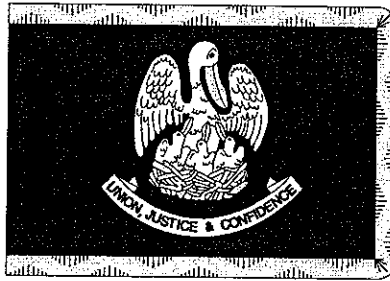


THE LOUISIANA CODE OF GOVERNMENTAL ETHICS



I. INTRODUCTION TO THE CODE OF GOVERNMENTAL ETHICS

A. Policy Goals (R.S. 42:1101)

- * To ensure the public confidence in the integrity of government
- * To ensure the independence and impartiality of elected officials and public employees
- * To ensure that governmental decisions and policy are made in the proper channel of the government structure
- * To ensure that public office and employment are not used for private gain

B. Administration (R.S. 42:1131 et seq.)

(1) **Board of Ethics** established as of January 1, 1997

- Composed of 11 members; 7 appointed by the Governor with at least 1 from each congressional district; 2 elected by the Senate, 2 elected by the House of Representatives
- Initial terms are staggered, thereafter, each term is for 5 years with a 2 term limit on Board membership
- Administers the Code as to all state and local public employees, appointed members of boards and commissions, and elected officials other than judges

(2) Duties of the Board

- Issue advisory opinions interpreting the Code (R.S. 42:1134E)
- Conduct private investigations of alleged violations of the Code (R.S. 42:1134C and 1141C)

I. **“Substantial economic interest”** means an economic interest which is of greater benefit to the public servant or other person than to a general class or group of persons, except:

- (1) the interest that the public servant has in his position, office, rank, salary, per diem, or other matter arising solely from his public employment or office;
- (2) The interest that an elected official who is elected to a house, body, or authority has in a position or office of such house, body, or authority which is required to be filled by a member of such house, body, or authority by law, legislative rule, or home rule charter, and
- (3) The interest that a person has as a member of the general public.

J. **“Thing of economic value”** means money or any other thing having economic value, except:

- (1) promotional items having no substantial resale value;
- (2) food, drink, or refreshments, including reasonable transportation and entertainment incident thereto, consumed while the personal guest of some person;
- (3) with reference to legislators and legislative employees only, reasonable transportation when organized primarily for educational or informational purposes, including food and drink incidental thereto;
- (4) salary and related benefits due to public employment, and
- (5) pharmaceutical samples, medical devices, medical foods, and infant formulas provided to physicians, health care professionals, or appropriate public employees for the administration or dispensation to a patient at no cost.

K. **“Service”** means the performance of work, duties, or responsibilities, or the leasing, rental, or sale of movable or immovable property.

III. GENERAL PROHIBITIONS (R.S. 42:1111 - 1121)

NOTE: The following is a synopsis of some of the key provisions of the Code of Governmental Ethics. It is only a summary. For the official text of the provisions described below and for the text of other provisions of the Code, including information relative to exceptions to these general restrictions, refer to the Code at LSA R.S. 42:1101 et seq.

- (5) any person with whom he is negotiating or has an arrangement concerning prospective employment;
- (6) any person who is indebted to him or is a party to an existing contract with him and by reason thereof is in a position to affect directly his economic interests.

An **elected official** may recuse himself from voting on a matter which could violate this provision, or he may vote only if he files a sworn disclosure statement describing his conflict and the reasons why, despite the conflict, he can cast a vote that is fair, objective and in the best interest of the public. This option is not available when the elected official is the sole decision maker. R.S. 42:1120.

Appointed members of boards and commissions are not allowed to recuse or disqualify themselves from transactions that violate this prohibition; they must resolve the conflict or resign their public position. R.S. 42:1112C and D.

Other public employees who are not sole decision makers can be disqualified from transactions that would violate this prohibition. A mechanism for disqualification is found in the rules promulgated by the Board. R.S. 42:1112C.

