

Ethics and Public Service

**Idaho PRIMA, Spring 2019
Session 3 Training**

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WARNING

- I'm not your attorney.
- Today's presentation and materials are not intended as legal advice.
- Today's presentation and materials are not an exhaustive review of every possible ethics statute and every possible exception.
- CONSULT AN ATTORNEY for advice specific to your situation.

Today's objective

To learn to spot ethics issues in common public service situations.



Today's agenda

- **Consequences of ethical violations**
- **Identifying ethics issues**
 - *Relatives*
 - *Gifts, freebies, bribes*
 - *Personal financial interests*
 - *Procurement*
 - *Money*
 - *Influence*
 - *Records*
- **Practice**

WARNING – part 2



Additional helpful guides

- “Smell” test



- “Front page of the newspaper” test



Consequences of ethical violations

- **Loss of employment, demotion**
- **Career loss**
- **Policy agenda halt**
- **Costs of attorneys**
- **Civil penalties**
- **Criminal prosecution**

Area #1: RELATIVES



General Rule

A public official should not hire, buy from, contract with, grant big promotions to, or give big pay raises to his/her relatives or relatives of the members of the governing body.

Area #1: RELATIVES

Specific language

- **“appoint” or “vote for the appointment”**
- **Related “by blood or marriage within the second degree.”**
- **“any clerkship, office, position, employment or duty”**

Area #1: RELATIVES

Exception

Individuals who worked for the public entity **BEFORE** the city council member or commissioner came into office can stay and receive...

- *General pay increases*
- *Step increases*
- *Cost of living increases*
- *Other across the board increases in salary, benefits, bonuses, promotions.*

Area #1: RELATIVES

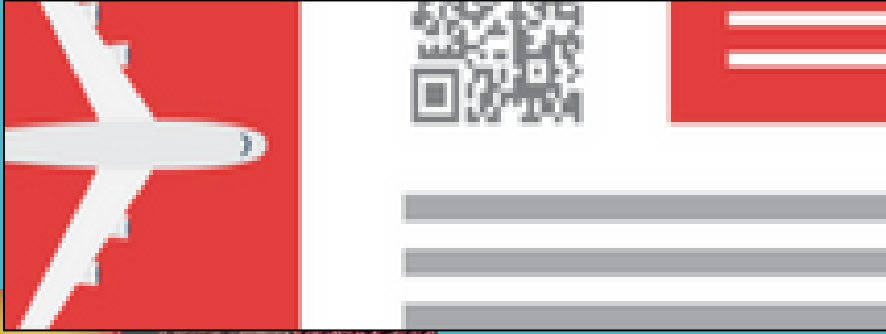
Hypo 1:

- Jackson City has a huge snow problem, but very few snow removal services exist in the area.
- A city councilmember's brother, Bob, runs a snow removal service.
- Bob offered to remove snow from the city streets just for the cost of gas and his employee's hourly wage.
- Both the city councilmember and Bob are nice and well-respected members of the community.

Area #2: GIFTS, FREEBIES, BRIBES

General Rule

A public official should not receive anything from anyone who wants/needs (or is likely to want/need) something from the official or the official's public entity.



Area #2: GIFTS, FREEBIES, BRIBES

Specific language

- “solicit, accept, or agree to accept”
- “pecuniary benefit”
 - any benefit to a public official or member of his household in the form of money, property or commercial interests, the primary significance of which is economic gain.*
- \$50 exception

Area #2: GIFTS, FREEBIES, BRIBES

Hypo 2:

- Nancy, a county elections supervisor, is attending a conference. The County paid for the trip.
- After classes one day, a friend invites Nancy for drinks at a hotel down the street. Nancy gladly joins.
- Nancy finishes her first Bloody Mary.
- Nancy finds out that her drinks are free – ES&S, a major elections equipment provider, is hosting this happy hour.
- Nancy really wants a second Bloody Mary.
- All her friends have had at least three drinks.

Area #3: PERSONAL FINANCIAL INTERESTS



General Rule

A public official should not have an interest in any contract that he/she enters or in any contract that the body or board that he/she sits on enters.

Area #3: PERSONAL FINANCIAL INTERESTS

Specific language

- “interest”
- “conflict of interest”

any official action or any decision or recommendation by a person acting in a capacity as a public official, the effect of which would be to the private pecuniary benefit of the person or a member of the person’s household, or a business with which the person or a member of the person’s household is associated, unless [several exceptions]

Area #3: PERSONAL FINANCIAL INTERESTS

Hypo 3:

- Dave owns the best gravel pit business for miles around.
- Dave is a highway district commissioner.
- So far, the district doesn't buy from Dave, even though his gravel is the cheapest.
- The district's usual suppliers run out of gravel for at least 4 weeks. Alternative suppliers are much more expensive.
- The district has a time-sensitive project because of flooding.
- Dave offers to recuse himself if the commissioners want to vote on buying from his business.

Area #4: PROCUREMENT



General Rule

*In general, a public official should make purchases of over \$50k through a competitive process unless an exception applies. **NO MEDDLING.***

Area #5: MONEY

General Rule

In general, a public official should not use public money for personal or political purposes.

