoveries and economic growth have made to the success of democratic politics. As the tech entrepreneur Peter Thiel has pointed out, political bargains are easier to strike if the question is who wins more and who wins less. So long as both parties are winning, there is some consolation in the outcome. However, in a world of slow growth, politics becomes a zero-sum game in which there is a net loser for every winner. These

² Douglass C. North, John Joseph Wallis, and Barry R. Weingast, *Violence and Social Orders: A Conceptual Framework for Interpreting Recorded Human History* (Cambridge University Press, 2009).

stakes make the bargaining process much nastier. In so far as technological innovation is itself an artifact of chance and good fortune, we have underappreciated the degree to which liberal democracies have simply been lucky. In a context of slower innovation and growth it is not clear that the spirit of compromise necessary for democratic bargaining to function can prevail.

Second, democratic institutions and the incentives they put in place are inherently fragile. It is a major conceit of the modern era to think our political institutions are necessarily stable and self-sustaining—that they have been so ingeniously designed that it ultimately pays to do the right thing. This hope is at least as old as Kant, who averred that a society of devils could be well governed if only their institutions provided the proper incentives. However, as important as the project of incentive design has been for modern organizations, when it comes to politics there are limits to this approach. Incentive design works well in organizations because there are hierarchies that can impose rules. In politics, though, the rules of the game are continually re-written by those playing it. Thus, the ancient question, “who will guard the guardians,” admits of no permanent or static answer.

America’s founders aimed to create a constitutional framework in which ambition would check ambition and the influence of some harmful factions could be offset by the influence of others through democratic representation at large. However, the writings of America’s founders were suffused with concerns about the adequacy of these designs.

First, there was the recognition that this framework depended on balances of power that might shift, particularly with regard to the economic interests and populations behind slavery. More generally, though, no framework can provide an exhaustive set of good incentives for the future. To borrow a phrase from legal theory, all political institutions rest on “incomplete contracts” whose success requires that leaders and citizens uphold the spirit of an institution despite temptations to undermine it for personal gain. These temptations exist because there are always ambiguities in constitutions and laws that can be exploited. On top of that, the spirit and legitimate purposes of institutions can themselves be contested, and legitimate exceptions might need to be made to otherwise clear rules.

Taking a broad view, this sort of flexibility is essential for dealing with an ever-changing world, and the open-ended nature of political life rightly reflects this.

However, it means our institutions, while powerful forces of organization and decision making, are not guaranteed to work for the public good. They desperately need principled leadership and citizens who share common judgments about the public purposes institutions should serve. That is to say, our politics are not driven by an inexorable logic of mutual self-interest that redounds to the public good, but rather depend on people acting in ways, sometimes against their immediate interests, that uphold the higher ends of justice, freedom, equity, and open access that we want our institutions to advance.

It is in this respect that we can say that America and Europe's success has depended crucially upon ideology and political culture. Leaders and citizens have, in important respects, shared commitments to values that don't always advance their personal interests. In particular, people have been willing to accept decisions that disadvantage them when it is believed these resulted from a legitimate process, such as a fair election.

However, surveying contemporary American political culture, there are two sets of beliefs that appear increasingly widespread and detrimental. The first, characteristic of legalistic and economic perspectives, is concerned only with the letter of the law and rejects any consideration of its larger rationale or spirit. This orientation drives individuals and businesses to "game the system," devoting extraordinary efforts to discovering and exploiting loopholes that run manifestly counter the legitimate purposes of a law. Such behavior suggests an ironic confidence in the explicit rules and incentives created by our political institutions, as if they are all that ought to guide one's actions. Pervasive gaming necessitates the development of extraordinarily complex and invasive legal processes that try to anticipate and prevent strategic exploitation of loopholes. The bad actions of a few thus lead to massive and costly systems of surveillance, further entrenching the idea that only the letter of the law matters. We come to be governed by complicated legal processes rather than meaningful principles.

Another form of overconfidence lies at the root of the second widely shared belief, namely an enthusiastic but inchoate trust in "democracy." On the one hand, people widely assume that there is a "democratic answer" to every problem (and that it's the *right* answer!); but in practice it is seldom clear what this means. It cannot just mean voting, because there is always the question of how voting rules themselves will be decided and what proposals will be voted on. Moreover, in legislatures the

processes of bargaining, issue bundling, and compromise admit of no clear-cut solutions. Worst of all, there is a large technical literature in political science that shows it is possible to arrive at situations in which *whatever* policy is proposed a majority of people will *a/ways* prefer something else. And this is before one even raises the problem of majorities exploiting minorities.

What we call democracy is, in fact, a messy process. Its main virtue is that it fosters public debate and makes politicians responsive to popular concerns. However, “democracy” provides no magical decision algorithm that guarantees good outcomes. Electoral competition enforces a minimal standard of political responsiveness, but politicians need only to satisfy enough constituents to secure fifty percent of the vote.

The incentives of democracy are not sufficient for good government; indeed, they present some particular dangers. By idealizing democracy we distract ourselves from the tough political decisions and tradeoffs that have to be made, and we are likely to lose sight of the liberal values that must constrain democratic bargaining for it to respect the rights and liberties of both minorities and majorities. Indeed, it is precisely this idealism that has caused many to gravely misjudge the promise of democratic revolutions in the Middle East. Closer to home, our confidence in democracy and social engineering have blinded us to the corruption of our political institutions.

The Corruption of Liberal Democracy

To recap, America and Europe have succeeded by separating politics and economics in such a way that each is governed by a logic of competition that renders them accountable to the citizen or consumer. This competition is held in place by powerful institutions that are able to devise and enforce fair rules, and which help maintain a balance between competing interests that would prefer to use political power for private gain. However, the political and economic institutions of the West are ultimately not immune to corruption by such interests. Moreover, given how powerful these institutions are, the stakes involved in their corruption are all the more significant.

Note that the corruption we have to fear is not chiefly petty corruption. Prominent examples notwithstanding, bribes paid directly to politicians are relatively rare.

Moreover, when petty corruption does occur—as in the recent case of a Pennsylvania judge who gave juvenile offenders long sentences in exchange for kickbacks from a correctional facility—condemnation is swift and unambiguous.³ It is telling that petty corruption in the West must be hidden, whereas it can operate in plain sight in the developing world. The public consensus against petty corruption in the West ensures that it remains marginal and clandestine.

Unlike petty corruption, however, the problem of institutional corruption is all the more dangerous when it is hidden, as it generally must be at first. Also, unlike petty corruption, the processes of institutional corruption need not be deliberate. The sheer complexity of modern institutions often means they will be governed by economies of influence that are dynamic and opaque. Whether due to devious and premeditated conspiracies or whether an artifact of seemingly innocuous incentives that aggregate to bad outcomes, the overriding concern is the same. Our political and economic institutions, which have been powerful forces for public good, are liable to be hijacked by influences that lead them to serve illegitimate and socially disastrous ends.

The problem of institutional corruption is further complicated by the fact that it is often unclear who bears responsibility or blame for bad institutional outcomes. We are outraged if a judge hands down a harsh prison sentence in exchange for a kickback from a prison company. However, when we witness the seemingly unjust mass incarceration of petty, non-violent criminals, who in the justice system or legislature is to blame? Or, to ask the question in a more constructive way: who is responsible for making the system more just? Problems that did not arise because of a single decision are not easily solved by one either.

At first glance, institutional corruption may appear a chance artifact of organizational drift, and something that minimal vigilance can guard against. The truth, however, is that the logic of democratic politics generates centrifugal forces that systematically threaten to corrupt our political institutions. That is to say, the challenge of institutional corruption is an immanent feature of our political system.

³ Ian Urbina and Sean D. Hamill, “Judges Plead Guilty in Scheme to Jail Youths for Profit,” *New York Times*, February 12, 2009, <http://www.nytimes.com/2009/02/13/us/13judge.html?pagewanted=all&r=0>; and Walter Pavlo, “Pennsylvania Judge gets ‘Life Sentence’ For Prison Kickback Scheme,” *Forbes*, August 12, 2011, <http://www.forbes.com/sites/walterpavlo/2011/08/12/pennsylvania-judge-gets-life-sentence-for-prison-kickback-scheme/>.

Upon careful examination, there are three political dynamics in modern democracies that have proven uniquely pernicious. We need to understand their underlying logic and aggravating factors if we are to hope to counteract their corrupting tendencies.

Three Weaknesses of Modern Democracies and Two Reasons They Will Get Worse

The three phenomena that threaten to undo democracy from the inside are rent seeking, grandstanding, and unsustainable spending. These phenomena are driven by incentives that are embedded in democratic politics and which have been realized with greater clarity over time. What's more, these phenomena are exacerbated by complexity and the concentration of political power, which are likewise increasing.

Rent seeking

"Rent seeking" describes attempts to gain wealth through the unwarranted use of political power, rather than generating wealth through productive activity. When companies lobby for special subsidies, trade protections, tax loopholes, barriers to competition and such, they increase their revenues (generate economic "rents") without enhancing the overall wealth or welfare of a society as a whole. Moreover, these activities handicap competitors who might have otherwise innovated better ways of doing things, and thus have provided more social benefits at lower costs.

At first glance one might think democratic institutions would provide a bulwark against rent seeking, for the special favors that are sought always benefit a small minority at the expense of a much larger majority. The classical fear about democracy was the converse—that majorities might exploit minorities—not the other way around. However, it turns out minorities can exploit majorities when the benefits they receive are concentrated and the costs to others are diffuse.

To cite but one common example, farm subsidies and import quotas cost American consumers billions of dollars each year, but do so through a host of small increases in daily purchases, like paying fifty cents for a pound of sugar rather than a quarter. Thus, although American consumers lose big-time, these losses are diffused over a large population in small increments; and few people are motivated to organize a political campaign because they paid an extra quarter for sugar. To

the sugar beet industry, however, these policies are worth enormous sums, and the people enriched by them invest extraordinary time, effort, and money into lobbying politicians to keep these benefits in place.

The same logic explains a wide range of legislation that has lined the pockets of a few at the expense of everyone else, from copyright extensions that enrich media companies and patent extensions that enrich pharmaceutical companies, to pork barrel projects (such as “the bridge to nowhere”) and massive subsidies or loan guarantees for ill-conceived “green energy” projects destined for bankruptcy. Arguably, a majority of legislation now passed by Congress advances narrow, particular interests of these sorts, contrary to the public interest.

