

PALM BEACH COUNTY COMMISSION ON ETHICS



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Executive Director's Welcome

I am privileged to welcome you to this e-book edition. We hope this interactive guide will serve as a comprehensive introduction to the Palm Beach County Commission on Ethics and the ethics movement in our county.

The empowering local laws apply to an estimated 12,000 county and municipal employees, elected officials, advisory board members, lobbyists and principals. The section "Your COE" in this guide explains in detail how the Palm Beach County Commission on Ethics operates. State ethics laws, administered by the Florida Commission on Ethics, apply to other public officers and employees. Some individuals may be covered by both laws. Please take the time to determine which laws(s) apply to you. The section "Share your Concerns" in this guide explains how we can assist you at any time.

The other sections of this e-book are designed to give an overview of the main areas regulated by the Code of Ethics. As with any legal matter, an introduction may not tell the whole story. We therefore suggest further study or inquiry may be necessary to address specific questions.

As the head of this independent county government agency, I take the cause of ethics and the processes of the Palm Beach County Commission on Ethics very seriously. Our Commissioners and professional staff are dedicated to performing their functions fairly and effectively. It has been said in matters of ethics, "Live ethically and get others to follow you." We urge you to become familiar with the ethics movement and do both.

Steven P. Cullen
Executive Director
Palm Beach County Commission on Ethics

WHAT IS ETHICS?

Merriam Webster's dictionary defines ethics as rules of behavior based on a set of principles: theories or systems of moral values governing the conduct of an individual or a group.

COE staff often start a training by asking "What does ethics mean to you?" Here are some of the replies:

"A code I have to follow"

"Being ethical means doing what the law requires"

"A government organization that watches what I do and who I speak to"

"A standard of behavior"

"Right versus wrong"

"The golden rule: do unto others as they would do unto you"

"What I learned in Sunday school or at my church, mosque, synagogue or place of worship"

"Being moral"

"Doing what my gut tells me is right"

You may identify with one or more of these statements. This only confirms that the meaning of "ethics" or what is "ethical" is hard to pin down.

Most people equate being ethical with "following their gut" but being ethical is not always a matter of going by your own sense of integrity or moral code. Ethics cannot be strictly identified with religion even though many religions may set high ethical standards. Ethics is not confined only to the religious.

Ethics is not the same as abiding by laws or even the Code we have in Palm Beach County. While our code and criminal law incorporate a set of standards to which most people subscribe, codes and laws can be unethical and in the alternative can never encompass all bad behavior. Similarly, social norms can't be said to be the sole basis for ethical behavior because a lack of social consensus on many issues make it impossible for it to be absolutely clear what society accepts.

Findings from the emerging field of behavioral ethics- or the study of how people actually behave when confronted with an ethical dilemma reflect that we often act differently from our best intentions. These actions evidence that our preferences and biases affect how we evaluate ethical dilemmas. Here is an example highlighted by leading business ethicists Max H. Bazerman and Ann E. Tenbrunsel in *Blindspots: Why we fail to do what's right and what to do about it*.

Take the case of Bernard Madoff. Over the course of three decades, Madoff's Ponzi scheme racked up enormous losses: more than 15,000 claims approaching \$300 million in damages, and \$64.8 billion in paper profit was wiped out. Madoff sold most of his investments through feeder funds- that is, other funds that either marketed their access to Madoff to potential investors or claimed they had access to some exotic investment strategy. In reality, the feeder funds were doing nothing more than turning much of the money they collected over to Madoff. These intermediaries were extremely well paid, often earning a small percentage of the funds invested plus 20 percent of any investment profits earned. Thus, as Madoff claimed an amazing record of success, the feeder funds were getting rich.

It is now clear that Madoff was a crook, and his purposeful, deceitful behavior lies outside of this book's focus on unintentional ethical behavior. Yet we are fascinated by the harmful behavior of so many other prior in this story, people who had no intention of hurting Madoff's eventual victims. Many analysts have now concluded that outperforming all kinds of markets, as Madoff did, is statistically impossible. Did the managers of the feeder funds know that Madoff was running a Ponzi scheme, or did they simply fail to notice that Madoff's performance reached a level of return and stability that was impossible? Ample evidence suggests that many feeder funds had hints that something was wrong but lacked the motivation to see the evidence that was readily available.

