

**NEW YORK STATE ASSOC. OF COUNTIES
COUNTY GOVERNMENT INSTITUTE**

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**Local Government Ethics:
Cases From Real Life**

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TOPICS COVERED

- **Prohibited Interests in Municipal Contracts
(Gen. Mun. Law §§ 800-805)**
- **Interests in Municipal Contracts: Disclosure
(Gen. Mun. Law § 803)**
- **Interests in Applicants in Land Use Matters:
Applicant Disclosure
(Gen. Mun. Law § 809)**
- **Prohibited Conduct: Gifts
(Gen. Mun. Law § 805-a(1)(a))**
- **Bribery and Related Offenses
(Penal Law Art. 200)**

- **Confidential Information**
- **(Gen. Mun. Law § 805-a(1)(b))**
- **Compensation for Matters before an Official's Own Agency**
- **(Gen. Mun. Law § 805-a(1)(c))**
- **Contingency Fee Agreements**
- **(Gen. Mun Law § 805-a(1)(d))**
- **Common Law Conflicts of Interest**

INTRODUCTION

The purpose of the Code of Ethics is to foster integrity in government, promote public confidence, and help county officers and employees to discharge their official duties without fear of unwarranted accusations of unethical conduct.

WHO MUST COMPLY?

The Code of Ethics applies to all officers and employees of the county, whether paid or unpaid, including the members of any county department, agency, board or commission.

RECUSAL

- Always coupled with disclosure
- Must refrain from participation in discussions, deliberations or vote
- Best practice: leave the room
- Not a neutral act

Real Life Case: A subdivision developer hires a county legislator to construct a road meeting specifications required by the county engineer, and offers the road for dedication to the county, together with a bond to guarantee repair of any damage to the road that might occur during construction.

A dispute arises and the developer fires the contractor/legislator. When the county legislature considers the offer of dedication, the county engineer recommends that the offer be declined until construction is completed. The contractor/legislator recuses himself from the vote, and the legislature rejects the offer of dedication.

The developer challenges the decision in court, alleging that the legislature made its decision in advance of the vote and that the contractor/legislator recused himself from the official vote only to conceal his efforts to undermine the subdivision project by influencing members of the legislature to disapprove the road dedication.

Prohibited Interests in Municipal Contracts

Rule: A municipal officer or employee may not have an “interest” in a “contract” with the municipality if he or she has any control over the contract, unless an exception applies.

Real Life Case: A county solicits sealed bids for a major renovation of a county office building. The wife of one of the bidders is a county legislator, but she completely recuses (disqualifies) herself from having anything to do with the project. The husband's firm proves to be the lowest bidder.

Is the contract prohibited?

Real Life Case: The county clerk requires approval of the planning commission to partition her residential property. The planning commission grants the application.

Is the planning commission approval a “contract with the municipality?”

Real Life Case: When leaving a restaurant with her family one Saturday night, a county legislator is struck by a DPW truck. The legislator sues the county. Is the lawsuit a “contract with the municipality?”

Real Life Case: A county legislator is the executive director of a non-profit social services agency, that has a contract with the county. A portion of the legislator's salary as executive director will be paid by the county contract.

Is the contract prohibited? May the legislator vote?

Real Life Case: The wife of an insurance agent who has an insurance contract with a county is elected to the county legislature.

Does the legislator have a prohibited interest in the county's insurance contract?

May the insurance contract be renewed?

Interests in Municipal Contracts: Disclosure

Rule: A municipal officer or employee who has an interest in a contract with his or her municipality must disclose that interest.

Interests in Applicants in Land Use Matters: Applicant Disclosure

Rule: Applicants in land use matters must disclose any interests of state and local municipal officials in the applicant.

MOONLIGHTING

Rule: You may not have an outside job that conflicts with your duties as a county officer or employee.

Tip: If you are thinking about taking a second job, ask the Board of Ethics for a confidential advisory opinion.

CONFIDENTIAL INFORMATION

Rule: You may not disclose confidential county information or use it for any non-county purpose, even after you leave county service.

What county information is confidential?

