





Conflicts of Interest

Norma Houston
2017 Introduction to Local Government Finance




WARNING!!!

If you have a question . . .



. . .contact your attorney or the SOG!



Ethics In Government



Whose **interests** do you serve?





Citizens want public officials who will promote the **public interest**

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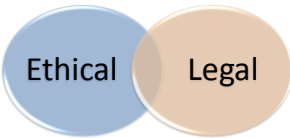


Not **their own** personal or financial interest


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Legal vs. Ethical Standards

If people act **legally** are they also acting **ethically**?



If you **can** do it, does that mean you **should** do it?



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Ethics vs. Law

Who decides when a public official has acted **unethically**?



The press



Ethics vs. Law

Who decides when a public official has acted **unethically**?



The public official



Ethics vs. Law

Who decides when a public official has acted **unethically**?



Other public officials



Legal Requirements

Local Governing Board Members:

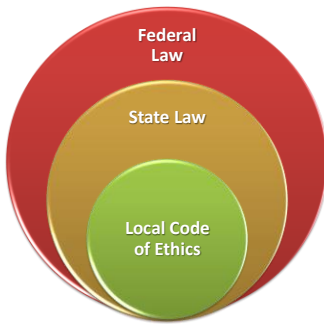
- Ethics Training
- Local Ethics Codes



All Public Officials & Employees:

- Self-benefiting prohibited
- Gifts and favors prohibited
- Misuse of confidential information prohibited
- Other public office offenses (embezzlement, bribery, etc.)

Sources of Legal Standards



Remember the
"Most Restrictive
Rule"



Ethics Key Concepts

1. Your conduct involves both **legal requirements and ethical considerations**.
2. You have a **choice** about how to act; you must evaluate legal and ethical factors in deciding how to act.



Deciding How to Act: Two Questions

Is it legal? + Is it ethical? = Your Decision

NO YES

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WHAT IS A CONFLICT OF INTEREST?

WHAT DO YOU THINK?

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What is a Conflict of Interest?

When **personal** interests are in conflict with **public** interests

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Brother's Business

Can you purchase office supplies for your unit from your brother's office supply store?



Surplus Property

Can you buy items that are sold at your unit's surplus property auction?



Board Member Contract

Can your unit contract with your board chair's spouse to perform consulting services?



Employee Contract

Can your unit contract with your husband's company to perform consulting services?



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Free Lunch

Can a vendor who is not currently under contract with your unit take you to lunch?



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Conference Reception

Can you eat and drink at a conference reception sponsored by a vendor under contract with your unit?



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Employee Appreciation

Can you ask a vendor under contract with your unit to donate biscuits for an employee appreciation breakfast?



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Happy Holidays

Can you enjoy the holiday basket goodies sent to your office by a vendor doing business with your department?



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Neighbor Contractor

Can you tell your neighbor about a potential bidding opportunity with your unit?



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**LEGAL
REQUIREMENTS**
■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■
UNDER STATE LAW



Ethics Legal Requirements



1. Conflicts of Interest
/ Self Benefiting



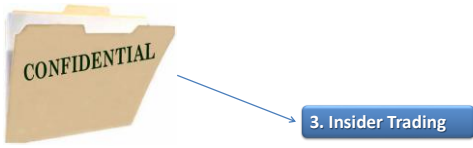
Ethics Legal Requirements



2. Gifts & Favors

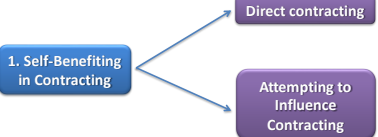


Ethics Legal Requirements



CONFLICTS OF INTEREST IN PUBLIC CONTRACTING





Direct Contracting

G.S. 14-234(a)(1)



If you're involved at any point in the contracting process, you're involved in "making or administering" the contract



Direct Contracting

G.S. 14-234(a)(1)



There's a **direct benefit** if you or your spouse:

1. Own more than 10% of the company,
2. Receive income or commission from the contract, or
3. Acquire property under the contract



Direct Contracting

G.S. 14-234(a)(1)



***Unless an exception applies:** banks and utilities, friendly condemnation, spouse employment, public assistance programs, small jurisdictions



Direct Contracting Exceptions

1. Contracts with banks, savings and loans, public utilities
2. "Friendly" condemnation
3. Employment of the spouse of a public officer (**local elected & appointed officials only**)
4. Payment for public assistance programs
5. "Small" jurisdictions (**local elected & appointed officials only**)

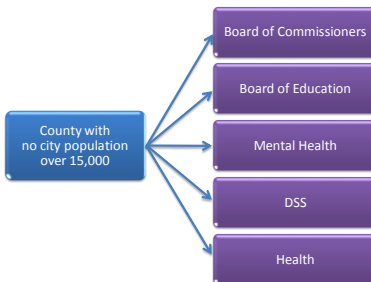
Direct Contracting

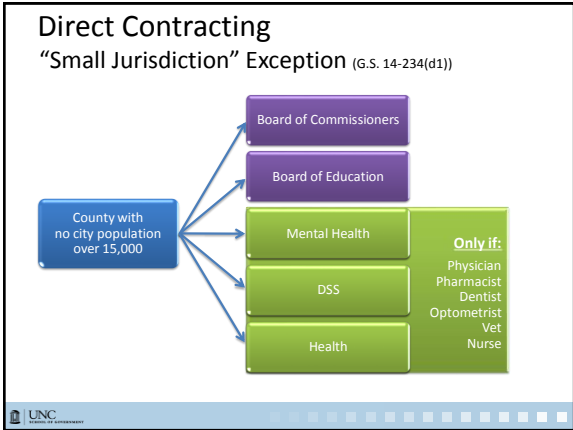
"Small Jurisdiction" Exception (G.S. 14-234(d1))



Direct Contracting

"Small Jurisdiction" Exception (G.S. 14-234(d1))





“Small Jurisdiction” Exception

G.S. 14-234(d1)

Limited Scope:

- Total contract amount must be under \$40,000 in a 12-month period (\$20,000 for medical services)
- Contracts for purchases or construction must be under \$30,000

Procedural Requirements:

- Approved at regular board meeting
- Declared on annual audit
- Publically posted
- No participation or voting by conflicted official

Attempting to Influence Contracting

G.S. 14-234(a)(2)

Direct benefit to you or your spouse + Attempt to influence + Someone involved in making or administering = Class 1 misdemeanor

Doesn't have to be a contract you make or administer!

No exceptions!

Brother's Business

Can you purchase office supplies for your unit from your brother's office supply store?



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Can you buy items that are sold at your unit's surplus property auction?



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Employee Contract

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GIFTS & FAVORS





2. Gifts & Favors

Gifts from Contractors

Gifts for Influencing Contracts

What is a Gift?



“Something voluntarily given by one person to another without compensation.”

-Webster’s Dictionary



Gifts and Favors from Contractors

G.S. 133-32



Prohibited Giver:

Contractor or vendor who is:

1. Past (within 1 year)
2. Current
3. Potential future



= Class 1 misdemeanor, unless an exception applies



Gifts and Favors from Contractors

G.S. 133-32



Prohibited Recipient:

Public officer or employer who:

1. Prepares plans or specifications for public contracts, or
2. Awards or administers public contracts, or
3. Inspects or supervises construction




= Class 1 misdemeanor, unless an exception applies



Gifts and Favors from Contractors
G.S. 133-32

Exceptions:
 Honoraria Souvenirs Banquets Professional Organizations Family / Friends



Honoraria

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Gifts and Favors from Contractors
G.S. 133-32

Exceptions:
 Honoraria **Souvenirs** Banquets Professional Organizations Family / Friends



