

CF OPERATING PROCEDURE
NO. 60-5, Chapter 5

STATE OF FLORIDA
DEPARTMENT OF
CHILDREN AND FAMILIES
TALLAHASSEE, March 22, 2018

Human Resources

CODE OF ETHICS FOR PUBLIC OFFICERS AND EMPLOYEES

5-1. Purpose. This operating procedure establishes a uniform process for department compliance with the provisions of the Code of Ethics for Public Officers and Employees. Each employee is required to understand the requirements of the Statutory Code of Ethics for Public Officers and Employees found in Chapter 112, Part III, Florida Statutes.

5-2. References.

- a. Chapter 112, Part III, Florida Statutes (F.S.), Code of Ethics for Public Officers and Employees.
- b. "Guide to the Sunshine Amendment and Code of Ethics for Public Officers and Employees," State of Florida Commission on Ethics. (A PDF copy of this "Guide" may be found by clicking on "Publications" at the Commission on Ethics website at www.Ethics.State.fl.us.)
- c. Article 1, section 24, Constitution of the State of Florida.
- d. Article II, section 8, Constitution of the State of Florida.
- e. Chapter 60L-36, Florida Administrative Code (F.A.C.).
- f. Executive Order 11-03 Office of the Governor, dated January 4, 2011. (This revised Code of Ethics applies to all employees within the Office of the Governor, as well as the secretaries, deputy secretaries, and chiefs of staff of all executive agencies under the Governor's purview.)

5-3. Explanation of Terms

- a. Advisory Body. Any board, commission, committee, council, or authority, however selected, whose total budget, appropriations, or authorized expenditures constitute less than one percent of the budget of the agency it serves or \$100,000, whichever is less, and whose powers, jurisdiction, and authority are solely advisory and do not include the final determination or adjudication of any personal or property rights, duties, or obligations, other than those relating to internal operations.
- b. Employee. Any person employed in an established position in the Senior Management Service, Selected Exempt Service, Career Service, or paid from Other Personal Services (OPS) funds.
- c. Entity. Any individual, partnership, association, corporation (for profit or not for profit), utility, or other organization, whether public or private, doing business with or subject to operating procedures of the department.
- d. Ethics Officer. An employee, designated by the secretary, who is responsible for promoting the Code of Ethics and ensuring that employees responsible for adhering to the Code of Ethics

This operating procedure supersedes CFOP 60-5, Chapter 5, dated February 8, 2016.

OPR: OSGC

DISTRIBUTION: A

become familiar with the department ethics policy as well as public records and open meetings requirements.

e. Financial Interest. Any arrangement whereby an employee acquires an ownership or equity interest or the right to acquire an ownership or equity interest, in an entity.

f. Gift. Any thing, benefit or privilege accepted by a person or on that person's behalf, whether directly or indirectly, for that person's benefit, and for which no payment is made.

(1) A "gift" can include real property or the use thereof; tangible or intangible personal property or the use thereof; a preferential rate or terms on a transaction not available to others similarly situated; forgiveness of a debt; transportation (unless provided by an agency in relation to officially approved governmental business), lodging, or parking; food or beverage; dues, fees and tickets; plants and flowers; personal services for which a fee is normally charged by the provider; and any other thing or service having an attributable value.

(2) A "gift" does not include:

(a) Salary, benefits, services, fees, commissions, or expenses associated primarily with the individual's employment;

(b) An honorarium or an expense related to an honorarium event paid to an employee or the employee's spouse;

(c) An award, plaque, certificate or similar personalized item given in recognition of the employee's public, civic, charitable or professional service;

(d) An honorary membership in a service or fraternal organization presented merely as a courtesy by such organization;

(e) The use of a public facility or public property, made available by a governmental agency, for a public purpose;

(f) Transportation provided to a public officer or employee by an agency in relation to officially approved governmental business; or,

(g) Items provided directly or indirectly by a state, regional or national organization which promotes the exchange of ideas between, or the professional development of, governmental officials or employees, and whose membership is primarily composed of elected or appointed public officials or staff, to members of that organization, or officials or staff of a governmental agency that is a member of that organization.

g. Honorarium. Payment of money or anything of value, directly or indirectly to an employee, or to any other person on behalf of the employee, as compensation for an oral presentation (includes recordings or broadcast over the media) or written document for publication (other than a book), which is related to the employee's public position.

