

# Sunshine, Public Records & Government Ethics



For Elected Officials, DIA and JAA

Presented By

Office of Ethics, Compliance and Oversight

Kirby Oberdorfer, Ethics Director

Andrea Myers, Program & Training Manager

Office of General Counsel

Paige Johnston, Chief of Legislative Affairs

# Anonymous Electronic Voting System

1. Desktop, Smartphone or tablet
2. Go to **Slido.com**
3. Enter Code **#904627**



# Agenda: Annual State Ethics Training



1. Welcome
2. Ethics Overview
3. Training & Disclosure Requirements
4. Most Common Ethics Topics of the Year
5. Public Records and Sunshine Law
6. Questions & Answers

# Welcoming Remarks



- Margaret M. “Peggy” Sidman, City Council Director/Secretary
- Terrance Freeman, City Council President-Designate
- Jason Teal, General Counsel

# Ethics Overview



# Reflection of Ethics Program Contributions



- Confirmed new General Counsel, Ethics Director, Inspector General and Council Director/Secretary in last 10 months
- Conducted transparent and open hiring process
- Obtained input from Jacksonville Ethics Commission on proposed legislation
- Approved addition of Ethics Attorney in Ethics Office
- Proactively addressed ethics issues
- Passed numerous ethics-related Ordinances

# Ethics Legislation Highlights



- 2021-761 Furthering Transparency in Funding to Non-Profits
- 2020-160 Implementing Post-Service Restrictions for City Board Members that File Financial Disclosures
- 2020-104 Ensuring Cooperation by Employees in Official Investigations
- 2020-103 Granting Ethics Office Access to Records
- 2019-805 Subjecting Independent Contractors to certain Ethics Code provisions

# Celebrate Completing 8th & Final Training

---

- CM Becton
- CM Bowman
- CM Dennis
- CM Ferraro
- CM Gaffney
- CM Morgan
- CM Newby
- CM White





# Slido Poll



How is Legacy Built?

1. Day-to-day decisions
2. Actions on Major Issues
3. Both 1 & 2

# False Choices



# Ethics is Complicated



- No Easy Answer and Details Matter
- Each situation is different and not equal
- Self-Bias Towards Heroes , but Human Nature is Different

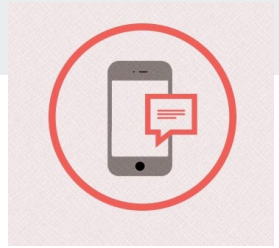
# Self-Reflection Activity



As you look into the future at the end of your public service, what do you want your legacy to be?

# Slido Poll

---



What is the biggest factor in setting the tone for ethical behavior and culture in a workplace?

1. Direct Supervisor and Management
2. Peers
3. CEO
4. Suppliers
5. Customers

# Impact of Ethical Leadership



77% of working adults cite behavior of direct supervisors or management as setting tone for ethical behavior.

# WHY Ethical Leadership Matters



- Improves employee performance by over 36%
- Reduces safety incidents by up to 59%
- Enhances employee engagement by 6 times

# Impact of Ethical Leadership



When employees observe misconduct:

44% report to a supervisor and

27% to a higher-level manager other than a direct supervisor.



# Promoting an Ethical Culture

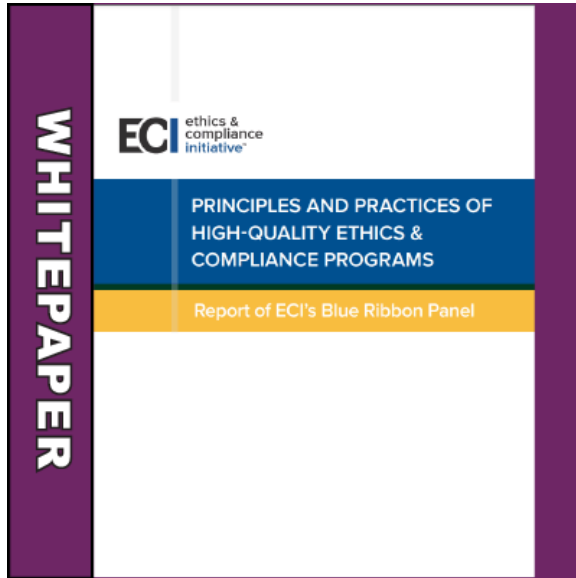


1. Demonstrate Ethical Behavior
2. Anticipate risks, make sure staff knows who to call when an issue arises
3. Listen and support when staff comes to you for help
4. Help them practice what to do before an issue arises

# Role of the Ethics Office & Ethics Commission

---

# Ethics Program Model



Organizational ethics and compliance programs:

1. Ensure and sustain integrity in the organization's performance
2. Reduce the risk of wrongdoing by parties employed by organization

# Main Duties



⇒ Advice & Compliance

⇒ Ethics Training

⇒ Oversight of Corruption &  
Conflicts of Interest Issues

⇒ Ethics Commission Staff

# Work with State Ethics Commission



- Advice on Handling Issues
- Advisory Opinions
  - Informal Advice
  - Informal Written Opinion
  - Formal Written Opinions (~ 20)
- Financial & Gift Disclosure Compliance

# Training Methodology

---

# Training Methodology



1. Interactive
2. Lead with Why
3. Scenarios before Law
4. Story Driven
5. Highly Tailored

# Ethics Office

---

Kirby Oberdorfer, Ethics Director

Andrea Myers, Programs and Training Manager

Carla Miller, Senior Ethics Advisor

Sandra Homrighouse, Assistant

**630-1015 (Help Line)**





# Training & Disclosure Requirements

---



# TRAINING REQUIREMENTS

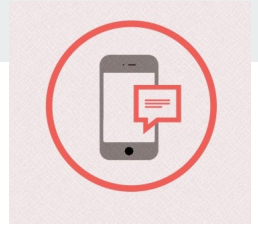


# Review of Training Requirements

- **Council Members, DIA, & JAA**
  - ❑ Must Complete 4 Hours Ethics Training Annually
  - ❑ Certify on Annual Financial Disclosure
  - ❑ Topics MUST Include: Sunshine Law, Public Records Act, State Ethics Laws
- **Additional Local Training Requirement for Council Members**
  - ❑ Chapter 15 Requires Sunshine Training Annually
  - ❑ Inspector General Bi-annual Audit Verifies Training Completion



# STATE DISCLOSURE REQUIREMENTS



When is Your Form 6 Financial Disclosure Due?

- A. January 1, 2022
- B. March 30, 2022
- C. July 1, 2022
- D. December 31, 2022

If you chose C

**CONGRATULATIONS!**

---



# State Disclosures for Council Members

## **Form 6** Annual Financial Disclosures

- ❑ When - July 1
- ❑ Where - State Ethics Commission in Tallahassee
- ❑ What - Sources of Income & Certify Annual Training Requirement has been completed

## **Form 9** Quarterly Gift Disclosures

- ❑ When - Last day of the following calendar quarter
- ❑ Where - State Ethics Commission in Tallahassee
- ❑ What - Allowable gifts over \$100

# Financial Disclosure



**2022**



**January 2023**





# Most Common Ethics Topics

---



Topic #1

# GIFTS



# Four Key Questions

---

1. Is this a Gift under State and Local Gift Laws?
2. Who Paid for Gift?
  - ❑ Vendor, Lobbyist or Employer/Partner of Lobbyist?
3. What is Value of Gift?
  - ❑ More Than \$100?
4. Why Receiving Gift?
  - ❑ Does the Giver Expect/Want Something from You?
  - ❑ Is Giver Trying to Influence You?

