



Financial Code of Conduct

I. Public Trust

- A. Employees and Board Members (Officers) shall treat their government position as a public trust. They shall use the powers and resources of public office only to advance the public interest and not to obtain personal benefits or pursue private interests.
- B. Employees and Officers shall conduct themselves in a manner that justifies the confidence placed in them by the people, at all times maintaining the integrity and discharging ethically the high responsibilities of public service.
- C. Employees and Officers shall not use or disclose confidential information obtained by virtue of employment for their own or another person's private gain.

II. Definitions

- A. As used in the Governmental Conduct Act:
 - 1. "Business" means a corporation, partnership, sole proprietorship, firm, organization or individual carrying on a business;
 - 2. "Confidential information" means information that by law or practice is not available to the public;
 - 3. "Contract" means an agreement or transaction having a value of more than one thousand dollars (\$1,000) with a state or local government agency for:
 - a. the rendition of services, including professional services;
 - b. the furnishing of any material, supplies or equipment;
 - c. the construction, alteration or repair of any public building or public work;
 - d. the acquisition, sale or lease of any land or building;
 - e. a licensing arrangement;
 - f. a loan or loan guarantee; or
 - g. the purchase of financial securities or instruments;
 - 4. "Employment" means rendering of services for compensation in the form of salary as an employee;
 - 5. "Family" means an individual's spouse, parents, children or siblings, by consanguinity or affinity;
 - 6. "Financial interest" means an interest held by an individual or the individual's family that is:
 - a. an ownership interest in business or property; or
 - b. any employment or prospective employment for which negotiations have already begun'
 - 7. "Local Government Agency" means a political subdivision of the state or an agency of a political subdivision of the state;
 - 8. "Official Act" means an official decision, recommendation, approval, disapproval or other action that involves the use of discretionary authority;
 - 9. "Officer or Employee" means any elected or appointed official or employee of a state agency or local government agency who receives compensation in the form of salary or is eligible for per diem or mileage but excludes legislators;

10. "Standards" means the conduct required by the Governmental Conduct Act;
 11. "State Agency" means any branch, agency, instrumentality or institution of the state; and
 12. "Substantial interest" means an ownership interest that is greater than twenty percent.
- B. As used in the Gift Act:
1. "Family" means a spouse and dependent children;
 2. "Gift" means any donation or transfer without commensurate consideration of money, property, service, loan, promise or any other thing of value, including food, lodging, transportation and tickets for entertainment or sporting events, but does not include:
 - a. any activity, including but not limited to the acceptance of a donation, transfer or contribution, or the making of an expenditure or reimbursement, that is authorized by the Campaign Reporting Act [1-19-25 through 1-19-36 NMSA 1978] or the Federal Election Campaign Act of 1971, as amended;
 - b. a gift given under circumstances that make it clear that the gift is motivated by a family relationship or close personal relationship rather than the recipient's position as an Employee or Officer;
 - c. compensation for services rendered or capital invested that is:
 - 1) normal and reasonable in amount;
 - 2) commensurate with the value of the service rendered or the magnitude of the risk taken on the investment;
 - 3) in no way increased or enhanced by reason of the recipient's position as an Employee or Officer; and
 - 4) not otherwise prohibited by law;
 - d. payment for a sale or lease of tangible or intangible property that is commensurate with the value of the services rendered and is in no way increased or enhanced by reason of the recipient's position as an Employee or Officer;
 - e. a commercially reasonable loan made in the ordinary course of the lender's business on terms that are available to all similarly qualified borrowers;
 - f. reimbursement for out-of-pocket expenses actually incurred in the course of performing a service for the person making the reimbursement;
 - g. any gift accepted on behalf of and to be used by the state or a political subdivision of the state, including travel, subsistence and related expenses accepted by the School in connection with an Employee's or Officer's official duties that take place away from the Employee's or Officer's station of duty;
 - h. anything for which fair market value is paid or reimbursed by the Employee or Officer;
 - i. reasonable expenses for a bona fide educational program that is directly related to the Employee's or Officer's official duties; or
 - j. a retirement gift;
 3. "Market Value" means the retail cost a person would incur to purchase a gift;
 4. "Restricted Donor" means a person who:
 - a. is or is seeking to be a party to any one or any combination of sales, purchases, leases or contracts to, from or with the agency in which the donee holds office or is employed;
 - b. will personally be, or is the agent of a person who will be, directly and substantially affected financially by the performance or nonperformance of the donee's official duty in a way that is greater than the effect on the public generally or on a substantial class of persons to which the person belongs as a member of a profession, occupation, industry or region;
 - c. is personally, or is the agent of a person who is, the subject of or party to a matter that is pending before a regulatory agency and over which the donee has discretionary authority as part of the donee's official duties or employment within the regulatory agency; or

