

Palm Beach County Commission on Ethics

CODE OF ETHICS Training for Employees and Officials

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Palm Beach County Commission on Ethics

Statement of Purpose

“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.”

Compliance vs Integrity

- Laws, codes, rules and policies are compliance driven
 - deterrent, detection, penalties, “do’s and don’ts”
- Values and principals form the foundation of an ethical society
 - value judgments, right and wrong, appearance of impropriety

“Sound ethical judgment calls for more than meeting the moral minimum of the law”

Donald Menzel

Ethics Moments in Government

American Society for Public Administration

“Official” or “Employee”

Sec. 2-442. Definitions. “...Any official or employee of the County, or other political subdivision, whether paid or unpaid, and includes all members of an office, board, body, advisory board, council, commission, agency, department, district, division, committee or subcommittee...”

Misuse of Public Position

sec. 2-443(a)(1)-(7)

A- Use your official position

B- Take or fail to take any action

C- Influence others to take or fail to take any action...

...in a manner which you know or should know will result in a financial benefit, not shared with similarly situated members of the general public, for the following...

Prohibits financial benefit to...

1- You

2- A member of your household, including a domestic partner and their dependents, or their employer or business

3- Your Sibling, step-sibling, child, step-child, parent, step-parent, niece, nephew, uncle, aunt, grandparent, grandchild of theirs, their spouse or domestic partner or employer or business of the above persons.

4- Outside employer or business of yours, your spouse, domestic partner or someone who works for such outside employer or business

5- A “substantial” debtor or creditor of yours, your spouse or domestic partner (> \$10,000 - not including bank or mortgage company)

6- A customer or client of yours

7- Unions, charities, or civic, social and religious organizations if you or your spouse or domestic partner are an officer or board member

Definitions

sec. 2-442

Domestic partner = committed relationship + maintaining a mutual residence

Household = anyone in your primary residence who is not a renter or your employee

Customer or client = any person or entity to whom your outside employer or business has supplied goods or services in the past 24 months of a value greater than \$10,000

Person = individuals and “all other groups or combinations”

Financial benefit (definition)

Sec. 2-442. “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.*”- (excludes campaign contributions)

OUTSIDE EMPLOYER OR BUSINESS

sec. 2-442. Definition.

(1) *“Any entity, other than the county, the state, or any other regional, local, or municipal government entity, of which the Official or Employee is a member, official, director, or employee, and from which he or she receives compensation...”*

(2) *“Any entity located in the County or which does business with or is regulated by the County, in which the Official or Employee has an ownership interest.” (minimum 5% - includes household and relatives’ ownership interest)*

Voting Conflicts sec. 2-443(b)

“County Officials shall *abstain from voting* and *not participate* in any matter that will result in a Financial Benefit...” (same categories 1-7 as in misuse of office)

“When abstaining, the Official shall publicly disclose the nature of the conflict...” and complete and file form 8B with the state and COE (be careful, **county code of ethics is more restrictive than the state statute**)

Ordinance is not violated upon disclosure of conflict and abstention from voting provided there is no influence used or financial benefit received not shared by the general public.

Prohibited Contractual Relationships

sec. 2-443(c)

“No Official or Employee shall enter into any contract or other transaction for goods or services with the County...directly or indirectly, *or the Official or Employee’s outside employer or business.*”

Waivers

Advisory Board Members

Sec. 2-443(d) BCC (municipal council, board or commission) may waive a conflict *for advisory board members only*, by super-majority vote “upon full disclosure” of the conflict.

Exceptions other than waiver-

Advisory Board members only

When county or municipal business is awarded through sealed, competitive bids to the lowest bidder, and:

- a) The Official or Employee (household members included) have not participated in setting bid specifications or determination of low bid,
- b) There was no attempt to influence the bid process,
- c) The employee or official filed a disclosure statement with the Supervisor of Elections and the Commission on Ethics prior to bidding;

Exceptions (part of the job)

2-443(c)

“This prohibition shall not apply to Employees who enter into contracts with Palm Beach County as part of their official duties within the County.”