## Question 1:



**Is it a gift under state and local gift laws?**

**Hint: Almost EVERYTHING that someone gives you or does for you is a gift.**

# Is it a Gift?

---



Which of the following, given to you without charge, would be considered a gift?

- A. An honorarium paid to you for speaking as a guest lecturer
- B. A weekend stay in a beach condo owned by your child
- C. A campaign contribution
- D. A discount for an event site and catering
- E. All of the above

If you chose D

**CONGRATULATIONS!**

---



# Gifts Do NOT Include

---

- ❑ An honorarium or related expenses (A)
- ❑ Gifts from relatives (very broad definition under gift laws) (B)
- ❑ Campaign contributions reported pursuant to election laws (C)
- ❑ Compensation and benefits related to your employment
- ❑ An award given in recognition of your public, civic, charitable or professional service
- ❑ Gifts and/or travel provided by state, regional, or national organizations which promotes the exchanges of ideas between government officials or employees (like Florida League of Cities)

# Almost Everything Else is a Gift

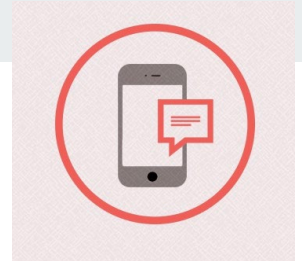


- ❑ Real property and the use of real property
- ❑ Entrance fees and tickets to events
- ❑ Travel paid by someone other than the City or exempt organization
- ❑ A discount or forgiveness of debt
- ❑ Food or beverage
- ❑ Membership dues
- ❑ Any service you would normally purchase



# Is it a Gift?

---



Which of the following, given to you without charge, would be considered a gift?

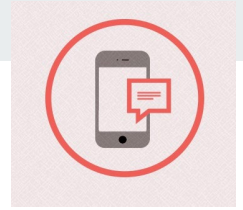
- A. A basket of goodies
- B. A ride on a private plane owned by a friend from college
- C. The use of tables, linens, glassware for a party
- D. A cup of coffee
- E. All of the above

If you chose E

**CONGRATULATIONS!**

---

# Travel, Is it a Gift?



Because of your public position, you are invited by an outside entity to attend an economic development trip to meet with leaders in another emerging market to get ideas for local growth. The trip includes airfare, hotel accommodations, and food. Is this a gift?

- A. Yes
- B. No
- C. Maybe

If you chose A

**CONGRATULATIONS!**

---



# Accepting Travel

---

## Legally

- Travel paid by someone other than City
  - Usually a GIFT (even if good for City)
  - Usually allowed

## Policy

- Must be approved by Ethics Office & General Counsel

## Public Opinion

- Beware, it could end up on the front page!

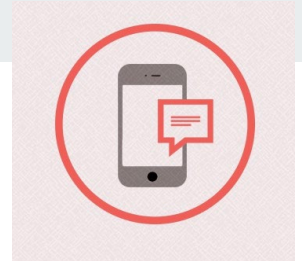
## Question 2:



**Who PAID for that gift?**

**Hint: What matters most is who paid for a gift.  
It is not who handed it to you.**

# Who Paid for the Gift?



When you receive tickets to a Jaguars' game that are part of the City's contract with the team, who is that gift from?

- A. The Jaguars (A vendor)
- B. The City
- C. The Council President
- D. None of the above

If you chose B

**CONGRATULATIONS!**





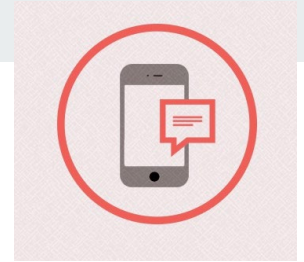


# Gifts from the City

---

- ❑ Anything purchased by the City as part of a sponsorship or contract with a vendor. This could include:
  - ❑ Jaguars Tickets, City Suite, and Parking
  - ❑ Jumbo Shrimp Tickets, Box Seats, City Suite (50)
  - ❑ Icemen Tickets (50)
  - ❑ Symphony Tickets (20)
  - ❑ Florida/Georgia Game Tickets
  
- ❑ Tickets to events that are produced and funded by the City
  - ❑ Jacksonville Jazz Festival

# Who Paid for the Gift?



If a City vendor puts tickets to an event in your mailbox or on your desk while you are away, who is that gift from?

- A. The City
- B. The Council President
- C. The Vendor
- D. None of the Above

If you chose C

**CONGRATULATIONS!**

---

# Who Paid for the Gift?

---



If the Jacksonville Symphony gave your spouse two tickets to a concert and told your spouse to bring you along, who is that gift from?

- A. Your Spouse
- B. The City
- C. The Symphony (a City vendor)
- D. None of the above

If you chose C

**CONGRATULATIONS!**

---

# Indirect Gifts

---



If someone gives something to someone with the INTENT that it is for YOUR USE, it is an INDIRECT gift TO YOU



# Who PAID Matters

---

- ❑ Gifts from PACs **are prohibited** at any value
- ❑ Gifts from City vendors, lobbyists, and someone employing lobbyists **are restricted** to \$100 per gift and \$250 per year
- ❑ Gifts from your spouse or children are **exempt** from gift restrictions and reporting
- ❑ Gifts from the City and other allowable sources must be **reported** over \$100



# Who Paid for the Gift?

How do you know if someone is a vendor, lobbyist, or employing a lobbyist?

- ❑ Vendor: Getting money from or contract with the City
- ❑ Lobbyist: Individual or firm that is paid to advocate on an issue on behalf of someone else
  - ❑ Not lobbyist if unpaid
  - ❑ Not an employee of an organization advocating for itself
  - ❑ Not a subject matter expert that you have asked to come speak





# Lobbyist Registration System

1. Ask Them and then
2. Verify in the City's Lobbyist Registration System

https://www.coj.net/city-council/lobbyist-information

City of Jacksonville, Florida Government Business Nonprofits Community Things to Do City Services Careers Jacksonville Help Search

## Jacksonville City Council

For screenmap menu options click on the top tab

COJ.net > City Council > Lobbyist Information

### Lobbyist Information

#### Lobbyist Registration

To register as a lobbyist with the Jacksonville City Council, [click here](#) and register online. There is no cost to do so. As of January 1, 2016, all registrations and updates, as to clients and issues, are accomplished electronically via the online system. Click [User Manual](#) for operational information.

#### Registered Lobbyist List

For information regarding lobbyists registered on or after January 1, 2016, [click here](#).  
For information regarding lobbyists registered prior to 2016, [click here](#).