Rent seeking not only redistributes money from the many to the few, but is also a powerful way for businesses to insulate themselves from accountability and competition. The proliferation of absurd licensing requirements and other “barriers to entry” is one specific way that existing business interests from all corners of the economy keep competition at bay. Consider some highlights from a recent catalogue assembled by *The Wall Street Journal*: California requires a year of training to obtain the credentials needed to legally cut hair, in Texas “shampoo specialists” must take 150 hours of classes before they can work in a beauty salon, and in many states it is illegal to offer massage therapy without a license that requires hundreds of hours of training and significant fees (indeed, in Michigan it is a felony to give therapeutic massages without one, punishable by 5 years in jail).⁴ Scholarly studies estimated that unwarranted barriers to entry cost the US economy hundreds of billions of dollars a year.⁵

This problem of special interests exploiting political power is also evident in the fraught area of regulatory policy. Governments are rightly tasked with creating frameworks that enable markets to operate for the greatest good. This includes enforcing property rights and contracts through a judicial system, as well as

⁴ Stephanie Simon, “A License to Shampoo: Jobs Needing State Approval Rise,” *Wall Street Journal*, February 7, 2012, <http://online.wsj.com/article/SB10001424052748703445904576118030935929752.html>.

⁵ See, for example: Ignacio Del Rosal, “The Empirical Measurement of Rent-Seeking Costs,” *Journal of Economic Surveys* 25.2 (2011): 298–325; Russell S. Sobel and Thomas A. Garrett, “On the Measurement of Rent Seeking and Its Social Opportunity Cost,” *Public Choice* 112.1-2 (2002): 115-137; Matthew Mitchell, “The Pathology of Privilege: The Economic Consequences of Government Favoritism,” Mercatus Research Paper (2012), http://mercatus.org/sites/default/files/The-Pathology-of-Privilege-Final_2.pdf; and Morris M. Kleiner and Alan B. Krueger, “The Prevalence and Effects of Occupational Licensing,” *British Journal of Industrial Relations* 48.4 (2010): 676–687.

crafting policies that address market failures such as negative externalities (pollution) or information asymmetries (insider trading). However, well-intended regulatory policies can be hijacked to serve the interests of the regulated in ways that harm rather than protect the public.

In her first Banking Committee hearing, Senator Elizabeth Warren asked a panel of federal regulators when they had last taken a big bank to trial. None could answer the question. Although there may be good reasons for the government to pursue out of court settlements, in the wake of the financial crisis it is not unreasonable for the American public to have doubts about the quality of bank regulation and oversight. Moreover, like most complex industries, a conspicuous “revolving door” operates between regulatory agencies and industry leaders. Robert Rubin and Henry Paulson were both Goldman Sachs executives before they became Secretary of the Treasury, and many top regulators at the FEC, CFPB, and FDIC have worked on Wall Street (or will).

Given the complexity of modern finance, there is a genuine need to draw on the expertise of industry insiders in order to craft regulation that is sensible. At the same time, however, those who have come from, or are going to, Wall Street face a massive conflict of interest. How can they be asked to make tough calls that challenge questionable, but profitable, practices at banks? Not only will regulatory agencies be subject to intense lobbying efforts from a powerful industry, but some regulators must worry about antagonizing their once or future colleagues, jeopardizing their chance to “cash out” with industry employment.

It should come as no surprise, then, that banking regulations have often promoted the interests of powerful banks rather than the interests of the American economy. Indeed, JP Morgan Chase CEO Jamie Dimon’s recent judgment, that the net effect of the Dodd-Frank Wall Street Reform and Consumer Protection Act will be to make it “tougher for small players to enter the market” and therefore enable large banks to capture a greater market share, is as predictable as it is discouraging.⁶ For all

⁶ John Carney, “Surprise! Dodd-Frank Helps JPMorgan Chase,” *NetNet CNBC*, February 4, 2013, <http://www.cnbc.com/id/100431660>.

the criticisms of the “too big to fail” phenomenon, our latest regulatory policies have dug us deeper into that hole.⁷

Similar concerns can be raised about the relationship between pharmaceutical companies and the Food and Drug Administration, natural resource companies and the Environmental Protection Agency, nuclear energy companies and the Nuclear Regulatory Commission, and so on. In all these areas, a delicate balance must be struck between the need to incorporate industry expertise in crafting reasonable regulation on the one hand, and the corrupting influence of industry interests on the other. If either extreme prevails—if industries have no input or if industries control regulation—the result can be policies that cost the public much more than they’re worth.

The costs of rent seeking, whether they involve direct subsidies or barriers to competition, are enormous. However, the largest costs often go unseen. We can measure the immediate distortion of subsidies, but it is much harder to measure the cost of excluding new competitors. Rent seeking keeps wasteful and inefficient companies afloat by making it difficult for new enterprises to enter the market and offer better solutions to social problems. Thus, rent seeking undermines the process of creative destruction that is so crucial for a flourishing economy.

Perhaps the greatest cost of rent seeking, however, comes from what it does to the political process. When political power becomes a means to economic power, businesses will try to influence politics. The more that some businesses choose to seek political favors, the more that all businesses have to seek favors, if only to defend themselves. The result is a system that comes to look more and more like a corrupt state, in which one must be politically connected in order to be economically successful. Large businesses naturally come to dominate politics through lobbying and campaign donations, and politicians cater to the interests of these funders rather than the larger public interest. This lobbying arms race is tremendously wasteful for most involved, but for those who win the payoffs can be worth billions.

⁷ Gregg Fields, “What Institutional Corruption Shares with Obscenity.” Edmond J. Safra Lab Working Papers, No. 6 (April 18, 2013). http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2252033

Rather than inhibit this corrupt alliance between politicians and rent seeking special interests, democratic institutions facilitate it. Those who can reap enormous rewards have the greatest incentives to mobilize political resources, turning out campaign contributions and vocal constituents, while the masses do not have time, energy, or incentives to review and resist thousands of different concessions, each of which take a few more dollars out of everyone's paycheck. Incumbent politicians are happy with this arrangement because, by presiding over the distribution of other people's money to politically organized special interests, they sit atop a perpetual fundraising machine. Indeed, when politicians focus attention on any issue relevant to a special interest, they can extort donations that help keep them in power.

In the days preceding both the Wall Street and Auto bailouts, members of Congress made a conspicuously large number of fundraising calls to lobbyists representing banks and auto companies. The actions of some members were so bold that they triggered an ethics investigation in the House,⁸ but what became clear from the reaction of other lawmakers is that this sort of *quid pro quo* fundraising was standard practice. In another context, DC representative Eleanor Holmes Norton made the mistake of leaving a voicemail on a lobbyist's phone asking for contributions in terms that could easily be interpreted as extortion ("I was . . . surprised to see that we don't have a record . . . of your having given to me, despite my long and deep work . . . on the committee and subcommittee, it's been essentially in your sector").⁹

Rick Nolan, the recently elected Democratic Congressman from Minnesota, was reportedly frustrated when his party told him he needed to spend 30 hours a week making similar fundraising requests; but this, in fact, is what today's lawmakers

⁸ See Carol D. Leonnig, "8 House Members Investigated Over Fundraisers Held Near Financial Reform Vote," *Washington Post*, June 16, 2010, <http://www.washingtonpost.com/wp-dyn/content/article/2010/06/15/AR2010061505643.html>; Linda Doell, "House Ethics Committee Eyes Car Dealership Exemption," *Investor Center, Daily Finance*, June 18, 2010, <http://www.dailyfinance.com/2010/06/18/house-ethics-committee-eyes-car-dealership-exemption-as-democrat/>; and US House of Representatives Committee on Ethics, *Staff Report in the Matter of Allegations Relating to Fundraising Activities and the House Vote on H.R. 4173*, 112th Cong., 1st Session, January 26, 2011, http://ethics.house.gov/sites/ethics.house.gov/files/documents/Wall%20Street%20Bill%20Report_Final.pdf.

⁹ Reproduced by Ira Glass in *This American Life* episode, "Take the Money and Run for Office," March 30, 2012, <http://www.thisamericanlife.org/radio-archives/episode/461/transcript>.

spend a majority of their time doing.¹⁰ Although politicians don't enrich themselves while in power, it is their fundraising that enables them to stay in power. Moreover, many "cash out" after they retire by becoming lobbyists or executives in the industries whose rent seeking they previously advanced.

One cannot lament the role that money plays in politics without condemning the distribution of rents that increasingly pervades our political system. They are two sides of the same coin. Campaign spending has risen steadily in recent decades, but so has the size of the federal government and federal budget. Special interest target the government for the same reason that Willie Sutton robbed banks: because that's where the money is.

One solution would be to take rents off the political bargaining table by developing a broad social commitment in favor of limiting the ability of the government to pick economic winners and losers. This would aim to put the liberalism back in liberal democracy, disciplining the scope of politics with a more rigorous standard of the public interest and a broad deference to economic competition. There are, however, serious difficulties with this aim. Not only would it require a massive ideological shift in public opinion, but in practice it would run up against two problems concerning political judgment.

Recall that implicit in the critique of rents is the belief that they are illegitimate, that they provide a benefit to certain people at the expense of others in a manner that is clearly undeserved. On this account, there is a big difference between providing nutritional assistance to poor children (a benefit with a strong moral warrant, and thus not a rent), and providing tax breaks to hedge fund managers (a benefit with no compelling rationale). But of course every lobbying group concocts a story about why benefits to their clients promote the public interest.

Deconstructing these appeals, examining the weaknesses of their premises and their frequent misuse of statistics, requires nuance and attention to detail.

However, little patience exists for such work in a fast moving news cycle, or when it upsets ideological preconceptions.

¹⁰ Alex Brown, "Rick Nolan Returns to Congress After 32 Years, Still Hates It," *National Journal*, January 8, 2013, <http://www.nationaljournal.com/blogs/hotlineoncall/2013/01/rick-nolan-returns-to-congress-after-32-years-still-hates-it-08>.

Moreover, although a more libertarian approach to government may be attractive in its substance and simplicity, there are genuinely new and complex questions that governments must routinely confront (for example, should genes be patentable, should derivatives contracts be publicly recorded, what liability rules and evidentiary standards should regulate fracking, etc.). Indeed, as industries grow more complex, such questions are likely to arise with greater frequency; and governments will have to craft novel policies with wide-ranging economic consequences, necessarily relying on experts who will have massive conflicts of interest.