Other Exceptions

(emergencies, only local source of supply, < \$500)

Emergency purchases or contracts needed to protect citizens' health, safety and welfare;

When your outside employer or business is the only available local source of supply within the county and your interest has been fully disclosed;

Total procurement(s) with your outside employer or business does not exceed \$500 per year.

Employees/part-time employment exception

- a) Employee or relative does not work in the government department which will “enforce, oversee or administer” the contract
- b) The outside employment will not interfere or impair employees “faithful performance” of public duties
- c) Employee or relative has not participated in contract award or requirements
- d) Employee’s job responsibilities and description do not involve the contract in any way
- e) Employee complies with merit rule
- f) Employee obtains an advisory opinion finding no conflict exists

Accepting Travel Expenses

Sec. 2-443(e) Prohibits reimbursement from any *county (municipal) contractor, vendor, service provider, bidder or proposer* for travel expenses including but not limited to transportation, lodging, meals, registration fees, and incidental purchases.

Exemption - expenses paid by other governmental entities or organizations of which Palm Beach County (municipality) is a member and the travel is related to that membership.

Waiver: BCC (municipal board, council or commission) can waive ban on accepting travel expenses by a majority vote.

*A non exempt travel reimbursement is considered a gift and subject to limitations of sec. 2-444

Contingent Fee definition

sec. 2-443(f)

“...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...action or decision of the BCC, any Employee authorized to act on behalf of the BCC, the County Administrator, *or any action or decision of an Advisory Board or committee.*”

Contingent Fee Prohibition

sec. 2-443(f)

“No person shall, in whole or in part, pay, give or agree to pay or give a contingency fee to another person...receive or agree to receive a contingency fee.”

(note: courts have excluded real estate commissions and other salesman commissions standard in a particular industry – advisory opinion should be obtained)

Applying for employment, official position or contract sec. 2-443(g)

“No person seeking to become an official or employee, or seeking to enter into a contract to provide goods or services...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.”

Disclosure of inside Information sec. 2-443(h)

Public officials or employees (current or former) cannot disclose or use information obtained through their job and not available to the general public for personal gain or benefit or the personal gain or benefit of “any other person” (criminal penalties)

Lobbyists and the Gift Law

Lobbyists must register with Palm Beach County and identify their employers. Art. VIII, sec. 2-353

Public employees or officials cannot accept gifts of any value in return for the performance (or non performance) of their duties. Art. XIII, sec.2-443(a) & sec.2-444(c)(1)-(3)

Public employees cannot ask for or accept a gift valued at more than \$100 if they know it is from a lobbyist or the lobbyist's employer. sec. 2-444(a)

Lobbyists and officials

sec. 2-444(b)

“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 greater than one hundred dollars (\$100.00) from any lobbyist, or any principal or employer of a lobbyist, who lobbies the recipient’s advisory board, or any county department that is subject in any way to the advisory board’s authority.”

Gift Law Reporting

Beginning November 1, 2011, *employees and officials* (not already required by state law to submit quarterly gift reports) who accepted any gifts valued at more than \$100 (from a non lobbyist) must file a disclosure report with the PBC Commission on Ethics for the previous fiscal year ending September 30th, including the date received, description of item, value, and name and address of giver.

Gift – anything of value you did not pay for, including but not limited to cash, property, professional services, loans, travel and entertainment, lodging and hospitality, clothing and food. (Meals or food and drink consumed at one function are considered one gift.)

Gift Law Reporting

Exclusions –
the following are not considered gifts:

- Political contributions
- Gifts from family members or relatives *
- Awards
- Books, reports, magazines and periodicals for informational or advertising purposes
- Gifts solicited by public officials or employees on behalf of the government for official government business

Gift Law Reporting

*You are not required to report gifts from relatives or members of your household :

(definition of relative)

“spouse, parent, grandparent, 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.”

