



Broward League of Cities Ethics Workshop

4/19/2024

FLORIDA'S SUNSHINE LAW

Presented by:
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An Overview



- **Article I, Section 24**
Florida Constitution

- **Section 286.011**
Florida Statutes

PURPOSE

- Provides a right of access to governmental proceedings at both the state and local levels absent a **STATUTORY EXEMPTION**
- Ensures that **DECISIONS** of public bodies are made in an open forum accessible to the public
- **DECISIONS**
 - Recommendations
 - Discussions
 - Deliberations



REQUIREMENTS

- **MEETINGS** of public boards or commissions must be open to the public
- Reasonable **NOTICE** of such meetings is required
- **MINUTES** of the meetings must be taken
- **PUBLIC PARTICIPATION** required

WHAT IS A “MEETING?”

- Any **COMMUNICATION** between two or more members of the same board to discuss some matter which will foreseeably come before that board for action.
- Not just a meeting or gathering, but any interactive communication, discussion or deliberation
- No requirement that a quorum be physically present to be considered a meeting that would be subject to the Sunshine Law

COMMUNICATION

- One-way communication is okay (i.e., a member of a collegial body may send written or electronic correspondence to his/her fellow board members pertaining to an item that they may consider at a future date, however the other members may not offer a response).
- Interaction among board members = violation
- DO NOT USE “REPLY ALL”



COMMUNICATION

- There is no prohibition to discuss board business with staff or other person not a member of the same board
- That person cannot communicate information between board members and act as a liaison
- Telephone
- Email
- Texts
- Social Media



SOCIAL MEDIA

- No prohibition against a Board member posting comments on a Facebook page (including a City's page), but members of the Board must not engage in an exchange or discussion of any matter that will foreseeably come before the Board for official action.

SOCIAL MEDIA

- Members of a public board may not use computers to conduct a private discussion among themselves about matters which may foreseeably come before them in their official capacity. See, AGO 89-39 (1989) and AGO 09-19 (2009).

- The use of a blog or message board by one member of a collegial body to solicit comments from other members does trigger the requirements of the Sunshine Law. See, AGO 08-07 (2008).
 - No statutory provision prohibiting Commission members from posting on a blog.
 - Members of Commission must not engage in exchange or discussion of matters that foreseeably will come before the Board for official action.
 - It is incumbent upon Commission members to avoid any action that could be construed as an attempt to evade the requirements of the law.

STATUTORY EXEMPTIONS

- Executive Sessions related to Labor Negotiations (Collective Bargaining)
Sec. 447.605, Florida Statutes
- Procurement Selection/Evaluation Committees (negotiations & presentations)
Sec. 286.0113, Florida Statutes
- Security of Public Buildings
Sec. 281.301, Florida Statutes
- Attorney-Client Discussions (Shade Session)
Sec. 286.011(8), Florida Statutes

VIOLETIONS

- Any member of a collegial body who violates the Sunshine Law is guilty of a noncriminal infraction, punishable by fine not exceeding \$500. Section 286.011(3)(a), Fla. Stat.
- Any member of a collegial body who knowingly violates the Sunshine Law is guilty of a misdemeanor of the second degree. Section 286.011(3)(b), Fla. Stat.
- Criminal penalties apply to members of advisory boards as well as members of elected or appointed boards. AGO 01-85 (2001)

THE W.D. CHILDERS INCIDENT (2003)

- Escambia County Commission Chairman; Former State Senate President
- Wanton and Knowing violation of the Sunshine Law
- 60-day jail sentence (served 38 days) – First public official incarcerated for violation of the Sunshine Law
- \$500 fine plus \$3,600 court costs



EXAMPLES

If a city council believes that it is in the public interest, which of the following meetings may be CLOSED to the public:

- A. Meetings to discuss sensitive personnel issues involving accusations of sexual harassment against the city manager**
- B. Meetings to discuss an ongoing investigation of a city department**
- C. A hearing on a complaint alleging that a city resident has violated the building code**
- D. None of the above.**

Two members of the city advisory board are talking to each other at a football game. A reporter is with the council members and able to hear the entire conversation. The council members:

- A. Have not violated the Sunshine Law because even if they were discussing city advisory board business, the meeting was public because a newspaper reporter was present.
- B. Have violated the Sunshine Law if they were talking about matters that foreseeably could come before the board for discussion or action.
- C. Have violated the Sunshine Law if they were talking about board matters that have been scheduled for a vote by the advisory board.
- D. Both B and C are correct.

