

**ETHICAL BEHAVIOR IN THE
WORKPLACE**

MANAGEMENT IN STATE GOVERNMENT

Participant's Manual

Comprehensive Public Training Program (CPTP)

State of Louisiana

ETHICAL BEHAVIOR IN THE WORKPLACE

Management in State Government

Comprehensive Public Training Program (CPTP)

*Sponsored by the Governor's Office, & the Department of
State Civil Service*

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ETHICAL BEHAVIOR IN THE WORKPLACE

COURSE DESCRIPTION

This 1-day course will help participants learn how to evaluate work situations to identify potential ethical problems and conflicts of interest. Participants will learn how to comply with rules and/or laws governing potential areas of conflict, promote awareness of ethical behavior in work groups, and anticipate the implications of words and actions within work group goals.

JOB OUTCOMES

- Models and encourages high standards of honesty and integrity.
- Promotes ethical practices in all organizational activities.
- Applies department/office policies in a consistent manner.
- Demonstrates consistency between words and actions.
- Exercises power, authority, and influence appropriately to achieve department/office goals.

LEARNING OBJECTIVES

- Evaluate work situations, identify potential ethical problems and conflicts of interest, and recommend appropriate behavior.
- Develop a plan to comply with rules governing the most prevalent potential areas of conflict, including acceptance of gratuities, maintaining impartiality and the disclosure of information.
- Develop a plan to promote awareness of ethical behavior in the work group.

INTRODUCTION TO ETHICAL BEHAVIOR IN THE WORKPLACE

There is a growing need to examine the issues of ethics within any organization, including those within state government. Awareness of the positive relationship between ethics and positive leadership for the state of Louisiana is increasing. Thus, a solid ethical foundation is one of the important components of long term success in state government.

Ethical issues arise within various elements of society throughout our nation. There are issues within virtually every aspect of our lives.

Consider the following areas where ethical issues arise:

- Global- issues affecting the entire world
- National- issues affecting the entire country
- Statewide- issues affecting the state of Louisiana
- Employment- issues within the workplace
- Personal- issues within one’s personal life

Small Group Activity

What: Ethical Issues

How: In your small group, identify two (2) or more issues that would be considered ethical issues in each of the areas above.

Be prepared to share your list with the class.

Notes:

ETHICS DEFINED

There are numerous definitions developed for the term 'ethics.' Given that this course focuses on behavior in state government, the following definition can be used to understand the term.

Ethics: *the discipline of dealing with what is good and bad, and with moral duty and obligation;*

the principles of conduct governing an individual or a group. (Ethical Leadership p. xii)

Having a clear definition of ethics and an understanding of how ethics impacts an agency is the first step in making ethical decisions.

Ethical behavior is crucial within organizations, especially during times of fundamental change. Focusing on ethical principles may assist agencies to move forward quickly, and may also help individuals to remain committed to achieving long-term goals for their customers and stakeholders.

PRINCIPLES OF CONDUCT GOVERNING THE WORKPLACE

Ethical standards have changed within our world and within state government over the past decade. Many agencies have an opportunity to take a proactive stance to make sure that they are abiding by the established ethical standards, and to benefit from ethical leadership.

Ethical principles are not set forth to make state government more bureaucratic; rather, they are established to make substantial improvements in the way our state government serves the citizens of the state of Louisiana. Below are five principles that highlight the importance of ethical behavior in public service.

Principles of Ethics in Public Service

1. Public service in Louisiana is a trust; it should not be used for personal gain.
2. Make decisions on the merits, without partiality or prejudice.
3. Service should be conducted openly, equitably, and honorably.
4. Respect democratic principles, observing the letter and spirit of laws.
5. Avoid appearances of impropriety in order to promote integrity in government.

Individual and Small Group Activity

What: To Hire or Not to Hire

How: Read the case study below and discuss possible solutions within your small group. Be prepared to discuss with the class.

Stephen has applied for a transfer to Department Q, headed by Jane. As part of Jane's fact finding, she reads through Stephen's written evaluation, which is exceptional, and then asks Stephen's boss for information on his performance. Stephen's boss starts complaining about Stephen because his last project was not up to par; however, Stephen's boss fails to mention that Stephen's wife has been seriously ill for two months. Jane then decides not to accept Stephen's transfer.

1. Describe the ethical dilemma that this scenario highlights.
2. What, if any, ethical rules were violated? Explain.
3. What principles of public service apply to this case? Why?

TOOLS FOR ETHICAL BEHAVIOR IN LA STATE GOVERNMENT

An important component of ethical decision-making in the workplace involves using various tools that provide ethical guidance and direction. Working in state government provides a unique challenge to individuals to maintain an ethical work environment. Guidance on how to handle the day-to-day situations within state government is crucial. The following tools provide a means for the state of Louisiana to institutionalize ethics and appropriate conduct within state government.

Items 1 through 4 listed above vary among the different state agencies. To learn more about these tools, contact your Human Resources department. This course focuses in detail on the Louisiana Code of Ethics and the Louisiana Department of State Civil Service rules (items 5 and 6).

