

Ethics Requirements for Public Officials

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Nason Yeager

GERSON HARRIS & FUMERO, P.A.
ATTORNEYS AT LAW | Est. 1960



John Fumero

JOHN FUMERO, is board certified in State and Federal Government and Administrative Practice by The Florida Bar. He has practiced law for over 30 years and formerly served as General Counsel of the South Florida Water Management District.



CARLYN KOWALSKY has been practicing law for over 33 years in both government and private practice. Before joining Nason Yeager, she held the position of Deputy General Counsel for the South Florida Water Management District where she spent 15 years counseling governing board members about ethics and open government.



Carlyn Kowalsky

Why are we here?

because the law requires it

Public officials must complete
4 hours of training each calendar year
which addresses:

- Ethics
- Public Records
- Public Meetings (Sunshine Law)



Section 112.3142, Florida Statutes



Ethics

Florida
Statutes

Chapter 112
Part III

Agency

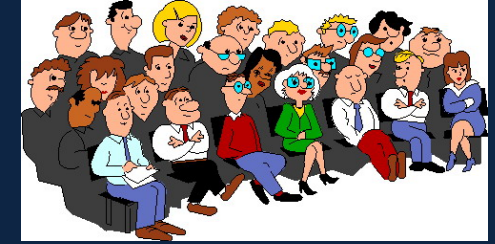
Florida
Commission
on Ethics



Public Records

Chapter 119

Florida
Attorney
General



Public Meetings

Chapter 286

Florida
Attorney
General

I. THE ETHICS LANDSCAPE



The Ethics Landscape

- *Florida Constitution - “A public office is a public trust”*
- *Code of Ethics for Public Officials in Florida Statutes Chapter 112 – Part III*
- *Florida Commission on Ethics*
 - Orders (issued following a complaint)
 - Advisory Opinions

Florida Constitution

Article II, Section 8

- *Financial disclosure*
- *Campaign finance disclosure*
- *Liable to the state for all improper financial benefits*
- *Independent commission to investigate breach of public trust*
- *Code of Ethics in Florida Law*



2018 Florida Constitutional Revision Commission

Changes to Article II, Section 8.

- Will prohibit officials from abusing their position to obtain a disproportionate benefit for a business in which they have an interest (effective Dec. 31, 2020)
- Will restrict lobbying by certain officeholders and employees, and put additional limits on lobbying by former public officers and employees (effective Dec. 31, 2022)

Code of Ethics



Goals:

- *Maintain respect of the people for their government*
- *Independent and impartial decision-making*
- *Promote public interest*

Code of Ethics for Public Officers and Employees

Online Sunshine
Official Internet Site of the Florida Legislature

May 31, 2020 Search Statutes: 2019 Search Advanced Legislative Search and Browse

Select Year: 2019 Go

The 2019 Florida Statutes

Title X	Chapter 112	View Entire Chapter
PUBLIC OFFICERS, EMPLOYEES, AND RECORDS	PUBLIC OFFICERS AND EMPLOYEES: GENERAL PROVISIONS	
	PART III	
	CODE OF ETHICS FOR PUBLIC OFFICERS AND EMPLOYEES	
112.311	Legislative intent and declaration of policy.	
112.312	Definitions.	
112.3125	Dual public employment.	
112.313	Standards of conduct for public officers, employees of agencies, and local government attorneys.	
112.3135	Restriction on employment of relatives.	
112.3136	Standards of conduct for officers and employees of entities serving as chief administrative officer of political subdivisions.	

www.leg.state.fl.us

Florida Statutes Chapter 112 Part III

Florida Commission on Ethics



The screenshot shows the Florida Commission on Ethics website. At the top, there is a navigation bar with links to various resources. Below this is a blue header section featuring the Florida state seal on the left, the text "Florida Commission on Ethics" and the motto "A Public Office is a Public Trust" in the center, and a search bar on the right. A secondary navigation bar contains links to Financial Disclosure, Public Information, Research, Training, Complaints, and About Us. The main content area is titled "Research" and provides instructions on how to use the database of Advisory Opinions, Final and Recommended Orders, and Rules. It includes a list of links to these categories and a detailed explanation of the search functionality, including the use of Boolean terms and wildcards. A contact number is also provided.

