

---

---

---

---

---

---

---

---

### Instructions for Program Credit

- Elected Officials
  - Fill out the verification form; give it to your clerk
- Attorneys
  - Has been preapproved
  - Self-reporting required
- State Ethics Act
  - If you are covered by the state ethics act, this does not count toward that training requirement

UNC School of Government logo and navigation icons at the bottom.

---

---

---

---

---

---

---

---

### Ethics In Government



Whose **interests** do you serve?

UNC School of Government logo and navigation icons at the bottom.

---

---

---

---

---

---

---

---



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

UNC  
UNIVERSITY OF NORTH CAROLINA

---

---

---

---

---

---

---

---



Not **their own** personal or financial interest

UNC  
UNIVERSITY OF NORTH CAROLINA

---

---

---

---

---

---

---

---

### Key Concepts

1. Your conduct involves both **legal requirements** and **ethical considerations**
2. The law places **limits** on:
  - Voting
  - Contracting
  - Gifts & Favors
  - Use of Confidential Information
3. You have a **choice** about how to act; you should evaluate legal and ethical factors in deciding how to act



UNC  
UNIVERSITY OF NORTH CAROLINA

---

---

---

---

---

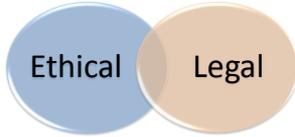
---

---

---

## Ethics vs. Law

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



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



---

---

---

---

---

---

---

---

---

---

## Deciding How to Act: Two Questions



---

---

---

---

---

---

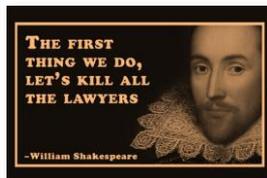
---

---

---

---

## CASE PROBLEMS



---

---

---

---

---

---

---

---

---

---



---

---

---

---

---

---

---

---

## Discussion Questions

### Macbeth's Conflict

Is Macbeth legally allowed to vote on the increase in funds for the SPCA when her spouse serves as the chair of the board of the SPCA, which runs the Animal Shelter for the county? Why or why not?



---

---

---

---

---

---

---

---

## Discussion Questions

### Macbeth's Conflict

May Macbeth recuse herself to avoid the appearance of impropriety?



---

---

---

---

---

---

---

---

## Discussion Questions

### Romeo's Conflict

Is Romeo legally allowed to vote on the increase in funds for the SPCA when his daughter works for the SPCA? Why or why not?



---

---

---

---

---

---

---

---

---

---

## Discussion Questions

### Romeo's Conflict

May Romeo recuse himself to avoid the appearance of impropriety? Why or why not?



---

---

---

---

---

---

---

---

---

---

## Discussion Questions

### Falstaff's Conflict

Why was Falstaff not permitted to vote on his sister's zoning variance?



---

---

---

---

---

---

---

---

---

---

## Duty to Vote

- County governing board members have a **statutory duty** to vote
- No authority to abstain or recuse yourself
- What if a member is present, has not been excused from voting, and yet fails to vote?
- Check your local policy



---

---

---

---

---

---

---

---

## Limited Authority to Abstain

- Effective 2015:
  - A board member who is present but does not vote **on the repeal or amendment of a zoning ordinance** is recorded as abstaining and is not counted as voting “yes.”
  - Still requires a majority of members not excused to pass; 2/3 on first reading.



---

---

---

---

---

---

---

---

## Legal Authority for Being Excused from Voting

### Prohibited When:

- Legislative zoning decisions in which you have a **financial interest**
- Quasi-judicial decisions in which you have a **fixed opinion, bias, financial interest, or close personal relationship**
- Public contracts from which you derive a **direct financial benefit**

### May Be Excused If:

- Matter before board involves your **own financial interest**
- Matter before board involves your **official conduct**

---

---

---

---

---

---

---

---

What about avoiding the appearance of impropriety?



---

---

---

---

---

---

---

---

What about avoiding the appearance of impropriety?