Tools Defined

1. **Codes of Conduct:** Formalized codes typically provide examples of appropriate behavior within the workplace. Examples of topics generally covered by codes of conduct include: dress code, prohibition of drugs and alcohol in the workplace, confidentiality, discrimination.
2. **Policies and Procedures:** Agencies can manage values through the use of policies and procedures. For example, agencies that place a high value on customer service might implement policies to return phone calls or emails within a certain period of time. Also, establishing job descriptions that encourage behavior that is aligned with established values is another way to use policies and procedures to infuse the values of an agency.
3. **Training Programs:** Training programs are a great way to raise awareness about the all the ethical guidelines including all the agency's policies and procedures. Utilizing orientation as an introduction to an agency's ethical values can also be a useful tool.
4. **Ethics Committees:** Some agencies appoint committees to consider ethical issues. Typically, these committees are comprised of managers and supervisors at various levels within the agency.
5. **Louisiana Code of Ethics:** Typically, this Code is referred to as a body of law that addresses conflicts of interest. The Code functions to ensure public confidence, independence and impartiality, and ethical behavior within the governmental arena of the state of Louisiana.
6. **State Civil Service Rules:** The Department of State Civil Service provides guidelines for classified employees and Civil Service Commission members in regards to prohibited political activity and other ethical concerns.

LOUISIANA CODE OF ETHICAL BEHAVIOR

The Louisiana Code of Ethics is the oldest code in the United States. It is generally considered one of the most comprehensive ethics codes in the nation. Additionally, Common Cause, a non-profit organization, has adopted the Louisiana Code of Ethics as a model code for other state agencies throughout the United States.

The Louisiana Code of Ethics provides a solid framework for ethical behavior within state government in Louisiana.

OVERVIEW- LOUISIANA CODE OF ETHICAL BEHAVIOR

The Louisiana Code has four major goals for the state of Louisiana:

1. To ensure the public confidence in the integrity of government
2. To ensure the independence and impartiality of elected officials and public employees
3. To ensure that governmental decisions and policy are made through proper channels of the government structure
4. To ensure that public office and employment are not used for private gain

Individual Activity

What: Louisiana Code of Ethics Awareness Survey

How: Complete the survey on the following page to assess your knowledge of the Louisiana Code of Ethics.

Louisiana Code of Ethics Self- Assessment Survey

Read the following questions and chose the correct answer (T/F).

	<u>True or False</u>
1. The Louisiana Code of Ethics applies only to statewide elected politicians.	_____
2. The Louisiana Board of Ethics issues advisory opinions interpreting the Code to individuals who request opinions.	_____
3. The Louisiana Board of Ethics is composed of statewide elected officials.	_____
4. The Louisiana Board of Ethics enforces the Campaign Finance Disclosure Act in addition to the Louisiana Code of Ethics.	_____
5. Only public investigations are conducted by the Louisiana Board of Ethics.	_____
6. The Louisiana Code of Ethics permits state employees to receive any kinds of gifts from people who are trying to do business with the agency where he/she works.	_____
7. The Louisiana Code of Ethics encourages former employees to provide contractual services to their former agency immediately after they leave employment.	_____
8. The Louisiana Code of Ethics discourages public employees from reporting ethics violations.	_____
9. The Louisiana Code of Ethics always allows immediate family members of the head of state agencies to work for his/her agency.	_____
10. What specific questions do you have about the Louisiana Code of Ethics?	

LOUISIANA BOARD OF ETHICS ENFORCEMENT

The Board of Ethics administers and enforces the laws set forth in the Louisiana Code of Ethics. The Board of Ethics, which is comprised of 11 members, plays several roles within Louisiana state government.

The following is a list of the duties of the Board:

1. To administer the Code of Ethics to all state and local public employees, appointed members of boards and commissions, and elected officials other than judges.
2. To administer and enforce the Campaign Finance Disclosure Act, the Lobbyist Disclosure Act, the Elections Integrity Act and certain conflict of interest standards found in the Gaming Control Act.
3. Issue advisory opinions interpreting the Louisiana Code of Ethics.
4. Conduct private investigations of alleged violations of the Louisiana Code of Ethics.
 - After the investigation has been completed, the board shall determine whether a public hearing should be conducted to receive evidence and to determine whether any violation of any provision of law within its jurisdiction has occurred. If a violation has not occurred, the defendant and the complainant shall be notified within ten days of the ruling.
 - If the board determines following an investigation that a public hearing should be conducted, the board shall issue charges. A public hearing shall be conducted to receive evidence relative to the facts alleged in the charges and to determine whether any violation of any provision of law within the jurisdiction of the board has occurred. The public hearing on such charges shall be conducted by the Ethics Adjudicatory Board (not Ethics Board members).
 - The board shall consider offering a consent opinion to each person who is the subject of an investigation.
 - At the hearing, an ethics adjudicatory panel shall determine whether a violation of any provision of law within the jurisdiction of the Board of Ethics has occurred. If the ethics adjudicatory panel determines that a violation has occurred, it shall determine what authorized penalties or other sanctions, if any, should be imposed.
5. Establish a computerized data management system.
6. Conduct educational activities, seminars and publish appropriate materials to provide instruction on the Louisiana Code of Ethics.

Procedure for Requesting Advisory Opinion:

The Board of Ethics renders written advisory opinions with respect to situations covered by any law which it administers. Requests for advisory opinions must be in writing, signed and submitted by a person or governmental agency with a demonstrable and objective interest in the opinion requested. The Board does not render advisory opinions with respect to past conduct, but can provide crucial advice on how to avoid problems in the future.