Thus, the complexity of issues makes it difficult to prevent certain sorts of rent seeking, as appropriate criteria of legitimacy are not obvious but rather need to be worked out. Unfortunately, the most promising avenue for dealing with complexity—experimenting with different policy regimes via federalism—is itself limited by another phenomenon that is on the rise: economic and political centralization.

Centralization deprives a polity of the ability to test different policy approaches and it also raises the stakes of the influence game, making it an all or nothing proposition. For much of its history, the US benefited from a more decentralized government, which had relatively limited powers to direct economic activity and less of a budget available for redistribution. That age appears irrevocably in the past, and centralization only promises to magnify the vulnerabilities of democratic politics at large.

Grandstanding

Even if rent seeking were diminished, democratic institutions would still suffer from another pernicious phenomenon that they naturally encourage, namely grandstanding. The problem of grandstanding is related to, but goes beyond, the classical concern with demagoguery.

In the ancient world, demagogues were considered dangerous because they rallied the masses by means of half-truths, emotional manipulation, and unrealistic promises. Demagogues demanded immediate action and sought extraordinary powers to accomplish their ends. Demagogues never let a crisis go to waste and might even fabricate one in order to increase their power.

All democracies suffer from some degree of demagoguery, as it behooves politicians searching for votes to pander to the lowest common denominator and play on the passions, anxieties, fears, and hopes of the people. However, modern democratic institutions facilitate and magnify these vices in unfortunate ways, creating the more extensive problem of grandstanding.

Grandstanding indicates the primacy of spectacle over substance in democratic politics and the attendant lack of accountability. Politicians are elected on the basis of promises, but it is exceedingly difficult to judge their contributions to policies, or the policies themselves, within the time horizon of most election cycles. Moreover, legislative and oversight processes have evolved to make it easy for politicians to claim credit, while leaving tough decisions to bureaucrats who actually write rules and delegating wide legal discretion to the prosecutors who must enforce them. Increasingly, then, politicians make promises they can't fulfill, pass laws they do not understand, take credit before it's due, and obfuscate their responsibility when policies fail.

Democracies are ruled by the politics of appearance, and nothing is more important for a politician's career than the appearance of having "done something." This naturally inflates the rhetoric of political campaigns and leads politicians to promise and attempt more than the state is capable of, while neglecting helpful policies that might decrease politicians' power to claim credit or extract donations. Of course, when it is difficult to evaluate individual contributions to policies, or the long-term consequences of those policies, it is difficult to hold politicians to account. This undermines the great promise of democracy, which was always that it would make those in power responsive to the public interest by allowing voters to remove malicious or incompetent public officials. The epistemic challenges to making this feedback mechanism work are significant, and there is a long story to be told about how political parties and ideological allegiances function to take up the slack.

The problem is not simply that legislating requires working with others in coalitions and casting votes in ways that can mask individual contributions. That will always be true of democratic action. The more troubling development in modern democracies concerns the nature of legislation itself. Laws are increasingly complex, but for the worst reasons. Rather than address important details, complexity obfuscates kickbacks to donors, while leaving many of the most

important legal determinations to individuals who are unelected and more insulated from accountability.

Gone are the days when it was humanly possible for members of Congress to read all of the bills they would be asked to vote on. (Bill Gates is reported to have done this while serving as a Senate page in 1973.¹¹) The Banking Act of 1933, which included the “Glass-Steagall” provisions that separated commercial and investment banking (until repealed in 1999) was 37 pages in length. In this respect it was not unlike other historic pieces of American legislation, such as the 82 page Social Security Act of 1935 or the 74 page Civil Rights Act of 1964. However, the Dodd-Frank Wall Street Reform and Consumer Protection Act that attempts (among other things) to reinstate Glass-Steagall, weighs in at 848 pages. Nancy Pelosi’s quip concerning the similarly enormous 900 page Patient Protection and Affordable Care Act—“We have to pass the bill so that you can find out what’s in it”—contained an unfortunate amount of truth.

Such length would be altogether appropriate if these Acts spelled out in precise detail all the rules and implications of the law. Indeed, that would provide full disclosure of a law’s scope and allow all its provisions to be subject to scrutiny and debate—a seeming criterion of democratic legitimacy. Ironically, however, this is the exact opposite of the pattern we now observe. Legislation increasingly outsources the writing of actual rules to unelected bureaucrats. In 2011, Congress passed 81 laws, while various government agencies were asked to publish some 3,573 final rules.¹² What this means in practice is that legislators can pass poorly thought out, vague, and sometimes contradictory laws and claim credit for having “done something,” while agencies are left to figure out the details and make the decisions that truly matter. It should be no surprise, then, that the rule-making process has become a fertile battle ground for special interest lobbyists, as the real political fights have moved there for many issues. Grandstanding politicians pass the buck, betraying their political responsibilities and off-loading difficult questions of legislation to others. However, they appear to have “done something,” and that is what matters most in modern democracies.

¹¹ Lawrence Lessig, *Republic, Lost: How Money Corrupts Congress—and a Plan to Stop It* (Twelve, 2011), 138.

¹² Wayne Crews and Ryan Young, “The Anti-Democracy Index,” *American Spectator*, February 8, 2013, <http://spectator.org/archives/2013/02/08/the-anti-democracy-index>.

How, then, to explain the length and complexity of the bills, if the space is not devoted to spelling out the details of regulations? Complexity is simply a byproduct of rent seeking. It follows from the need to carve out and append a myriad of benefits for special interests, often in ways that obscure who exactly those beneficiaries are. Once a bill with an attractive title and political support gets going, additional supporters are brought on board by attaching clauses that benefit their donors, and existing supporters use the bill's momentum as an opportunity to append additional favors for the donors who help keep them in office.

Grandstanding ultimately ratchets up state power, as more laws are passed to allow politicians to claim credit in the eyes of the masses while rewarding supporters with narrow benefits and writing blank checks to agencies and prosecutors. However, this expansion of power is characterized by a lack of rationality and responsibility. Also, and ironically, the dysfunctional bureaucracies created in the process can themselves become handmaids of grandstanding. They are denounced for their capriciousness, and politicians can score points with constituents by personally "intervening" in the seemingly irrational decisions agencies ultimately make. As in corrupt states of the third world, having friends with political power becomes important for getting things done.

The process of writing thoughtful, detailed, comprehensive legislation is difficult, time-consuming, and contentious, so it is no surprise that legislators pass vague laws that allow them to grandstand while leaving it to regulators or prosecutors to decide what's actually legal. However, this pattern of "passing the buck" does create a dangerous lack of accountability that corrupts the practice of government. Laws that have nice titles, but whose substance has not been thought through, grant unwarranted power to those who define and enforce them. Moreover, the final arbiters of enforcement—prosecutors—face their own perverse incentives for professional advancement. Careers are made not by discerning the spirit and legitimate purpose of a law, but by pursuing the maximal number of convictions that the letter of the law will allow. Prosecutors thus participate in their own form of grandstanding, which further corrupts the ideal of a society governed by fair laws.

This dynamic helps explain the remarkable fact that approximately 95% of all felony convictions in the US are now obtained by plea bargain rather than an actual trial.¹³ However one looks at it, this appears to be a miscarriage of justice. Either innocent people are being pressured to admit guilt for crimes they did not commit, or guilty people are being let off easy. Of course, that presumes the laws and penalties were appropriate to begin with, which is precisely what the politics of grandstanding makes so difficult to maintain.

Vague and poorly written laws have criminalized an enormous range of activities, to which severe penalties are attached, because of the democratic need to appear to have done something (and to have done it quickly!). This dynamic has only been exacerbated by the aggressive lobbying of the multi-billion dollar for-profit prison industry, which makes money off of higher incarceration rates and longer sentences. As a consequence, prosecutors are given the power to ruin people's lives with penalties grossly disproportionate to the crimes themselves. And, indeed, prosecutors routinely threaten to do so in order to win convictions that advance their own careers. Consider, as but one example, the recent prosecutorial zeal of a politically ambitious US Attorney against the internet activist Aaron Swartz, along with the poorly written Computer Fraud and Abuse Act that made the prosecution possible.¹⁴ Swartz was ultimately driven to suicide by the prosecutor's insistence on a felony conviction for a "crime" that many members of Congress now seem to think should never have been encompassed by the Act in the first place.¹⁵

Trial by jury of one's peers—the hallmark of a fair and impartial legal system—has become the rare exception to the rule in the United States. The grandstanding of politicians and prosecutors has led to a justice system that extorts confessions through disproportionate threats. Of course, only a small percentage of citizens are actually caught in the crosshairs of the justice system, and, amongst those, the extremely wealthy can afford a fair legal fight. Thus, most citizens are unaffected; but for the minority who are, their cause can be hopeless. It should come as no

¹³ Kathleen Maguire and Ann L. Pastore, eds., *Sourcebook of Criminal Justice Statistics: 2002* (U.S. Government Printing Office, 2003).

¹⁴ David Boeri and David Frank, "Ortiz Under Fire: Critics Say Swartz Tragedy Is Evidence Of Troublesome Pattern," WBUR-FM, February 20, 2013, <http://www.wbur.org/2013/02/20/carmen-ortiz-investigation>.

¹⁵ Mike Masnick, "Rep. Zoe Lofgren Plans To Introduce 'Aaron's Law' To Stop Bogus Prosecutions Under The CFAA," *Tech Dirt*, January 16, 2013, <http://www.techdirt.com/articles/20130115/19410721694/rep-zoe-lofgren-plans-to-introduce-aarons-law-to-stop-bogus-prosecutions-under-cfaa.shtml>.

surprise that the United States now has the highest incarceration rate in the world. It should also come as no surprise that when politicians grandstand, minorities of various kinds are sacrificed to the prevailing winds of majority prejudice.

To the average voter, all appears to be well. Grandstanding politicians furnish the appearance of progress by passing ever more laws. More and more criminals are convicted, more and more programs are created, more and more money is spent. In truth, however, so much legislation involves the triumph of spectacle over substance, facilitated by the limited attention of voters and epistemic challenges of evaluating democratic politics. Politicians promise more than they can deliver, and in their rush to appear to have done something, they enact wasteful and unjust policies. Moreover, as with rent seeking, complexity only makes the problem worse, and centralization raises the stakes.