h. Lobbyist. A person who is employed and receives payment, or who contracts for economic consideration, for the purpose of lobbying, or a person who is principally employed for governmental affairs by another person or governmental entity to lobby on behalf of that other person or governmental entity. The term does not include: 1) an attorney or other person representing a client in a judicial or administrative proceeding or formal hearing before an agency, board, commission or other authority of the state; 2) an employee of an agency or a legislative or judicial branch entity acting in the normal course of his or her duties; 3) a confidential informant who is providing or wishes to provide

confidential information to be used for law enforcement purposes; or 4) a person who lobbies to procure a contract pursuant to chapter 287 which contract is less than the threshold for CATEGORY ONE as provided in s. 287.017(1)(a). The Florida Legislature maintains a website of all principals and executive branch lobbyists, which should be consulted by employees (<http://www.leg.state.fl.us>).

i. Principal of a Lobbyist. The person, firm, corporation, or other entity which has employed or retained a lobbyist.

j. Prohibited Source.

(1) Any person, organization, or corporation having a special interest in department programs or policies.

(2) Any person, organization, or corporation that provides goods or services to the agency under a contract or agreement, or is seeking such business with the agency.

(3) Any person, organization, or corporation, which conducts activities or operations that are regulated by the agency.

(4) Any lobbyist or principal of a lobbyist (see Governor's Code of Ethics, Section VII, D for additional guidelines on gifts from lobbyists).

k. Public Officer. Any person elected or appointed to hold office in any agency, or any person serving on an advisory body.

l. Relative. An individual who is related to an employee as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, legal spouse, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, grandparent, great grandparent, grandchild, great grandchild, step grandparent, step great grandparent, step grandchild, step great grandchild, person who is engaged to be married to the employee or who otherwise holds himself or herself out as or is generally known as the person whom the employee intends to marry or with whom the employee intends to form a household, or any other natural person having the same legal residence as the employee. (Same as definition in Chapter 112, Part III, Florida Statutes.)

m. Reporting Individual. A specified state employee as defined in paragraph 5-3o of this operating procedure.

n. Special Interest. Any person, organization or corporation that attempts to influence the outcome of a specific department policy, contract, or program, either for its benefit or for the benefit of those it represents, is considered to have a special interest.

o. Specified State Employee. The following categories of specified state employees are provided by the Commission on Ethics:

(1) Legal counsel, assistant counsel, or hearing examiner;

(2) Each appointed secretary, assistant secretary, deputy secretary, executive director, assistant executive director, or deputy executive director of each state department, commission, board, council, and unless otherwise provided, the division director, assistant division director, deputy director, bureau chief and assistant bureau chief of any state department or division, or any person having the power normally conferred upon such persons by whatever title;

(3) The superintendent or administrator of a state mental health institute established for training and research in the mental health field; or the superintendent or director of any major state institution or facility established for corrections, training, treatment, or rehabilitation; and,

(4) Business managers, purchasing agents having the power to make any purchase exceeding the threshold amount provided for in section 287.017, F.S. for Category One, finance and accounting directors, human resources officers, and grants coordinators for any state agency.

5-4. Principles.

a. As stewards of the public trust, department employees shall use the powers and resources of the department to further the public interest and not for any financial or personal benefit or privilege.

b. The compensation, employee benefits and reimbursement received from the State of Florida shall be the sole financial or material benefit derived from employment in the department.

c. Department employees shall safeguard their ability to make objective, fair and impartial decisions by not accepting any gift, benefit or privilege that might appear to influence or reward a specific or future decision. Employees should avoid any conduct (whether in the context of business, financial or social relationships) that might undermine the public trust, whether that conduct is unethical or lends itself to the appearance of ethical impropriety.

d. Foremost concern among the goals of the code is to promote the public interest and maintain the respect and trust of the people in their government.

e. The ethics laws generally consist of two types of provisions: those prohibiting certain actions or conduct; and those requiring that certain disclosures be made to the public.

5-5. Prohibited Actions or Conduct.

a. Employees shall not accept a gift valued at over \$25.00, or from prohibited sources.

b. Employees as defined in paragraphs 5-3m and 5-3o of this operating procedure may not accept any gift from a non-lobbyist, regardless of value.

c. No employee may accept a gift unless the employee can answer “no” to each of the following questions:

(1) Is this gift given or accepted with the intent to influence the employee’s official action or judgment?