This example demonstrates that even when we are confronted by tangible evidence, we may still deviate from what is ethical. So if being ethical isn't a matter of subscribing to religion or moral code, following a feeling or sense of right versus wrong, we are still left with the question of what is ethics?

Ethics is a combination of all of the above. Ethical action requires us to follow norms of conduct that distinguish between acceptable and unacceptable behavior. But if ethics is little more than common sense why do we have so many ethical failures, disputes and questions in our society? This brings us back to the concept of "blind spots". Even though we recognize common norms, we interpret, apply and balance these norms in different ways in light of our own values and experience.

Codes of Ethics, like the one enforced by the Palm Beach County Commission on Ethics, are intended to shine light on those blind spots and encourage employees, elected officials and advisory board members to recognize ethical issues during the course of their public service.

GOVERNMENT ETHICS PROGRAM

Government ethics programs are designed to further the public's trust in government. Relevant research has shown that a lack of trust results in decreased public participation and voter apathy. This participation gap derails our democratic government and leads citizens to believe that decisions are not made for their benefit but a select group of private interests. Codes of ethics attempt to repair the relationship between government and a disillusioned public by setting a standard of duties and obligations. They establish a contract between the public and the government. The decisions that public employees and officials make may not represent your perspective or your neighbors but codes of ethics ensure that at the very least those decisions are made for the benefit of the community rather than the officials themselves or those with whom they have special relationships.

In addition to facilitate this contract between government and the public it serves, ethics codes also aid in stopping ethical misconduct before it becomes criminal conduct. Effective local government ethics programs set important limits on what is acceptable and what is prohibited. Keeping in mind that state and national politicians often begin their careers at the local level, local institutions help to teach new leaders the right way to govern.

YOUR COE

The Palm Beach County Commission on Ethics emerged out of recommendations from a May 2009 grand jury created to propose changes to provide oversight, transparency and accountability for county and municipal government. The grand jury recommendations included

- Strengthening state criminal statutes and county ordinances to address conflict of interest, gratuity, and theft of honest
- services by public servants;
- Fully funding an effective independent watchdog entity to monitor government activity
- Increasing transparency, accountability and oversight of county matters involving land transactions;
- Eliminating bond underwriting by rotation and
- adopting the Government Finance Officers Association recommended practices; and
- Eliminating commissioner-based discretionary funding of county recreation and infrastructure projects.

A coalition of business groups including Leadership Palm Beach County, the Palm Beach County Business Forum, the Palm Beach County Economic Council and the Voters Coalition pushed the County Commission to implement ethics reform.

These groups developed the “ethics pledge” which was quickly adopted by local officials and business leaders. By December of 2009, the Board of County Commissioners had voted to establish an independent ethics commission and inspector general. In November 2010, Palm Beach County citizens voted to have these ethics programs apply in their hometowns. The Code of Ethics is intended to ensure that public officials, employees and advisory board members conduct themselves independently and impartially, not using their offices for

private gain other than the compensation provided to them by law. The Commission on Ethics and Code of Ethics enable the COE to oversee ethics compliance. However, while the commission has statutory license to punish offenders, commission staff strives not only to enforce the code but to educate employees and public officials on how these rules affect governance and implementation of policy throughout the county.

The Palm Beach County Commission on Ethics is responsible for the following:

- Monitoring, administering and enforcing the county's governmental ethics laws
- Providing advisory opinions to employees, officials and vendors who fall within the jurisdiction of the commission
- Providing training and outreach for the benefit of employees and officials, vendors and contractors, nonprofit corporations and other entities that transact business with or are regulated by the county
- Proposing governmental ethics law reform

The key to our ethics commission is independence. In fact, by definition both the Commission on Ethics and the Inspector General are independent offices. Ethics commissioners cannot be removed or otherwise influenced by the County Commission and are appointed by various civic, educational and professional non-political organizations. Appointees may not participate in or contribute to a candidate for state or local office or allow his or her name to be used in support of or against a candidate or ballot issue. Appointees may not participate in or contribute to political action committees, campaign for office or referenda, and may not hold office in a political party or committee.