**Unless you have a legal basis for being excused, you must vote - even if it seems unethical to do so.**

---

---

---

---

---

---

---

---

**CASE PROBLEMS**



*I would challenge you to a battle of wits, but I see you are unarmed!*  
William Shakespeare

---

---

---

---

---

---

---

---



---

---

---

---

---

---

---

---

Discussion Questions



**Falstaff's Contract**

May the Board legally contract with Falstaff to repair the Senior Center roof? Why or why not? If so, did the Board comply with the statutory requirements for approving the contract?

UNC

---

---

---

---

---

---

---

---

Discussion Questions



**Falstaff's Contract**

If the board is legally permitted to contract with Falstaff, *should* it do so? What are the advantages and disadvantages of this arrangement?

UNC

---

---

---

---

---

---

---

---

## Discussion Questions

### Beatrice's Trip

Did Beatrice accept an illegal gift when the water plant company paid for the site visit trip to Las Vegas? Why or why not?



---

---

---

---

---

---

---

---

## Discussion Questions

### Beatrice's Trip

If the trip did not violate state law, *should* Beatrice have accepted the contractor's offer to pay the site visit trip expenses? Why or why not?



---

---

---

---

---

---

---

---

## Self-Benefiting in Public Contracting

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

Making or administering a contract



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

---

---

---

---

---

---

---

---

# Self-Benefiting in Public 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

---

---

---

---

---

---

---

---

# Self-Benefiting in Public Contracting

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



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

---

---

---

---

---

---

---

---

# Self-Benefiting in Public Contracting

- Not like other financial conflicts - cannot cure this conflict by being excused from voting
- Unless an exception applies, cannot enter into contract – period!
- If exception applies, conflicted official cannot participate or vote



---

---

---

---

---

---

---

---

## Self-Benefiting in Public Contracting

G.S. 14-234(b), (d1)

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**)

---

---

---

---

---

---

---

---

## "Small Jurisdiction" Exception

G.S. 14-234(d1)



---

---

---

---

---

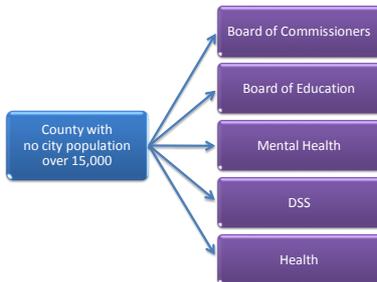
---

---

---

## "Small Jurisdiction" Exception

G.S. 14-234(d1)



---

---

---

---

---

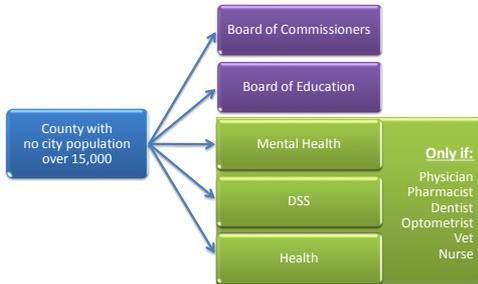
---

---

---

## “Small Jurisdiction” Exception

G.S. 14-234(d1)



---

---

---

---

---

---

---

---

## “Small Jurisdiction” Exception

G.S. 14-234(d1)

### Exception Requirements:

- **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
- 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)



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

No exceptions!