What can be done? Also as with rent seeking, an ideological commitment to the priority of liberalism over democracy would be helpful. In its best forms, liberalism helps subdue the messianic and utopian temptations of demagoguery latent in all democracies. Liberalism tames the unbridled hope that leads voters to empower demagogues promising quick and easy solutions. However, having realistic expectations about what is politically feasible is not easy when democratic citizens have become accustomed to unsustainable narratives of progress.

Unsustainable Spending

Politicians are not unique in aspiring to great things while shirking from the hard work necessary for their achievement. This tendency is rooted in human psychology and is something that threatens to undo entire societies when democratically expressed. Democracies magnify our human weakness for focusing on the immediate at the expense of the long term. Grandstanding is one manifestation of this phenomenon, but the more serious structural problem it introduces into democratic politics is the unsustainable accumulation of future liabilities to pay for present benefits. In short, it is the problem of unsustainable spending made possible by the issuance of debt.

Before examining this problem in detail, it is crucial to note that debt is an essential tool of modern government and there is nothing wrong with it *per se*. Taking on debt is a wise economic move when it finances investments that will yield returns greater than the costs of servicing the debt. Debt also provides an

invaluable means of insulating government expenditures from temporary economic shocks, above all during recessions. Moreover, there are even good arguments for the US taking on more debt at the present moment. As Larry Summers and others have noted, the US can currently borrow at very low rates given the relative weakness of the global economy. If intelligently invested in things like infrastructure and human capital development, the ultimate payoff could be a net positive. The great weakness of this proposition, however, is the fact that, in the present political environment, we have little reason to expect that new spending will be well targeted.

The most important economic reality that defines Western politics at the moment is the fact that the greatest liabilities are accumulating, not to finance investments that yield higher returns, but to support transfer payments guaranteed by entitlement programs. In the United States, Medicare, Medicaid, and Social Security along with public sector pensions now consume more than half of federal expenditures.¹⁶ If current trends continue, they are on track to consume all of the US's tax revenue by 2045, according to the Congressional Budget Office.¹⁷ This is not a canard of right-wing economists, but a matter of arithmetic.

"Unfunded liabilities" are not included in the standard calculations of national debt, but as *The Wall Street Journal* has noted, citing the government's own reports, "the actual liabilities of the federal government—including Social Security, Medicare, and federal employees' future retirement benefits—already exceed \$86.8 trillion, or 550% of GDP," with Medicare and Social Security accounting for \$42.8 trillion and \$20.5 trillion respectively.¹⁸ Absent astronomical economic growth, spending at these levels is unsustainable and, like all unsustainable trends, will come to an end. The problem is that, in addition to having facilitated the buildup, democratic politics make it exceedingly difficult to scale back spending in the manner necessary to avoid painful, and possibly disastrous, fiscal crises.

¹⁶ "Analytical Perspectives, Fiscal Year 2012 Budget of the United States Government," US Government Printing Office, February 14, 2011, <http://www.whitehouse.gov/sites/default/files/omb/budget/fy2012/assets/spec.pdf> and <http://www.gpo.gov/fdsys/pkg/BUDGET-2012-PER/pdf/BUDGET-2012-PER-1-7-1.pdf>.

¹⁷ Congressional Budget Office. "The 2012 Long-Term Budget Outlook," June 5, 2012. <http://www.cbo.gov/publication/43288>

¹⁸ Chris Cox and Bill Archer, "Why \$16 Trillion Only Hints at the True U.S. Debt," *Wall Street Journal*, November 26, 2012, <http://online.wsj.com/article/SB10001424127887323353204578127374039087636.html>.

The first problem with democracy is that voters' preferences need not be consistent or feasible. In California, for example, citizens are frequently given the opportunity to vote directly on matters of policy through referenda and ballot initiatives. Two firm convictions are routinely expressed in these votes: people want more public goods and people want lower taxes. However, the only way to make these preferences consistent (temporarily) is to finance public expenditures through massive amounts of debt (which must eventually be paid off by future tax payers). This dynamic helps explain why California is one of the most indebted states in the union and the recurrent budget crises it has faced.

Note that the expansion of government benefits today with the promise to pay it off tomorrow truly is democratic in the fullest sense of the term. It expresses the widely shared preferences of a majority of citizens. Modern democratic states embrace a logic caricatured by the nineteenth-century French liberal Frédéric Bastiat who described government as "that great fiction by which everyone tries to live at the expense of everyone else."¹⁹ However, contrary to how it may appear to myopic voters and politicians, debt is not free money. The short-sighted psychology that gives rise to unsustainable spending must ultimately be called to account by the mathematics of a balance sheet. Debt is a future tax, which will be collected either directly or via inflation (or it will not be repaid, with consequences that are generally far more dire).

The democratic desire for expanded government benefits, coupled with the ability to postpone the true costs of such benefits, provides a recipe for unsustainable spending. A second problem with democratic politics is that it makes negotiating a way out of fiscal crises extremely difficult. Citizens who have come to expect certain benefits fight fiercely to keep them in place. The bargaining game involved in winding down expenditures is nasty, brutish, and long, with every constituency asking why another hasn't been asked to concede more, and with multiple veto players who can threaten to block any final deal.

Winding down unsustainable entitlement spending requires making moral distinctions between those in genuine need and those receiving excessive benefits. However, absent a common ethical framework, and in the face of differing degrees

¹⁹ Frédéric Bastiat, "The State," *Journal des Débats*, September 25, 1848.

of self-interest, it is difficult to find a popular consensus regarding how to prioritize and distinguish beneficiaries. That question is both contentious and complex. So, the difficult work of cutting benefits that people have come to expect is rarely done under the normal conditions of democratic politics, even when the problem is clear. Rather, these issues are only addressed when the fiscal balance sheet has reached a crisis stage and bond markets take away the ability to finance expenditures through additional borrowing. This generally occurs during recessions, at which point the requisite austerity strikes a double blow to a country's economy.

Greece, Italy, and Cyprus, as well as some other states in the European Union, are now serving as the proverbial canary in mineshaft for Western democracy, as unsustainable benefits are being called to account. The great question, to which we may not have a final answer for many years, is whether democratic politics can come to grips with long-term fiscal realities, or whether the social and economic fabric of these states will be torn apart in the process.

To be sure, the United States is not Greece, and for a number of reasons is unlikely to face a similar fiscal crisis in the immediate future. The US has an economy and tax regime that remain much less corrupt than those of Mediterranean countries, there is less state dependence overall, and demographic trends are not as dire. The principle of Federalism has also introduced helpful boundaries, limiting the ability of states to foist their debts on each other and offering useful lessons as each state tries to come to grips with its fiscal responsibilities and citizens move freely among them. In this context, Detroit is perhaps a more relevant and worrisome example than Greece.

At the national level, America remains the most powerful country in the world and will continue to be viewed as a safe investment for the foreseeable future. However, its strength could ultimately prove a weakness, if the credit provided by the rest of the world enables the US to hang itself with infeasible obligations, to embellish on a famous quote by Lenin.

What is clear at this moment is that the underlying trends of Western political economy are unsustainable. The West needs to learn to live within its means, making moral distinctions about which people and projects deserve the assistance of public money, while fostering the conditions that promote economic

competition, innovation, and growth. However, the principle of self-restraint necessary to achieve these goals does not arise automatically within democratic politics, but must be cultivated from ethical or ideological sources beyond the strict rule of self-interest. Again, the ideals of classical liberalism have historically provided a bulwark against the inherent weaknesses of democracy. If we are to resist the corrupting processes of rent seeking, grandstanding, and unsustainable spending, we must rediscover the ethical foundations of Western prosperity, and act on these convictions in the context of increasing complexity and state centralization.

Putting the Liberalism Back in Liberal Democracy

The point of this analysis is not to be for or against democracy, or to be satisfied with Churchill's quip that it's the worst form of government except for all the rest. Rather, the point is that democracy is, in crucial respects, formless; it reflects the preferences and opinions of citizens but cannot guarantee that these are good, feasible, or well-informed. Democracy amplifies the limits and weaknesses of human nature, including our ignorance, short-sightedness, and partisan self-interest. Moreover, democracy empowers the organized, but too often the reason that groups organize is to take advantage of political power for private gain.

The great promise of democracy lies in its ability to hold leaders to account through electoral competition. "A dependence on the people is, no doubt, the primary control on the government," observed Madison in *Federalist 51*, but he hastened to add, "experience has taught mankind the necessity of auxiliary precautions."²⁰ Democracy can be a vehicle of corruption if its characteristic dangers are not constrained by a moral commitment to rights, freedoms, and responsibilities that are not open to political bargaining. Moreover, the ability to defend these commitments requires a certain level of factual knowledge in the population at large, something that must be continually cultivated as the world changes. Absent ethical commitments that limit the scope of politics, and detailed knowledge of contentious issues, there is no reason to think that democratic institutions will support a form of government that is productive, sustainable, and

²⁰ James Madison, "Federalist No. 51: The Structure of the Government Must Furnish the Proper Checks and Balances Between the Different Departments," *Independent Journal*, February 6, 1788.

redounds to the common good. Rather, democratic procedures are likely to facilitate the corruption of open-access orders, making them increasingly difficult to distinguish from corrupt states. How, then, are we to understand and cultivate the ethics and knowledge necessary for resisting the corruption of our institutions?

The social unrest unleashed by the recent democratic revolutions of the Arab Spring has rekindled an old debate about the ethical foundations of successful democracies. Put simply, must citizens share some common ethical convictions in order to sustain peace and prosperity? Partisans in this debate often, and unfortunately, tend towards extremes: either conservative moralizing or technocratic optimism. On top of this, many contemporary liberals are reluctant to affirm the importance of a common ethical framework, for one of the hallmarks of classical liberalism was supposedly the toleration of diverse conceptions of the good.

However, liberals are mistaken to deny an underlying ethical core to liberalism; conservatives have underappreciated how substantial this core is; and technocrats have grossly underestimated the degree to which our social institutions depend on behavior motivated by liberal convictions.