Which of the following statements are correct?

- A. If a city council is considering whether to take disciplinary action against an employee, the council may exclude the employee from the meeting but all other persons must be allowed to attend.**
- B. The council board may prohibit a member of the public from tape recording a meeting if a council member objects to the taping.**
- C. If a member of the public wishes to videotape a board meeting, the council may require that the videotaping be nondisruptive.**
- D. None of the above**

A county commissioner, county manager (county employee), sheriff, city commissioner and city police chief want to meet to discuss whether the county should make improvements to the jail. Which of the following statements is correct?

- A. The meeting should be open to the public because both the city commissioner and county commissioner must comply with the Sunshine Law.**
- B. The meeting is not subject to the Sunshine Law.**
- C. The meeting is subject to the Sunshine Law because the sheriff and county commissioner are elected officers of the county.**
- D. The meeting is subject to the Sunshine Law because all of these individuals bear some responsibility for the county jail.**

Two city commissioners plan to meet at a restaurant with city police officers to have an informal discussion over breakfast about working conditions and salaries at the police department. The city commission is responsible for establishing police salaries on an annual basis although there is no agenda item dealing with these issues at the upcoming meeting of the city commission. The commissioners want to know whether the Sunshine Law applies to the meeting. Which of the following statements is correct?

- A. The Sunshine Law does not apply to the meeting because it is an informal discussion between two commissioners, as evidenced by the fact that it is being held at a restaurant rather than in the city commission chambers.**
- B. The Sunshine Law applies to the meeting and therefore, the commissioners should provide public notice of the restaurant meeting, allow the public to attend, and keep minutes.**
- C. Because the Sunshine Law applies to the meeting, the commissioners should not hold the meeting at the restaurant and instead should have the discussion at an open public meeting of the commission that is duly noticed and held in a public place.**
- D. The Sunshine Law does not apply to the meeting because only two members of the commission will attend and the issues are not scheduled for a vote at the commission meeting.**

PUBLIC RECORDS



ANTHONY C. SOROKA, ESQ.

WHAT IS A “PUBLIC RECORD”

“all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.”



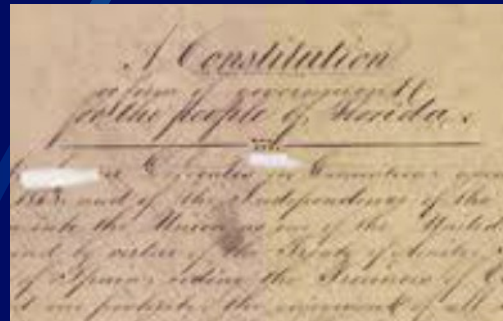
WHAT IS A “PUBLIC RECORD”

- Fla. Supreme Court (*Shevin v. Byron* 1980), “any material prepared in connection with official agency business which is intended to perpetuate, communicate or formalize knowledge of some type.”
- Florida courts construe the public records law liberally in favor of the state's policy of open government. (*Lightburn v. Mccullom* Fla. 2007)
- If there is any doubt about the application of the law in a particular case, the doubt is resolved in favor of disclosing the documents. (*Knight-Ridder* 3rd DCA 2001)

PUBLIC ACCESS REQUIREMENTS

- FL Constitution, Section 24(a)

Every person has the right to inspect or copy any public record **made or received in connection with the official business** of any public body, officer, or employee of the state, or persons acting on their behalf, except with respect to records exempted pursuant to this section or specifically made confidential by this Constitution.



PUBLIC ACCESS REQUIREMENTS

- FL Statutes, Section 119.07(1)(a)

Every person who has custody of a public record shall permit the record to be inspected and copied by any person desiring to do so, at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public records.

CUSTODIAL REQUIREMENTS

- Public records law imposes a duty of disclosure and retention upon persons who have custody of public records.
- Records custodian or designee must acknowledge requests promptly and respond in good faith.
- City has a reasonable amount of time to respond to record requests.