Nepotism

“A county official may not appoint, employ, promote, advance, or advocate for appointment, employment, promotion, or advancement in or to a position in the agency in which the county official is serving or over which the county official exercises jurisdiction or control, any individual who is a relative of the county official.”

(“relative” is defined broadly but excludes grandparents)

Sec. 2-445 (non criminal)

Palm Beach County Commission on Ethics

- Interprets and enforces the Code of Ethics, issues advisory opinions, and provides ongoing training for county and municipal employees
- Issues advisory opinions upon receipt of written requests from County or Municipal Officials or Employees.
- Processes written complaints and hears cases involving Code of Ethics violations

Advisory opinions

When in doubt--- **Ask!**

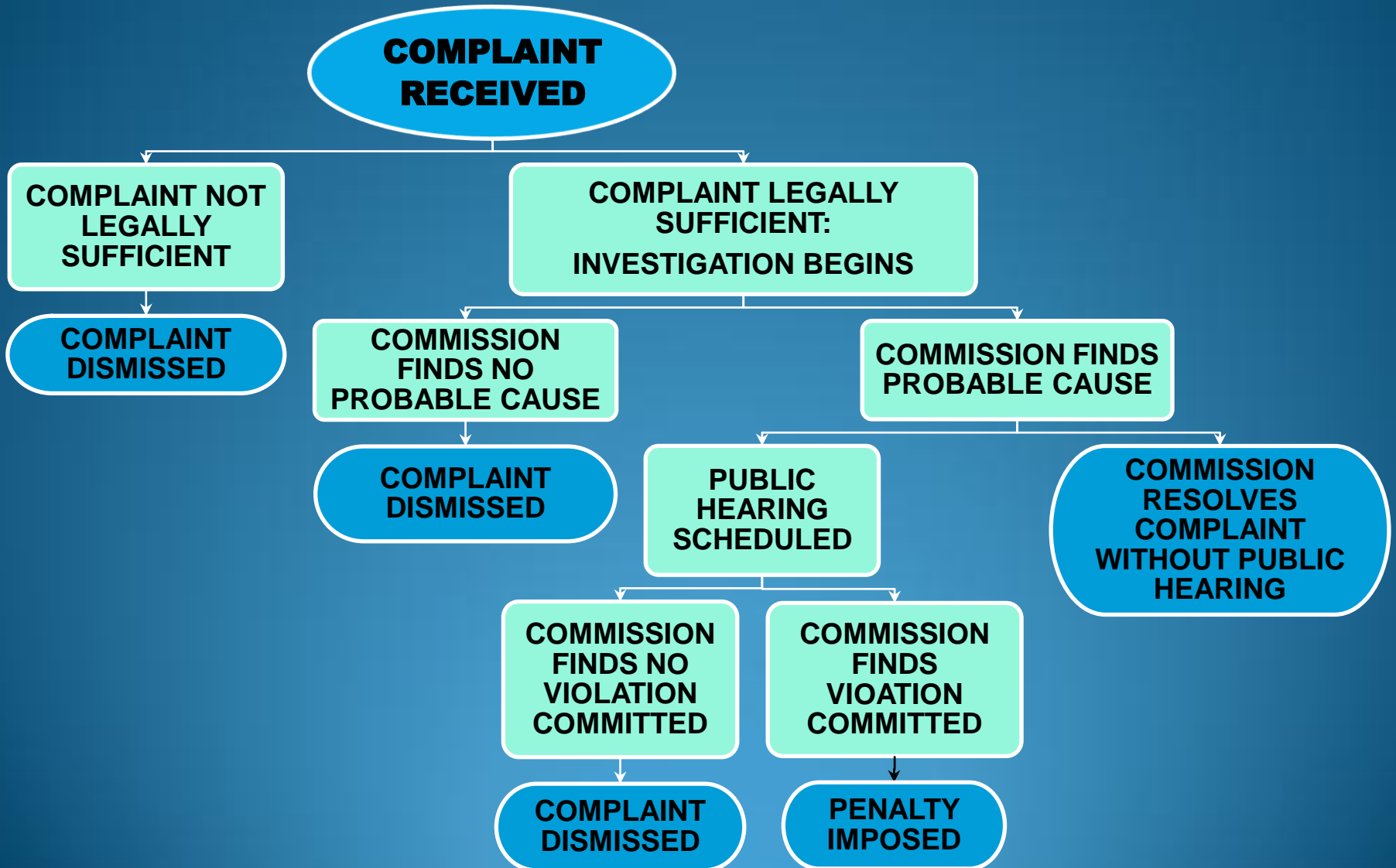
- ❖ E-mail or send a letter to the COE.
- ❖ Include all relevant facts
- ❖ Response usually within 30 days or less