The Commission on Ethics is composed of five volunteer members who serve staggered terms of four years each. Each member of the commission on ethics must also have an outstanding reputation for integrity, responsibility, and commitment to serving the community. Moreover, as representatives of Palm Beach County, appointments are made with an eye towards the racial, gender and ethnic make-up of the community.

Members are appointed by the following individuals or institutions:

- President of the Palm Beach County Association of Chiefs of Police: A former law enforcement official with experience in investigating white collar crime or public corruption.
- President of the Hispanic Bar Association of Palm Beach County, the President of the F. Malcolm Cunningham, Sr. Bar Association, and the President of the Palm Beach County Bar Association: An attorney with experience in ethics regulation of public officials and employees.
- President of Florida Atlantic University (FAU): A faculty member who teaches at an institution of higher education with a campus located in the county and who has taught a course in professional legal ethics or has published or performed services in the field of professional legal ethics.
- President of the Palm Beach Chapter of the Florida Institute of Certified Public Accountants: A member with at least five (5) years experience as a certified public accountant with forensic audit experience.
- Palm Beach County League of Cities: A person who has served as a former elected official for a governmental entity in the county.

CULTURE VS COMPLIANCE

David Greenberg, Former Chief Compliance Officer at Altria Group, sums up the concept of public or client based trust with the following 5 points.

1. If your clients don't trust you, they will eventually stop doing business with you.
2. Trust is relational, not transactional
3. Trust is not about following rules or showing the other person how law abiding you are. It's about values.
4. It is difficult to earn and preserve clients' trust if trust is not the common currency in your organization.
5. Organizational culture is the primary driver of trust.

The code of ethics is a compliance mechanism. It is a set of rules designed to be followed, but it is also more than that. The business and political leaders that developed the current Code of Ethics looked deep into the issue of public trust and created distinct provisions that addressed unique and ongoing concerns for Palm Beach County. Palm Beach County is different than Broward, Miami Dade, Martin or Duval Counties. Palm Beach County is different from Chicago or Philadelphia. And for this reason, your Code of Ethics is tailored to meet the specific needs of our county. But while encouraging large scale compliance, the Code has also changed the culture within the county and the municipalities.

Over the past 3 years, the Commission has formally answered hundreds of questions from employees, officials and advisory board members. Having an ethics commission has encouraged members of the public, employees and board members to ask questions about how things are done and how they should be done. By having the code and by having active participa-

tion from the community and covered entities the ethics initiative has gone a long way toward changing the underlying assumptions, beliefs, attitudes and expectations shared by government in Palm Beach County.

But the Code is just a start. Ethics reform does not end with the passage of laws. Laws can be improved and applied to more agencies, such as constitutional offices, and the ethics initiative must be protected from budget cuts, interference from state and local officials, suits attacking the commission's jurisdiction and amendments limiting the code. Former Nightline Anchor Ted Koppel may have stated the ongoing mission of your ethics initiative best in his 1998 commencement address to students at Stanford University:

We will not change what's wrong with our culture through legislation, or by choosing up sides on party affiliations. We will change it by small acts of courage and kindness, and by recognizing each of us has his or her own obligation to set a proper example. Aspire to decency. Practice civility toward one another. Admire and emulate ethics behavior wherever you find it. There is no mystery here. You know what to do. Now go out and do it.

KNOW THE CODE

TOP FIVE THINGS TO REMEMBER

1. You cannot use your contacts in government to acquire something for yourself, your family or an organization you serve in a leadership capacity, that would not be available to a resident of the county.

Prohibited: Using your title as Mayor to fundraise for a non-profit organization.

Permitted: Requesting public records, applying for grant funding from a county program.

2. As an elected official or board member you are prohibited from voting on any matter that would benefit your outside business or a customer or client of your outside business. You must abstain from voting and not participate in any discussion surrounding the issue.

Prohibited: You own a gas station. Your station has applied to renovate the surrounding property. You serve on a board that must approve those renovations. You are prohibited from participating, presenting or voting on whether or not to approve the renovations.

Permitted: You serve on the Town's planning and zoning board. A local developer appearing before you intends to build a 4 story hotel near your community. You are opposed to the new development. The development will affect about 500 surrounding homes including yours. You are not prohibited from voting, because you are not receiving a unique benefit.

3. You cannot have a contract with the government you work for unless an exception applies. If you are considering applying to do outside contracting work with your public employer, call the ethics office before you take any action.

