

ETHICS



**CITY OF SOUTH SALT LAKE
CITY COUNCIL
JANUARY 2018**

Utah Municipal Officers' and Employees' Ethics Act

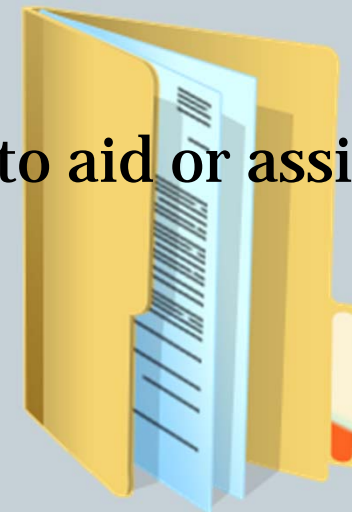
- Enacted 1981
- Utah Code Ann. § 10-3-1301 et seq.
- Applies to elected, appointed, merit, and non-merit public servants
- Intended to build public trust in government officials
- 2 takeaways
 - Criminally Sanctioned Behavior
 - Disclosure of Conflicts



Disclosing private, controlled, or protected information



- **Public officials have access to sensitive information:**
 - Personal information
 - Real estate documents
 - Business trade secrets
 - Medical documents
 - Documents of criminal and internal investigations
 - Attorney work product
- **The use of this information is restricted**
- **Using the information for personal gain or to aid or assist another is unlawful**



Inappropriately using official position

- Officials may not use position or title to gain economic or personal advantages.
 - “Do you know who I am?”
- Nor may they do so for others.
 - “I’ll pull a few strings for you.”
 - Special requests for fee waivers
 - Influencing investigations



Inappropriate Gifts or Economic Benefits



- **Gift:**
 - Which would tend to influence a reasonable person's decision
 - Recipient knows or should know that the gift is given to reward them for official action taken
- **Economic Benefit:**
 - Loan at rate below FMV
 - Compensation for private services at rate above FMV
- **Excludes:**
 - Occasional non-pecuniary gift less than \$50
 - Publicly presented award for service
 - Bona fide loan
 - Political campaign contribution.

Bribery



Receiving or Soliciting a Bribe:

- 1) Asking for, soliciting, accepting, or receiving, either directly or indirectly...
- 2) Any benefit...
- 3) With the understanding, agreement, or purpose to influence an action, decision, opinion, recommendation, judgment, vote, nomination, etc

Still a crime, even if:

- 1) Benefit is conferred after the action
- 2) The person sought to be influenced did not act in the desired way
- 3) The person sought to be influenced was not qualified to act in the desired way
- 4) The person sought to be influenced has left office

This may be committed by any person involved.



Public Perception

- **City routinely does business/regulates for-profit entities**
- **City Staff v. Elected Officials Roles**
 - Appearance of selling your vote
- **City Attorney advises against meeting with these entities, but if you have to invite technical City Staff to be present**
 - Meeting alone is NEVER a good idea
 - Having staff present may help balance interests and help eliminate a public perception problem

Business Transactions - Disclosure



- It is unlawful for members of a public body to receive compensation for assisting a person or entity in a business transaction with the City UNLESS the official:
 - Provides sworn written disclosure to Mayor, and
 - Provides oral disclosure to body immediately before the discussion
- Written disclosure is a public document.
- Disclosure must be provided at least 10 days prior to the earlier of: (1) the transaction, or (2) receipt of compensation



Conflicts of Interest: Business Interests- Disclosure



- **Officials who have a substantial interest in a business which is regulated by the City must disclose the relationship in writing to the Mayor**
 - “Substantial interest” means at least 10% interest by the official, their spouse, or their minor children.
- **Must keep the disclosure updated.**

Conflicts of Interest: Business Transactions- Disclosure



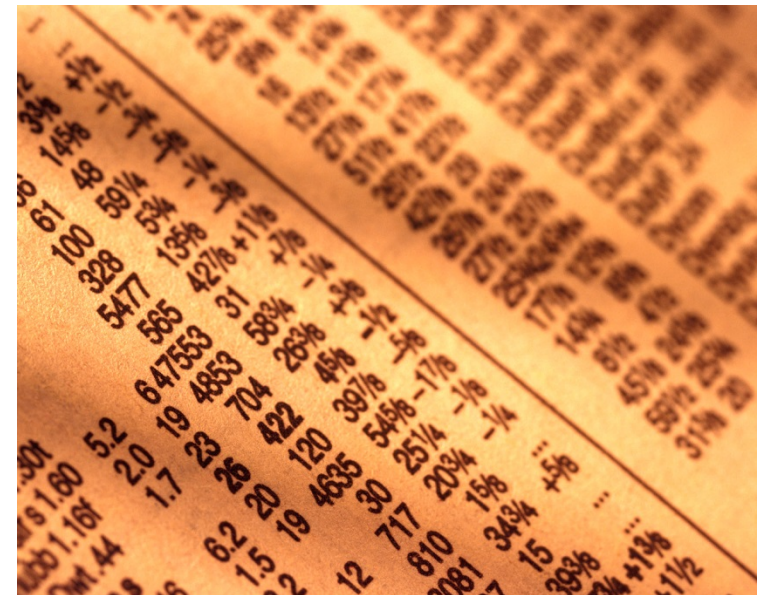
- If you have a substantial interest in a business which will be engaging in a transaction with the city, regardless of where it is headquartered, then you must publicly disclose to the members of the public body the business interest prior to discussing the transaction.
- The disclosure need not be in writing, but must be included in the meeting's minutes.



Conflicts of Interest: Investment & Personal



- Any interest which creates a conflict between the official's personal interests and the employee's public duties must be disclosed to the Mayor in writing, who will then disclose it to the Council.
 - This includes investments and personal interests



Disclosure



- **Elected officials disclose any conflicts of interest:**
 - Upon election
 - When the nature of the conflict has changed
 - In cases of receiving compensation for assisting a person or entity in a transaction, at least ten days before the contract date or ten days before receipt of the compensation, whichever is earlier.

Rule 11 of Council Rules- Disclosure



- **Your Rules**

- “Under most conflict of interest situations, Council Members should abstain from voting on a matter if they have a substantial interest in the item before the Council, and to avoid participating in the discussion as well.
- “substantial interest”- 10% or more ownership by council member or immediate family.

When in Doubt....



- **Disclose**

- Under state law, conflicts do not require an officer to abstain from voting or discussing the transaction or issue. Officers are free to do business in and with the municipality.
- But they must disclose the relationship and/or conflict
- These are minimum standards. Public scrutiny may determine whether you *should* abstain. (and your own rules)

- **Report**

- If you feel there has been a violation, seek to enforce it through the proper channels. It is unfair to make a public accusation of an ethical violation or conflict of interest for political purposes.

There may be a difference between what you feel is right, and what the law requires.

Enforcement



- **Self regulating by recusing when conflict- Not your job to call someone else out**
- **Political Subdivisions Ethics Review Commission for any violation of the Ethics Act**
- **Criminal Sanctions for some offenses**
 - Disclosure not a defense for crime

Review



- **Criminal Sanctions/Dismissal from Office**
 - Use office to get special privileges for yourself or others
 - Sell votes
 - Gifts over \$50
 - Using secrets that advantage you or others

- **Disclosure of Conflicts**
 - Based on Economic Interest of you or close family member
 - ✦ If business with City
 - ✦ If regulated by City
 - Personal interest that conflicts with public duty
 - How?
 - ✦ Writing (to Mayor)
 - ✦ Oral (when it comes up)



Questions or Discussion