Ethics@palmbeachcountyethics.com

Complaints: Legal Sufficiency

- 1- Any person may file a complaint. It must be in writing (complaint form), signed under oath, based primarily on personal knowledge of the complainant, allege a violation within the jurisdiction of the COE
- 2- The Inspector General, Executive Director of the COE or State Attorney may file a complaint based on sworn statements of material witnesses.
- 3- Both the IG and COE staff are “an appropriate local official” for purposes of whistleblower protection provided in FS 112.3188

COMPLAINT PROCESS



Public Records Exemption

Art. V, sec. 2-260(f)

The complaint and preliminary investigation are exempt from Public Records and sunshine laws unless the Respondent requests their release in writing.

Exemption lasts until the case is either dismissed, or the commission on ethics finds probable cause that a violation has occurred.

Noninterference with Inspector General and Commission on Ethics

1- Interfering with or obstructing any investigation by the Inspector General or the Commission on Ethics is prohibited. Sec. 2-447(a)

2- Retaliating against, punishing, threatening or otherwise penalizing anyone for cooperating with or assisting the Inspector General or the Commission on Ethics is prohibited. Sec. 2-447(b)

(criminal penalties)

Penalties (civil)

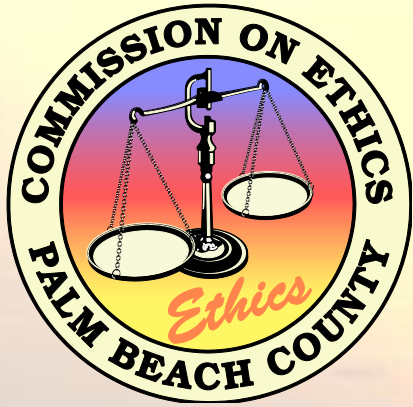
Violating the Code of Ethics may subject an employee or official to dismissal, public reprimand, a fine up to \$500, and restitution.

Any monetary gain, contract, permit or other government approval as a result of the violation may be rescinded or voided.

Penalties (criminal)

The following may be prosecuted as a first-degree misdemeanor, punishable by up to one year in jail or a \$1000 fine or both:

- *misuse of public position (code sec. 2-443 (a)-(h))*
 - A. Use of office for financial benefit
 - B. Failure to disclose voting conflict
 - C. Entering into prohibited contracts
 - E. Accepting prohibited travel expenses
 - F. Accepting or giving contingent fee dependent on official act
 - G. Falsifying employment applications
 - H. Disclosure or use of confidential information for personal gain
- *Accepting prohibited gifts (code sec. 2-444(a)-(c))*
- *Interfering with investigations of the Inspector General or Ethics Commission (code sec. 2-447)*



PALM BEACH COUNTY COMMISSION ON ETHICS

“Honesty, Integrity, Character”

Commissioners

Edward Rodgers, Chair
Manuel Farach, Vice Chair
Robin N. Fiore
Ronald E. Harbison
Bruce E. Reinhart