Prohibited: You are a Town councilmember. You own an outside business that provides air conditioning installation and maintenance. The Town is looking for a new vendor to install new air conditioners. You are prohibited from bidding to provide air conditioning services to the Town while you serve as a Town councilor, unless an exception applies.

Permitted: You provide IT services to a village and operate computer repair business in your non-village time. A resident contacts your outside business to fix her computer. You are not prohibited from providing those services.

4. You are absolutely prohibited from accepting travel expenses from a vendor of your government employer, unless it is approved by your local governing body.

Prohibited: A county employee accepts a trip to Orlando from a county vendor for a training seminar.

Permitted: A county employee is offered a trip to Orlando from a county vendor for a training seminar. He fills out a travel waiver and submits the waiver for review by the Board of County Commissioners (BCC). The BCC determines that he is attending the training seminar in his official capacity and waives the vendor travel prohibition. The county employee accepts the trip to Orlando.

5. You are prohibited from accepting gifts in excess of \$100 over the course of the calendar year from a vendor, lobbyist, principal or employer of a lobbyist.

Prohibited: A city employee accepts 2 tickets from Florida Power and Light to attend a charity gala. The tickets are valued at \$150 each and Florida Power and Light employs a lobbyist who lobbies the City. The employee has received a prohibited gift in excess of \$100.

Permitted to Prohibited: A city employee is invited out to lunch by a city vendor. The vendor picks up the employee's \$25 bill. Next month the vendor again travels to city hall and takes the employee out to lunch. This time the bill is \$30. The employee is still in compliance with the code of ethics. Around the holidays, the vendor sends a bottle of perfume to the employee for their spouse. The perfume is valued at \$60. If the employee accepts the perfume, he has violated the code of ethics. The \$60 bottle brings the employee's gift total above the prohibited amount of \$100 over the course of the calendar year.

MAKING GOOD CHOICES

Before you act, ask yourself

Is it legal?

- If not, your actions may have serious consequences. Do not do it!

Does it comply with the Code of Ethics?

- Are you using inside information to obtain a benefit for yourself, your family or outside business that your neighbor wouldn't be eligible for?
- Are you accepting a prohibited gift? Remember before you accept tickets, dinners, training, or travel expenses to ask who is providing the benefit? If it is a vendor, lobbyist or someone who has hired a lobbyist you may be prohibited from taking it.
- If you aren't sure check the ethics website for more information. palm-beachcountyethics.com. Talk to your manager or the ethics office for more guidance.

Does it comply with the county/ municipal policy?

- The Code of Ethics is only one part of the employment puzzle. Make sure to check your policy and procedure manual and contact your HR director with any questions.

Could this create problems for your department? For the people you serve?

- Example: You work at a local library. Patrons can be very demanding and one day you decide that you've had enough. Borrowing a page from former Jet Blue employee Steven Slater's playbook you grab the public address system from the registration desk, curse at the patron, push over two rows of books and run screaming from the building.
- Just because you haven't violated the Code of Ethics doesn't mean that your actions won't cause problems for your department and in this case likely problems for your continued library employment.

How would you feel if your actions appeared in the Post or on the nightly news?

- Example: Mandy is the Human Resources Director for a municipality. She is very good at her job. Recently, Mandy has been in the news over a conflict with her neighbor, Terry. Last year Mandy and Terry had an argument over trimming a tree that sits on their property line. After losing the argument, Terry erected a six foot fence between the two homes. In return, Mandy painted the side of her house a hideous shade of green. Terry and Mandy are currently involved in litigation. Legally, Mandy did nothing wrong, but her behavior is an embarrassment to the municipality.
- Remember! As a public employee or official your actions are heavily scrutinized.



Under the Code, the Gift Law has three essential components

1

There is an absolute prohibition against accepting kickbacks, bribes or tips. Simply, you can't legally take any of these under the Code. Makes sense, right? Kickbacks or bribes are no-brainers. The Code bans tips on the theory that employees are paid (some handsomely!) for rendering service to the public and should not be "tipped" for that service. One exception is for servers, presumably paid below minimum wage, may accept tips as part of their overall compensation.