Statutes & Constitution : View Statutes : Online Sunshine

Research - Ethics

 **Florida Commission on Ethics**
"A Public Office is a Public Trust"

Search opinions and orders with
 Search & Browse

 Financial Disclosure ▾ Public Information ▾ Research ▾ Training ▾ Complaints ▾ About Us ▾

Research

If you know which opinion, order, or rule you would like to see or print, the following links will take you to the appropriate pages:

- [Advisory Opinions](#)
- [Final and Recommended Orders](#)
- [Rules](#)

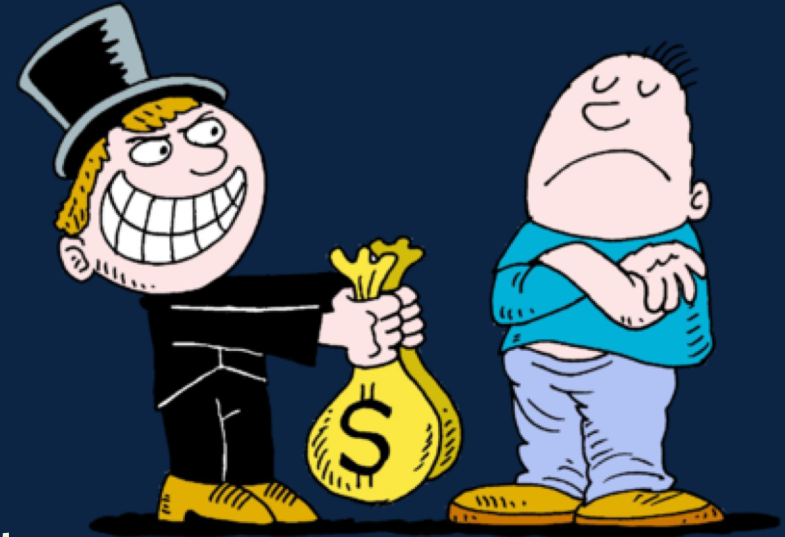
Query our database of Advisory Opinions, Final and Recommended Orders, and Rules by using a keyword search. You may enter multiple words using Boolean terms (*and*, *or*, for example) between them to narrow your search. Words separated only by a space will search for that exact combination of words. If you are unsure of the correct spelling or reference, you may use the "*" key to search for multiple spellings or variations of a word or words. Please do not hesitate to contact this office if we can assist you with your query, (850) 488-7864.

www.ethics.state.fl.us

II. ETHICS RULES OF ENGAGEMENT



Prohibited Conduct



1. Solicitation or Acceptance of Gifts
2. Solicitation or Acceptance of Honoraria
3. Unauthorized Compensation

Prohibited Conduct



4. Misuse of Public Position

5. Disclosure or Use of Certain Information

Conflicts

Doing business with your agency

A public official may not:

- *Purchase or sell*
- *Any realty, goods, or services for or to his or her agency*
- *From a business entity in which the officer (or his or her spouse or child) owns more than a 5% interest*



Section 112.313(3), Florida Statutes

Conflicting employment or contractual relationship



A public official may not hold any employment or contract with any business or agency:

- *regulated by or doing business with his or her public agency*
- *which will pose a frequently recurring conflict between the official's private interests and public duties or which will impede the full and faithful discharge of the official's public duties*
- *limited exceptions exist for certain special tax districts, drainage districts, and persons whose professions or occupations qualify them to hold their public positions*

Section 112.313(7), Florida Statutes

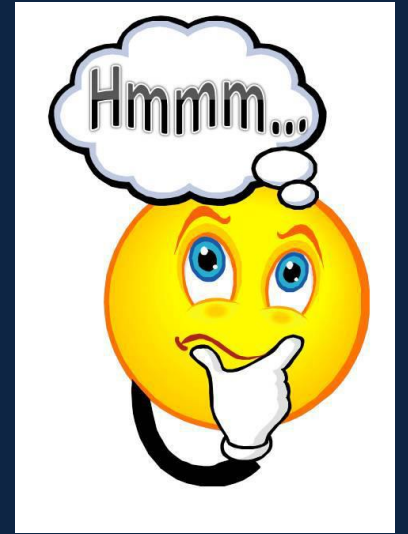
Some exemptions from prohibited conflict requirements:

- Sealed competitive bids and the official files a disclosure with the supervisor of elections
- Only source of supply
- The official purchases goods or services in her private capacity from a business regulated by her agency and the price and terms are available to the public and the official makes full disclosure to the governing body before the transaction

Section 112.313(12), Florida Statutes

If you think you may have a prohibited conflict

- *Ethics compliance is personal to you*
- *City Attorneys can provide resources and help you get in touch with the Ethics Commission, but cannot represent you personally*
- *Contact the Commission on Ethics*



Voting conflicts



A public officer may not vote on any measure which would inure to his or her special private gain or loss

Section 112.3143(3) (a), Florida Statutes

Voting conflicts

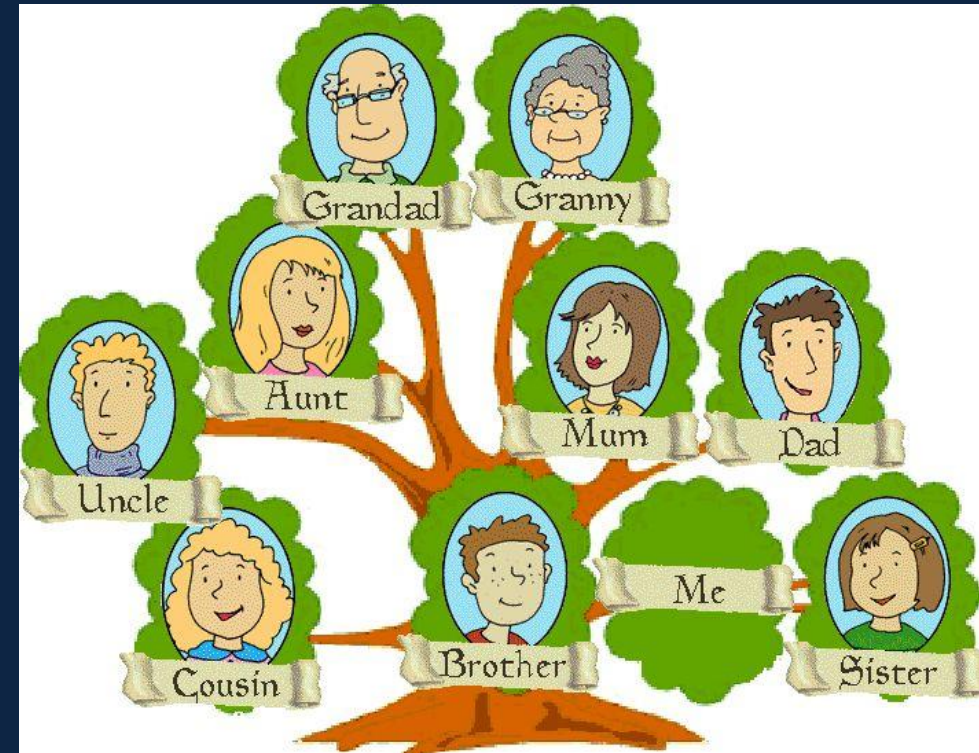
A public officer may not vote on a measure that would inure to the special private gain or loss of any -

- principal by whom he or she is retained
- parent or subsidiary of principal
- relative
- business associate

Voting Conflicts Relatives

- *Spouse*
- *Parent*
- *Children*
- *In-laws*

**Different definition for
anti-nepotism and gift laws*



Voting conflicts

“Special private gain or loss”

Factors to consider:

1. *The size of the class affected by the vote.*
2. *The nature of the interests involved. (preliminary or procedural)*
3. *The degree to which all members of the class are affected by the vote.*
4. *The degree to which the officer, relative, business associate, or principal receives a greater benefit or harm when compared to other members of the class.*