- d. is a lobbyist or a client of a lobbyist with respect to matters within the donee's jurisdiction; and
- 5. "Officer or Employee" means any person who has been elected to, appointed to or hired and who receives compensation in the form of salary or is eligible for per diem or mileage.

III. Governmental Conduct Act Conflicts of Interest; Current Employees and Officers

- A. Full disclosure of real or potential conflicts of interest shall be a guiding principle for determining appropriate conduct. At all times, reasonable efforts shall be made to avoid undue influence and abuse of office in public service, and the appearance of impropriety.
- B. Employees and Officers shall not take any official act for the primary purpose of enhancing their financial interest or financial position and shall disqualify themselves from decisions or official action directly affecting their financial interests. Any person who knowingly and willfully violates the provisions of this subsection is guilty of a fourth-degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978.
- C. During the period of employment or service no Employee or Officer shall acquire a financial interest when they believe or should have reason to believe that the new financial interest will be directly affected by their official act(s).
- D. Employees shall not engage in any other employment or activity that creates a conflict of interest, interferes with their duties to the public, compromises their ability to discharge their duties to the public, or otherwise adversely affect the performance of their duties. They shall disclose in writing to their supervisor, or in the absence of a direct supervisor, to the secretary of state, all employment other than employment with the state.
- E. Employees shall disclose in writing any current outside employment within five (5) days of receipt of this Code of Conduct and shall disclose any anticipated outside employment before it begins.
- F. The School shall not enter into a contract with an Employee or Officer of the School, with the family of the Employee or Officer or with a business in which the Employee or Officer or the family of the Employee or Officer has a substantial interest unless the Employee or Officer has disclosed through public notice the Employee's or Officer's substantial interest and unless the contract is awarded pursuant to a competitive process; provided that this section does not apply to a contract of official employment with the School. A person negotiating or executing a contract on behalf of the School shall exercise due diligence to ensure compliance with the provisions of this section. These kinds of contracts are further restricted by the Charter Schools Act. Please see Subsection X below for additional restrictions.
- G. Unless an Employee or Officer has disclosed the Employee's or Officer's substantial interest through public notice and unless a contract is awarded pursuant to a competitive process, a local government agency shall not enter into a contract with an Employee or Officer of that local government agency, with the family of the Employee or Officer or with a business in which the Employee or Officer or the family of the Employee or Officer has a substantial interest. These kinds of contracts are further restricted by the Charter Schools Act. Please see Subsection X below for additional restrictions.

IV. Governmental Conduct Act Conflicts of Interest; Former Employees and Officers

- A. The School shall not enter into a contract with, or take any action favorably affecting, any person or business that is:
 - 1. represented personally in the matter by a person who has been an Employee or Officer of the School within the preceding year if the value of the contract or action is in excess of one thousand dollars (\$1,000) and the contract is a direct result of an official act by the Employee or Officer; or

2. assisted in the transaction by a former Employee or Officer of the School whose official act, while in School employment and service, directly resulted in the School's making that contract or taking that action.
- B. A former Employee or Officer shall not represent a person in the person's dealings with the government on a matter in which the former Employee or Officer participated personally and substantially while an Employee or Officer.
- C. For a period of one year after leaving employment or service, a former Employee of Officer shall not represent for pay a person before the state agency or local government agency at which the former Employee or Officer served or worked.

V. Governmental Conduct Act. Certain business sales to the employees of state agencies and local government agencies prohibited.