(2) Does the employee know, or with the exercise of reasonable care should know, that the intent of the gift is to influence official action?

(3) Is the value of this gift more than \$25? (Employees defined in paragraphs 5-3m and 5-3o may not accept any gift from a non-lobbyist, regardless of value.)

(4) Has the employee accepted multiple, repeated gifts (even if nominal in value) from the same source, such that the gifts taken in the aggregate lend themselves to the appearance that they circumvent the prohibition against gifts?

d. The following are exceptions to the prohibitions on the acceptance of gifts provided in paragraphs 5a and 5b above:

(1) Gifts from relatives (gifts, regardless of value, can be accepted from relatives, as defined by Chapter 112, Florida Statutes), unless the relative is a lobbyist or the principal of a lobbyist, in which case the general prohibition on gifts from lobbyists applies. Employees who are married to or involved in a personal relationship with a lobbyist or the principal of a lobbyist should consult with the Department's Ethics Officer on how to address this situation.

(2) Gifts (including but not limited to birthday and/or anniversary gifts and gifts of hospitality) received from personal friends in the ordinary course of friendship, regardless of value, provided any such personal friend is not:

(a) A lobbyist; or,

(b) The partner, firm, member, employer, employee, or principal of a lobbyist; or,

(c) A person having a special pecuniary interest (either individually or through a corporation or organization) in a matter pending before a State agency and/or the Office of the Governor/Lieutenant Governor; or,

(d) A person who (either individually or through a corporation) provides goods or services to the State under contract or agreement; or,

(e) A person who (either individually or through a corporation or organization) is seeking such business with the State.

(3) On site consumption of food and refreshment at receptions and/or other events (even if value is over \$25.00), provided the employee's attendance at such event is an appropriate exercise of the employee's official duties, and the funding of such food and refreshment is not provided, directly or indirectly, by a lobbyist or principal of a lobbyist.

(4) Gifts (regardless of value) accepted on behalf of a governmental entity or charitable organization, or for which a public purpose can be shown, provided the Ethics Officer has approved such acceptance.

(5) Employees who are or were individuals served by the Department and who participate in support organizations recognized by the Department, where such support organizations' only function is to provide assistance and services to individuals previously in the foster care system, may receive items that will enhance their ability to perform their work functions. Such items may include, but are not limited to, professional attire (including gift certificates/cards to purchase attire), portfolios, planners, and luggage. Employees who are or were individuals served by the Department and who participate in support organizations recognized by the Department may also consume food or beverages provided by support organizations at events held or sponsored by the support organizations.

NOTE: These five limited exceptions permitting the acceptance of certain gifts valued at over \$25.00 do not, and are not intended to, permit the acceptance of any gift that is otherwise prohibited by Chapter 112, Florida Statutes.

e. Employees shall not solicit or accept anything of value, such as a gift, loan, reward, promise of future employment, favor, or service, that is based on an understanding that their official action or judgment would be influenced by such gift.

f. No employee, their spouse or minor child(ren) may accept any compensation, payment, or thing of value when they know, or with the exercise of reasonable care should know, that it is given to influence the employee's official action (s. 112.313(4), F.S.).

g. Employees are prohibited from using or attempting to use their official positions to obtain a special privilege for themselves or others (s. 112.313(6), F.S.).

h. Employees are prohibited from disclosing or using information not available to the public and obtained by reason of their public positions for the personal benefit of themselves or others (s. 112.313(3), F.S.).

i. Employees are prohibited from soliciting an honorarium which is related to their public office or duties.

j. No employee of the department acting in his or her official capacity as purchasing agent, or public officer acting in his or her official capacity, shall either directly or indirectly purchase, rent or lease any realty, goods, or services for the department from any business entity in which the officer or employee or the officer's or employee's spouse, child, or other relative is an officer, partner, director, or proprietor or in which such officer or employee or the officer's or employee's spouse, child, or other relative, or any combination of them, has a material interest. Nor shall a public officer or employee, acting in a private capacity, rent, lease or sell any realty, goods, or services to the department, or to any political subdivision of any state agency.

k. An employee who participates in the decision-making process involving a purchase request, who influences the content of any specification or procurement standard, or who renders advice, investigation, or auditing, regarding the department's contract for services, is prohibited from being employed by a person holding such a contract with the department.