CUSTODIAL REQUIREMENTS

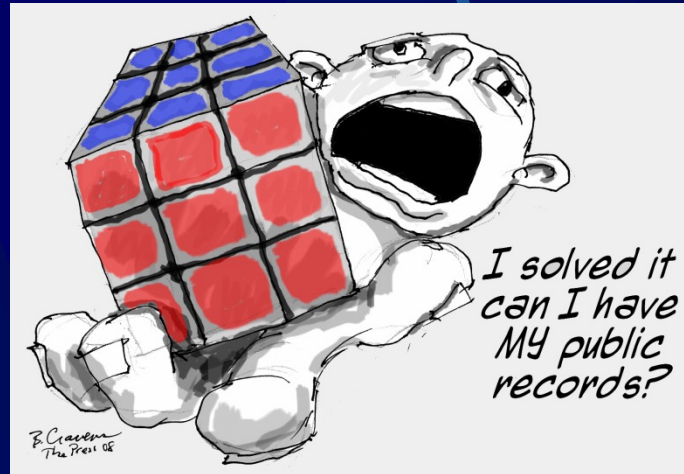
- Custody described as having “supervision and control over the document or having legal responsibility for its care, keeping or guardianship.”
 - *See Mintus v. City of West Palm Beach* 711 So. 2d 1359 (Fla. 4th DCA 1987)
- A public records custodian or a person having custody may designate another officer or employee to permit the inspection and copying of records.
 - Must disclose the identity of the designee to the person requesting to inspect or copy public records.

“REASONABLE CONDITIONS”

- Does not include anything that would hamper or frustrate a person's right of inspection and copying.
- Refers to reasonable regulations that would permit the custodian of records to protect them from alteration, damage, or destruction and also to ensure that the person reviewing the records is not subjected to physical constraints designed to preclude review.
 - See *Wait v. FPL* and *Sarasota Citizens v. City of Sarasota*.



“REASONABLE CONDITIONS”



- No Code Entry for access. (AGO 2005-10)
- No arbitrary reviewing hours (AGO 5/21/1990)
- No identification requirement (AGO 92-38)
- Cannot require to complete form.

SOCIAL MEDIA



- Posting messages on social media sites pertaining to official city business constitutes a public record.
 - See AGO 08-07

TEXT MESSAGES

- Originally thought to be “transitory” in nature.
- Informal AGO suggests they could be public records. (“Regardless of form”)
- Not permitted to use mechanism to evade public record act.
 - Companies rarely store them and many City servers don’t pick them up.



TEXT MESSAGES

- O'Boyle v. Town of Gulfstream, 257 SO. 3d 1036 (Fla. 4DCA 2018)
- O'Boyle claims Town violated law by not producing all of the mayor's text messages.
- Not all written communications sent or received by public officials or employees are public records subject to disclosure under the Act; the reach of the Act is to those records related to the employee or official's public responsibilities.

TEXT MESSAGES

- **O'Boyle v. Town of Gulfstream, 257 So. 3d 1036 (Fla. 4th DCA 2018)**
- O'Boyle claims Town violated law by not producing all of the mayor's text messages.
- An official or employee's communication falls “within the scope of employment or agency” **only when their job requires it, the employer or principal directs it, or it furthers the employer or principal's interests.**
- The reach of the Act is to those records related to the employee or official's public responsibilities.

PUBLIC RECORD EXEMPTIONS AND CONFIDENTIAL RECORDS

- Social Security Numbers
- Bank, Credit, Debit Account Numbers
- Medical Records
- Education Transcripts
- Active Investigation Information (while active)
- Certain personal information of Specified Employees (Police, Firefighters, HR Directors, Code officers)

COMPETITIVE BIDS

- Exemption for limited time period
- Applies to bids, replies, proposals received in response to a competitive solicitation.
- City may exempt until the *earlier of*:
 - (i) notice of an intended decision, or
 - (ii) 30 days from the opening of bids/replies/proposals.
- See Section 119.071(1)(b)(2), Fla. Stat.

COSTS

- Hardcopies: 15 cents per page for up to 8^{1/2} x 14 (20 cents double sided) - All other sizes = actual cost of duplication (See 119.07(4), Fla. Stat)
- Special Service Charge: If the nature or volume of records requested requires “extensive use of information technology resources or extensive clerical or supervisory assistance”
 - Shall be reasonable and based on the cost incurred for such extensive use of information technology resources or the labor cost of the personnel providing the service, or both.

COSTS

- *City of St. Petersburg v. Dorchester Holdings, LLC*, 2021 WL 3059699
 - The Public Records Act requires a records custodian to determine whether the requested records exist, locate the records, and review each record to determine if any of those records are exempt from production.
 - The Act permits the City to charge a special service charge to cover these costs.