G. 1113 - Bidding on, entering into, or being in any way interested in any contract, subcontract or other transaction under the supervision or jurisdiction of the public servant's agency. This restriction also applies to the immediate family members of the public servant and to legal entities in which the public servant and/or his family members own an interest in excess of 25%.

- Modification of the rule for appointed members of boards and commissions prohibits not only bidding on or entering into to such contracts, subcontract and transactions, but also being "in any way interested" in them; also, reference to an interest exceeding 25% is changed to reference legal entities in which the public servant or immediate family members have a "substantial economic interest."
- Modification applicable to legislators prohibits a legislator, his spouse or a legal entity in which either owns an interest from entering into a contract or subcontract with any branch, agency, department or institution of state government, with a few exceptions.

family member is a licensed physician or a registered nurse. Annual disclosure is required and forms are available from the Ethics Administration Program office. If the required disclosure is not timely filed, a late fee assessment of \$50 per day may be imposed, with a maximum penalty of \$1,500, or

- (e) persons employed as volunteer firefighters.
- (f) employment of an immediate family member of a school athletic director as a coach.

K. 1121- Post Employment

- (1) During the two year period following the termination of public service as an agency head or elected official, these individuals may not assist another for compensation, in a transaction, or in an appearance in connection with any transaction involving their former agency nor may they render any service on a contractual basis to or for their former agency.
- (2) During the two year period following the termination of public service as a board or commission member, these individuals may not contract with, be employed in any capacity by, or be appointed to any position by that board or commission. The Board has interpreted "board or commission" to include a collective body that shares responsibility for its actions. This would include school boards, police juries, boards of aldermen, a group of selectmen, a council, etc.
- (3) During the two year period following the termination of public service as a public employee, these individuals may not assist another for compensation, in a transaction, or in an appearance in connection with a transaction involving the agency in which the former public employee participated while employed by the agency nor may the former public employee provide on a contractual basis to his former public employer, regardless of the parties to the contract, any service he provided while employed there.

IV. PROCEDURE

- A. Complaints - The Board can initiate an investigation into any matter which it has reason to believe may be a violation of the Code by a 2/3 vote of its membership (8 votes). A copy of the vote and an explanation of the matter is sent to the complainant and the respondent. Additionally, the Board must consider any signed sworn complaint. A copy of the sworn complaint, if one is received, must be sent to the respondent.

VI. MISCELLANEOUS

- A. It is a violation of the Code to have one or more employees on the payroll who are not rendering services for which they are being paid or having one or more employees on the payroll whose employment is prohibited by the nepotism section of the Code. R.S. 42:1161F
- B. No action can be maintained by the Board more than 2 years after the discovery of the occurrence of the violation nor more than 4 years after the occurrence of the violation, whichever is shorter. R.S. 42:1163
- C. Judges, as defined in the Code of Judicial Conduct, are exempt from the provisions of the Code, although employees of the judge are subject to the Code. R.S. 42:1167
- D. It is a violation of the Code for any public servant to be disciplined or otherwise subjected to acts of reprisal for reporting to his agency head, the Board, or any person of competent authority or jurisdiction, information which he reasonably believes is in violation of any law, order, rule, or regulation within the Board's jurisdiction or any other alleged acts of impropriety within any governmental entity. R.S. 42:1169
- E. Attorneys who are also public servants are subject to the provisions of the Code in that capacity, notwithstanding any conflicting provisions in the Code of Professional Responsibility that might otherwise allow an attorney to engage in conduct which is prohibited by the Code.

For further information, please refer to the Code of Governmental Ethics at LSA - R.S. 42:1102 et seq. or write to the **Ethics Administration Program** at 2415 Quail Drive, 3rd Floor, Baton Rouge, LA 70808 or call (225) 763-8777 or toll free at 1-800-842-6630.

Our web site is: <http://www.ethics.state.la.us/>

NOTE: This outline does not fully state the law. If interpretations of this outline conflict with the provisions of the Code, the Code will control.