PAYMENT FOR MATTERS BEFORE YOUR AGENCY, DEPARTMENT, OR BOARD

Rule: You may not receive payment for services in any matter pending before your agency, department, board or committee.

Real Life Case: A member of the county planning commission is an architect. His client applies to the planning commission for approval of an application and site plan prepared by the planning commission member. The planning commission member recuses himself from the discussions, deliberations or vote on the application.

REPRESENTING OTHERS: Contingency fees

Rule: You may not be paid for representing anyone in business or professional dealings with any county agency, department or board, if your fee is dependent on the outcome.

PROHIBITED GIFTS

Rule: You may not request a gift of any amount, or accept a gift having a value of \$75.00 or more, under circumstances where it would appear that the gift was intended to influence or reward an official action.

Real Life Case: A county legislator and a local developer are long time personal friends. They and their spouses traditionally celebrate their birthdays together at an expensive local restaurant. The cost of dinner always exceeds the sum of seventy-five dollars per person. Each friend picks up the tab on the birthday of the other.

One year, shortly before the legislator's birthday dinner, the developer applies to the county legislature for approval of a major county contract. Is the cost of the dinner a prohibited gift to the legislator?

Real Life Case: The president of a county funded not-for-profit organization invites the county executive to attend its annual dinner dance. Tickets to the event cost more than seventy-five dollars each. The county executive attends, and presents a citation recognizing the organization's charitable work. Is attendance at the dinner a prohibited gift?

Real Life Case: In the previous example, the president of the county-funded not-for-profit organization invites the county executive to bring her spouse to the dinner dance, also as a guest of the organization. May the county executive accept the invitation to bring her spouse to the dinner dance as a guest of the organization?

Real Life Case: A county vendor makes the maximum contribution allowed by the Election Law to the campaign of the incumbent county executive. The amount of the contribution exceeds the sum of seventy-five dollars. Are the campaign contributions prohibited gifts under Article 18?

Real Life Case: A worker employed in the county parks department is responsible for coordinating special events at a county owned nature preserve. The worker coordinates a film director's use of the facility for the filming of a movie scene. Several days later, four cases of wine are delivered to the worker's office together with a thank you note from

... the grateful film director. Each individual bottle of wine has a retail value of less than seventy-five dollars, but the cost of the four cases of wine exceeds that amount. The worker asks the county board of ethics whether the bottles may be divided among all of the workers at the facility, with each worker receiving only one bottle of wine. May the wine be accepted?

Bribery and Related Offenses

Real Life Case: After two police officers complete an investigation, clearing the president of a trucking company of any wrongdoing in connection with a motor vehicle accident, the trucking company president gives them ten dollars, saying "here, you fellows, buy some coffee for all the homework you have done." Was the gift a crime?

Common Law Conflicts of Interest

Real Life Case: On the eve of a change in its membership, the planning commission votes to approve a major development project. The decisive vote is cast by a member who is vice president of a public relations firm under contract to the developer's parent company. The approval is challenged court.

Real Life Case: Three members of the planning commission sign a petition in support of a developer's project and application for subdivision approval.

In addition, the chairperson writes a letter to the county executive in support of the project and application, stating that she would really like to see new housing available to her should she decide to sell her home and move into something that would not require maintenance. The approval is challenged in court.

Real Life Case: The county legislature approves a collective bargaining agreement with the union representing county workers. The CBA provides for salary increases. The legislators' own salaries are tied to the union contract. The approval is challenged court.

Real Life Case: The applicant is a long-term member of the assessment review commission. The wife of one of the commissioners teaches piano to the applicant's daughter and was given a Christmas gift for doing so. The applicant is active in local politics. One of the commissioners purchased homeowners' insurance from the applicant. The mother-in-law of a commissioner publicly criticized opponents of applicant's project.

Real Life Case: A commissioner is president of a company that sells products to a firm owned by one of the applicants. During the previous three years, the commissioner's company had annual gross sales of \$2,000,000 to \$3,000,000; and the firm purchased between \$400 and \$3,000 in products from the company.

Q & A

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