The term “liberal” has of course taken on many meanings, but in this context indicates a respect for the liberty, autonomy, and equality of others, along with rights of person, property, and fair treatment that reasonably follow. There are extensive controversies about the details of such rights, but it is remarkable how much consensus has been achieved over the last two centuries in the West. To cite the more dramatic examples, citizens now take for granted that slavery is unconscionable; that women should be educated, allowed to vote, and not beaten; and that diversities of lifestyle, opinion, and religious belief should be tolerated if they cause no grave harm to others. Underlying many of these convictions is the basic principle that there are moral limits to what one can demand from, or do to, others, regardless of the benefits one might reap. In the context of government, liberalism erects what the political scientist James Q. Wilson has called a “legitimacy barrier” that limits what is open to political bargaining in the first place.²¹ Although the ethical convictions at the heart of liberalism may appear

²¹ James Q. Wilson, *American Politics, Then and Now: And Other Essays* (AEI Press, 2010).

reasonable, obvious, and indeed *natural*, they are historically anomalous and still not shared in many corners of the globe today.

It is tempting to see the civilizing process that produced these convictions as inevitable, but history suggests their frightening contingency and malleability. This helps explain the fervor with which the moral foundations of democracy have been affirmed across different periods of American political history—from Washington’s Farewell Address and de Tocqueville’s analysis of “American mores,” to Lincoln’s Lyceum Address and Eisenhower’s First Inaugural. We increasingly live in a technocratic age, however, that views moral formation as contentious and unscientific, and is thus more inclined to look to incentives as the primary means to shape behavior. Ultimately, though, if people are only good when it pays to be good, democracy is doomed to become a vehicle of exploitation.

There is no doubt that formal institutions of coercion and accountability undergird the complex cultural equilibrium of liberalism, but a commitment to liberal ethics remains a *sine qua non* of successful modern societies. The conspicuous role that science and technology have played in improving the modern world makes it difficult for us to appreciate this fact. However, citizens capable of productive self-governance are not simply born, but are rather the result of extensive moral cultivation.

Developing the sorts of ethical convictions that lead people to do good, even when it’s costly, is no doubt easier said than done. However, it’s important to see that *it is* already done in many respects—that the West is currently defined, not by amorality, but by what we might describe as various partial moralities derived from sources as diverse as religion, family, sports, media, literature, philosophy, and the arts. Some liberal ethical convictions are cultivated widely and persuasively, while other convictions that should follow are instead neglected. For example, the left and its cultural institutions have achieved genuine moral victories for the cause of equality, but have often radicalized this principle in ways that are toxic to other human goods and basic considerations of feasibility. Meanwhile, so many institutions on the right have fetishized freedom without responsibility. Thus, our most prominent schools of civic education offer impoverished lessons, neglecting, in particular, issues of liberty, fairness, and responsibility in the economic realm. Five years after the great economic crisis of 2008, popular discourses concerning

“ethics and economics,” from Occupy Wall Street to the Tea Party, remain confused, partial, and inarticulate.

Properly understood, the economic vision entailed by liberalism involves recognizing the importance of individual virtues such as hard work, creativity, and personal responsibility, along with communal commitments to equity, charitable aid, and social responsibility. Above all, though, liberalism demands that laws, regulations, and public expenditures be governed by a strict criterion of public good, and condemns the use of political power for private gain. Finally, liberalism holds that certain rights and liberties of person, property, and conscience are so fundamental that they should not be subject to democratic bargaining or sacrificed for utilitarian ends. The details of this vision will be contentious and subject to legitimate and ongoing debate, but in broad outline it encapsulates the ethical foundation of open-access orders.

Liberal ethical convictions are thus necessary for open-access orders to resist corruption, but not sufficient, for even the best convictions cannot be politically efficacious unless citizens have access to information that allows them to evaluate what is going on and to mobilize a response. The promise of democracy lies in this sort of oversight, but it depends on knowledge that is not easy to come by and which will be intentionally obfuscated by those who are exploiting the system.

This is why it is no exaggeration to describe the press as a fourth branch of government in modern democracies. The press and related forms of media are what keep the government in check, by documenting abuses of power and exposing corrupt bargains. Investigative journalism in particular connects the dots between the seen and unseen in the halls of power, alerting citizens to crooked dealings and dysfunctional institutions, thereby provoking outrage and reform. Other forums for investigation and critique, like think tanks and universities, provide a similar function for issues of greater analytic complexity. The larger public discourse that draws on these sources not only helps to spread basic ethical convictions, but is also the conduit for developing a popular consensus regarding the standards that should govern new questions that arise in areas such as cyberspace and biotech.

“Men are governed by opinion,” Hamilton observed; and, in the final analysis, those who craft media products are more important than ever to the flourishing of complex liberal democracies.²² It’s clear why corrupt, authoritarian regimes work so hard to control or suppress the media, as this insulates them from critique, but such regimes pay the costs in terms of impoverished social discourses. In contrast, Western governments have generally done a commendable job of protecting the freedom of the press, although there are other challenges that Western media faces. In a world of increasing complexity, the skills needed to conduct insightful investigations are difficult to cultivate and often more lucratively compensated in other fields. Moreover, those who finance the news, as well as those who consume it, have less and less patience for complicated stories. Perhaps the greatest challenge, however, comes from journalists who are more interested in being partisan hacks than in uncovering the truth. This tends to make them collaborators in the corrupting dynamics of democratic politics, rather than sources of independent judgment capable of calling a spade a spade. If politics lies at the root of the problem, it is crucially important that the press be able to conduct careful investigations that go beyond partisan preconceptions.

Liberal convictions are the ultimate bulwark against the corrupting tendencies of democracy. Not only do such convictions express a substantive ethical vision, worth defending for its own sake, but they also serve an instrumental purpose in supporting the social framework of an open-access order, which enables economies to thrive. Among the most important features of such social orders is the ability to generate wealth without holding political power. Opportunity is open to anyone who can create genuine value for others, regardless of party, class, race, sex and such. Liberalism sets necessary limits on democratic politics, and creates the conditions for vibrant economic growth. And, in the final analysis, economic growth is the only thing that can save the West.

Western political economy is currently in crisis. The institutions that have enabled the spectacular success of North America and Europe are increasingly corrupted by vulnerabilities immanent to the democratic process. Unless this corruption can be counteracted by the difficult work of seeing our situation clearly for what it is, and

²² Alexander Hamilton, “Letter to James Duane,” September 3, 1780, in Henry Cabot Lodge, ed., *The Works of Alexander Hamilton*, Federal Edition, vol. 1. (G.P. Putnam’s Sons, 1904).

acting upon convictions that transcend pure self-interest, the countries of the West are on track to become economically stagnant societies that serve a parasitic class of political and economic elites and pander to illiberal interests. Sadly, liberal democracy is more fragile than we have been led to believe. Neither its triumph nor demise is inevitable; but, at the moment, the latter appears more likely.



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**Presentation to the Senate Ethics and Elections Committee
November 4, 2013**

Carla Miller

Former Federal Prosecutor

Founder of City Ethics

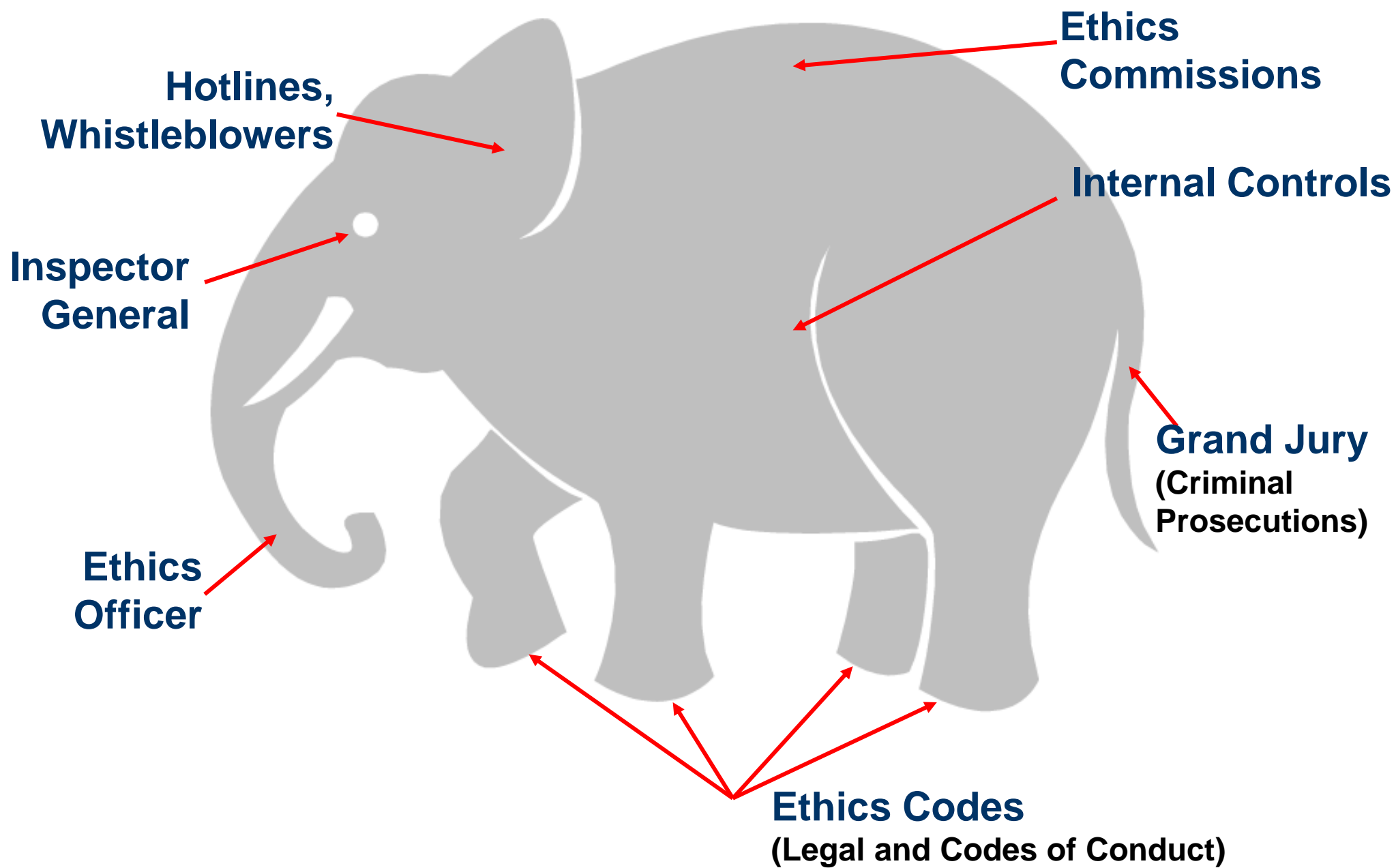
Jacksonville-- Director of Ethics Compliance and Oversight

Safra Center for Ethics, Harvard, Network Fellow

Board, Integrity Florida

THE “THREE DOG THEORY OF ETHICS”

1. Lapdog
2. Attack Dog
3. Watchdog

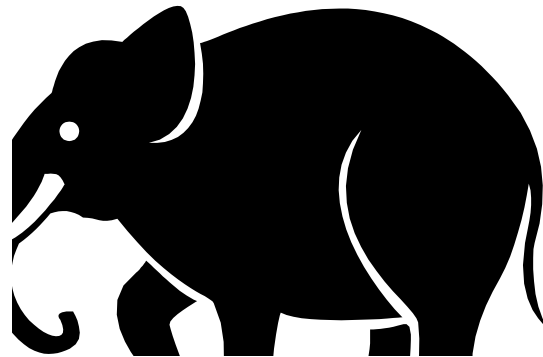


But what is the elephant looking at?