#### Chapter 602 - Jacksonville Ethics Code

Please click [ETHICS CODE](#) to review the City of Jacksonville Ethics Code, including Sec. 602.702 and Sec. 602, Part 8, pertaining to Lobbying.

https://lobbyistcoj.net/Search

Home Search Lobbyist Records Help

## LOBBYIST TRACKING SYSTEM

City of Jacksonville Ethics Office

Search for lobbyists, clients, or issues

Lobbyist Search

### Full List

#### Active Lobbyists

- [View All Active Lobbyists](#)
- [View All Active Clients](#)
- [View All Active Issues](#)

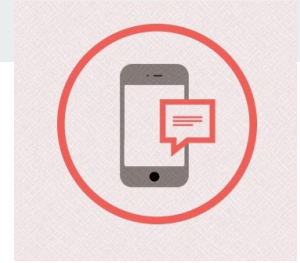
#### Inactive Lobbyists

- [View All Inactive Lobbyists](#)
- [View All Inactive Clients](#)
- [View All Inactive Issues](#)

Ethics Office Contact Information

1.0.1.9

# Who Paid for the Gift?



What do you do if you do not know where a gift came from or WHO is giving a gift?

- A. Throw it in the Trash
- B. Donate it to charity
- C. Proceed as though an allowable source (after all, a vendor or lobbyist would want to take the credit if it was from them)
- D. Call the Council Secretary and/or Ethics Office

If you chose D

**CONGRATULATIONS!**

---



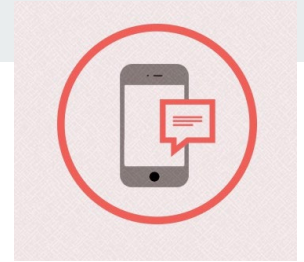
## Question 3:

**What is the value of the gift?**

**Hint: It is not always obvious and everything costs more than we expect it should.**

# What is the Value of the Gift?

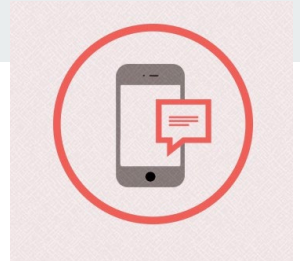
---



When you saw the Bicentennial Gift Bags from the City, how much did you think it was worth?

# What is the Value of the Gift?

---



When you first saw it, how much did you think this customized shovel cost?



# The Value of a Gift Matters

---

## Prohibited Gifts

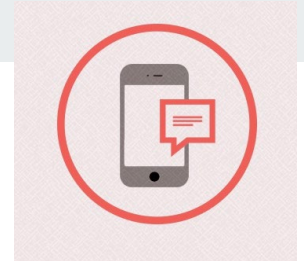
- Gifts over \$100 or more than \$250 a year
- FROM lobbyist/someone doing business with City

## Reportable on Quarterly Form 9 Gift Disclosure

- All allowable gifts over \$100 in value

Beware, even a gift under monetary restriction could end up on the front page!

# What is the Value of the Gift?



What do you do if you do not know the value of a gift that appears in your office?

- A. Ask the giver
- B. Google it
- C. Proceed as though an allowable amount, why would anyone give a prohibited gift?
- D. Call the Ethics Office



If you chose D

**CONGRATULATIONS!**

---

## Question 4:

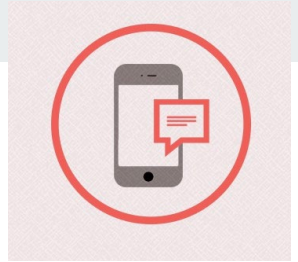


**Why did they give you this gift?**

**Hint: All gifts that are given to intentionally influence your decision making are prohibited.**

# Why Did They Give You this Gift?

---



What do you do if a lobbyist who is advocating on pending legislation offers to buy you lunch at your favorite sandwich shop?

- A. Get excited! Everyone loves a free lunch!
- B. Politely accept so long as the value is under \$100. How could lunch cost that much?
- C. Politely decline because this could be an attempt to influence a pending decision, regardless of value

If you chose C

**CONGRATULATIONS!**

---



# Why a Gift is Given Matters

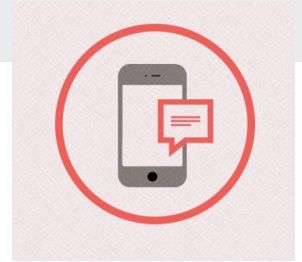
---

State gift laws prohibit acceptance of any gift/thing of value when it is given to influence a vote or official action

- Applies to gift of any amount (even \$1 or cup of coffee)
- Be aware of any gifts received when official action is anticipated in the future
- Burden is on official to determine if the gift/thing of value has been given with the intent to influence

# Why Did They Give You this Gift?

---



What do you do if an organization with pending legislation delivers a tray of food to the City Council break room?

- A. Proceed as though it's allowable
- B. Ask about the value
- C. Throw it in the trash
- D. Return the tray immediately
- E. Call the Ethics Office

If you chose D or E  
**CONGRATULATIONS!**

---

# Asking for Things

---



- Don't ask people who lobby or do business with the City for favors/gifts for you or your family





# Summary of Prohibited Gifts

---

- ❑ Anything given with the intention to influence your official action
- ❑ Anything that will influence your official action
- ❑ Anything from a political committee
- ❑ Anything over \$100 in value given by a vendor, lobbyist or an organization hiring lobbyists
- ❑ Anything that adds up to over \$250 in a year from a vendor, lobbyist or an organization hiring lobbyists



# How to Cure an Improper Gift



## Within 90 days of receipt:

- ❑ Return the Gift
- ❑ Pay the giver back to get it down to under \$100

## Reminders:

- ❑ Do NOT report prohibited gifts or gifts from lobbyists and vendors
- ❑ Keep documentation that a gift was returned or was paid down

# Gift Process Review Example



Bicentennial Gifts: Mixture of Gifts from the City & Jacksonville Historical Society

1. Who is that Gift From?
2. Are the givers Vendors or Lobbyists?
3. What is the value?
4. Why did they give it?
5. How to fix it?

# Florida Commission on Ethics Case Study



*Ousted Tallahassee City Manager, Rick Fernandez*



## 'ILL-GOTTEN' GIFTS: Ethics report says city manager 'overlooked every ethical law'

Former Tallahassee City Manager Rick Fernandez "overlooked every ethical law" on the books when he accepted free Florida State University skybox tickets from a prominent local lobbyist and failed to disclose them as...

TALLAHASSEE | 06/14/2018 | 6:31am



[Read the report from the the State Ethics Commission Hearing on Rick ...](#)

[Tallahassee.com](#) - Jun 13, 2018

The Florida Commission on Ethics confirmed today that it found probable cause former City Manager **Rick Fernandez** misused his position ...

*Gifts -- Florida Statutes section 112.3148(4) and Jacksonville Ethics Code 602.701(a)*

# Florida Commission on Ethics Case Study

---



Why are you getting this gift? The lobbyist's perspective...

