



VIRGINIA
CONFLICT OF INTEREST AND
ETHICS ADVISORY COUNCIL

VML Local Elected Officials Conference
June 26, 2024

I. Council Membership

Council membership as of April 2024:

Speaker of the House Appointees

The Honorable Del. M. Keith Hodges

The Honorable Del. Vivian E. Watts

The Honorable Bruce D. White (Chair)

Senate Committee on Rules Appointees

The Honorable Sen. Adam Ebbin

The Honorable Malfourd W. Trumbo (Vice-Chair)

Gubernatorial Appointees

John C. Blair

Adam Kinsman

Tracy Retchin

II. Council Duties

The Council shall perform the following duties:

1. Furnish formal and informal guidance to all persons required to comply with the Acts
2. Conduct training seminars and educational programs and publish educational materials for all persons required to comply with the Acts
3. Serve as liaison between state agencies, boards, commissions, and local government entities for administering the filings of all disclosure forms
4. Redact personal information from any form prior to making the form available to the public
5. Establish and maintain a searchable database of disclosure forms filed with the Council
6. Notify the Secretary of the Commonwealth and the Attorney General concerning late or failure-to-file penalties
7. Receive and review requests for approval of travel submitted by individuals required to file a Statement of Economic Interests

III. Prohibited Conduct and Personal Interests

A. Prohibited Conduct

No state or local government officer or employee shall:

1. Solicit or accept money or other thing of value for services performed within the scope of your official duties except for compensation paid by your agency
2. Offer or accept any money or other thing of value for obtaining employment, appointment, or promotion of any person with any governmental or advisory agency
3. Offer or accept any money or other thing of value for the use of your public position to obtain a contract for any person or business with any governmental or advisory agency

4. Use confidential information that you have acquired by reason of your public position and that is not available to the public for your or another party's economic benefit
 5. Accept any money, loan, gift, favor, service, or business or professional opportunity that reasonably tends to influence you in the performance of your official duties; this does not include political contributions actually used for a political campaign or constituent services and reported as required by campaign finance laws
 6. Accept any business or professional opportunity when you know that there is a reasonable likelihood that the opportunity is being given to influence you in the performance of your official duties
 7. Accept any honoraria for any appearance, speech, or article in which you provide expertise or opinions related to the performance of your official duties (this only applies to the Governor, Lt. Governor, Attorney General, Governor's Secretaries, and heads of departments of state government)
 8. Accept a gift from a person who has interests that may be substantially affected by the performance of your duties under circumstances where the timing and nature of the gift would cause a reasonable person to question your impartiality in the matter affecting the donor
 9. Accept gifts from sources on a basis so frequent as to raise an appearance of the use of your public office for private gain
 10. Use your public position to retaliate or threaten to retaliate against any person for expressing views on matters of public concern or for exercising any right that is otherwise protected by law, provided, however, that this does not restrict the authority of any public employer to govern conduct of its employees, and to take disciplinary action, in accordance with applicable law, and provided further that this does not limit the authority of a constitutional officer to discipline or discharge an employee with or without cause
- B. "Personal interest" is a financial benefit or liability accruing to an officer or employee or to a member of his immediate family.

Personal interests exist due to:

1. Ownership in a business if the ownership interest exceeds three percent of the total equity of the business;
2. Annual income that exceeds, or may reasonably be anticipated to exceed, \$5,000 from ownership in real or personal property or a business;
3. Salary, other compensation, fringe benefits, or benefits from the use of property, or any combination thereof, paid or provided by a business or governmental agency that exceeds, or may reasonably be anticipated to exceed, \$5,000 annually;
4. Ownership of real or personal property if the interest exceeds \$5,000 in value and excluding ownership in a business, income, or salary, other compensation, fringe benefits or benefits from the use of property;
5. Personal liability incurred or assumed on behalf of a business if the liability exceeds three percent of the asset value of the business; or

6. An option for ownership of a business or real or personal property if the ownership interest will consist of subdivision (1) or (4) above.

C. Personal Interest in a Contract

1. You may not have a personal interest in a contract with your agency other than your own contract of employment.
2. Members of county boards of supervisors, city councils, and town councils are also prohibited from having a personal interest in a contract:
 - i. with any governmental agency that is a component part of the local government and which is subject to the ultimate control of the governing body, and
 - ii. with any other governmental agency if such person's governing body appoints a majority of the members.

There are many exceptions to this prohibition. It is recommended that you contact the Council regarding the application of an exception.