CRIMES

ETHICS
VIOLATIONS

INSTITUTIONAL
CORRUPTION



LOCAL ETHICS COMMISSIONS

BALANCE CREATIVITY

v.

UNIFORMITY

Recommendations

1. Self-initiation for SEC
2. IG's independence
3. Ethics Officers in each city
(Massachusetts Model)
4. Regional (3) Ethics Officers

VOTER LIST VERIFICATION

TIMELINE

- **Spring, 1994** – The Central Voter File Study Committee (Committee) was created in Chapter 94-224, Laws of Florida by the Legislature to implement the provisions of the National Voter Registration Act of 1993 (NVRA). The act directed the Committee to:
 - Define the purposes of a Central Voter File (CVF);
 - Determine if a CVF would be helpful to implement the provisions of NVRA;
 - Determine the alternatives for transmitting information from the county registration records to the CVF;
 - Conduct such surveys and research into registration procedures used in other states as may be necessary;
 - Examine and evaluate the effectiveness of the current registration list maintenance procedures for detecting duplicate or fraudulent registrations; and
 - Review the registration procedures used in each of the counties to determine the cost of implementing a CVF and potential uses of the file.
- **September, 1995** – The Committee releases its final report finding and recommending:
 - The primary purpose of a CVF is to provide convenient access to statewide voter registration by compiling, in a central location, the voter registration information collected by the 67 independent Supervisors of Election (supervisor) for the use by candidates for public office, political parties, political consultants, the Legislature, the Division of Elections (Division), and anyone else with a need for voter registration data;
 - A CVF might be useful in the identification of duplicate registrations; and
 - The Legislature should consider implementing a system that periodically collects data from existing voter registration systems and aggregates it into a CVF without substantially intruding into the daily business of the Supervisors of Elections.¹
- **Spring, 1997** – The Central Voter File was created in Chapter 97-13, Laws of Florida by the Legislature. Effective January 1, 1998, the new law:
 - Required the Secretary of State (Secretary) to create and maintain a CVF administered by the Division;
 - Defined the CVF to mean a statewide, centrally, maintained database containing voter registration information of all counties in this state;

¹ *Final Report of the Central Voter File Study Committee* (Sep. 1995).

- Required supervisors to provide information as requested by the Division for the creation and maintenance of the CVF;
 - Provided that all voter registration records in the CVF, excluding any information that is confidential or exempt from public records requirements, be considered public record; and
 - Mandated that the CVF be self-sustaining.²
- **Fall, 1997** – Issues of voter fraud, with an emphasis on absentee balloting, arose in the 1997 Miami mayoral race and in a 1997 city commission race in Miami Beach. Specific allegations in the Miami mayor’s race included:
 - Someone voting on behalf of someone else;
 - The purchasing or selling of absentee ballots or another’s vote;
 - Non-City-of-Miami residents voting;
 - Changing the markings on ballots;
 - False statements or information being provided with regard to address information and changes of address on voter registrations;
 - Use of certain addresses within the City as the “new address” for persons not residing within the City for the sole purpose of allowing non-residents to vote in the municipal election;
 - Voting by absentee ballot under the name of deceased persons; and
 - Voting by non-U.S. citizens.³
 - **Winter, 1998** – The Select Subcommittee on Election Integrity held hearings in Miami and Tallahassee. After reviewing all the materials, the Select Subcommittee concluded and recommended:
 - Recent changes to voter registration process mandated by Congress in the NVRA, coupled with the changes to Florida’s absentee voting laws, increased the potential for fraud in the election process; and
 - Significant changes to voter registration and absentee voting laws and processes were necessary.⁴

² It is important to note that under s. 98.093, F.S. (1997), supervisors were still solely responsible for determinations of voter eligibility and voter list maintenance. Under the law, various agencies were required to submit lists of persons to the supervisor of elections of each deceased person who was a resident of the supervisor’s county; convicted of a felony during the preceding month; or adjudicated mentally incapacitated with respect to voting. Upon receipt of the various lists, the supervisors of elections compared their registration lists for voters in their own counties and if there was a match, those persons could be immediately removed from the voter registration rolls under s. 98.065(3), F.S. (1997).

³ Information is from the analysis for CS/SB 1402 by the Senate Committee on Executive Business, Ethics, and Elections (Mar. 24, 1998), *citing*, Florida Department of Law Enforcement, *Florida Voter Fraud Issues: An FDLE Report and Observations*, at p. 4 (January 5, 1998).

⁴ Information is from the analysis for CS/SB 1402 by the Senate Committee on Executive Business, Ethics, and Elections (Mar. 24, 1998), *citing*, Letter from Senator Latvala to Senator Crist (February 5, 1998).

- **Spring, 1998** – The Third District Court of Appeal ordered all the absentee ballots in the mayoral election be invalidated and the election decided solely on the machine recount.⁵ To address many of the issues identified by the Select Subcommittee on Election Integrity, the Legislature made significant changes to the CVF in Chapter 98-129, Laws of Florida, to provide for a state and local collaborative periodic voter list maintenance process. Specifically, the law required:
 - The Division to provide to each county supervisor a list containing the name, address, date of birth, race, gender, and any other available identifying information of each person included in the CVF as a registered voter in the supervisor’s county who is deceased; convicted of a felony and has not had civil rights restored; or adjudicated mentally incompetent and whose mental capacity with respect to voting has not been restored;
 - The first list be provided by August 15, 1998 and annually updated and provided to the supervisors by June 1st;
 - The Division annually contract with a private entity to compare information in the CVF with available information in other computer databases, including, without limitation, databases containing reliable criminal records and records of deceased persons; and
 - Required supervisors to attempt to verify information provided in the lists and if they could not determine whether the information was incorrect they were to remove the voter from the voter registration rolls by the next subsequent election.

- **Summer, 1998 through 2000** – Implementation of the changes to the CVF and voter list maintenance process proved to be challenging at both the state and local level:
 - The first Request For Proposals (RFP) resulted in the contract being awarded to Professional Analytical Systems and Services;
 - On August 14, 1998, the Division provided the first exclusion list with a memorandum advising supervisors to allow alleged felons to vote by affidavit, as provided in s. 101.49, F.S., if the supervisor was unable to verify the accuracy of the information⁶;
 - A second RFP was issued resulting in an Invitation to Negotiate (ITN) with Database Technologies Inc. (DBT) and Computer Business Services. A contract was subsequently awarded to DBT early 1999;
 - The Division provided DBT with certain databases in order to create an exclusion list and DBT was to process what was provided utilizing matching parameters as

⁵ *Id.*, citing, *In re the Matter of the Protest of Election Returns*, Case No. 98-507 (Fla. 3rd DCA 1998).

⁶ U.S. Commission on Civil Rights, *Voting Irregularities in Florida During the 2000 Presidential Election*, Chapter 5, (June, 2001), available at <http://www.usccr.gov/pubs/vote2000/report.htm> (last visited Oct. 24, 2013). As detailed in the report, the Director of the Division of Elections described the CVF as the “first experience with a statewide database” and that “it cannot be a 100 percent accurate list.”

established by the Division and the Division would disseminate the exclusion list to the supervisors who would take their individual list and attempt to verify;⁷

- Varying and conflicting accounts detail meetings and training sessions with DBT, FDLE, Executive Board of Clemency, the Division and the supervisors during the summer of 1999 regarding the framework and methodology that supervisors would employ in verifying the exclusion list and the matching logic DBT used to derive the list;⁸ and
 - DBT produced at least two lists, the last of which was disseminated in May of 2000. Each of the lists compiled by DBT were found to have a significant number of “false-positives” and, as a result, were not used by all of the supervisors in the 2000 election cycle. Of those that did attempt to verify the accuracy of the exclusion lists, procedures were not followed with any degree of uniformity.⁹
- **Spring, 2001** – In response to election administration problems highlighted by the 2000 U.S. Presidential election, the Legislature passed the “Florida Election Reform Act of 2001.” Specific to the CVF and periodic list maintenance process, the act:
 - Repealed s. 98.0975, F.S., relating to the CVF;
 - Authorized the Department \$2 million dollars to develop and maintain a statewide, on-line voter registration database and associated web site containing the voter registration information from all the counties to be fully operational statewide by June 1, 2002;
 - Authorized the Department to contract with the Florida Association of Court Clerks (Clerks) to analyze, design, develop, operate, and maintain the database;
 - Mandated that the system provide functionality for ensuring that the database is updated on a daily basis to determine if a registered voter is ineligible to vote;
 - Prohibited the Department from contracting with any private entity other than the Clerks for the operation or maintenance of the database;
 - Provided a criminal penalty for any supervisor who willfully refuses or neglects to perform his or her duties with respect to the implementation and administration of the database;

⁷ *Id.* The record is unclear as to why the contract with Professional Analytical Systems and Services was terminated and a second RFP issued. At the time DBT was awarded the Division of Elections’ list maintenance contract it also had contracts with FDLE. After DBT was awarded the contract it merged with ChoicePoint. The databases provided included: CVF, FDLE file, the Bureau of Vital Statistics deceased persons file, and the Executive Board of Clemency file.

⁸ *Id.*

⁹ *Id.* As defined in the report, a “false positive” is an industry term that means some but not all the data elements match the data provided and therefore the names on the lists could not be ultimately verified as deceased, duplicates, or convicted felons. The existence of “false positives” was attributed to the search parameters established by the Division of Elections.