RESPONSES

- Not required to produce employees to answer questions related to records
 - *See AGO 92-38*
- Not required to answer questions in response to a public record request.
- Not required to create a document in response to a public record request.
 - *In re Report of the Supreme Court Workgroup on Public Records, 825 So. 2d 889, 898 (Fla. 2002)*

HANDWRITTEN NOTES

HANDWRITTEN NOTES

- *AGO 2010-55*
 - CM takes notes during assessment of Police Dept.
- *Miami Herald v. Commissioner Marc Sarnoff (3rd DCA 2007)*
 - Commissioner takes notes during meeting with former city of Miami official regarding controversial land development project.

PENALTIES

- Public officer who **knowingly violates** law is subject to suspension and removal or impeachment AND commits a first degree misdemeanor
 - Subject to up to 1 year in jail; \$1,000 fine
- Violation without knowledge =
Noncriminal infraction (fine up to \$500)
- State Attorney has authority to prosecute
(See AGO 91-38).

PENALTIES

- **Civil Suit** – If requestor is successful, City pays opposing counsel's attorney fees.



PUBLIC AGENCY CONTRACTS

- Public Agency Contracts
 - Requires PRR relating to a public agency's service contracts to be made directly to the City.
 - Requires City service contracts to include City's records custodian's contact information
 - Contract for services must address whether the contractor will retain the public records or transfer them to the City upon completion of the Contract.

CIVIL ACTIONS

- Public Agency Contracts – Civil Actions
 - Court shall assess reasonable enforcement costs if:
 - (a) The Contractor unlawfully refused to comply with the request in a reasonable time AND
 - (b) at least 8 business days before filing the lawsuit, the plaintiff provided written notice of the request and a statement that the Contractor has not complied to both the City's records custodian and the Contractor by delivery service or certified mail

CIVIL ACTIONS

- Civil Actions Against City

Court shall assess reasonable enforcement costs if:

(a) City unlawfully refused to permit a record to be inspected or copied, AND

(b) at least 5 business days before filing the lawsuit, the plaintiff provided written notice of the record request to the City Clerk (starts upon receipt of notice by Clerk, not including weekends/holidays)

- 5 days notice only applies if City has prominently posted at City Hall and on City website the records custodians contact info.

CASE STUDY



QUESTIONS?





Broward County Code of Ethics

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ATTORNEYS AT LAW

Code of Ethics for Elected Officials

- **Section 1-19 of the Broward County Code of Ordinances**
- **Applies to county commissioners and elected municipal officials**
- **Enforcement – Office of the Inspector General**





Definitions



What is a “Gift”? – Section 112.312(12), F.S.

That which is accepted by a donee (elected official) or by another on the donee’s behalf, **or** that which is paid or given to another for or on behalf of a donee, **directly, indirectly**, or in trust for the donee’s benefit or by any other means, for which equal or greater consideration is not given within **90 days**.



Gifts from BLOC/FLOC are not “Gifts”

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



Who is a “Lobbyist”?

A person retained, **with or without compensation**, for the purpose of lobbying, or a person employed by another (full or part-time) principally to lobby on behalf of that person or entity.



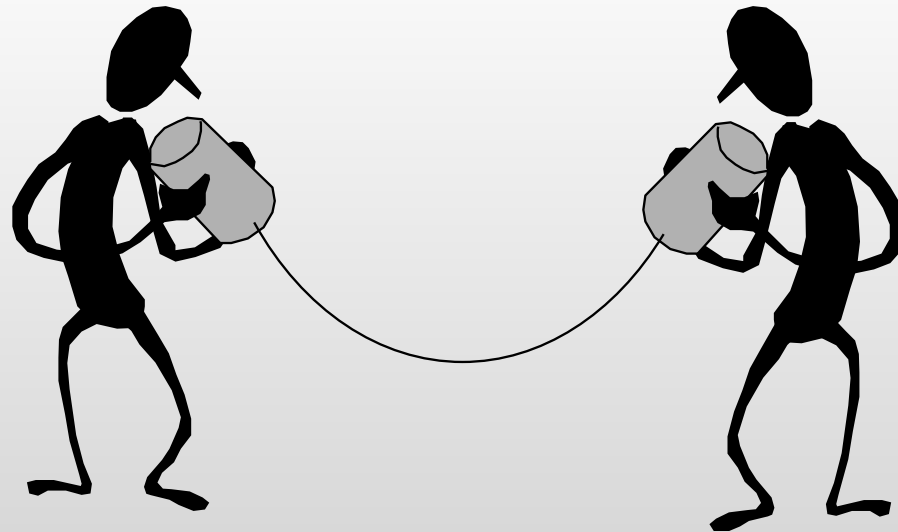
Who IS NOT a “Lobbyist”?