Procedure for Filing Complaints:

Complaints filed with the Board must be in writing and signed by the person submitting the complaint. The complaint should also contain sufficient information for the Board to determine whether a potential violation of any law within the Board's jurisdiction is presented. Complaints are confidential and it takes a vote of at least eight members of the Board to refer a complaint to investigation. Persons filing non-sworn complaints only receive notification of the final disposition of the complaint. Alternatively, a complaint may be sworn before a notary. Such a sworn complaint may be referred to investigation by a majority of the Board. A copy of a sworn complaint must be mailed to the person it is against. Otherwise, sworn complaints are treated confidentially. Persons filing sworn complaints must be notified of any action taken on the complaint. It is a misdemeanor to reveal any information about an Ethics Board investigation.

Small Group Activity

What: Significance of Louisiana's Ethics Code

How: Why is the Louisiana Code of Ethics important to the state of Louisiana? To state agencies? To state employees? Use the space below to write answers.

State of Louisiana:

State Agencies:

State Employees:

Enforcement and Penalties

Agency heads have a responsibility to report possible Code violations to the Board.

Penalties

1. The Board has the authority to censure an elected official or other person within its jurisdiction and to impose a fine of not more than \$10,000 per violation; it does not have the authority to remove an elected official from office.
2. The Board has the authority to remove, suspend, reduce the pay or demote a public employee or other person and to impose a fine of not more than \$10,000 per violation.
3. The Board has the authority to impose restrictions on a former public servant to prevent appearances before his former agency and to prohibit the negotiation for or entering into business relationships with his former agency.
4. The Board has the authority to rescind contracts, permits and licenses, without contractual liability to the public, whenever the Board finds that a violation has influenced the making of such contract, permit or license, and that such rescission is in the best interest of the public.
5. The Board may order the payment of penalties if an investigation reveals that any public servant or other person has violated the Code to his economic advantage and penalties can include the amount of such economic advantage plus one half.
6. The Board is authorized to order the forfeiture of any gifts or payments made in violation of the Code.

LOUISIANA CODE OF ETHICS PROVISIONS

The following is a synopsis of some of the key provisions of the Louisiana Code of Ethics. For the official text of the provisions mentioned below, refer to the Louisiana Code of Ethics at LSA R.S. 42:1101 et seq. This is only a summary.

For your convenience, a listing of key definitions can be found in Appendix A.

General Provisions

1. General Provisions of §1111A

- a. No public servant shall receive anything of economic value, other than the compensation and benefits to which he is entitled from his governmental employer, for the performance of the duties and responsibilities of his office or position.
- b. No public servant or other person shall give, pay, loan, transfer, or deliver or offer to give, pay, loan, transfer, or deliver, directly or indirectly, to any public servant or other person anything of economic value which such public servant or other person would be prohibited from receiving by any provision of the Ethics Code.

Thus, persons who **give** prohibited gifts to public servants violate §1117 of the Code and are subject to the enforcement proceedings and penalties for their violation.

Individual and Small Group Activity

What: General Provisions of §1111A

How: Read the scenario below, answer the questions, and be prepared to discuss.

You are the manager for the Office of Telecommunications. You have been chosen to select a new phone system for state agencies. A communications company bidding on the equipment offers you an all-expense-paid trip to Orlando, Florida, to view a demonstration of their equipment. May you accept the offer?

Notes:

With regards to the exceptions for thing of economic value:

Reasonable transportation and entertainment which are incidental to the food and drink are allowed. This exception does not allow a public servant to accept travel expenses to any location merely because meals are provided during the travel.

Tickets to a civic, non-profit, educational or political event are allowed, but only where the public servant is a program honoree, a panel member, or giving a speech at the event. (Tickets to collegiate, semi-professional, and professional sporting events do not fall within this exception)

§1123(41) of the Code provides an exception for the payment of travel expenses directly to the public servant in **certain instances**. §1123(41) allows a public servant to accept complimentary admission, lodging and transportation to and from an **educational or professional development seminar or conference**. In order for this exception to apply, certain criteria must be met.

Nepotism

The term 'nepotism' generally refers to preferential treatment of any sort given to relatives. (Refer to LS- R.S. 42:1119) There are two key provisions relating to nepotism.

1. No member of the immediate family of an agency head may be employed in his/her agency.
2. No member of the immediate family of a member of a governing authority or the chief executive of a government entity may be employed by the governmental entity.

Exceptions to the nepotism provisions which are relevant to state employment:

1. A hospital service district or hospital public trust authority with a population of one hundred thousand persons or less may employ a licensed physician or registered nurse as a health care provider, who is a member of the immediate family of any board or authority member or of the chief executive of the district or authority, provided that such family member is the only qualified applicant who has applied for the position after it has been advertised for at least thirty days in the official journal of the parish and in all newspapers of general circulation in the parish where the hospital is located. The board or authority member must recuse himself from any decision involving the promotion, discipline, discharge, or assignment of any such employee who is a member of his immediate family.
2. A public employee may continue his employment even if a member is his/her immediate family becomes the 'agency head' of his/her agency, provided that the public employee has been employed in the agency for a period of at least one year prior to the immediate family member becoming the agency head. This will not alter, or in any way affect normal promotional advancements for such public employee.
3. If a person was serving in public employment before April 1, 1980, then he/she is not subject to the nepotism restrictions.