**“Adam is a very skilled lobbyist. He’s good at that. So, it’s a good pay-to-play kind of thing. I’ll do you a favor if you’ll do me a favor... I know any discount given like that across-the-board is rare, but very impactful.”**

**“Mr. Corey wanted to be able to then offer a discount for the goodwill it could generate for his lobbying business.”**

# Florida Commission on Ethics Case Study



The Florida Commission on Ethics found probable cause for 20 violations of the state Ethics Code by Mr. Fernandez, including:

1. Solicitation & acceptance of gifts (Florida Statutes sections 112.313(2) and 112.3148(3), (4));
2. Unauthorized compensation (section 112.313(4));
3. Misuse of public position (section 112.313(6)); and
4. Prohibited receipt of gifts (section 112.3148(8)).



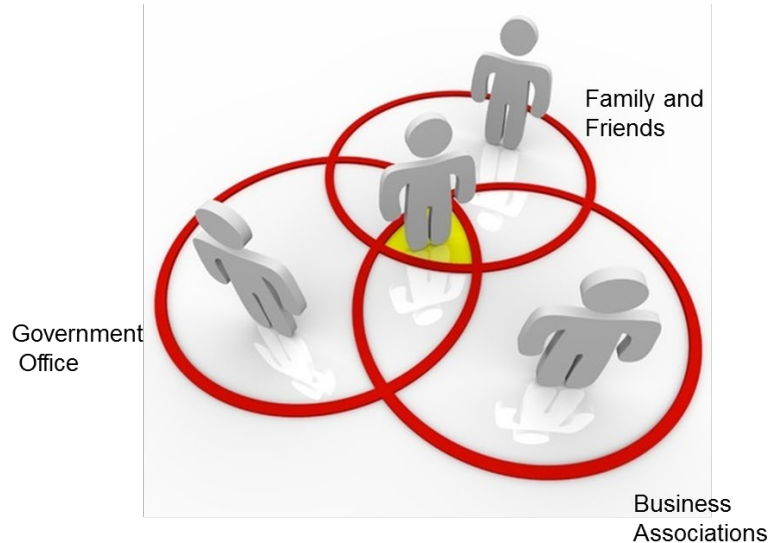
Topic #2

# CONFLICTS OF INTEREST



# General Definition for Conflicts of Interest

Overlap between personal interests and governmental duties





# Conflicts of Interest



## Biggest Challenge



# Conflicts of Interest Review Process



**Goal: Proactively assess whether (a) potential conflict of interest & (b) any applicable exemption(s) to prevent mistakes**

1. Preliminary conversation with Council or Board member to gather factual details relevant to issue through Conflict Self-Assessment form
2. Obtain and critically review relevant documents, such as legislation, contracts, and business information
3. Research State Ethics Commission prior cases as guide for how matter may be decided
4. Informal telephone conference with State Ethics Commission attorney to obtain further guidance and clarity
5. Assess whether potential conflict of interest & any applicable exemption(s)
6. Share analysis and assessment with Council or Board member

# Types of Conflicts of Interest



## Self Dealing

–Regulates public & private sides of public-private business deal



Work with/for Entity  
Doing Business or  
Regulated by  
the City

# Self Dealing Conflict #1

Looks at **public side** of a public-private business deal.

Council purchases, rents, or leases **from** a company connected to Council Member, spouse or child



Council Buying or Contracting



Company you/spouse/child own or serve as officer, director, partner



# Self Dealing Conflict #2

Looks at **private side** of a public-private business deal.

**Sell, rent or lease** in private or business capacity **to the City**



The City



Company you own  
or serve as  
officer or director

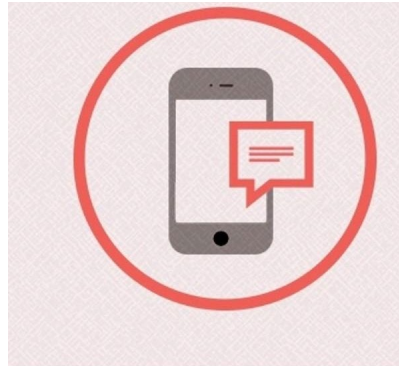




# Prohibitive Conflicts Scenario

---

Mr. Gray historically rents his event space to the City for the annual Senior Day celebration. In 2022, Mr. Gray was elected to City Council for the first time. Can he rent his event space to the City for future events?



**Slido YES or NO**

# Contractual/Employment Relationship

Employment or contract with company:

- ☐ Doing business with the City
- ☐ Regulated by City



Employee or Contractor



Company Doing Business

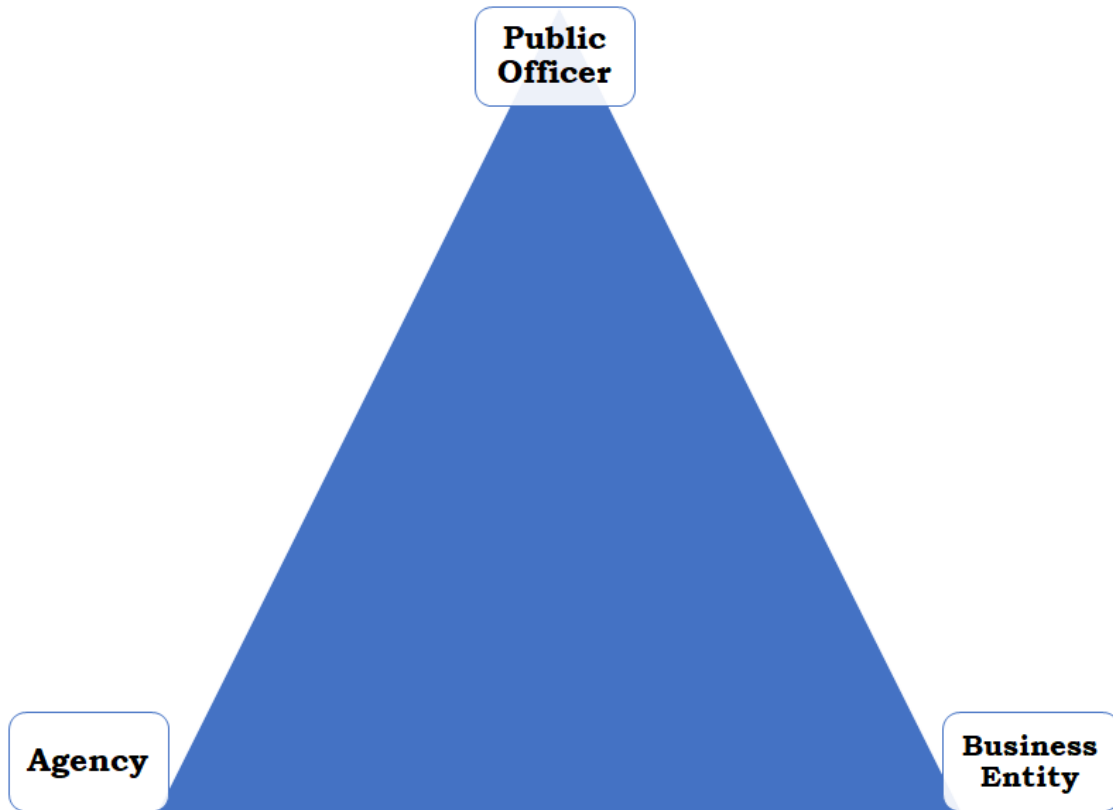


Council or the City





# Conflict from Contract or Employment



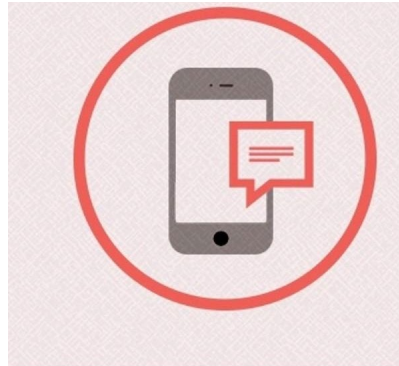




# Prohibitive Conflicts Scenario

---

Mr. Gray is a Council member and works in his private capacity as employee at local paving business. If Mr. Gray's employer contracts with the City to provide paving services, is this a conflict?