Souvenirs / advertising items of nominal value

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Gifts and Favors from Contractors
G.S. 133-32

Exceptions:
 Honoraria Souvenirs **Banquets** Professional Organizations Family / Friends



Meals at banquets

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Gifts and Favors from Contractors

G.S. 133-32

Exceptions:
 Honoraria Souvenirs Banquets **Professional Organizations** Family / Friends



Gifts to professional organizations

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Gifts and Favors from Contractors

G.S. 133-32

Exceptions:
 Honoraria Souvenirs Banquets Professional Organizations **Family / Friends**



Non-business customary gifts from friends or family (must be reported to agency head)

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Gifts for Influencing Contracts

G.S. 14-234(a)(3)




Doesn't have to be a contract you or your spouse benefit from!

No exceptions!

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Gift Ban Rule of Thumb

When In Doubt, Do Without!



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INSIDER TRADING



Insider Trading

Misuse of Confidential Information G.S. 14-234.1

Neighbor Contractor

Can you tell your neighbor about a potential bidding opportunity with your unit?

SPECIAL RULES FOR GOVERNING BOARD MEMBERS



Special Rules for Board Members

1. Ethics Training

- Within 12 months
- Of election or appointment
- **And** re-election or re-appointment



2. Local Ethics Codes

3. Duty To Vote



Complying with Local Ethics Codes



No specific authority to sanction board members



What is Censure?

- Resolution expressing dissatisfaction with the board member's conduct
- Carries no legal sanctions



Duty to Vote

- City and County governing board members have a **statutory duty** to vote
- **City Rule** - If a member is present, has not been excused from voting, yet fails to vote, the member will be counted as voting **YES**
- **County Rule** – No statutory “default yes” but some have rule in local policy.



Legal Authority for Being Excused from Voting

Prohibited When:

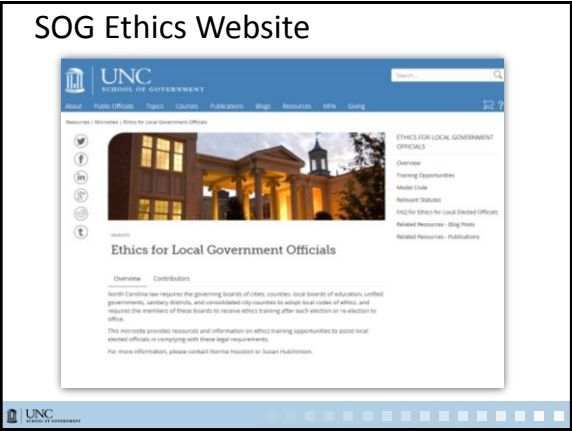
- Zoning map or text amendment in which member has a **financial interest**
- Quasi-judicial decisions in which member has a **fixed opinion, bias, financial interest, or close personal relationship**
- Public contracts from which member or spouse derives a **direct financial benefit**

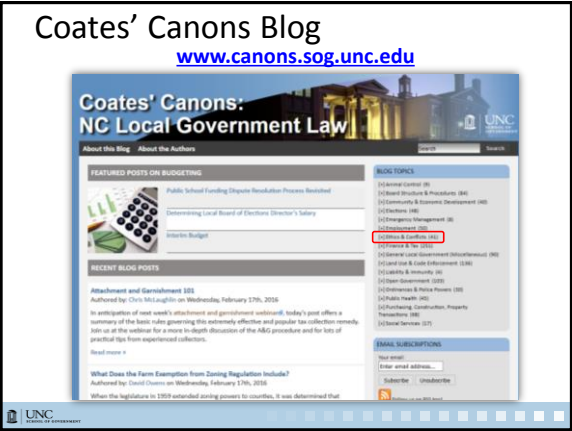
May Be Excused If:

- Matter before board involves member's **own financial interest**
- Matter before board involves member's **official conduct**









**Thanks for Being an
Ethical Public Servant!**



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