Section 112.3143(1)(d), Florida Statutes

Voting Conflicts

very fact specific factors:

- size of the affected class
- remote or speculative
- procedural or preliminary



What to do if you have a voting conflict

- Abstain from voting
- Before vote is taken - publicly state the nature of the conflict
- File Form 8B Memorandum of Voting Conflict (within 15 days after vote occurs)

Memorandum of Voting Conflict

www.ethics.state.fl.us

FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS	
LAST NAME—FIRST NAME—MIDDLE NAME	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE
MAILING ADDRESS	THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF:
CITY	<input type="checkbox"/> CITY <input type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY
COUNTY	NAME OF POLITICAL SUBDIVISION:
DATE ON WHICH VOTE OCCURRED	MY POSITION IS: <input type="checkbox"/> ELECTIVE <input type="checkbox"/> APPOINTIVE

WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing and filing the form.

Voting Conflict Memorandum

I, _____, hereby disclose that on _____, 20 ____ :

(a) A measure came or will come before my agency which (check one or more)

___ *inured to my special private gain or loss;*

___ *inured to the special gain or loss of my business associate, _____;*

___ *inured to the special gain or loss of my relative, _____;*

___ *inured to the special gain or loss of _____, by whom I am retained;*

___ *inured to the special gain or loss of _____, which is the parent subsidiary, or sibling organization or subsidiary of a principal which has retained me.*

(b) *The measure before my agency and the nature of my conflicting interest in the measure is as follows:*

Post-officeholding restrictions



Former elected local government officers may not represent another person or entity for compensation before the government body or agency of which he or she was an officer for two years after leaving office.

Section 112.313(14), Florida Statutes

Restrictions on the employment of relatives

A public official may not seek for a relative:

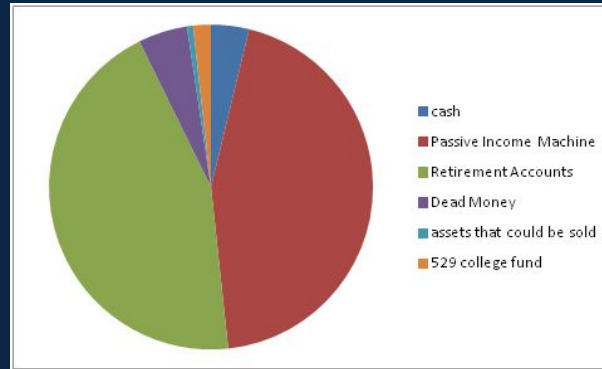
any appointment, employment, promotion, or advancement in the agency in which he or she serves or over which he has control

Section 112.3135, Florida Statutes

III. FINANCIAL AND OTHER DISCLOSURE FORMS



Financial Disclosure



- Must file a statement of financial interests by July 1 each year
- Automatic fines up to \$1,500 after Sept. 1

Sections 112.3145(2)(b), and 112.3144 Florida Statutes

Financial Disclosure Form 1

What must be disclosed

- Sources and types of financial interests
- Employer names
- Addresses of real property holdings
- NO DOLLAR VALUES ARE REQUIRED TO BE LISTED
- Relationships with, and ownership interests in, businesses such as banks, savings and loans, insurance companies, and utility companies.

Financial Disclosure forms filed with Supervisor of Elections

What	When
Statement of Financial Interests Form 1	By July 1 each year to report for prior calendar year
Amendment to Financial Disclosure Form 1X	Whenever you seek amendment
Final Statement of Financial Interests Form 1F	Within 60 days after leaving office

