

Vermont Adopts a Statutory Code of Ethics: Something Old and Something New

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On May 4, Vermont enacted its first statutory Code of Ethics. The Code will take effect July 1, 2022, and applies to all public servants [1] in Vermont. The Code identifies baseline ethics rules regarding gifts to public servants, post-government employment restrictions, and conflicts of interest.

Gifts

The Code sets baseline requirements for gifts, including gift valuation limits. Generally, a public servant shall not accept or solicit a gift unless permitted by the Code. A “gift” means anything of value, tangible or intangible, that is given for less than adequate consideration.

A few examples of permissible gifts:

- *De minimis* gifts under \$50 per source, per occasion;
- Free attendance to charitable or political events if provided by the event’s primary sponsor, including cost of admission, transportation, entertainment, food, and refreshments;
- Ceremonial awards, such as plaques and certifications, under \$100.

Post-Government Employment Ethics

The Code adds a restriction regarding post-government employment of Legislative branch employees. A former Legislative branch employee may not, for compensation, appear before the General Assembly, its subparts, or the office in which the employee served, to advocate for anyone other than the State concerning any matter in

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which the State has a direct and substantial interest.

The Code also incorporates preexisting limits on post-government employment for executive officers and legislators (2 V.S.A. § 266 and §267), including that neither may be a lobbyist in Vermont for one year after leaving office.

Conflicts of Interest

The Code instructs public servants to avoid any conflict of interest, or the appearance of a conflict, determined from the perspective of a reasonable individual with knowledge of the relevant facts. Unless an exception applies, when confronted with a conflict of interest a public servant must recuse themselves from the matter and cannot take further action.

Key Takeaways

The Code is the brainchild of the State Ethics Commission, formed in 2017 and instructed to set forth general principles of governmental ethical conduct. Notably, the Code does not prohibit branches of the State government from adopting additional policies regarding ethical conduct that exceed the requirements stated in the Code. Keep in mind that this leaves other agency-specific ethics rules, such as those for the Legislative and Executive branches, intact.

[1] "Public servants" means "all individuals elected or appointed to serve as officers of the State, all individuals elected or appointed to serve as members of the General Assembly, all State employees, all individuals appointed to serve on State boards and commissions, and individuals who in any other way are authorized to act or speak on behalf of the State."