Who may be held liable for a violation of §1119?:

In addition to the agency head and the agency head's immediate family member(s) hired in violation of §1119, the following persons may also be held liable for a willful violation of the nepotism restrictions:

1. Member of the governing authority
2. Public employee having the authority to hire and fire the employee
3. Immediate supervisor of the employee

Prohibited Transactions

Public servants and their immediate family members OR legal entities in which they have a controlling interest are prohibited from entering into certain transactions. (Refer to LS- R.S. 42:1113) There are two key provisions regarding prohibited transactions:

1. No elected official* or public employee, or member of such public servant's immediate family or legal entity in which he/she has a controlling interest, shall bid on or enter into any contract, subcontract, or other transaction that is under the supervision or jurisdiction of the public servant's agency.

**members of a governing authority of a parish with a population of 10,000 or less are not subject to this provision.*

2. No appointed member of any board or commission, member of his immediate family, or legal entity in which he has a substantial economic interest, shall bid on or enter into or be in any way interested in any contract, subcontract, or other transaction which is under the supervision or jurisdiction of the agency of the appointed member.

These restrictions regarding contracts and transactions include bidding on a contract as well as entering into a contract. Also, donated services or goods by a public servant, his immediate family members, or a legal entity in which he/she has a controlling interest are no longer prohibited.

Individual and Small Group Activity

What: Prohibited Transactions

How: Read the scenario below, answer the question, and be prepared to discuss.

An employee of the Department of Social Services, Office of Community Services in Caddo Parish, is a board certified social worker. In her spare time, she operates a computer company, Reliable Computers, Inc., with her husband. Her husband does most of the work relating to the computer company. The Department decides that it needs 50 new computers for the Baton Rouge and New Orleans offices to help it meet its increased responsibilities in those areas. To purchase the computers, the Department solicits bids and will purchase the computers from the lowest bidder. The social worker and her husband decide that their computer company should submit a bid. May Reliable Computers, Inc. submit a bid for the contract to supply 50 new computers to the Department?

Notes:

Common Misconceptions

One common misconception about §1113 is that if a person is the lowest bidder on a project, then that person can have the job. This is simply not the case. The prohibition includes **bidding** on a contract, as well as entering into a contract.

Another common misconception regarding §1113 is that if there are no other persons in the area who can provide the goods or services needed by the governmental agency, then the prohibition should not apply. However, this is not the case except for the narrow exception which must be approved by the Ethics Board. Many other people believe that if the job is not going to yield a big profit for the person doing it, then it is O.K. for the person to do the work, regardless of who that person is. This too is not correct. The amount of profit to be gained, or not gained, is irrelevant if you are one of the prohibited persons.

Gifts

Public servants are prohibited from receiving certain gifts according to the Louisiana Code of Governmental Ethics (sections §1111A and §1115).

1. No public servant shall solicit or accept, directly or indirectly, any **thing of economic value** as a gift from any person who has or is seeking a contractual, business, or financial relationship with the public servant's agency.
 - a. a public employee or an elected official
 - b. money or any other thing having economic value
 - i. Exceptions:
 1. promotional items with no substantial resale value (i.e.: calendars, pens, hats, t-shirts bearing company's name and logo;
 2. food and drink consumed while the personal guest of the giver -- the giver must be present in order for the second exception to apply;
 3. flowers or a donation, if value doesn't exceed \$100, in connection with the death of an immediate family member of the public servant;
 4. tickets to a civic, non-profit, educational or political event are allowed, but only where the public servant is a program honoree, a panel member, or giving a speech at the event.
2. Public servants shall not accept any thing of economic value as a gift or gratuity from a person who is seeking, for compensation, to influence the passage or defeat of legislation by the public servant's agency.
 - a. any laws, rules, ordinances, etc. which are considered by the public servant's agency
3. Public employees shall not solicit or accept any thing of economic value as a gift or gratuity from any person who conducts operations or activities which are regulated by the public employee's agency.
 - a. Restriction only applies to public employees and pertains to regulatory relationships such as permits or licenses.
4. Public employees shall not solicit or accept any thing of economic value as a gift or gratuity from a person who has substantial economic interests which may be substantially affected by the performance or nonperformance of the public employee's official job duty (ies).
 - a. Restriction only applies to public employees and is intended to cover situations not covered by the restrictions above.

More on Food and Drink exception:

The food and drink provided at a single event shall not exceed \$50, regardless of the number of persons providing the food, drink, or refreshments.

What is an “event?” A single activity, occasion, reception, meal or meeting at a given time and place.

Where a group of PUBLIC SERVANTS is invited to an event, the \$50 limit is calculated by dividing the total cost of the food, drink, and refreshments by the number of persons invited to the event.

The limitation of \$50 does not apply to a gathering held in conjunction with a meeting related to a national or regional organization, or to a meeting of a statewide organization of governmental officials or employees.

Individual and Small Group Activity

What: Gifts Activity

How: Read the scenarios below and on the following page, answer the questions, and be prepared to discuss.

1. A vendor of your agency invites you and your co-workers to a pre-game tailgate party hosted by the vendor. If you and your co-workers attend, is this a violation of the gifts provision? Why or why not?

The vendor offers you tickets to the football game. May you accept the tickets? Why or why not?