D. Personal Interest in a Transaction

A personal interest in a transaction means a personal interest in any matter considered by your agency, when official action is taken or contemplated.

Such a personal interest exists when you or a member of your immediate family has a personal interest in:

1. property or a business, or
2. represents or provides services to any individual or business

and the property, business, or represented or served individual or business

1. is the subject of the transaction or
2. may realize a reasonably foreseeable direct or indirect benefit or detriment as a result of the action on the transaction.

You must publicly disqualify yourself if the transaction applies solely to the entity in which you have a personal interest, or if you have a personal interest in a transaction and do not qualify for participation.

It is recommended that you contact the Council if you have a question about a possible personal interest in a transaction.

IV. Gifts

When discussing gifts, always ask three separate questions:

1. Is it a gift?
2. Does it count toward the gift cap?
3. Do I have to report it on my Statement of Economic Interests?

A. Definition of a gift

A gift is any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value. It includes services as well as gifts of transportation, local travel, lodgings and meals, whether provided in-kind, by purchase of a ticket, payment in advance or reimbursement after the expense has been incurred.

A gift is not:

1. Any offer of a ticket, coupon, or other admission or pass unless the ticket, coupon, admission, or pass is used;
2. Honorary degrees;
3. Any athletic, merit, or need-based scholarship or any other financial aid awarded by a public or private school, institution of higher education, or other educational program pursuant to such school, institution, or program's financial aid standards and procedures applicable to the general public;
4. A campaign contribution properly received and reported pursuant to campaign finance disclosure laws;
5. Any gift related to the private profession or occupation or volunteer service of a legislator/state/local official or employee or of a member of his immediate family;
6. Food or beverages consumed while attending an event at which the filer is performing official duties related to his public service;
7. Food and beverages received at or registration or attendance fees waived for any event at which the filer is a featured speaker, presenter, or lecturer;
8. Unsolicited awards of appreciation or recognition in the form of a plaque, trophy, wall memento, or similar item that is given in recognition of public, civic, charitable, or professional service;
9. A devise or inheritance;
10. Travel disclosed pursuant to the campaign finance disclosure laws;
11. Travel paid for or provided by the government of the United States, any of its territories, or any state or any political subdivision of such state;

12. Travel provided to facilitate attendance by a legislator at a regular or special session of the General Assembly, a meeting of a legislative committee or commission, or a national conference where attendance is approved by the House Committee on Rules or its Chairman or the Senate Committee on Rules or its Chairman;
13. Travel related to an official meeting of, or any meal provided for attendance at such meeting by, the Commonwealth, its political subdivisions, or any board, commission, authority, or other entity, or any charitable organization established pursuant to § 501(c)(3) of the Internal Revenue Code affiliated with such entity, to which such person has been appointed or elected or is a member by virtue of his office or employment;
14. Gifts with a value of less than \$20; or
15. Attendance at a reception or similar function where food, such as hors d'oeuvres, and beverages that can be conveniently consumed by a person while standing or walking are offered;
16. Tickets or the registration or admission fees to an event that are provided by an agency to its own officers or employees for the purposes of performing official duties related to their public service; or
17. Gifts from relatives or personal friends. For the purpose of this definition, "relative" means the donee's spouse, child, uncle, aunt, niece, nephew, or first cousin; a person to whom the donee is engaged to be married; the donee's or his spouse's parent, grandparent, grandchild, brother, sister, step-parent, step-grandparent, step-grandchild, step-brother, or step-sister; or the donee's brother's or sister's spouse or the donee's son-in-law or daughter-in-law. For the purpose of this definition, "personal friend" does not include any person that the filer knows or has reason to know is a contractor or registered lobbyist or lobbyist's principal.

Items that are exempted from the definition of a gift are not subject to the \$108 gift cap and do not have to be reported as a gift on your Statement of Economic Interests.

Please remember that travel that is not a gift may still be reportable on Schedule F of your disclosure form.

B. \$108 gift cap

Individuals required to file a Statement of Economic Interests and their immediate family may not accept gifts with a total value in excess of \$108 per year from:

1. a lobbyist,
2. lobbyist's principal, or
3. a person, organization, or business who is or is seeking to become a party to a contract with your agency or an agency over which you have the authority to direct such agency's activities.

Immediate family means

1. a spouse, and
2. any other person who resides in the same household as the filer and who is a dependent of the filer.