- A. An Employee or Officer shall not sell, offer to sell, coerce the sale of or be a party to a transaction to sell goods, services, construction or items of tangible personal property directly or indirectly through the Employee's or Officer's family or a business in which the Employee has a substantial interest, to an employee supervised by the Employee or Officer. An Employee or Officer shall not receive a commission or shall not profit from the sale or a transaction to sell goods, services, construction or items of tangible personal property to an Employee or Officer supervised by the Employee or Officer. The provisions of this subsection shall not apply if the supervised Employee or Officer initiates the sale. It is not a violation of this subsection if an Employee or Officer, in good faith, is not aware that the Employee or Officer to whom the goods, services, construction or items of tangible personal property are being sold is under the supervision of the Employee of Officer.
- B. An Employee or Officer shall not sell, offer to sell, coerce the sale of or be a party to a transaction to sell goods, services, construction or items of tangible personal property, directly or indirectly through the Employee's or Officer's family or a business in which the Employee or Officer has a substantial interest, to a person over whom the Employee and Officer has regulatory authority.
- C. An Employee or Officer shall not receive a commission or profit from the sale or a transaction to sell goods, services, construction or items of tangible personal property to a person over whom the Employee or Officer has regulatory authority.
- D. An Employee of Officer shall not accept from a person over whom the Employee or Officer has regulatory authority an offer of employment or an offer of a contract in which the Employee or Officer provides goods, services, construction, items of tangible personal property or other things of value to the person over whom the Employee or Officer has regulatory authority.

VI. Governmental Conduct Act; Political Activities

- A. An Employee or Officer is prohibited from:
 1. Directly or indirectly coercing or attempting to coerce another public officer or employee to pay, lend or contribute anything of value to a party, committee, organization, agency or person for a political purpose;
 2. Threatening to deny a promotion or pay increase to an employee who does or does not vote for certain candidates, requiring an employee to contribute a percentage of the employee's pay to a political fund, influencing a subordinate employee to purchase a ticket to a political fundraising dinner or similar event, advising an employee to take part in political activity or similar activities; or
 3. Violating the Employees of Officer's duty not to use property belonging to a state agency or local government agency, or allow its use, for other than authorized purposes.

VII. Gift Act

- A. No Employee or Officer may request or receive, and no person may offer an Employee or Officer, any money, thing of value or promise thereof that is conditioned upon or given in exchange for promised performance of an official act. Any person who knowingly and willfully violates the provisions of this subsection is guilty of a fourth-degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978.
- B. No Employee or Officer may request or receive, and no person may offer an Employee or Officer, any money, thing of value or promise from persons affected by the action, where it is known or reasonably should be known that the purpose of the donor in giving the gift, compensation, money, or other things of value is to influence them in the performance of their official duties.
- C. An Employee or Officer or that person's family, shall not knowingly accept from a restricted donor, and a restricted donor shall not knowingly donate to an Employee or Officer or that person's family, a gift of a market value greater than two hundred fifty dollars (\$250).
 - 1. "Restricted Donor" means a person who:
 - a. is or is seeking to be a party to any one or any combination of sales, purchases, leases or contracts to, from or with the agency in which the donee holds office or is employed;
 - b. will personally be, or is the agent of a person who will be, directly and substantially affected financially by the performance or nonperformance of the donee's official duty in a way that is greater than the effect on the public generally or on a substantial class of persons to which the person belongs as a member of a profession, occupation, industry or region;
 - c. is personally, or is the agent of a person who is, the subject of or party to a matter that is pending before a regulatory agency and over which the donee has discretionary authority as part of the donee's official duties or employment within the regulatory agency; or
 - d. is a lobbyist or a client of a lobbyist with respect to matters within the donee's jurisdiction;
- D. Employees and Officers cannot accept gifts of an aggregate market value greater than one thousand dollars (\$1,000) in a calendar year.
- E. An Employee or Officer shall not solicit gifts for a charity from a business or corporation regulated by the state agency for which the Employee or Officer works and shall not otherwise solicit donations for a charity in such a manner that it appears that the purpose of the donor in making the gift is to influence the Employee or Officer in the performance of an official duty.
- F. No Employee of Officer may request or receive an honorarium for a speech or service rendered that relates to the performance of public duties. For the purposes of this section, "honorarium" means payment of money, or any other thing of value in excess of one hundred dollars (\$100), but does not include reasonable reimbursement for meals, lodging or actual travel expenses incurred in making the speech or rendering the service, or payment or compensation for services rendered in the normal course of a private business pursuit.