**Slido YES or NO**

# Prohibitive Conflicts Scenario

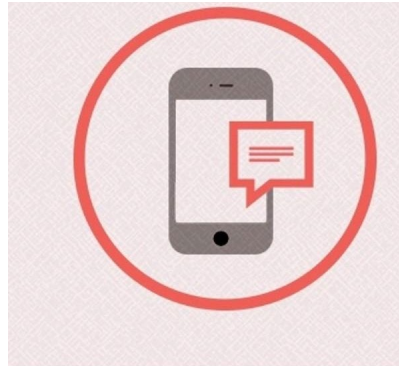




# Prohibitive Conflicts Scenario

---

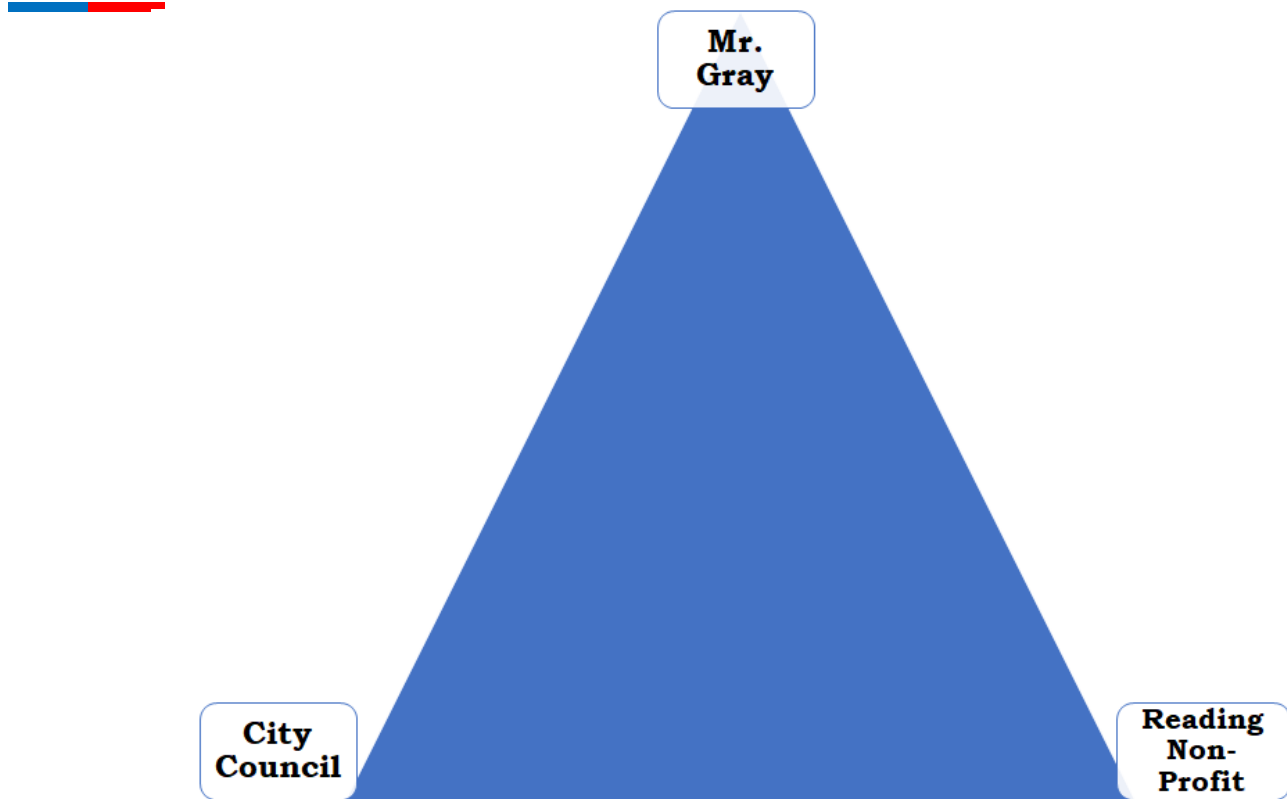
Mr. Gray is a Council member and now works with a non-profit that provides reading services to persons with visual impairments. If Mr. Gray's non-profit employer contracts with the City for a grant, is this a conflict?



**Slido YES or NO**



# Conflict from Contract or Employment





# Prohibitive Conflicts Exemptions

---

In many cases, an exemption may apply to prevent conflict of interest. Consult with Ethics Office &/or OGC.

Common exemptions include:

1. Sealed competitive bid
2. Emergency purchases for health, safety, welfare
3. Sole source of supply
4. Employees of 501(c)(3) non-profit if comply with certain conditions

# Summary of Conflicts of Interest



## Self Dealing Red Flags for You/Spouse/Child

1. Own business receiving City \$
2. Officer/Director of business receiving City \$ (includes non-profits)
3. Personally participate in business with the City (applies only to you)



## Working with/for Entity Doing Business/Regulated By City **Red Flags**

1. Employer/client receiving City \$
2. Employer/client has zoning issue
3. Contractor of business receiving City \$
4. Paid Director of business receiving City
5. Own stock in business receiving City \$

# Summary of Conflicts of Interest



- Conflicts are very complicated and conflict assessment is made based on specific details in each situation
- Each conflict situation is different and may result in different assessment
- Do not try to determine by yourself if you have a conflict. Consult experts in Ethics Office, OGC or State Ethics Commission.



Topic #3

# **VOTING CONFLICTS & DISCLOSURES**

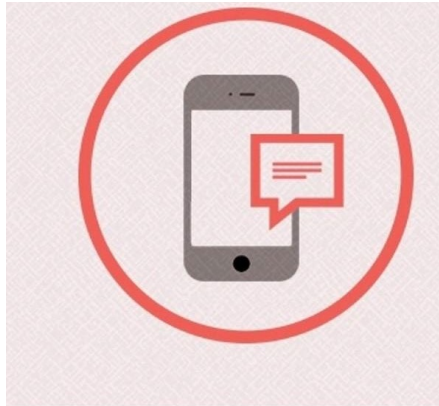




# Voting Conflicts Scenario

---

The Council is voting to approve the millage rate for the next fiscal year. Is this a voting conflict?