l. No employee may seek any appointment, employment, promotion or advancement in the unit in which he or she is serving or over which he or she exercises jurisdiction or control for a relative.

m. No Senior Management Service or Selected Exempt Service employee may personally represent another person or entity for compensation before the department for a period of two years after leaving his or her position, unless employed by another agency of state government, without the written permission of the Secretary. Such permission should only be granted after review by the Commission on Ethics.

n. A former employee who retired or terminated employment is prohibited from having any employment or contractual relationship for two years with any business entity (other than a public agency) in connection with a contract in which the employee participated personally and substantially by recommendation or decision while serving as a state employee.

o. Solicitation and acceptance of contributions for clients from prohibited sources must be done by volunteer coordinators or other staff who do not have any authority to make decisions that would benefit the donor. There must be a clear audit trail.

p. Employees offered gifts from prohibited sources should decline the offers. If that would publicly embarrass the giver, the gift should be returned or the giver reimbursed for the cost as soon as possible.

q. Any gift that could not be received directly may not be received indirectly. Thus, a prohibited gift cannot be accepted by the spouse of the employee for his/her benefit.

r. No employee shall have any outside employment or hold any contractual relationship with any business entity or any agency which is subject to regulation by, or is doing business with the Department of Children and Families. (See also CFOP 60-5, Chapter 11, paragraph 11-5.)

s. Questions regarding the applicability of this operating procedure to specific situations should be sent by the appropriate regional managing director, deputy secretary or assistant secretary to the department's designated Ethics Officer.

t. Employees may sometimes be required to travel on State business, requiring them to spend evenings and weekends away from their homes and families. Per diem reimbursements often do not fully reimburse the employee for out-of-pocket travel expenses. As a matter of general policy, any frequent-flyer miles and/or bonus miles awarded to an employee as a result of State-reimbursed travel may be used for personal use by the employee.

u. Employees as defined in paragraphs 5-3m and 5-3o of this operating procedure are prohibited from traveling in a private aircraft unless they have obtained prior authorization from the Secretary of the Department, the Secretary's Chief of Staff, the Chief Ethics Officer for the Department, or his or her delegee.

5-6. Conflicts of Interest; Non-Acceptance of Honoraria.

a. No employee shall participate in an official capacity in any matter that may have an effect on his or her special private gain or loss, or the special private gain or loss of any relative or business associate.

b. Employees who are required by law to file full or limited public disclosure of financial interest or who meet the definition of procurement employee shall not accept honoraria or any other thing of monetary value (unless of nominal value) for speaking appearances or for written articles which are the result of the employee's public office or duties. These employees may, however, accept reimbursement of reasonably incurred expenses, if approved in advance by the department's Ethics Officer.

5-7. Disclosure Requirements.

a. Conflicts of interest may occur when employees are in a position to make decisions which affect their personal financial interest. This is why public officers and employees must publicly disclose their financial interests. The disclosure process reminds officials of their obligation to put the public interest above personal considerations. It also helps citizens monitor the considerations of those who spend their tax dollars and participate in public policy decisions or administration. Required forms and filing information is as follows:

(1) CE FORM 1 – Statement of Financial Interests. Required of state officers and specified state employees as defined in s. 112.3145(1), F.S. (other than those officers who are required by law to file CE Form 6); and candidates for local office (unless they file CE Form 6 because they are seeking an elective constitutional office). State officers and specified state employees must file by July 1 of each year with the Commission on Ethics, P.O. Drawer 15709, Tallahassee, Florida 32317-5709.

(2) CE FORM 9 – Quarterly Gift Disclosure (Gifts over \$100). Any employee required by law to file full and public disclosure of financial interests on CE Form 1, and who receives a reportable gift, regardless of whether his or her position was vacated before the form was due; and any procurement employee who receives a reportable gift, regardless of whether his or her position was vacated before the form is due is required to file a Form 9. Filing dates are March 31, June 30, September 30, December 31; no later than the last day of the calendar quarter following the calendar

quarter in which the gift worth over \$100 is received. This includes any employee who is involved in the procurement of contractual services or commodities as defined in s. 287.012, F.S., if the cost exceeds \$1,000 in any year, as well as any employee who participated in decisions, approval, disapproval, recommendations, preparation of any part of a purchase request, influence in the content of any specification or procurement standard, rendering of advice, investigation, or auditing or in any other advisory capacity. The form is filed with the Commission on Ethics, P.O. Drawer 15709, Tallahassee, Florida 32317-5709.