- Provided a notice requirement to voters determined to be ineligible by a supervisor; and
 - Mandated, to the maximum extent feasible, state and local government entities facilitate provision of information and access to data to the Clerks in order to compare information in the statewide voter registration database with available information in other computer databases.¹⁰
- **Summer, 2001** – As required by s. 98.0977, F.S. (2001), the Division was obligated to operate and maintain the CVDB unless it contracted with the Clerks to carry out those functions. The Division’s negotiations with the Clerks were unsuccessful due to projected costs. As the Department did not possess the resources necessary to design the CVDB in-house, the Department decided to contract with a private vendor to design and develop a system which the Division would operate and maintain. The Division reviewed the list of vendors on state term contract for data processing services and ultimately selected Accenture.¹¹
 - **Winter, 2001** – The National Association for the Advancement of Colored People (NAACP) and other groups filed a class action lawsuit against Secretary of State Katherine Harris and others challenging, among other things, the criteria used to determine the ineligibility of people on Florida’s felon purge list as a violation of the 1965 Voting Rights Act.¹²
 - **Spring, 2002** – The Legislature clarified s. 98.0977, F.S., relative to how the CVDB was administered and ineligible voters removed. Specifically, it required the supervisors to:
 - Remove any person listed as deceased;
 - Treat information in the database indicating that a person had subsequently registered in another county as a request to remove that person from the voter rolls in the county of previous registration; and
 - Remove convicted felons and persons adjudicated mentally incompetent through a uniform notice and hearing procedure.¹³

¹⁰ Chapter 2001-40, ss. 70-73, Laws of Fla. (creating s. 98.0977, effective July 1, 2001). The new statewide voter registration database became known as the Central Voter Database (CVDB).

¹¹ Florida Department of State, Office of Inspector General, *Audit of the Division of Elections Central Voter Database*, Audit Report No. 2005-001 (Nov. 2004).

¹² *NAACP et al. v. Katherine Harris et al.* United States District Court, Southern District of Florida, Case No. 01-CIV-120-GOLD, January 10, 2001. This case was settled in August of 2002 and the Department of State was subject to the terms of the settlement agreement through May of 2005. As part of the settlement agreement, a base match procedure was outlined and the CVDB matching logic had to adhere to those parameters and any adjustments by the Division of Elections had to be submitted to the Lawyers’ Committee for Civil Rights Under Law at least 10 days before implementation.

¹³ Chapter 2002-189, s. 6, Laws of Fla.

- **Summer, 2002** – The death and duplicate components of CVDB were activated on June 1, 2002, as statutorily mandated; however, the felon component was not activated until May 7, 2004¹⁴. In May, 2002, Accenture provided a demonstration of the CVDB to the Division. The Division’s upper management determined that the matching logic was not as stringent as they had envisioned and stipulated additional rules be incorporated into the matching logic to create more reliable potential matches. Those rules were known as “Business Rules” and required the following fields be exact for a potential match to be identified: last name, date of birth, race, gender, and social security number.¹⁵
- **Fall, 2002** – The federal Help America Vote Act of 2002 (HAVA) was enacted on October 29, 2002, establishing election standards to be followed by every state. Specifically, HAVA required each state to implement a single, uniform, official, centralized, interactive computerized statewide voter registration list defined, maintained, and administered at the State level that contains the name and registration information of every legally registered voter in the State and assigns a unique identifier to each legally registered voter in the State by January 1, 2006.
- **Summer, 2004** – The felon component of the CVDB was activated on May 7, 2004 and deactivated on July 10, 2004, upon discovery of its inability to match felons to registered voters of Hispanic origin. The Division terminated the CVDB contract with Accenture in June.¹⁶
- **Spring, 2005** – The Florida Legislature had already enacted a number of reforms necessary in meeting the federal requirements of HAVA. The remaining federal requirements were implemented in Chapter 2005-278, Laws of Florida which, in pertinent part:
 - Repealed ss. 98.0977 and 98.0979, F.S. pertaining to the CVDB;
 - Created s. 98.035, F.S., implementing the statewide voter registration system, now known as the Florida Voter Registration System (FVRS), which shall be the official list of registered voters in the state;
 - Moved some voter list maintenance processes from the county level to the state level;

¹⁴ As stated in Audit Report No. 2005-001, *see supra* note 11, at 3, the Division delayed the activation of the felon component due to pending settlement of litigation with the NAACP and pre-clearance from the U.S. Department of Justice (DOJ). On February 10, 2003, DOJ pre-cleared the NAACP settlement agreement and section 6 of Chapter 2002-189, Laws of Fla.

¹⁵ *See supra* note 11, at 7.

¹⁶ *See supra* note 11, at 8. As a result of the deactivation of the felon matching component, there was no felon exclusion list used in the 2004 election cycle.

- Amended s. 98.045, F.S., relating to the duties of supervisors in determining the eligibility of a voter registration applicant and clarifying that supervisors of elections will make the final determination of eligibility;
 - Allowed supervisors to maintain their own voter registration systems provided there was no conflict with the operation of the FVRS; and
 - Substantially reworded s. 98.075, F.S., relating to the responsibility of the Department to protect the integrity of the electoral process by ensuring the maintenance of accurate and current voter registration records and provided specific list maintenance activities to be conducted by the Department with respect to duplicate registrations, deceased persons, adjudication of mental incapacity, felony conviction and other bases for ineligibility and procedures for removal.¹⁷
- **Winter, 2006 to present** – FVRS went live as statutorily mandated on January 1, 2006. Voter list verification provides:
 - The driver's license or state identification number to be verified against the Department of Highway Safety and Motor Vehicles database (DAVE). If the last 4 digits of a social security number are provided on the application, it is checked against the Social Security Administration (SSA) database. If no match is found, the applicant is notified. If the information remains unverified, the applicant may vote a provisional ballot;
 - A registration list maintenance program must use one or more of the following methods to identify voters whose address may have changed – National Change of Address data (NCOA), nonforwardable mailings to all registered voters, or nonforwardable address confirmation mailings to all registered voters who have not voted or updated their voter registration in the last two years;
 - A voter will be removed from FVRS –
 - if the voter requests in writing to be removed
 - is registered in another state and the voter registration official in that state notifies Florida
 - dies
 - is adjudicated mentally incompetent with voting rights removed and not restored
 - is convicted of a felony without civil rights restored

¹⁷ The changes made to s. 98.075, F.S., are now commonly referred to by election officials as the “credible and reliable” review to be conducted by the Division to aid the supervisors in final determinations of ineligibility. Many of these processes are now automated through the FVRS in partnership with the individual county voter registration systems.

- is determined to be ineligible for other reasons, such as not being a U.S. citizen, not a real person, not listing a legal Florida residence, or not of legal age
- confirms in writing a change of address outside of the state, or
- remains in inactive status through two general elections;
- Deceased persons -information from the Department of Health and the SSA Master Death File is electronically automated and updated into FVRS daily and weekly respectively. Upon receipt of the information through FVRS, the supervisor will remove the name of the registered voter. Additionally, supervisors may remove a voter if they receive a copy of a death certificate;
- Mental Incompetency – information is provided to the Department by Clerks of the Circuit Court on a monthly basis. This information is manually reviewed by staff of the Division and a case file created. Supervisors review the case file for a final determination of ineligibility and provide notice to the voter;
- Felons – the Division uses information from FDLE, the Board of Executive Clemency, the Department of Corrections, Clerks of the Circuit Court and U.S. Attorneys to identify potential matches. Case files are created and transmitted to the supervisors for a final determination of eligibility and notice to the voter; and
- DHSMV provides the Department with a list of persons who have been removed from DAVE because they have been licensed in another state;
- Supervisors are not limited or restricted in their duty to remove the names of persons from FVRS pursuant to s. 98.075(7), F.S., if based upon information received from other sources.¹⁸

¹⁸ National Association of Secretaries of State, *NASS Report: Maintenance of State Voter Registration Lists*, 26-27 (Oct. 6, 2009); ss. 98.045, 98.065, 98.075, and 98.093, F.S.

COMPARISON OF STATE AND LOCAL ETHICS LAWS

ISSUE		STATE	BROWARD COUNTY	MIAMI-DADE COUNTY	JACKSONVILLE/DUVAL COUNTY	PALM BEACH COUNTY
Lobbyist Registration	WHO IS A LOBBYIST	Compensation is required to be a lobbyist.	Do not have to be compensated to be required to register as a lobbyist.	Persons employed or retained by a principal.	For compensation.	Employed and receives payment, or who contracts for economic consideration.
	REGISTRATION PERIOD	Calendar year basis.	7/1 through 6/30.	Calendar year (Due 1/15).	Annual or lesser stated period.	Prior to lobbying; Separate registration required for each principal.
	PRINCIPAL AUTHORIZATION	Required from any principal regardless of whether the principal is an individual or group.	Required on registration only where representing a group.	Required from all principals.	Only required to identify the principal.	A statement is required from each principal.
	CANCELLATION/TERMINATION NOTICE	Required.	Not required.	Withdrawal notice; principal notification of termination of authority to represent the principal.	Not required.	Not required.
	DISCLOSURE OF RELATIONSHIP TO OFFICERS	Legislature-direct association or partnership with Legislator; Executive Branch- direct or indirect business association, partnership, or financial relationship with any employee of the agency he or she lobbies, or intends to lobby.	Direct business associations with county officials or county employees.	Business or professional relationship with current Mayor and current members of the County Commission.	Not required.	Direct business association or partnership the lobbyist and principal might have with any current county commissioner, member of a local municipal governing body, mayor or chief executive office that is not a member of a local municipal governing body, advisory board member, or employee.
	OTHER		Must contain general and specific subject matters the lobbyist seeks to influence.	<ul style="list-style-type: none"> Requires disclosure of all partners owning more than 5% of firm. Certificate of completion of ethics course and a refresher every two years thereafter. 	Disclose purpose and issue that is the focus of representation.	Area of legislative interest and county or municipalities to be lobbied must also be disclosed on the registration.