2

There is a \$100 limit on gifts from vendors, bidders/proposers, lobbyists, or principals or employers of lobbyists. The Code bans gifts over \$100 here because it is presumed that excess gifts are only designed to garner influence over the official or employee. You are charged with the responsibility of knowing the source of any gifts. You may consult the "Databases" section on our website, palmbeachcountyethics.com to determine whether any person or entity giving you a gift is within the enumerated categories.

3

Gifts from others (not vendors, bidders/proposers, lobbyists, or principals or employers of lobbyists) over \$100 are reportable including:

- Expenditures from business development boards
- Tickets, passes or admission from a sponsor organization which contracts with your government agency
- Tickets, passes or admission for public events or ceremonies, related to municipal business from a non-profit sponsor which is not a vendor and which does not employ a lobbyist

A number of exceptions apply which make the following gifts non-reportable:

- Political contributions authorized by state/federal law
- Gifts from relatives or members of your household
- Personal gifts given by a personal friend or co-worker and the motivation for the gift is that friendship or social relationship
- Awards for civic or professional achievement
- Advertising materials from vendors
- Gifts solicited for a public purpose on behalf of your employer
- Inheritance
- Registration fees or conference attendance charges as long as waived by the Board of County Commissioners or your municipal governing body

If you need to report gifts, the form is available on our website and is due on a yearly basis on November 1st.



Travel Expenses

Under the Code, there is an absolute prohibition on accepting travel expenses from a contractor, vendor, service provider, bidder or proposer. You may accept travel expenses (reimbursement) from your own county or municipal employer

There are two exceptions which may permit you to accept travel expenses:

- A waiver is obtained from the Board of County Commissioners or your municipal governing body
- The expenses are reimbursed or paid by a governmental entity or an organization that your employer belongs to (for example, the League of Cities)

The Code bans accepting travel expenses because it is presumed that they would be offered in attempt to INFLUENCE or PERSUADE you to take some action which would benefit the paying entity.

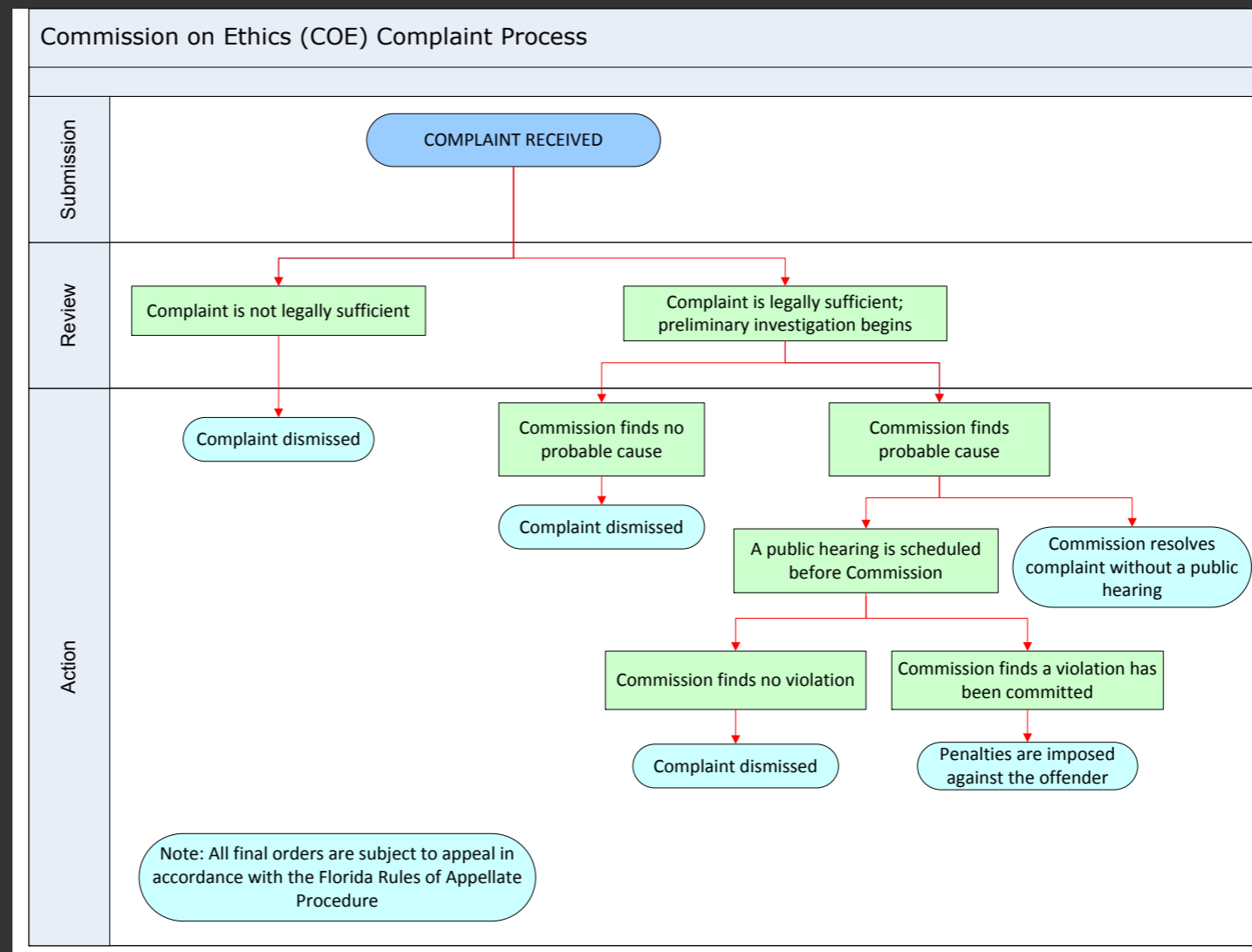
It is INCONSEQUENTIAL that you may or may not be INFLUENCED or PERSUADED.

