



Ethics

A Municipal Guide

by: Laura Mueller, City Attorney

Chapter 171 – Conflict of Interest

- Definition

- A local public official has a conflict of interest in a matter if any action on the matter would involve a business entity or real property in which the official has a substantial interest, and action on the matter would confer an economic benefit on the official.

- General Rule

- The official must file an affidavit with the city secretary stating the interest and abstain from any participation or vote on the matter
- A public official is considered to have a substantial interest if a close relative has such an interest



Chapter 171 – Conflict of Interest

When in doubt, Fill it out!



- Exception
 - Not required to abstain from further participation or a vote on the matter if a majority of the members of the governing body also have a conflict of interest and file an affidavit.
- Penalties
 - Penalties for violating the conflict of interest provisions range from having the action voided to the imposition of fines and incarceration.
- City Secretary, Andrea Cunningham, has the Affidavit form if needed.
- Feel free to reach out to the City Attorney if you have have questions, but this is a personal decision.

Chapter 176- Conflicts Disclosure

- General Rule
 - Mayors, councilmembers, and certain other executive city officers and agents file a “conflicts disclosure statement” with a city’s records administrator within seven days of becoming aware of the following situations:
 - A city officer or the officer’s family member has an employment or business relationship that results in taxable income of more than \$2,500 in the preceding 12 months with a person who has contracted with or is considering contracting with the city (“vendor”).
 - A city officer or the officer’s family member receives and accepts one or more gifts with an aggregate value of \$100 in the preceding 12 months from a vendor.
 - A city officer has a family relationship with a vendor.



Chapter 176- Conflicts Disclosure

- General Rule cont.
 - The chapter also requires a vendor to file a "conflict of interest questionnaire" if the vendor has a business relationship with the city and an employment or other relationship with an officer or officer's family members, has given a gift to either, or has a family relationship with a city officer.
 - The conflicts disclosure statement and the conflict of interest questionnaire are created by the Texas Ethics Commission and are available online at www.ethics.state.tx.us.
- Penalties
 - An officer who knowingly fails to file the statement commits either a class A, B, or C misdemeanor, depending on the amount of the contract.



Chapter 553- Conflicts Disclosure

- General Rule

- Government Code Chapter 553 requires a “public servant” who has a legal or equitable interest in property that is to be acquired with public funds to file an affidavit within ten days before the date on which the property is to be acquired by purchase or condemnation.
 - Chapter 553 applies to the acquisition of both real property (e.g., land) and personal property (e.g., a vehicle).
 - In addition, Chapter 553 seems to apply even when the property is to be acquired by a governmental entity with which the public servant is not affiliated.
 - The affidavit must be filed with the county clerk of the county in which the public servant resides as well as the county clerk of each county in which the property is located.



Chapter 553- Conflicts Disclosure

- Penalties
 - A person who fails to file the required affidavit is presumed to have committed a Class A misdemeanor offense if the person had actual notice of the acquisition or intended acquisition of the property.
 - A Class A misdemeanor is punishable by a fine not to exceed \$4,000, confinement in jail for a term not to exceed one year, or both.



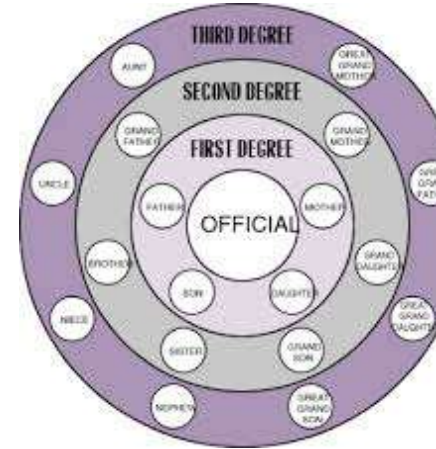
Nepotism

- Definition
 - The appointment or employment of a close relative of a city’s “final hiring authority (the city council or city manager, depending on the form of government)” to a paid position with the city
- General Rule
 - A public official, acting alone or as a member of a governing body, generally may not appoint a close relative to a paid position, regardless of the relative's merit. In addition, the reverse applies. In other words, a person may not be elected to the city council if a close relative is employed by the city, unless the relative first resigns.



Nepotism

- Exception
 - If the employee has been continuously employed by the city for a certain period of time, a close relative may be elected to the city council.
- Penalties
 - Penalties for violating the nepotism provisions include a fine and immediate removal from office.
- In a Type A General Law City this applies to all members of City Council.



2nd Degree-by marriage
3rd Degree-by blood

Bribery and Gifts

- Definition

- A public official or public employee commits the crime of bribery when they accept, agree to accept, or solicit any benefit as consideration for a decision, opinion, recommendation, vote, or other exercise of discretion. The fact that a benefit or gift was not offered until after the exercise of official discretion is not considered a defense to a prosecution for bribery.

- Penalty

- The penalty for violating the bribery law is a second-degree felony, punishable by two to twenty years imprisonment and a fine of up to \$10,000



City Ethics Ordinance-Article 2.02

- Generally same as Chapter 171
- Cannot vote on land use items if receive the notice provided by the planning department
- Covers misuse of information, equipment, and personnel (which is also in state law)





Questions