2. Several contractors and vendors of the Department of Transportation and Development (DOTD) volunteer to provide food and beverages for an employee appreciation day. Representatives from the participating companies will be in attendance. 50 employees of DOTD are invited to the event. The total cost of the food and drink is \$1,250. Is this permissible?

3. You are a Workers' Compensation judge. During the month of December, many law firms and attorneys who appeared before you during the year send turkeys, hams and other baked goods to your agency in the spirit of the holiday season. May you accept these items?

4. You are employed with the Department of Revenue and Taxation. One of your official duties is to determine whether individual taxpayers are entitled to certain deductions. An issue comes before you in which a taxpayer may be entitled to a substantial deduction. After meeting with the individual to collect pertinent information, he sends a potted plant to your office. May you keep the plant?

5. A school food service supervisor has a neighbor who sells food products to her school. The supervisor receives a wedding gift from the neighbor. May she accept the gift?

Common Misconceptions and Related Issues

I can receive the gift or gratuity if it is worth less than \$25.

A common misconception concerning §1115 is that the dollar value of the gift determines whether or not a public servant can receive it. **However, the law does not set a monetary threshold.** If the gift does not fall under one of the exceptions, then it is a prohibited gift regardless of its price. Where the exception for food and drink applies, it is limited to \$50.

I can receive this gift or gratuity because it came from a friend of mine.

Another misconception is that a public servant may receive gifts from friends even if they fall into one of the categories of prohibited sources listed above or that gifts for special occasions are allowed. Such is not the case.

Persons who **give** prohibited gifts to public servants violate §1117 of the Code and are subject to the enforcement proceedings and penalties for their violation.

Prohibited Sources of Income

There are occasions where public servants are prohibited from receiving income because of the relationship between the income source and his/her state agency. (§1111C(1) and §1111C(2)(d)).

1. Public servants are prohibited from receiving any thing of economic value for any service, the subject matter of which:
 - a. Is devoted substantially to the responsibilities, programs, or operations of the public servant's agency AND in which the public servant has participated; OR
 - b. Substantially draws upon official data or ideas of the agency which have not been made part of public information.
2. No public servant or a legal entity in which the public servant exercises control, or owns an interest in excess of 25%, shall receive anything of economic value for, or in consideration of, services rendered, or to be rendered, to or for any person during his public service, unless such services are neither performed for nor compensated by:
 - a. Any person who has or is seeking to obtain a contractual, business or financial relationship with the public servant's agency; OR
 - b. Any person who conducts operations or activities which are regulated by the public employee's agency; OR
 - c. Any person who has a substantial economic interest which may be substantially affected by the performance or nonperformance of the public employee's official job duties.

COMMON MISCONCEPTIONS

Public servants often believe that if the services to be rendered are to be provided after hours, then there can be no Ethics Code violation in providing those services. This is not true. Providing the services after hours does not prevent a violation of the Code from occurring. This restriction depends on the type of services you want to provide.

Another common misconception is that if the additional services are not services you normally provide as a part of your job, then there can be no Ethics Code violation in providing those services. This is also not true. This Section was specifically designed to cover situations where the additional services to be provided are not identical to the services provided during work hours, but are so close or similar in nature to what is done during normal business hours, that they could logically be viewed as either stemming from the work hour services or as a direct consequence or necessity because of a public servant's work hour services.

Public servants often believe that because they are actually providing the additional services and are being paid at a fair rate for those services, there can be no Ethics Code violation in providing those services. This is not true. Just because you are actually doing the work and are being paid a reasonable market rate for doing the work does not erase the fact that the services are being rendered to a prohibited source. The Ethics Code views this situation as a conflict of

Prohibited Participation

Public servants are not allowed to participate in certain transactions with the governmental entity where he/she works. (LSA-R.S. 42:1112)

1. A public servant is prohibited from participating in a transaction involving the governmental entity in which any of the following persons have a substantial economic interest:
 - a. The public servant
 - b. Any member of his immediate family
 - c. Any person in which he has an ownership interest that is greater than the interest of the general class
 - d. Any person of which he is an officer, director, trustee, partner, or employee
 - e. Any person with whom he is negotiating or has an arrangement concerning prospective employment
 - f. Any person who is indebted to him, or is a party to an existing contract with him, and by reason thereof is in a position to affect directly his economic interests
2. What does “participate” mean? Not only to have final decision-making authority, but to take part in or have or share responsibility for an action of the governmental entity through approval, disapproval, decision, recommendation, the rendering of advice, investigation, or the failure to act or perform a duty.
3. Who or what is a “person?” An individual or legal entity other than a governmental entity, or an agency thereof.
4. What is a “substantial economic interest?” An economic interest which is of greater benefit to the public servant or other person than to a general class or group of persons.
5. An **elected official** may participate in the debate and discussion of a matter which could violate this provision, but only if he discloses the nature of the conflict on the record of his agency prior to his participation in the debate and discussion, and prior to any vote taken on the matter. The elected official is not allowed to vote on the matter and he must recuse himself. R.S. 42:1120.
6. **Appointed members of boards and commissions** may recuse themselves to avoid a violation of Section 1112. Unlike elected officials, they may not participate in the debate or discussion of the matter. They must recuse themselves from all participation. R.S. 42:1112D.
7. **Other public employees** who are not sole decision makers can be disqualified from transactions that would violate this prohibition. A mechanism for disqualification is found in the rules promulgated by the Board. R.S. 42:1112C.