**Slido YES or NO**

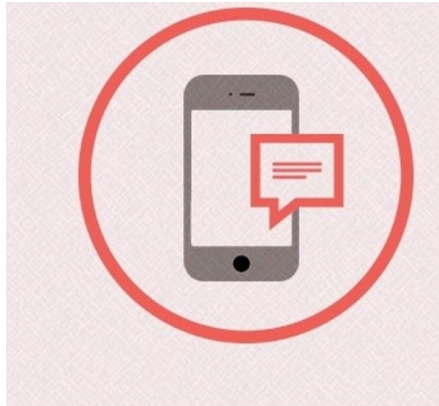


# Voting Conflicts Scenario

---

The Council is voting to approve the budget for a special dependent taxing district that includes your home and others.

Is this a voting conflict?



**Slido YES or NO**



# General Rule # 1 for Voting Conflicts

---

Danger Area if:

You vote on any matter that might economically impact you.

- Voting conflict arises **automatically**
- Do not have to realize or know about economic impact at time of vote.



## General Rule # 2 for Voting Conflicts

---

Danger Area if:

You vote on any matter that you know might economically impact your family, employer, clients or your business associates

# Voting Conflicts

## Key Terms



### 1. WHO:

**You/relative/employer/client/  
business associate**

### 2. WHAT:

**Special economic gain or loss from bill  
before Council/Board**

### 3. HOW TO CURE:

**Declare voting conflict & abstain from voting**

# Voting Conflict Examples

## Red Flags



### **WHO:**

**Person/Entity Vote Impacts**

**Owner Property/Business**

**Employer or Parent/Subsidiary/Sibling  
Company**

**Client of Professional Practice**

**Paid Officer/Director for Organization**

**Invest with Others in Real Estate**

### **WHAT:**

**Special Gain/Loss**

**Budget Appropriation**

**Funding/Grant**

**Incentives**

**Special Districts**

**Zoning**

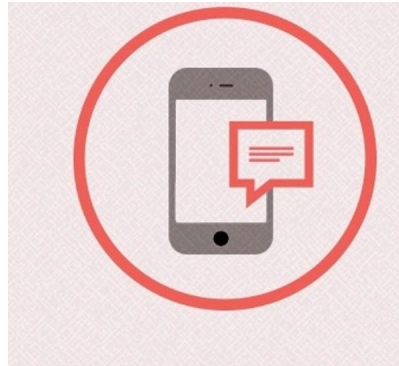


# Voting Conflicts Scenario

---

Council is voting on a rezoning application that would allow a Council Member's employer to do business at the property.

Is this a voting conflict?



**Slido YES or NO**



# Exceptions for Voting Conflicts

---

Very narrowly applied based on specific, detailed facts.  
Consult with Ethics Office &/or OGC.

## 3 Primary Exceptions:

### 1. Size of Class Impacted by Vote

- Official must be no more than 1% of class
- Impact must be same or similar to other class members

### 2. Remote and Speculative

### 3. Procedural





# Voting Conflicts Scenario

---

Can you participate in discussion of a matter if you have a voting conflict?



**Slido YES or NO**



# Participation When Voting Conflict

---

- Generally, you may participate even if you have a voting conflict (quasi-judicial may be different)
- Not required to leave room if abstaining from vote

Exception:

If non-profit that employs you is benefiting from the vote, you cannot participate in discussion due to prohibitive conflict exemption

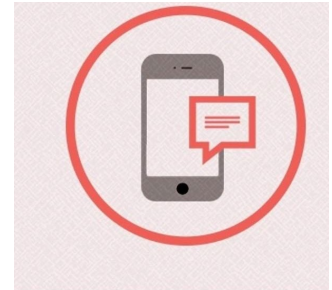


# Voting Conflicts Disclosure

---

The Council is voting to approve a grant award to your employer.  
How do you declare this voting conflict?

1. Advise Employer
2. Advise ECA
3. File Form 8(b)
4. Announce it on Twitter
5. Advise Council President
6. Advise State Ethics Commission



**Slido YES or NO**



# Declaring Voting Conflict

---

- Disclose nature of conflict at meeting before vote occurs
- Abstain from voting on measure with special private gain or loss
- Complete and file Form 8B within 15 days of the meeting with Legislative Services



# Form 8(b) Voting Conflict Disclosure

## 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.



# Practical Tips for Voting Conflicts

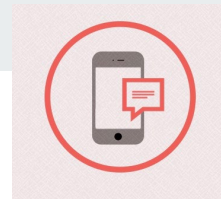
---

1. Review Agendas in Advance
  - Who Impacted by Bill/Matter?
  - What is Impact—Special Gain or Loss?
2. Discuss with Ethics Office &/or OGC
  - May need to do factual & legal research
3. Follow proper procedure to abstain from voting if conflict

An illustration of a desk setup against a teal background. On the desk is a laptop displaying a website, a black desk lamp, and a small speaker. Above the desk are two shelves: the top shelf has three books (green, yellow, red) and the bottom shelf has a stack of books and a camera. A round clock is mounted on the wall. A semi-transparent white box is overlaid on the right side of the illustration, containing the text 'Topic #4' and the main title.

Topic #4

# MISUSE & ABUSE OF PUBLIC POSITION



# Misuse of Position

---

Under Florida law, which of the following could be considered a misuse of public position?

- A. Requesting an advance copy of any RFP (before it goes to the public) so you can share it with friends
- B. Requesting that a parking ticket your spouse received be voided because your spouse was visiting you at the office
- C. Asking the Director of Parks and Recreation to waive the permit requirements for a carnival hosted by the non-profit organization for which you are a board member
- D. Asking a vendor for tickets to an upcoming concert that is sold out
- E. All of the above



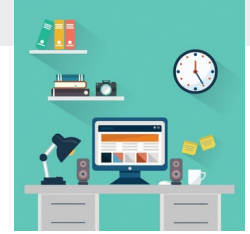
If you chose E

**CONGRATULATIONS!**

---

# Use of City Position

---



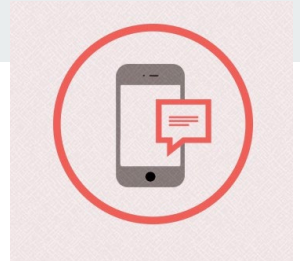
## Legally

- You may not use public position for personal gain for yourself, family, friends or business associates
- Follow the same process as every other citizen

## Public Opinion

- Avoid saying, “Do you know who I work for?” or “I work for the City Council” in order to get special favors.