- 1) An elected official, employee or appointee of a city or Broward County acting in his/her official capacity.
- 2) A person communicating on his/her own behalf, or on behalf of a person employing that individual, unless they are principally employed to lobby.
- 3) Any employee or officer of an HOA or neighborhood association communicating in such capacity when addressing an issue impacting such association.
- 4) Any employee or officer of a nonprofit public interest entity when addressing an issue impacting that entity.



What is a “Lobbying Activity”?

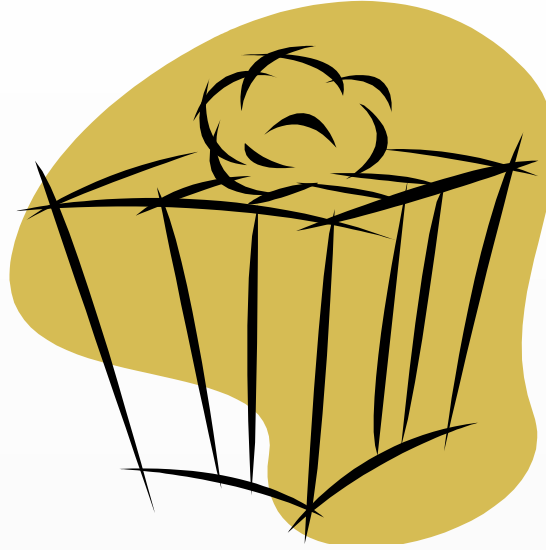
Communication, by any means, from a lobbyist to a covered individual regarding any item that will foreseeably be decided by a final decision-making authority, which communication seeks to influence the covered individual to support or oppose the item.



Vendors and Contractors

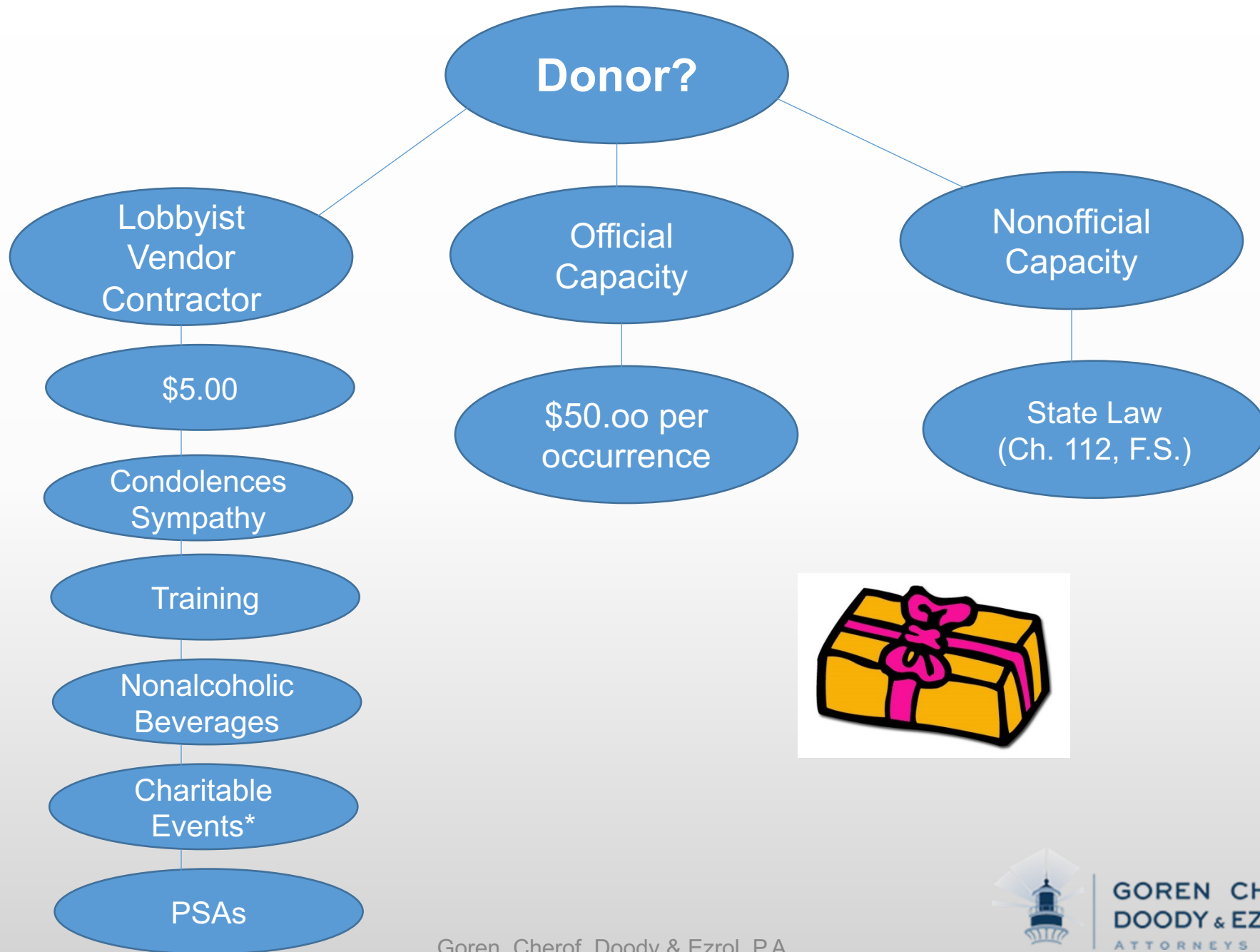
- Contractor – Any person or entity under contract with the applicable local governmental entity.
- Vendor – A person/entity currently supplying goods or services; supplied goods or services within current or the prior two (2) calendar years; or submitted a response to a currently-open competitive solicitation or a response to competitive solicitation during the current or prior two (2) calendar years.
- **Excluding governmental entities