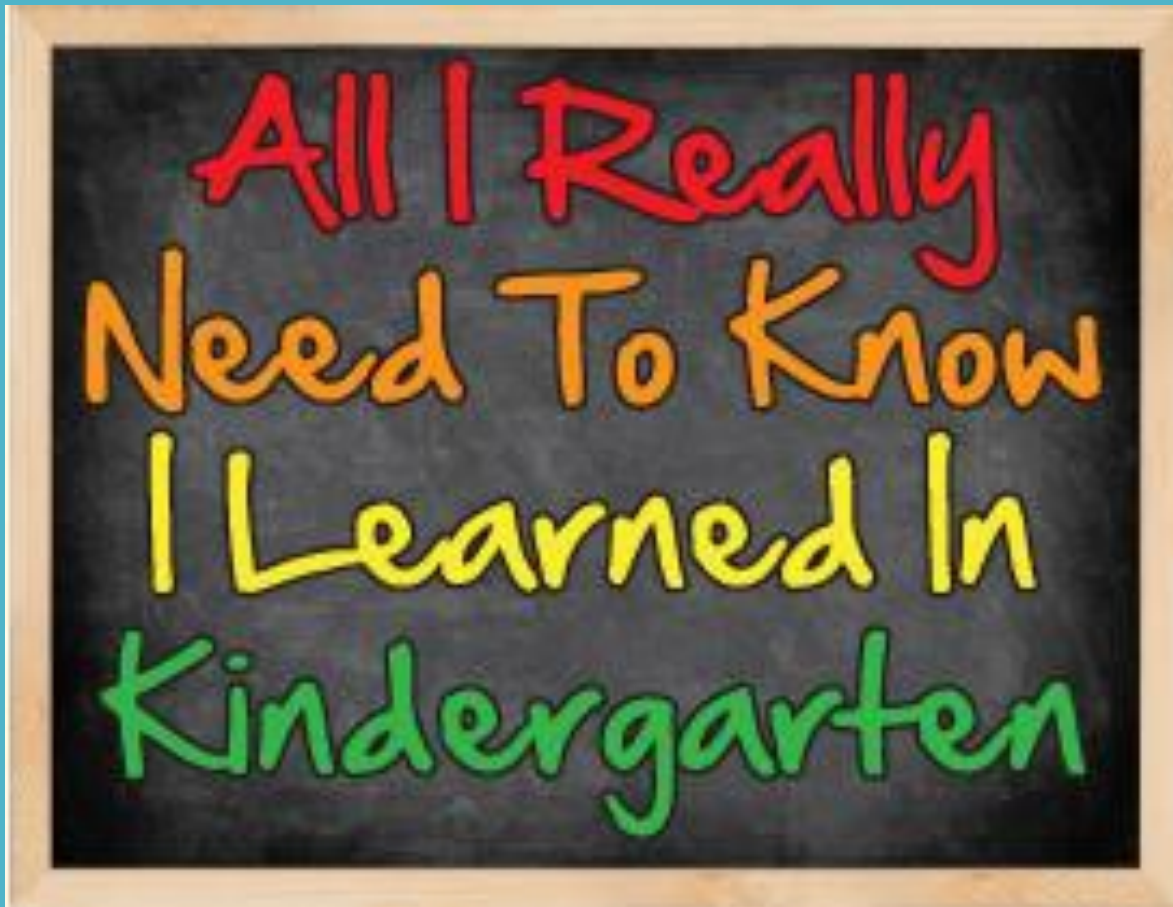


Area #5: MONEY

Hypo 4:

- **Greg is a mayor attending a conference with his new building department chief.**
- **At the conference, Greg finds out that “everyone” is going to a basketball game across town that night.**
- **Greg buys two tickets to the game to spend time with the new building chief and to introduce him to his counterparts.**
- **Greg uses the city credit card to buy the tickets.**

Area #6: INFLUENCE



General Rule

In general, public officials should communicate politely and in the proper forum, and not try to game the system.

Area #6: INFLUENCE

Hypo 5:

- Karen is a city P&Z commissioner.
- Karen gets a voice message from an angry constituent about a case that has a hearing tomorrow night.
- Karen tells the constituent that she's not permitted to discuss the case, but invites the resident to come and testify.
- Karen forwards the voice message to P&Z to include in the record.
- Karen drives by to look at the property in question before the hearing.

Area #7: RECORDS



General Rule

In general, public officials should not delete or falsify records, and should provide requested records (unless an exception applies).

Takeaways from today

- **Spot the issue (use the handout)**
- **Play it safe**
- **If you're looking for an exception, maybe you shouldn't be**
- **Consult legal counsel**

Practice

Hypo 6:

- The Marion County jail is overcrowded.
- Steve, the Marion County jail commander, has been researching electronic monitoring systems that could reduce the jail population.
- A vendor invites Steve and his wife Betty to an all-expenses paid trip to New York for a 3-day conference that demonstrates the vendor's electronic monitoring system.
- Steve's marriage has been struggling, and Betty has always wanted to go see a show on Broadway.

Practice

Hypo 7:

- **The Douglas County Highway District commissioners are fighting all the time.**
- **The local newspaper filed a public records request for the commissioners' text messages sent last Wednesday.**
- **Bert, one of the commissioners, deletes all text messages on his phone.**

Practice

Hypo 8:

- **Mary Jo is the court clerk supervisor, and has been for 20 years.**
- **Her husband, Bob, is a county commissioner.**
- **Rick is the new elected county clerk; sworn in last month.**
- **After about a month, Rick wants to make Mary Jo his chief deputy.**
- **Rick is weird and doesn't have any social skills.**

Practice

Hypo 9:

- **Pat is an in-court clerk in Benton County.**
- **Fletcher is a private attorney who often handles criminal defense cases in Benton County.**
- **Fletcher is very talkative, approachable, and nice to each of the court clerks.**
- **Fletcher gives Pat and each of the other in-court clerks a big gift basket every Christmas.**