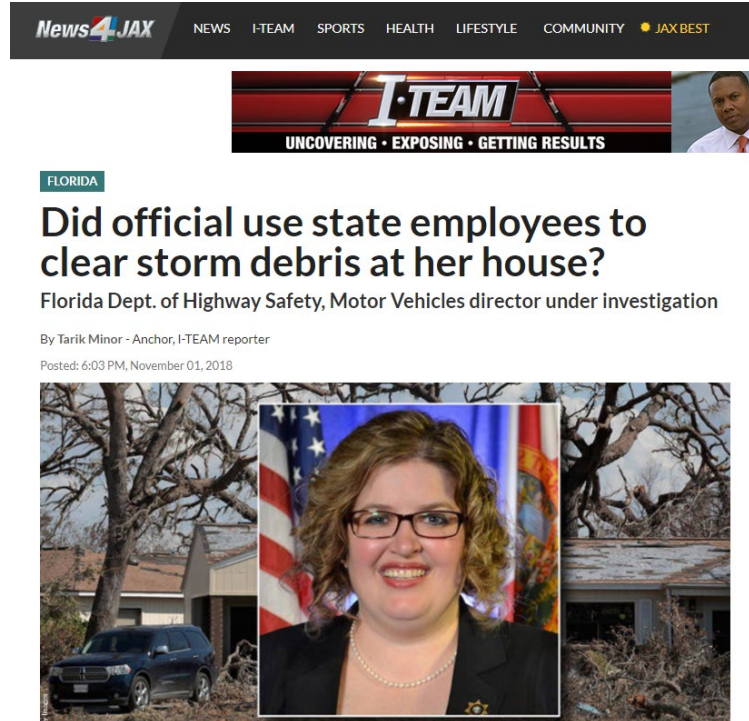
# Interactive Scenario



A government official with the authority to direct government maintenance crews orders crews to clean yard waste from a friend's private property following a devastating hurricane. Is this potentially a misuse of position?

- A. Yes
- B. No
- C. Maybe

# More Recent Misuse of Position News



# More Recent Misuse of Position News

---

## **St. Augustine Beach commissioner resigns after wife's arrest on DUI charge**

Ernesto Torres said the decision was made 'to spend more time with my family'



**ST. AUGUSTINE BEACH, Fla.** – A St. Augustine Beach commissioner has resigned from his position


# More Recent Misuse of Position News

FLORIDA POLITICS

Home 2022 Coronavirus Legislative Communities Federal Foreign Affairs Emails & Opinions

f t i q

## Husband of Sunny Isles Commissioner cited wife's position after alleged hit-and-run accident



Jesse Schockler

October 25, 2021

8 min

f t i

El Harbour Shops

Bus School

Dana Goldman

David Grossman

### The Commissioner is running for Mayor.


Sunny Isles Beach Commissioner **Dana Goldman** was in the passenger seat when her husband, **Michael Gates**, allegedly backed his 2021 Genesis into a parked car at Bal Harbour shops. He then left the scene, police said.

When confronted by law enforcement, Gates repeatedly invoked Goldman's name and elected position, according to a police report first flagged by **Miami Herald** reporter **Aaron Leibowitz**.

Goldman, a Nov. 2 **candidate for Sunny Isles Mayor** who has served on the City Commission seven years, told the Herald her husband "acted inappropriately" during the June 27 incident but maintained "this is my husband's legal problem, not mine."

She said she was not paying attention while on the passenger side of the vehicle and declined to say if she heard Gates mention to police that she is a Sunny Isles Commissioner.

Gates, she said, is "a hothead who sometimes says intemperate things at



Attorneys at Law

290+ Attorneys

8 Offices Across Florida

30+ Practice Areas

www.shutts.com

MIAMI HERALD

KEYS NEWS

EL NUEVO HERALD

MIAMI HERALD


SUBSCRIBE

## Husband of Sunny Isles commissioner invoked wife's position after alleged hit-and-run


BY AARON LEIBOWITZ

UPDATED OCTOBER 25, 2021 3:52 PM

t f e r



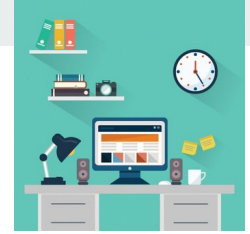
Dana Goldman, city commissioner and candidate for Sunny Isles Beach mayor.



Only have a minute? Listen instead

-05:54

Powered by Trinity Audio



# **\*NEW\* Abuse of Position (Passed 11/2018)**

Effective December 2020

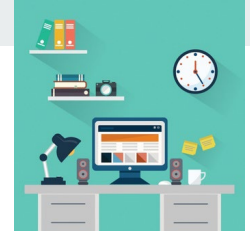
Prohibits public officers and employees from abusing position to obtain **a disproportionate benefit** for oneself, spouse, child, employer or affiliated business

As long as you are acting in compliance with all the rules and laws, this provision will not apply

Florida Constitution Article II Section 8(h)2

# Key Questions

---



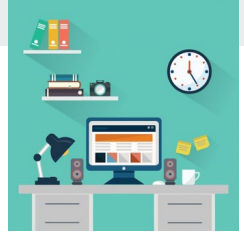
- ❑ Is action taken by you inconsistent with proper performance of public duties?
- ❑ Is everyone being treated the same way? How many people are receiving same benefit as you?
- ❑ Is someone trying to get on your good side?



# Two Existing Cases

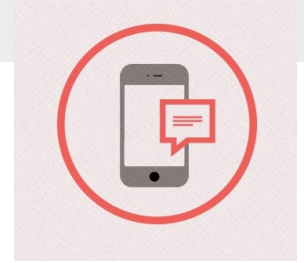
---

- ❑ Voting on Retirement Benefits
- ❑ Police Officer Receiving Discounted Rent



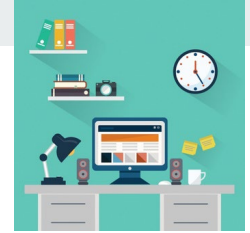
# Interactive Scenario

---



A City official works to secure funding for after school education programs where his children are currently enrolled. Is this potentially a misuse of position?

- A. Yes
- B. No
- C. Maybe



# Florida Commission on Ethics Case Study

*Ousted Tallahassee City Manager, Rick Fernandez*



## 'ILL-GOTTEN' GIFTS: Ethics report says city manager 'overlooked every ethical law'

Former Tallahassee City Manager Rick Fernandez "overlooked every ethical law" on the books when he accepted free Florida State University skybox tickets from a prominent local lobbyist and failed to disclose them as...

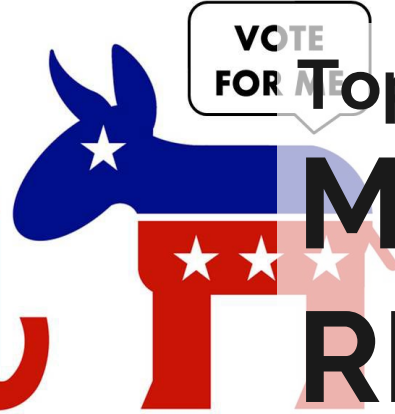
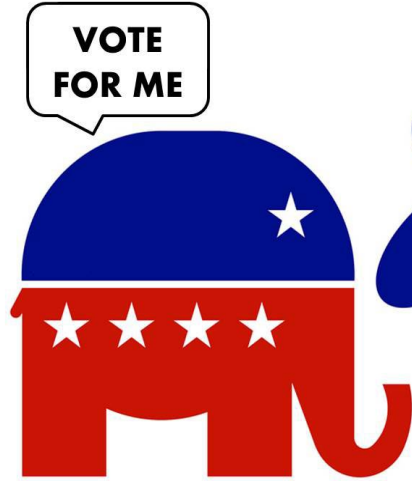
TALLAHASSEE | 06/14/2018 | 6:31am



[Read the report from the the State Ethics Commission Hearing on Rick ...](#)

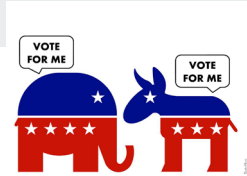
[Tallahassee.com](#) - Jun 13, 2018

The Florida Commission on Ethics confirmed today that it found probable cause former City Manager **Rick Fernandez** misused his position ...