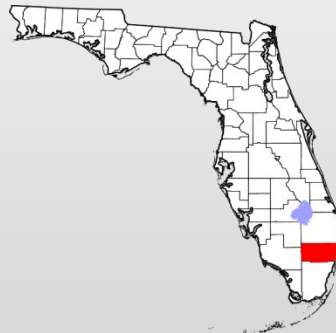
Acceptance of Gifts





Gifts from Governmental Entities

- Broward County, municipalities within the County, and other governmental entities **are not** considered registered lobbyists (or principals thereof), vendors or contractors.
- Governmental entity giving a gift to its own elected official is not considered an “other source.” (i.e. no limit)



Form 9 – Quarterly Gift Disclosure

Form 9		QUARTERLY GIFT DISCLOSURE (GIFTS OVER \$100)	
LAST NAME – FIRST NAME – MIDDLE NAME		NAME OF AGENCY:	
MAILING ADDRESS:		OFFICE OR POSITION HELD:	
CITY:	ZIP:	COUNTY:	FOR QUARTER ENDING (CHECK ONE): <input type="checkbox"/> MARCH <input type="checkbox"/> JUNE <input type="checkbox"/> SEPTEMBER <input type="checkbox"/> DECEMBER YEAR 20__

PART A — STATEMENT OF GIFTS

Please list below each gift, the value of which you believe to exceed \$100, accepted by you during the calendar quarter for which this statement is being filed. You are required to describe the gift and state the monetary value of the gift, the name and address of the person making the gift, and the date(s) the gift was received. If any of these facts, other than the gift description, are unknown or not applicable, you should so state on the form. As explained more fully in the instructions on the reverse side of the form, you are not required to disclose gifts from relatives or certain other gifts. You are not required to file this statement for any calendar quarter during which you did not receive a reportable gift.

DATE RECEIVED	DESCRIPTION OF GIFT	MONETARY VALUE	NAME OF PERSON MAKING THE GIFT	ADDRESS OF PERSON MAKING THE GIFT

CHECK HERE IF CONTINUED ON SEPARATE SHEET

PART B — RECEIPT PROVIDED BY PERSON MAKING THE GIFT

If any receipt for a gift listed above was provided to you by the person making the gift, you are required to attach a copy of that receipt to this form. You may attach an explanation of any differences between the information disclosed on this form and the information on the receipt.