COMPARISON OF STATE AND LOCAL ETHICS LAWS

ISSUE	STATE	BROWARD COUNTY	MIAMI-DADE COUNTY	JACKSONVILLE/DUVAL COUNTY	PALM BEACH COUNTY
Lobbyist Compensation Reporting	Quarterly Compensation reports pursuant to Section 11.045 and Section 112.3215.	N/A	Report expenditure; not compensation.	N/A	Report expenditure; not compensation.
VOTING CONFLICTS	Local Officers abstain and disclose when a matter would inure to his/her special private gain or loss or that of certain other individuals; APPOINTED Local Officers must disclose in writing before the meeting (if not known prior to the meeting, he or she must disclose orally prior to participating at the meeting).	No additional voting conflict provisions.	<p>May not vote on or if he/she has certain relationships with persons or entities which would be or might be directly or indirectly affected by any action if the transaction or matter would affect the mayor or member in a manner distinct from the manner in which it would affect the public generally.</p> <p>Required to absent himself or herself from the Commission meeting during the discussion.</p> <p>No quasi-judicial personnel or advisory personnel shall vote on any matter if he/she will be directly affected by the action of the board and he or she has any of the following relationships with the persons or entities appearing before the board: (i) officer, director, partner, of counsel, consultant, employee, fiduciary or beneficiary; or (ii) stockholder, bondholder, debtor or creditor.</p>	No additional voting conflict provisions.	No additional voting conflict provisions.

COMPARISON OF STATE AND LOCAL ETHICS LAWS

ISSUE	STATE	BROWARD COUNTY	MIAMI-DADE COUNTY	JACKSONVILLE/DUVAL COUNTY	PALM BEACH COUNTY
GIFT RESTRICTIONS	<p>Gifts based upon a quid pro quo arrangement are prohibited regardless of value. (112.313(2), F.S.)</p> <p>State Executive Branch Officers and Employees and Legislative Branch Officers and Employees are prohibited from receiving anything of value from a lobbyist.</p> <p>Additionally, no public officer may solicit or accept gifts from a lobbyist, principal, or vendor valued in excess of \$100. Certain gifts in excess of \$100 are reportable on quarterly/annual gift disclosure forms.</p> <p>Public officers may not solicit or accept an honorarium from a lobbyist, principal, or vendor. However, a public officer can accept expenses related to an honorarium event if they make disclose them.</p>	<p>May not accept a gift from a lobbyist registered with their part of government regardless of value.</p> <p>They may accept any gift from someone other than a lobbyist where the gift is not prohibited by statute.</p> <p>However, no gift given to elected officials can exceed \$50 in value if given to the officer <i>in his/her official capacity</i>.</p> <p>Gifts given to public officers are subject to the statutory reporting requirements.</p>	<p>May not solicit or demand any gift.</p> <p>May not accept or agree to accept a gift given for, or because of, an official action taken, to be taken, or which could be taken; a legal duty performed, to be performed, or which could be performed; or a legal duty violated, or to be violated, or which could be violated.</p> <p>Nor may a person or entity offer, give, or agree to give, a gift to officers because of, an official action taken, to be taken, or which could be taken; a legal duty performed, to be performed, or which could be performed; or a legal duty violated, or to be violated, or which could be violated.</p>	<p>\$100 per gift limit, \$250 per year limit, from lobbyists; principals; people/entities doing business with, or having submitted a written application to do business with his agency during the last 6 months; or someone subject to permit approval by the officer's/employee's agency.</p> <p>\$100 per gift limit, \$250 per year limit, when given as a result of his or her official position, or as a result of the business relationship arising from the official's position.</p> <p>Also prohibits commissions, fees, gratuities, loans, or other consideration given for, or in consideration of, the official's/employees duties and responsibilities.</p> <p>Also prohibits honoraria; permits honoraria related expenses; and requires disclosure where not required to be disclosed by state law.</p>	<p>May not accept or agree to accept a gift given for, or because of, an official action taken, to be taken, or which could be taken; a legal duty performed, to be performed, or which could be performed; or a legal duty violated, or to be violated, or which could be violated.</p> <p>Nor may a person or entity offer, give, or agree to give, a gift to officers because of, an official action taken, to be taken, or which could be taken; a legal duty performed, to be performed, or which could be performed; or a legal duty violated, or to be violated, or which could be violated.</p> <p>Persons not required to report a gift under state law must disclose gifts given in excess of \$100 which were not given by a personal friend or co-worker. However, if the friend or co-worker is a lobbyist, principal, or vendor, gifts in excess of \$100 are prohibited.</p> <p>Other provisions mirror state law.</p>

COMPARISON OF STATE AND LOCAL ETHICS LAWS

ISSUE	STATE	BROWARD COUNTY	MIAMI-DADE COUNTY	JACKSONVILLE/DUVAL COUNTY	PALM BEACH COUNTY
ETHICS TRAINING	Constitutional officers must receive 4 hours of ethics training, public records, and open meetings law per year.	<p>Elected officials must receive 4 hours of Sunshine law, public records, and public service ethics training from county attorney (or approved by county attorney).</p> <p>Must certify completion of the training within 120 days of taking office.</p> <p>Elected officials must complete another four hours of public service ethics training each year and certify completion of the 8 hours of total required training.</p>	<p>Require an affidavit certifying that the mayor or BOCC member has read the ethics ordinance and agrees to abide by it prior to assuming office.</p> <p>Employees must complete an ethics course offered by the Miami-Dade Ethics Commission within 180 days of hiring and every 2 years thereafter. Course must address public records, Sunshine law, and the Miami-Dade Conflict of Interest and Code of Ethics Ordinance.</p>	Officers and employees must complete an Ethics in Government Program. Officials have 90 days to complete it; while employees have 180 days to complete it.	Require officials and employees to be informed of their ethical responsibilities at the start of their service and periodically thereafter. The schedule for training is determined by the county/municipal administrator.

CourtSmart Tag Report

Room: KN 412
Caption: Senate Ethics and Elections

Case:
Judge:

Type:

Started: 11/4/2013 4:01:40 PM
Ends: 11/4/2013 5:36:55 PM **Length:** 01:35:16

4:01:42 PM	Senator Latvala calls the meeting to order
4:03:07 PM	Opening Remarks
4:03:54 PM	Roll call
4:04:19 PM	Tab 1-The Honorable Ken Detzner, Secretary of State, Update on Project Integrity
4:09:48 PM	Maria Matthews, Director, Division of Elections
4:13:28 PM	Senator Latvala with comments
4:13:36 PM	Senator Braynon with questions
4:13:55 PM	Maria Matthews responds
4:14:28 PM	Maria Matthews to answer and continue
4:22:56 PM	Senator Sobel with question
4:23:01 PM	Maria Matthews responds
4:23:34 PM	Senator Sobel with followup
4:23:43 PM	Maria Matthews
4:23:49 PM	Senator Sobel
4:23:57 PM	Maria Matthews
4:24:56 PM	Senator Soto with question
4:25:14 PM	Maria Matthews responds
4:26:28 PM	Senator with followup
4:26:34 PM	Senator Soto
4:27:30 PM	Maria Matthews
4:28:20 PM	Maria Matthews
4:28:34 PM	Senator Latvala with question
4:29:13 PM	Maria Matthews
4:29:30 PM	Senator Soto with question
4:29:36 PM	Maria Matthews responds
4:30:29 PM	Senator Latvala with followup
4:32:30 PM	Senator Joyner with question
4:32:36 PM	Senator Latvala responds
4:32:43 PM	Senator Thrasher with question
4:33:35 PM	Maria Matthews to answer and continue
4:35:01 PM	Senator Clemens with question
4:35:21 PM	Maria Matthews responds
4:36:05 PM	Senator Clemens with followup
4:36:14 PM	Secretary Detzner responds
4:36:54 PM	Senator Clemens with followup questions
4:37:03 PM	Maria Matthews responds
4:37:29 PM	Senator Clemens
4:37:32 PM	Maria Matthews
4:37:46 PM	Senator Clemens
4:38:04 PM	Maria Matthews responds
4:38:46 PM	Senator Clemens
4:38:52 PM	Maria Matthews responds
4:38:55 PM	Senator Clemens
4:39:05 PM	Maria Matthews responds
4:39:14 PM	Senator Clemens
4:39:19 PM	Maria Matthews responds
4:39:31 PM	Senator Clemens
4:39:46 PM	Maria Matthews
4:40:33 PM	Senator Braynon with questions
4:41:13 PM	Maria Matthews responds
4:41:49 PM	Senator Braynon with followup
4:42:38 PM	Maria Matthews responds

4:43:39 PM	Monitor has changed View
4:43:54 PM	Senator Braynon
4:44:07 PM	Maria Matthews responds
4:44:54 PM	Senator Braynon
4:45:34 PM	Maria Matthews responds
4:46:22 PM	Senator Latvala
4:46:35 PM	Senator Soto with questions
4:47:03 PM	Maria Matthews responds
4:47:43 PM	Senator Latvala with comments
4:47:49 PM	Senator Sobel with questions
4:48:13 PM	Maria Matthews
4:48:18 PM	Senator Sobel with followup
4:48:27 PM	Maria Matthews responds
4:49:18 PM	Senator Sobel with followup
4:49:42 PM	Secretary Detzner responds
4:50:39 PM	Senator Latvala with comments
4:50:48 PM	Secretary Detzner with final comments
4:51:26 PM	Senator Latvala with introduction
4:51:35 PM	Tab 2-Virlindia Doss, Executive Director, Florida Commission on Ethics, Implementation of CS/SB 2
4:59:41 PM	Senator Joyner with question
5:00:06 PM	Virlindia Doss responds
5:01:23 PM	Senator Latvala
5:01:58 PM	Tab 3a-Steven P. Cullen, Esq., Executive Director, Palm Beach County Commission on Ethics
5:02:40 PM	Local independent Eithics Commissions presentation and discussion
5:05:59 PM	Senator Latvala with comments
5:06:06 PM	Tab 3b-Joseph M. Centorino, Esq., Executive Director, Miami-Dade County Commission on Ethics and Public Trust
5:13:25 PM	Senator Latvala
5:14:27 PM	Tab 3c-Carla Miller, Esq., Director, Office of Ethics, Compliance and Oversight, City of Jacksonville Ethics Commission
5:30:58 PM	Senator Latvala
5:31:04 PM	Senator Sobel with question
5:31:55 PM	Senator Latvala
5:31:59 PM	Dawn Roberts responds
5:32:13 PM	Senator Sobel
5:32:24 PM	Dawn Roberts
5:32:42 PM	Senator Latvala
5:32:45 PM	Senator Clemens with question
5:33:46 PM	Joseph M. Centorino responds
5:35:44 PM	Senator Clemens with followup
5:36:30 PM	Senator Latvala with closing remarks
5:36:56 PM	Meeting Adjourned