Group Discussion

What: Prohibited Participation

How: Read the scenario below and discuss your answer with the class.

Jeri is employed as the assistant human resources director at a state agency. The state agency is seeking bids to design a new training program. Jeri owns a consulting company and she recommends this company for the contract to design the training program to the human resources director. Is this a violation? Why or why not?

Notes:

Post Employment Prohibitions

The post employment restrictions of the Ethics Code address what a public servant can and cannot do upon the termination of his or her services with the State. (R.S. 42:1121)

1. No former agency head or elected official shall, for a period of two years following the termination of his public service, assist another person, for compensation, in a transaction or in an appearance in connection with a transaction, involving his former agency.
2. No former agency head or elected official shall render any service on a contractual basis to or for his former agency for two years following the termination of his public service.
3. No former member of a board or commission shall, for a period of two years following the termination of his public service, contract with, be employed in any capacity by, or be appointed to any position by his former board or commission.
4. No former public employee shall, for a period of two years following the termination of his public employment, assist another person, for compensation, in a transaction or in an appearance in connection with a transaction in which the former public employee participated at any time during his public employment and which involves his former public employer.
5. No former public employee shall, for a period of two years following the termination of his public employment, render on a contractual basis to or for the agency with which he was formerly employed, any service he rendered to the agency during his public employment.
6. No legal entity in which the former public servant is an officer, director, trustee, partner or employee shall, for a period of two years following the termination of the public servant's service, assist another person, for compensation, in a transaction, or in an appearance in connection with a transaction in which the former public servant participated at any time during his public service, and which involves the agency with which he was formerly employed or in which he formerly held office.

Common Misconceptions

A common misconception concerning §1121 of the Code is that if you classified as an agency head in your former public agency, then you may provide contractual services to your former agency as long as the services to be rendered are not the same services nor are they related to the services you provided as the agency head. This is simply not the case. Agency heads are strictly prohibited from rendering any contractual services to their former agency for a two year period. Other former public employees do not have such a strict restriction.

Another common misconception surrounding §1121 of the Code is that if as a public employee you did not have direct involvement in a specific matter while employed by your former agency, then once you leave public service, you may provide services relating to that matter to a private employer. This is not entirely true. Former public employees are prohibited from rendering services to a private employer in connection with a transaction in which they participated while employed by their former agency.

Actual “hands on” involvement is not the only means by which a public employee may be considered to have “participated” in a certain transaction. Questions to ask yourself: Did you make any recommendations as to the matter? Did your department have any supervision over the matter? Who had ultimate responsibility for the matter? The answers to these questions will help you determine if you participated in a particular circumstance.

Individual and Small Group Activity

What: Post Employment Activity

How: Read the scenarios on the following page, answer the questions, and be prepared to discuss.

Notes:

1. Mickey retired two months ago from the position of Executive Director of a state agency. The state agency recently asked her to perform consulting services on a contractual basis for the agency. Is this permitted under the guidelines? Why or why not?

2. Six months ago, you were employed by the city government as a personnel director, however, you were not classified as an agency head. You have ceased your public employment and now want to contract with the city to provide maintenance services. May you do this without violating the Ethics Code?

3. You recently retired from a state agency where your official duties included reviewing applications for grant monies administered by your agency. For purposes of the Code, you were not an agency head in your agency. Now a person who has submitted applications in the past for grant monies administered by your agency wants to hire you to handle all of the paperwork for all of his grant applications involving your former agency. May you accept this employment opportunity?

4. You just left your public position with a state agency where you reviewed applications for various permits. You now own Consulting Firm, Inc., which aids companies in the preparation and submission of applications for various permits to various state agencies. ABC Company, Inc., is a potential client which currently has an application pending before your former state agency and you had begun reviewing that application before you left public service. May your company, Consulting Firm, Inc., assist ABC Company, Inc., in finalizing its application with your former agency?

Additional Provisions

1. Abuse of office (R.S. 42:1116)

- a. A public servant may not use the authority of his office to compel or coerce a person to provide himself or someone else with a thing of economic value that they are not entitled to by law.

Example: The exchange of football tickets for a contract

- b. A public servant may not use the authority of his office to compel or coerce a person to engage in political activity.

Example: An elected official forcing the staff to participate in the campaign.

- c. A regulatory employee is prohibited from participation in any way in the sale of goods or services to a person regulated by his agency, or to any officer, director, agent, or employee of such person, if an immediate family member of the regulatory employee or any business enterprise in which the employee or his family own at least 25% receives or will receive a thing of economic value by virtue of the sale.

Example: An agency inspector owns a computer software company. The inspector recommends a software purchase to a company that is regulated by the agency where the inspector is employed.

2. Whistleblower provision (R.S. 42:1169)

- a. Any public employee who reports to his agency head or to the Ethics Board any information he reasonably believes is a violation of a provision of one of the laws administered by the Ethics Board or any alleged act of impropriety within any governmental entity shall be free from discipline or reprisal for reporting said acts of alleged impropriety.

- b. Any public employee who reports to a person or entity of competent authority or jurisdiction information which he reasonably believes is a violation of any law or of any order, rule, or regulation issued in accordance with law or any other alleged acts of impropriety related to the scope and/or duties of public employee or public office within any brand of state government or any political subdivision shall be free from discipline or reprisal for reporting said acts of alleged impropriety. No employee with the authority to hire and fire, supervisor, agency head or other elected official shall subject any employee to acts of reprisal because of said employee's efforts to disclose such acts of impropriety.