ETHICS

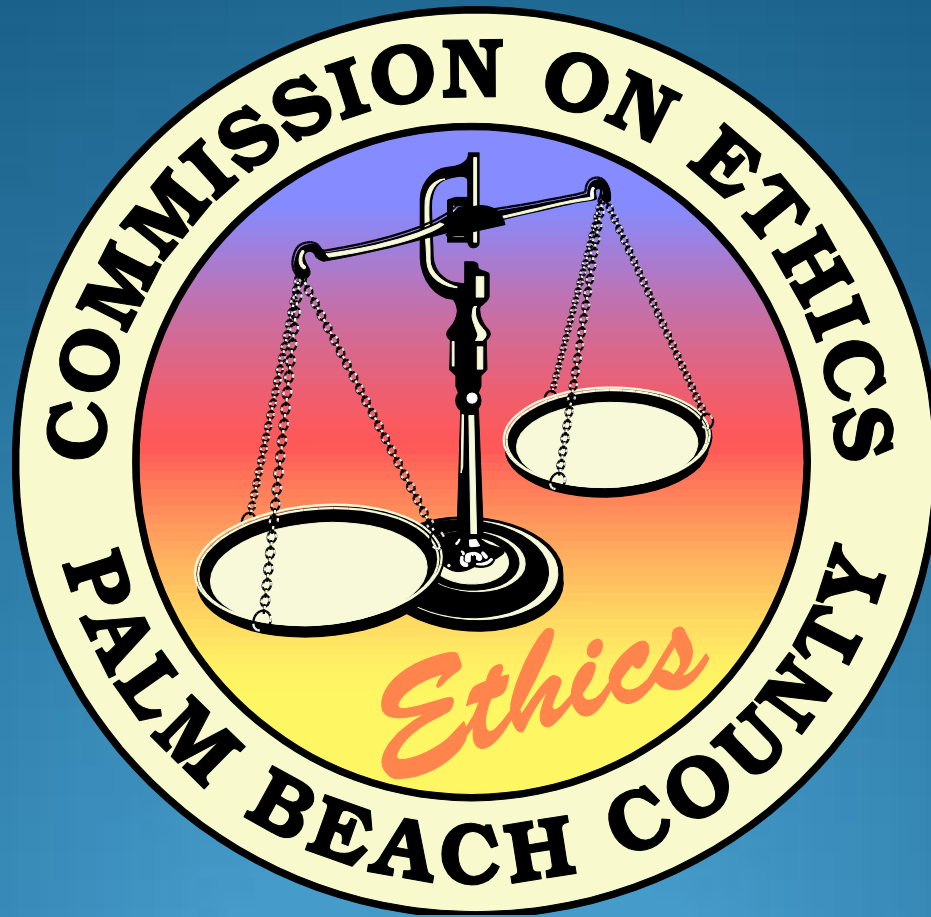
HOTLINE: 877-766-5920

Ethics@pbcgov.org

Visit us on our website at:

[http://www.](http://www.PalmBeachCountyEthics.com)

[PalmBeachCountyEthics.com](http://www.PalmBeachCountyEthics.com)





**ACKNOWLEDGEMENT OF RECEIPT
PALM BEACH COUNTY CODE OF ETHICS
TRAINING***

Check those items that apply

I acknowledge that I have read a copy of the Palm Beach County Code of Ethics (printed or posted on the intranet/internet) and completed additional training by:

Watching the Code of Ethics Training Program on the Intranet/Internet.

Watching the Code of Ethics Training Program on DVD.

Attending a live presentation given on _____, 20__.

I understand that I am responsible for understanding and abiding by the Palm Beach County Code of Ethics as I conduct my assigned duties during my term of employment. I also understand that the information in this policy is subject to change. Policy changes will be communicated to me by my supervisor or through official notices.

(Clearly Print Your Legal Name)

(Clearly Print the Name of Your Department)

(Legal Signature)

(Date)

*Employees: Submit signed form to your Department Head
Department Heads: Submit signed forms to Records, Human Resources*

***This Form is for Employees and Elected Officials Only –
Advisory Board Members Form can be obtained from
Advisory Board Liaison***