C. Exceptions to the gift cap

1. Gifts given from lobbyists or contractors who are also your personal friend. In order to determine if an individual is your personal friend, you should consider the following:
 - a) The circumstances under which the gift was offered;
 - b) The history of the relationship between the person and the donor, including the nature and length of the friendship and any previous exchange of gifts between them;
 - c) Whether the donor personally paid for the gift or sought a tax deduction or business reimbursement for the gift; and
 - d) Whether the donor has given the same or similar gifts to other persons required to file the disclosure form.
2. Food, beverages, entertainment, and the cost of admission or registration at a widely attended event. To determine if an event qualifies as a widely attended event, the event must:
 - a. Have at least 25 persons invited or expected to attend, and
 - b. Be open to individuals who:
 - i. are members of a public, civic, charitable, or professional organization,
 - ii. are from a particular industry or profession, or
 - iii. represent persons interested in a particular issue.
3. Travel approved by the Council via a travel waiver

While such travel is exempted from the gift cap, it must be reported on Schedule F of your Statement of Economic Interests.

AN EXEMPTION FROM THE GIFT CAP IS NOT AN EXEMPTION FROM YOUR REQUIREMENT TO REPORT A GIFT ON YOUR STATEMENT OF ECONOMIC INTERESTS.

D. Reporting gifts

You must report any gift valued over \$50 or any combination of gifts with an aggregate value over \$50 received from any lobbyist, lobbyist's principal, or contractor.

You must report gifts received by you and by members of your immediate family.

V. Filing Requirements

A. Who must file?

Individuals named in § § 2.2-3115 and 2.2-3116

B. With what entity do I file?

Individuals named in § 2.2-3115 file on paper with the clerk of the local governing body or school board.

Individuals named in § 2.2-3116 (constitutional officers) are required to file electronically with the Virginia Conflict of Interest and Ethics Advisory Council, using the online filing system provided by the Council.

C. When do I file?

Statements of Economic Interests are filed annually, every February 1.

Deadlines are moved to the next business day if they fall on a weekend or state holiday.

D. \$250 penalty for late filing

If you require a deadline extension, you may request one by submitting a deadline extension request form found on the Council's website.

The Council has five business days to respond to a request. If more information is requested, the Council has five business days after the information is received to respond to the request.

Deadline extensions are granted for:

1. The death of a relative of the filer, as relative is defined in the definition of "gift"
2. A state of emergency is declared by the Governor or declared by the President of the United States or the governor of another state pursuant to law and confirmed by the Governor by an executive order, and such an emergency interferes with the timely filing of disclosure forms. The extension shall be granted only for those filers in areas affected by such emergency.
3. The filer is a member of a uniformed service of the United States and is on active duty on the date of the filing deadline

4. A failure of the electronic filing system and the failure of such system prevents the timely filing of disclosure forms
5. Good cause shown

VI. Travel Waivers

A. When do I need to request a travel waiver?

1. Travel waivers are only required for travel valued over \$108 paid by a lobbyist, lobbyist's principal, or contractor.
2. Travel waivers are NOT required for government paid travel or travel paid by any other entity who is not a lobbyist, lobbyist's principal, or contractor. Please remember that trips and travel that do not require a travel waiver may still be reportable on your Statement of Economic Interest.
3. Requests can be made on the Council's website at:
<http://ethics.dls.virginia.gov/travel-waiver-request.asp>

B. How are travel waiver requests processed?

The Council has five business days to respond. If the Council does not approve or deny the request within that time, the request shall be deemed approved by the Council. If more information is requested, the Council has five business days after the information is received to respond to the waiver request.

VII. Other Questions

1. How and under what circumstances is individual information released?

ANSWER: All filings are available to the public via a Freedom of Information Act request.

All filings submitted electronically are available to the public via the online searchable database on the Council website for five years.

2. Are filers notified when their disclosure forms are requested and released?

ANSWER: There is no requirement that the filer be notified that the information has been requested.

3. Is personal information released when a disclosure statement is requested?

ANSWER: Clerks of governing bodies and school boards are required to redact residential addresses, personal telephone numbers, email addresses, and signatures from your form before making it available to the public.

For forms filed electronically, the Council redacts residential addresses, personal telephone numbers, and email addresses from your form before making them public on the database.

4. What training is required?

ANSWER: Local elected officials and executive directors and members of IDAs and EDAs are required to take training at least once every two years. Individuals who are new to their office or position must complete their first training within two months after beginning their employment or assuming office.

The training must be completed once every two years from the date it was last completed. The clerk of the local governing body or school board is required to maintain attendance records for each elected official in their jurisdiction.

Contact Information:

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