Topic #5

# MISUSE OF CITY RESOURCES



# Misuse of Resources

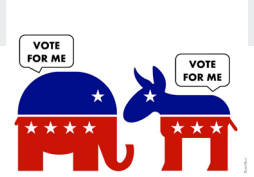
---

In general, do not use resources, including confidential information, for the benefit of:

- ❑ Yourself,
- ❑ Your family,
- ❑ Your friends or
- ❑ Your business associates

# Political Campaigns

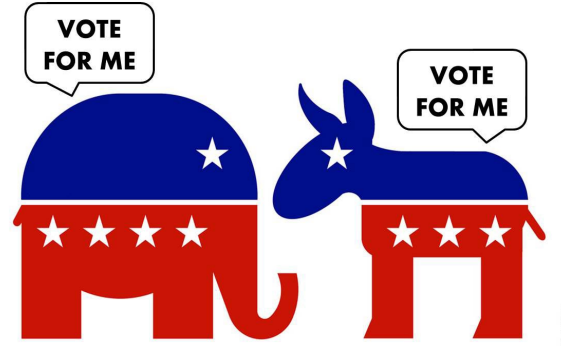
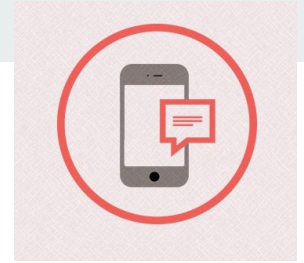
---



## General Rule of Thumb

There should be no overlap between your City duties and City resources and campaign activities, either for yourself or another candidate.

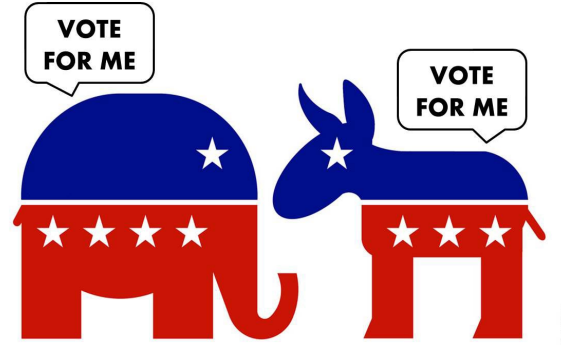
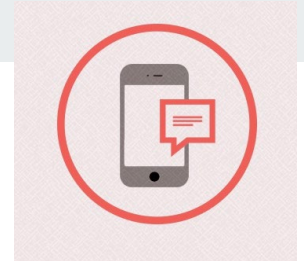
# Interactive Poll



If you send a newsletter to residents using City funds, can you include campaign event dates?

- A. Yes
- B. No
- c. Maybe

# Interactive Poll



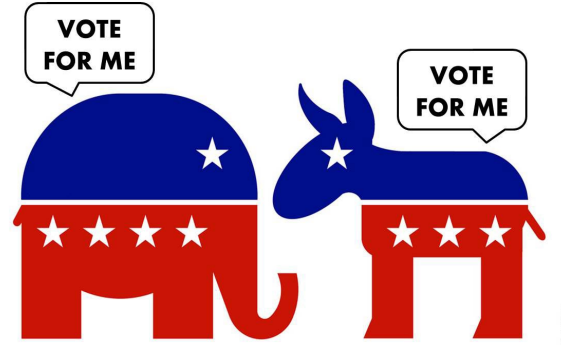
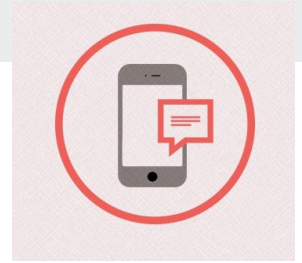
Can you use your City email address to send campaign materials?

- A. Yes
- B. No
- c. Maybe



# Interactive Poll

---

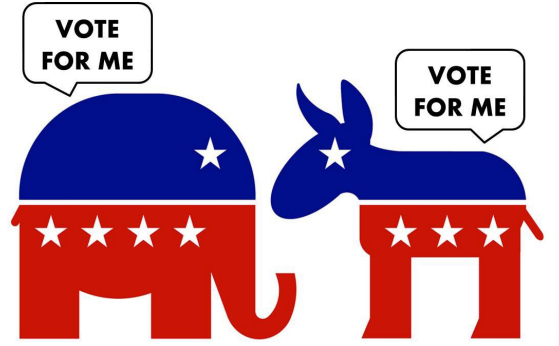
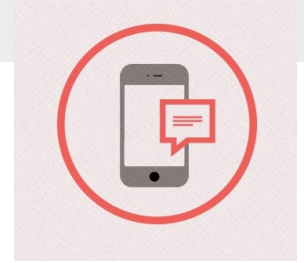


Can you ask JSO officers to appear at campaign events in uniform?

- A. Yes
- B. No
- c. Maybe

# Interactive Poll

---

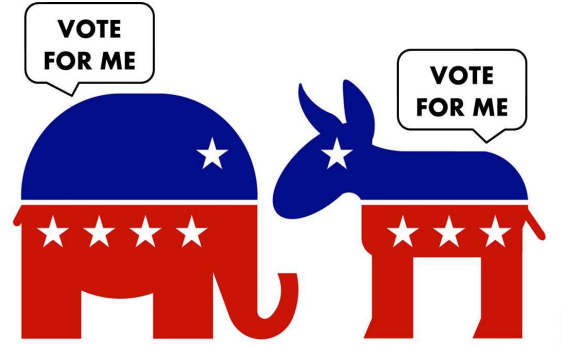


Can you make campaign phone calls from your personal phone while sitting in your City Council office?

- A. Yes
- B. No
- c. Maybe

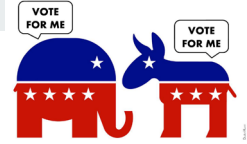
# Campaigns Scenario

---



What do you do if someone sends you an email asking questions about a campaign your Council Member is participating in?

# Jacksonville Code



Prohibits:

- Using **City time, computers, or internet** for campaigns and/or fundraising
- Wearing **City uniforms while campaigning** (in-person)
- Campaigning, accepting or soliciting **contributions in City buildings**
- Distributing or posting **campaign literature**/ads/signs on City property



Topic #6

# ASKING QUESTIONS & SPEAKING UP



# Gut Check

Who are you going to talk to when you see something that doesn't feel quite right or you aren't sure what to do?

## Ethics Office Staff

---

Kirby Oberdorfer, Ethics Director

Andrea Myers, Program and Training Manager

Carla Miller, Senior Ethics Advisor

Sandra Homrighouse, Assistant

**630-1015 (Help Line)**



# Thank you!

---