It is your responsibility to be aware of the source of travel expenses and not take them from a prohibited entity. Even supervisor approval does not permit you to accept them!

SHARE CONCERNS

Any person can file a complaint with the Commission on Ethics by submitting a written notarized complaint executed on the approved form available by mail or on our website palmbeachcountyethics.com. The complaint must allege a violation of the code of ethics, lobbyist registration or post-employment ordinance, be based substantially upon personal knowledge and be signed under oath or affirmation by the complaining person. The commission maintains a searchable library of public reports and final orders regarding the disposition of all legally sufficient filed complaints. You may request a copy of a complaint form or visit our website.

In addition, citizens can leave information and tips anonymously on the Commission on Ethics hotline at 877.766.5920. If your contact is anonymous, you must be sure to give specific, detailed information sufficient to support an inquiry into the allegation.

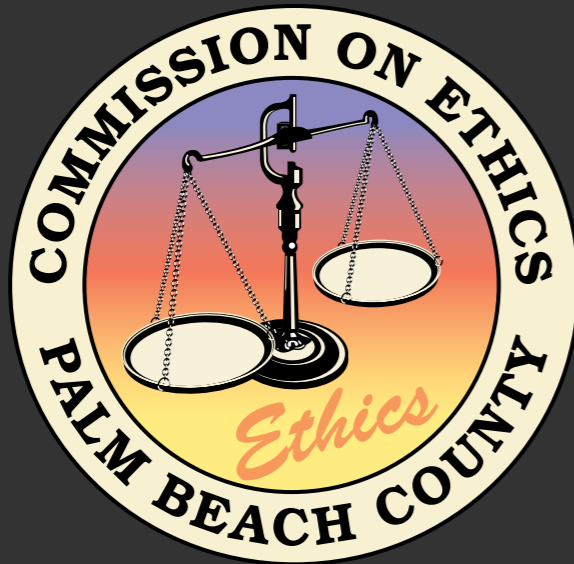


GUIDE TO ONLINE DISCLOSURE FORMS

SHARE CONCERNS

Form	Submitted to	Due
8b Voting Conflict	Municipal/County Clerk, Copy to the COE	Within 15 days of abstention
Outside Employment Waiver	Signature of supervisor then to COE	Prior to beginning outside employment or renewing contract
Conflict of Interest Statement (Contractual Relationships)	Supervisor of Elections and the COE	Prior to submitting a bid
Gift Forms	COE	November 1st
Charitable Solicitation Log	COE	Within 30 days of an event or if no event within 30 days of solicitation
Ethics Training Acknowledgment - Employees - Advisory Board/Officials	Human Resources/ Clerk/ Board Liaison	Upon completion of 1) training and 2) reading the code

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