Financial Disclosure Form 1

www.ethics.state.fl.us

FORM 1		STATEMENT OF	2019
Please print or type your name, mailing address, agency name, and position below:		FOR OFFICE USE ONLY:	
LAST NAME -- FIRST NAME -- MIDDLE NAME :			
MAILING ADDRESS :			
CITY : ZIP : COUNTY :			
NAME OF AGENCY :			
NAME OF OFFICE OR POSITION HELD OR SOUGHT :			
CHECK ONLY IF <input type="checkbox"/> CANDIDATE OR <input type="checkbox"/> NEW EMPLOYEE OR APPOINTEE			
**** THIS SECTION <u>MUST</u> BE COMPLETED ****			
DISCLOSURE PERIOD: THIS STATEMENT REFLECTS YOUR FINANCIAL INTERESTS FOR CALENDAR YEAR ENDING DECEMBER 31, 2019.			
MANNER OF CALCULATING REPORTABLE INTERESTS: FILERS HAVE THE OPTION OF USING REPORTING THRESHOLDS THAT ARE ABSOLUTE DOLLAR VALUES, WHICH REQUIRES FEWER CALCULATIONS, OR USING COMPARATIVE THRESHOLDS, WHICH ARE USUALLY BASED ON PERCENTAGE VALUES (see instructions for further details). CHECK THE ONE YOU ARE USING (see instructions).			

Financial Disclosure Form 1

www.ethics.state.fl.us

Not Secure — ethics.state.fl.us

Distilling Spir...a Spirit Brand Exterior Louvered Doors SFWMD Virtual Desktop Best Disney ...l — easyWDW Kailua Kona V...Owner Direct Buy a Hand ...tomMade.com Where to Drin...r Charleston Nick's Peru Blog Tide Predicti...es & Currents

Statutes & Constitution :View Statutes : Online Sunshine Forms - Ethics www.ethics.state.fl.us/Documents/Forms/Form%201_2019i.pdf?cp=2020531

**** THIS SECTION MUST BE COMPLETED ****

DISCLOSURE PERIOD:
THIS STATEMENT REFLECTS YOUR FINANCIAL INTERESTS FOR CALENDAR YEAR ENDING DECEMBER 31, 2019.

MANNER OF CALCULATING REPORTABLE INTERESTS:
FILERS HAVE THE OPTION OF USING REPORTING THRESHOLDS THAT ARE ABSOLUTE DOLLAR VALUES, WHICH REQUIRES FEWER CALCULATIONS, OR USING COMPARATIVE THRESHOLDS, WHICH ARE USUALLY BASED ON PERCENTAGE VALUES (see instructions for further details). CHECK THE ONE YOU ARE USING (**must check one**):

☐ **COMPARATIVE (PERCENTAGE) THRESHOLDS** OR ☐ **DOLLAR VALUE THRESHOLDS**

PART A -- PRIMARY SOURCES OF INCOME [Major sources of income to the reporting person - See instructions]
(If you have nothing to report, write "none" or "n/a")

NAME OF SOURCE OF INCOME	SOURCE'S ADDRESS	DESCRIPTION OF THE SOURCE'S PRINCIPAL BUSINESS ACTIVITY

PART B -- SECONDARY SOURCES OF INCOME
[Major customers, clients, and other sources of income to businesses owned by the reporting person - See instructions]
(If you have nothing to report, write "none" or "n/a")

NAME OF BUSINESS ENTITY	NAME OF MAJOR SOURCES OF BUSINESS' INCOME	ADDRESS OF SOURCE	PRINCIPAL BUSINESS ACTIVITY OF SOURCE

File Financial Disclosure with Supervisor of Elections



www.voteokeechobee.com

www.martinvotes.com

www.slcelections.com


www.voteindianriver.com

Fines Accrued Report

- http://public.ethics.state.fl.us/view_fines_accrued.cfm

Distilling Spir... a Spirit Brand Exterior Louvered Doors SFWMD Virtual Desktop Best Disney ... easyWDW Kailua Kona V... Owner Direct Buy a Hand ...tomMade.com Where to Drin... Charleston Nick's Peru Blog Tide Predicti...es & Currents

www www.ethics.sta... Home - Ethics www.ethics.sta... Coronavirus: FL... Advisory Legal... myfloridalegal... The ADA and C... How does title l... Rules - Ethics Results - Florid... county is... ver sup...



Search for Financial Disclosure Filers

Financial Disclosure Fines Accrued Report

Individuals listed below have not filed financial disclosure or have filed financial disclosure late for form year 2018 with the Commission on Ethics.