Group Discussion

What: Whistleblower Provision

How: What protection does the Ethics Code provide for public employees?

Notes:

Some Exceptions

This is only a partial list, for the entire list see_R.S. 42:1123

1. Public servants are permitted to participate in the affairs of a charitable, religious, nonprofit educational, public service, or civic organization, bona fide organized public volunteer fire departments when no compensation is received or the activities of political parties not proscribed by law. (R.S. 42:1123(1))
2. Receiving awards for meritorious public contributions, when given by public service organizations. Awards of anything of economic value received by teachers, principals, or school employees pursuant to the provisions of R.S. 17:432, 432.1, 433, or 433.1 for their outstanding achievement in the performance of their duties or responsibilities as teachers, principals, or school employees given by any person. (R.S. 42:1123(2))
3. Candidates for election to public office can receive campaign contributions even from prohibited sources. (R.S. 42 1123(5))
4. Members of the faculty and staff of state universities are allowed to engage in a broad spectrum of activities which are not permissible for other public servants. (R.S. 42:1123(9) and (10) examples: copyright, royalty, licensing right, consulting)
5. The acceptance by a public servant of complimentary admission to a civic, non-profit, educational, or political event when the public servant is a program honoree, is giving a speech at the event, or is a panel member for a discussion occurring at the event. The acceptance by a public servant of complimentary admission to a fundraising event for a candidate or political party. This shall not apply to admission to any professional, semi-professional, or collegiate sporting event. (R.S. 42:1123(13))
6. Legislators are allowed to accept reasonable transportation, lodging, food and refreshments when "making a public speech" even though it occurs within the course and scope of their employment as members of the legislature. Disclosure is required. (R.S. 42:1123(16))
7. Public servants may accept gifts of \$100 or less when the gift consists of flowers or a donation in connection with the death of a member of the immediate family of a public servant. (R.S. 42:1123(26))
8. Licensed physicians can serve as members of the board of commissioners of a hospital service district while continuing to render services to the hospital service district providers but only in parishes having a population of less than twenty-five thousand. Recusal is required. (R.S. 42:1123(18))
9. A former city/parish school board member from a parish with a population of 36,000 or less may become employed as a classroom teacher within two years from the termination of public employment provided he or she has a Louisiana teaching certificate. (R.S. 42:1123(31))
10. The support of issues involving bonded indebtedness, tax referenda, or Constitutional amendments shall not constitute prohibited activity within the meaning of this Rule.

DEPARTMENT OF STATE CIVIL SERVICE PROHIBITED ACTIVITIES PROVISIONS

The Department of State Civil Service provides guidelines on prohibited activities for classified employees. The following topics are included in the guidelines:

- Employment actions based on political/religious affiliations
 - Payments/contributions for political parties
 - Employment actions based upon gratuitous activities
 - Classified service employees participating in political activity
 - Elected officials appointed to serve in classified service positions
1. Employment actions based on political/religious affiliations: No person shall be appointed or promoted to, or demoted, or dismissed from any position in the classified service, or in any way favored or discriminated against with respect to employment in the classified service, because of his or her political or religious opinions or affiliations, race, sex, or membership or non-membership in any private organization.
 2. Payments/contributions (or solicitations) for political parties: No employee in the classified service and no member of the Commission shall, directly or indirectly, pay or promise to pay any assessment, subscription, or contribution for any political party, faction, or candidate, or solicit or take any part in soliciting any such assessment, subscription, or contribution of any employee in the classified service.
 3. Employment actions (appointments/promotions) based upon gratuitous activities: No person shall, directly or indirectly, give, render, pay, offer, solicit, or accept any money, service, or other valuable consideration for or on account of any appointment, proposed appointment, promotion or proposed promotion to, or any advantage in a position in the classified service, except as services may be provided pursuant to a temporary staffing services contract with the State as approved by the Director pursuant to these rules.
 4. Employment actions (suspensions, demotions, discharges) based upon political activity: No appointing authority, agent, or deputy thereof, or supervisor of any employee, shall directly or indirectly demote, suspend, discharge, or otherwise discipline any person in the classified service for purpose of influencing his vote, support, or other political activity in any election or primary election; and no appointing authority, agent or deputy thereof, or other person, shall use his official authority or influence, by threats, promises, or other means, directly or indirectly, to punish or coerce the political action of any employee in the classified service.

5. Classified employees participating in political activity; being a candidate for a committee of a political party; political party management; activity in a recall effort: No employee in the classified service and no member of the Commission shall:
 - Participate or engage in political activity.
 - Be a candidate for nomination or election to public office, except to seek election as the classified state employee serving on the State Civil Service Commission.
 - Be a member of any national, state, or local committee of a political party or faction.
 - Take active part in the management of the affairs of a political party, faction, candidate, or any political campaign, except to exercise his right as a citizen to express his opinion privately, to serve as a commissioner or official watcher at the polls, and to cast his vote as he desires.
 - Take active part in an effort to recall from office an elected public official, or seek, solicit or attempt to coerce any person including any employee in the classified service and any member of the Commission into participating in any such effort or signing a recall petition except that nothing contained herein shall prevent an employee in the classified service or member of the Commission from signing a recall petition.