VIII. Use of State Information Technology.

- A. All Employees and Officers shall use State information technology (IT) resources only to conduct State business. "IT Resources" means computer hardware, software, databases, electronic message systems, communications equipment, computer networks, telecommunications circuits, and any information used to support programs or operations generated by, transmitted within, or stored on any electronic media;
- B. No Employee or Officer shall:
 - 1. Intentionally violate any software licensure agreement entered into by the School;

2. Access or attempt to access IT resources for which they do not have authorization by means of user accounts, valid passwords, file permissions, or other legitimate access and authentication methods. "Access" means the ability to read, change, or enter data using a computer or information system;
3. Use IT resources to reveal information protected by state or federal privacy laws, policies, procedures, or contract terms;
4. Use IT resources to download or distribute pirated software or data, including music or video files. "Pirated software" means licensable software for which a license has not been purchased or otherwise legally obtained;
5. Use IT resources to knowingly disable or overload any computer system or network or to circumvent any system intended to protect the privacy or security of IT resources;
6. Access, display, distribute, edit, or record pornographic or offensive materials using IT resources;
7. Use IT resources to override or circumvent any security mechanisms belonging to the State or any other government agency, organization, company, or individual.

IX. Penalties for Violations of the Laws Herein

- A. Unless specified otherwise in the Governmental Conduct Act, any person who knowingly and willfully violates any of the provisions of that act is guilty of a misdemeanor and shall be punished by a fine of not more than one thousand dollars (\$1,000) or by imprisonment for not more than one year or both. Nothing in the Governmental Conduct Act shall preclude criminal prosecution for bribery or other provisions of law set forth in the constitution of New Mexico or by statute.
- B. If the secretary of state reasonably believes that a person committed, or is about to commit, a violation of the Governmental Conduct Act, the secretary of state shall refer the matter to the attorney general or a district attorney for enforcement.
- C. The attorney general or a district attorney may institute a civil action in district court if a violation has occurred or to prevent a violation of any provision of the Governmental Conduct Act. Relief may include a permanent or temporary injunction, a restraining order or any other appropriate order, including an order for a civil penalty of two hundred fifty dollars (\$250) for each violation not to exceed five thousand dollars (\$5,000).
- D. A person who violates the provisions of the Gift Act is guilty of a petty misdemeanor.

X. Conflicts of Interest under the Charters Schools Act

Pursuant to the New Mexico Charter Schools Act at NMSA 1978 22-8B-5.2:

- A. A person shall not serve as a member of a governing body of a charter school if the person or an immediate family member of the person is an owner, agent of, contractor with or otherwise has a financial interest in a for-profit or nonprofit entity with which the charter school contracts directly, for professional services, goods or facilities. A violation of this subsection renders the contract between the person or the person's immediate family member and the charter school voidable at the option of the chartering authority, the department or the governing body. A person who knowingly violates this subsection may be individually liable to the charter school for any financial damage caused by the violation.
- B. No member of a governing body or employee, officer or agent of a charter school shall participate in selecting, awarding or administering a contract with the charter school if a conflict of interest exists. A conflict of interest exists when the member, employee, officer or agent or an immediate family member of the member, employee, officer or agent has a financial interest in the entity with which the charter school is contracting. A violation of this subsection renders the contract voidable.
- C. Any employee, agent or board member of the chartering authority who participates in the initial review, approval, ongoing oversight, evaluation or charter renewal process of a charter school is

ineligible to serve on the governing body of the charter school chartered by the chartering authority.

- D. As used in this section, "immediate family member" means spouse, father, father-in-law, mother, mother-in-law, son, son-in-law, daughter, daughter-in-law, brother, brother-in-law, sister, sister-in-law or any other relative who is financially supported.