---

---

---

---

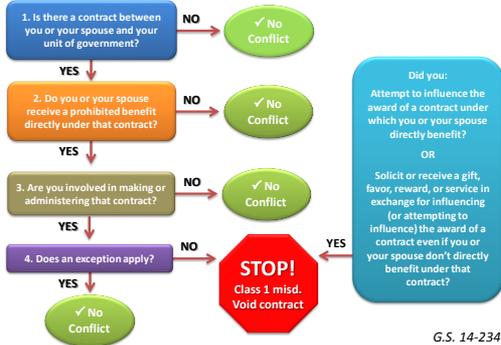
---

---

---

---

## Conflicts of Interest in Contracting




---

---

---

---

---

---

---

---

---

---

## 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**

---

---

---

---

---

---

---

---

---

---

# Gifts and Favors from Contractors

G.S. 133-32

**Exceptions:**

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



**Souvenirs / advertising items of nominal value**

---

---

---

---

---

---

---

---

---

---

# Gifts and Favors from Contractors

G.S. 133-32

## Exceptions:

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



Meals at banquets

---

---

---

---

---

---

---

---

# Gifts and Favors from Contractors

G.S. 133-32

## Exceptions:

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



Gifts to professional organizations

---

---

---

---

---

---

---

---

# 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)

---

---

---

---

---

---

---

---

# 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!

---

---

---

---

---

---

---

---

# Gift Ban Rule of Thumb

**When In Doubt, Do Without!**



---

---

---

---

---

---

---

---

# Gifts & Favors Decision Tree



G.S. 133-32

---

---

---

---

---

---

---

---

# Misuse of Confidential Information

G.S. 14-234.1



---

---

---

---

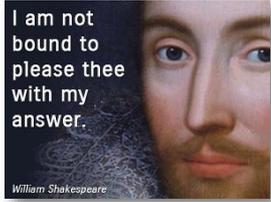
---

---

---

---

## CASE PROBLEMS



---

---

---

---

---

---

---

---

## MEYERSVILLE TOWN HALL



---

---

---

---

---

---

---

---



MEYERSVILLE TOWN HALL

## Discussion Question:

Many of the situations we've discussed involve situations that are not illegal, but may be perceived as being inappropriate. What advice do you have for the commissioners of Meyersville town council regarding the ethics (not the law) involved in these situations?

UNC  
University of North Carolina

---

---

---

---

---

---

---

---

## Ethics vs. Law

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



**Legislature:** defines conduct that is prohibited and establishes sanctions (criminal, civil, invalidation of action)

UNC  
University of North Carolina

---

---

---

---

---

---

---

---

## Ethics vs. Law

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



**Judges:** apply common law rules, established through case law. **Note: Legislature can override the common law.**

UNC  
University of North Carolina

---

---

---

---

---

---

---

---

## Ethics vs. Law

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



Citizens

---

---

---

---

---

---

---

---

---

---

## 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

---

---

---

---

---

---

---

---

---

---

## What Can Be Done About Unethical Behavior?

- Recall: No general authority (some units have charter provisions allowing it)
- Amotion: Common law power to remove board member - very high standard and due process required



Coates Canons Blog

<http://canons.sog.unc.edu/removing-an-elected-official-by-amotion-judge-says-it-can-be-done/>

---

---

---

---

---

---

---

---

---

---

## Local Codes of Ethics



Mandatory, but no authority for sanctions

Note: Boards can modify ethics codes adopted by previous boards

---

---

---

---

---

---

---

---

---

---



Compliance is voluntary, unless the actions violate a state law and that state law provides a remedy.

---

---

---

---

---

---

---

---

### What is Censure?

Resolution expressing dissatisfaction with the board member's conduct

*Has no legal effect*



---

---

---

---

---

---

---

---

### Recap: Deciding How to Act



---

---

---

---

---

---

---

---

# Questions and Resources



[www.sog.unc.edu/programs/ethics](http://www.sog.unc.edu/programs/ethics)

---

---

---

---

---

---

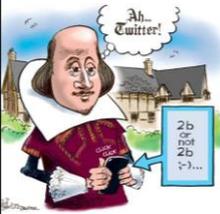
---

---

---

---

# Thank You!



Frayda Bluestein  
Phone: 919.966.4203  
E-mail: [bluestein@sog.unc.edu](mailto:bluestein@sog.unc.edu)

Norma Houston  
Phone: 919.843.8930  
E-mail: [nhouston@sog.unc.edu](mailto:nhouston@sog.unc.edu)

Please complete our [evaluation](#).

---

---

---

---

---

---

---

---

---

---

# One Last Thing . . .

## Don't Forget Your Verification Form!

To get credit for today's ethics training:

- Fill out both parts of the verification form
- Keep the top part for your records
- Give the bottom part to your board clerk



---

---

---

---

---

---

---

---

---

---