6. Elected officials appointed to serve in classified service positions: No person elected to public office shall, while serving in such elective office, be appointed to or hold any position in the classified service.

Workplace Plan to Promote Ethical Behavior

Ethical behavior is important in any type of work environment. The case study provided earlier illustrates the importance of ethical behavior when evaluating employees based upon performance. However, effective employees value ethical practices in all aspects of decision making within their job.

Individual and Small Group Activity

What: Workplace Assessment

How: Use the space provided on the following page to:

- Identify the various functions in your job where ethical decision making is required.
- Brainstorm potential ethical issues that may arise.
- Select a partner in your small group to brainstorm strategies to prevent unethical behavior. Consider how ethical decision making can be integrated into the functions of your job in Column A.

Notes:

Workplace Assessment Plan

A Activities/Job Functions Where Decision-Making is Involved	B Potential Ethical Issues That May Arise	C Strategies to Prevent Unethical Behavior

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JOB AIDS

Principles of Ethics in Public Service

1. Public service in Louisiana is a trust; it should not be used for personal gain.
2. Make decisions on the merits, without partiality or prejudice.
3. Service should be conducted openly, equitably and honorably.
4. Respect democratic principles; observing the letter and spirit of laws.
5. Avoid appearances of impropriety in order to promote integrity in government.

Ethics Management Tools

1. Codes of Conduct
2. Policies and Procedures
3. Training Programs
4. Ethics Committees
5. LA Code of Ethics
6. LA Civil Service Rules

Louisiana Code of Ethics: Goals

1. To ensure the public confidence in the integrity of government
2. To ensure the independence and impartiality of elected officials and public employees
3. To ensure that governmental decisions and policy are made in the proper channel of the government structure
4. To ensure that public office and employment are not used for private gain

Louisiana Board of Ethics: Duties

1. To administer the Code of Ethics to all state and local public employees, appointed members of boards and commissions, and elected officials other than judges.
2. To administer and enforce the Campaign Finance Disclosure Act, the Lobbyist Disclosure Act, the Elections Integrity Act and certain conflict of interest standards found in the Gaming Control Act.
3. To issue advisory opinions interpreting the Louisiana Code of Ethics.
4. To conduct private investigations of alleged violations of the Louisiana Code of Ethics.
5. To establish a computerized data management system
6. To conduct educational activities, seminars and publish appropriate materials to provide instruction on the Louisiana Code of Ethics.

Louisiana Code of Ethics Provisions

1. General provisions
2. Nepotism
3. Prohibited transactions
4. Gifts
5. Prohibited sources of income
6. Prohibited participation
7. Post employment prohibitions
8. Additional provisions
9. Exceptions

Louisiana State Civil Service Prohibited Activities Provisions

1. Employment actions based on political/religious affiliations
2. Payments/contributions for political parties
3. Employment actions based upon gratuitous activities
4. Employment actions based upon political activity
5. Classified civil service employees participating in political activity
6. Elected officials appointed to serve in classified service positions

APPENDIX A

KEY DEFINITIONS (R.S. 42:1102)

- A. **“Agency”** means a department, office, division, agency, commission, board, committee, or other organizational unit of government entity.
- B. **“Agency head”** means the chief executive or administrative officer of an agency or any member of a board or commission who exercises supervision over the agency.
- C. **“Controlling interest”** redefined by Act 1204 of the 1999 Regular Legislative Session to mean any ownership in any legal entity or beneficial interest in a trust, held by or on behalf of an individual or a member of his immediate family, either individually or collectively, which exceeds 25 percent of that legal entity.
- D. **“Immediate family”** as the term relates to a public servant means his children, spouses of children, brothers, sisters, spouses of his brothers and sisters, parents, spouse, and the parents of his spouse.
- E. **“Participate”** means not only to have final decision-making authority, but to take part in or to **have or share responsibility** for an action of the governmental entity through approval, disapproval, decision, recommendation, the rendering of advice, investigation, or the failure to act or perform a duty.
- F. **“Public employee”** means anyone, whether compensated or not, who is (a) an officer or official of a government entity who is not filling an elective office; (b) appointed by an elected official to a position to serve the government or government agency, when the elected official was acting in his official capacity; (c) engaged in the performance of a governmental function; or (d) is under the supervision or authority of an elected official or another governmental employee.
- G. **“Public servant”** means a public employee or an elected official.
- H. **“Regulatory employee”** means a public employee who performs the function of regulating, monitoring, or enforcing regulations of any agency.
- I. **“Substantial economic interest”** means an economic interest which is of greater benefit to the public servant or other person than to a general class or group of persons, except the interest the public servant has in his public employment or the interest a person has as a member of the general public.
- J. **“Thing of economic value”** means money or any other thing having economic value, except:
 - a. Promotional items having no substantial resale value;
 - b. Food, drink, or refreshments, including reasonable transportation and entertainment incident thereto, consumed while the personal guest of some person;
 - c. With reference to legislators and legislative employees only, reasonable transportation when organized primarily for educational or informational purposes, including food and drink incidental thereto; and,
 - d. Salary and related benefits due to public employment.
- K. **“Service”** means the performance of work, duties, or responsibilities, or the leasing, rental, or sale of movable or immovable property.