(3) CE FORM 10 – Annual Disclosure of Gifts From Governmental Entities and Direct Support Organizations and Honorarium Event Related Expenses. All employees who must file CE Form 1, including procurement officers, and who receive a reportable gift from a governmental entity for a public purpose, a direct support organization, or an honorarium for expenses must also file CE Form 10. Honorarium related expenses mean the actual and reasonable transportation, lodging, and food and beverage expenses related to an event at which a speech, presentation, or writing is made by the person and provided for or paid to the person and his or her spouse. File with the Commission on Ethics, P.O. Drawer 15709, Tallahassee, Florida 32317-5709, by July 1 if a reportable gift or expenses were received during the prior year.

(4) CE FORM 2 – Quarterly Client Disclosure. Employees who are state officers and specified state employees as listed above, as well as elected constitutional officers, must file if they or a partner or associate of their professional firm represent a client for compensation before an agency at their level of government. CE Form 2 is filed April 15, July 15, October 15, January 15, for the preceding quarter if there is something to report, with the Commission on Ethics, P.O. Drawer 15709, Tallahassee, Florida 32317-5709.

(5) CE FORM 3A – Interest in Competitive Bid for Public Business. Employees who are public officers and employees who have, or whose spouses or children have, certain prohibited business relationships under s. 112.313(3) and 112.313(7)(a), F.S., but submit a sealed bid to the department under a system of sealed, competitive bidding, and the official or his spouse or child has exerted no influence on bid negotiations, award, or specifications, shall file CE Form 3A prior to or at the time of the submission of the bid with the Department of State, Room 1801, The Capitol, Tallahassee, Florida 32399-0250.

(6) CE FORM 4A – Disclosure of Business Transaction, Relationship, or Interest, PART A – Disclosure of Transaction or Relationship Concerning Advisory Board Member. An advisory board member seeking a waiver from the appointing body or person of his prohibited business relationship under s. 112.313(3) and/or s. 112.313(7)(a), F.S. must file Form CE 4A with the appointing body or person that will be waiving the restrictions of 112.313(3) or (7), Florida Statutes, prior to the event requiring the waiver.

NOTE: To receive copies of one or more of these forms or for more information, contact the Commission on Ethics at (850) 488-7864.

b. All specified employees, public officers and members of certain advisory bodies must file Form 1 financial statements within 30 days of appointment, as well as meeting annual requirements.

c. Employees in Senior Management Service and Selected Exempt Service must file Form 10, Annual Disclosure of Gifts from Governmental Entities and Direct Support Organizations and Honorarium Event Related Expenses, within 30 days of appointment, as well as meeting annual requirements.

d. Members of advisory bodies are not required to file solely as a result of such membership unless the budgetary thresholds outlined in paragraph 5-3a are exceeded.

e. The Classification and Compensation Center of Excellence (COE) in Human Resources is responsible for updating the report of positions in their service area that must file disclosure which is produced and sent each year by the Commission on Ethics.

f. The Classification and Compensation COE in Human Resources is responsible for notifying employees appointed to specified positions of the requirement to file financial and gift disclosure.

g. Each employee is responsible for completing and submitting the appropriate disclosure forms to the Commission on Ethics.

h. Each public officer and employee has a duty to know and comply with all applicable disclosure requirements. Questions about financial disclosure may be addressed to the Commission on Ethics, Post Office Drawer 15709, Tallahassee, Florida 32317-5709, or by calling (904) 488-7864.

i. The region and headquarters legal counsels will provide assistance to employees regarding interpretation of the law upon request.

BY DIRECTION OF THE SECRETARY:

(Signed original copy on file)

JOHN JACKSON
Acting General Counsel

SUMMARY OF REVISED, ADDED, OR DELETED MATERIAL

This revision updates Department policy, including, but not limited to, the following:

1. Adds reference to Chapter 60L-36, Florida Administrative Code.
2. Updates explanation of the term "relative" ("husband, wife") to "legal spouse."
3. Updates references to Human Resources Service Center (HRSC) and other terms.