Pursuant to Section 112.3145(7)(f), Florida Statutes, the filer has been assessed a fine of \$25 for each day late, up to a maximum fine of \$1,500 (60 days late).

Appeals are governed by Chapter 112, Part III, F.S. and Chapter 34-8, F.A.C.

Ctr	Organization	Name	Filer ID	Form Type	Date Filed	Fine Amount
1	Agency for State Technology, Technology Advisory Council	Susan Amat	264205	1		\$1,500.00

Gifts



are prohibited from:

- *Vendor doing business with agency*
- *Political Committee*
- *Lobbyist*

Florida Statutes Section 112.3148

Gift Disclosure



www.ethics.state.fl.us

Form 9		QUARTERLY GIFT DISCLOSURE	
(GIFTS OVER \$100)			
LAST NAME -- FIRST NAME -- MIDDLE NAME:		NAME OF AGENCY:	
MAILING ADDRESS:		OFFICE OR POSITION HELD:	
CITY:	ZIP:	COUNTY:	FOR QUARTER ENDING (CHECK ONE): YEAR
			<input type="checkbox"/> MARCH <input type="checkbox"/> JUNE <input type="checkbox"/> SEPTEMBER <input type="checkbox"/> DECEMBER 20__

PART A — STATEMENT OF GIFTS

Please list below each gift, the value of which you believe to exceed \$100, accepted by you during the calendar quarter for which this statement is being filed. You are required to describe the gift and state the monetary value of the gift, the name and address of the person making the gift, and the date(s) the gift was received. If any of these facts, other than the gift description, are unknown or not applicable, you should so state on the form. As explained more fully in the instructions on the reverse side of the form, you are not required to disclose gifts from relatives or certain other gifts. **You are not required to file this statement for any calendar quarter during which you did not receive a reportable gift.**

DATE RECEIVED	DESCRIPTION OF GIFT	MONETARY VALUE	NAME OF PERSON MAKING THE GIFT	ADDRESS OF PERSON MAKING THE GIFT

☐ CHECK HERE IF CONTINUED ON SEPARATE SHEET

PART B — RECEIPT PROVIDED BY PERSON MAKING THE GIFT

If any receipt for a gift listed above was provided to you by the person making the gift, you are required to attach a copy of that receipt to this form. You may attach an explanation of any differences between the information disclosed on this form and the information on the receipt.

☐ CHECK HERE IF A RECEIPT IS ATTACHED TO THIS FORM

PART C — OATH

I, the person whose name appears at the beginning of this form, do
depose on oath or affirmation and say that the information disclosed

STATE OF FLORIDA
COUNTY OF _____
Sworn to (or affirmed) and subscribed before me by means of

IV. PENALTIES



Non-criminal penalties

For a public officer may include:

- *Impeachment*
- *Removal or suspension from office*
- *Public censure*
- *Reduction in salary*
- *Civil penalty not to exceed \$10,000*
- *Restitution of any pecuniary benefits received*

Section 112.317 Florida Statutes

Felony Convictions

Forfeiture of Retirement Benefits for:

- *Embezzlement or theft of public funds*
- *Bribery*
- *Felonies specified in Chapter 838, Florida Statutes*
- *Impeachable offenses*
- *Felonies committed with intent to defraud the public*

Section 112.3173, Florida Statutes

ADVISORY OPINIONS AND ETHICS COMPLAINTS



Ethics complaints

- Any citizen may file a sworn complaint with the Commission on Ethics within 5 years of the breach of public trust (Form 50)
- Proceedings are confidential until they reach a certain stage or the accused requests it to be public
- Complaint is provided to the accused
- Commission conducts investigation
- Commission issues a report and may recommend penalties

How to request an advisory opinion

- Submit a letter presenting a question based on a real situation and include a detailed description of the situation
- Opinions are limited to a specific written set of facts
- Opinions are binding on the person requesting it
- See www.ethics.state.fl.us

2020 Commission on Ethics Advisory Opinions



- Sole Source Purchase of Real Property
- Conflict of Interest
- Voting Conflict

www.ethics.state.fl.us/Research/Opinions.aspx



Thank You