CHECK HERE IF A RECEIPT IS ATTACHED TO THIS FORM

PART C — OATH

I, the person whose name appears at the beginning of this form, do depose on oath or affirmation and say that the information disclosed herein and on any attachments made by me constitutes a true accurate, and total listing of all gifts required to be reported by Section 112.3148, Florida Statutes.	STATE OF FLORIDA COUNTY OF _____
	Sworn to (or affirmed) and subscribed before me this _____ day of _____, 20__
	by _____ (Signature of Notary Public-State of Florida)
	(Print, Type, or Stamp Commissioned Name of Notary Public) Personally Known _____ OR Produced Identification Type of Identification Produced _____
SIGNATURE OF REPORTING OFFICIAL _____	

PART D — FILING INSTRUCTIONS

This form, when duly signed and notarized, must be filed with the Commission on Ethics, P.O. Drawer 15709, Tallahassee, Florida 32317-5709; physical address: 3600 Madley Blvd. South, Suite 201, Tallahassee, Florida 32312. The form must be filed no later than the last day of the calendar quarter that follows the calendar quarter for which this form is filed (For example, if a gift is received in March, it should be disclosed by June 30.)

CE FORM 9 - EFF. 1/2007

(See reverse side for instructions)

PART E — INSTRUCTIONS

WHO MUST FILE THIS FORM?

- Any individual, including a candidate upon qualifying, who is required by law to file full and public disclosure of his financial interests on Commission on Ethics Form 8, except Judges. (See Form 6 for a list of persons required to file that form.)
- Any individual, including a candidate upon qualifying, who is required by law to file a statement of financial interests on Commission on Ethics Form 1. (See Form 1 for a list of persons required to file that form.)
- Any procurement employee of the executive branch or judicial branch of state government. This includes any employee who participates through decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, or auditing or in any other advisory capacity in the procurement of contractual services or commodities as defined in Section 287.012, Florida Statutes, if the cost of such services or commodities exceeds \$1,000 in any year.

NOTE: Gifts that formerly were allowed under Section 112.3148, F.S., now may be prohibited expenditures under Sections 11.045 and 112.3215, F.S.

WHAT GIFTS ARE REPORTABLE?

- Any gift (as defined below) you received which you believe to be in excess of \$100 in value, EXCEPT:
 - Gifts from the following RELATIVES: father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepster, half brother, half sister, grandparent, great grandparent, grandchild, great grandchild, step grandparent, step great grandparent, step grandchild, step great grandchild, a person who is engaged to be married to you or who otherwise holds himself or herself out as or is generally known as the person whom you intend to marry or with whom you intend to form a household, or any other natural person having the same legal residence as you.
 - Gifts which you are prohibited from accepting by Sections 112.313(4) and 112.314(4), Florida Statutes. These include any gift which you know or, with the exercise of reasonable care, should know was given to influence a vote or other action in which you are expected to participate in your official capacity. It also includes a gift worth over \$100 from a political committee or committee of continuous existence under the elections law, from a lobbyist who lobbies your agency or who lobbied your agency within the past 12 months, or from a partner, firm, employer, or principal of such a lobbyist.
 - Gifts worth over \$100 for which there is a public purpose, given to you by an entity of the legislative or judicial branch, a department or commission of the executive branch, a water management district created pursuant to s. 373.069, South Florida Regional Transportation Authority, the Technological Research and Development Authority, a county, a municipality, an airport authority, or a school board, or a gift worth over \$100 given to you by a direct-support organization specifically authorized by law to support the governmental agency of which you are an officer or employee. These gifts must be disclosed on Form 10.
- A "gift" is defined to mean that which is accepted by you or by another in your behalf, or that which is paid or given to another for or on behalf of you, directly, indirectly, or in trust for your benefit or by any other means, for which equal or greater consideration is not given within 90 days after receipt of the gift. A "gift" includes real property; the use of real property; tangible or intangible personal property; the use of tangible or intangible personal property, a preferential rate or terms on a debt, loan, goods, or services, which rate is below the customary rate and is not either a government rate available to all other similarly situated government employees or officials or a rate which is available to similarly situated members of the public by virtue of occupation, affiliation, age, religion, sex, or national origin; forgiveness of an indebtedness; transportation (unless provided to you by an agency or in relation to officially approved governmental business); lodging, or parking; food or beverage; membership dues; entrance fees, admission fees or tickets to events, performances, or facilities; plants, flowers, or floral arrangements; services provided by persons pursuant

to a professional license or certificate; other personal services for which a fee is normally charged by the person providing the services; and any other similar service or thing having an attributable value and not already described.

- The following are **NOT** reportable as gifts on this form: salary, benefits, services, fees, commissions, gifts, or expenses associated primarily with your employment, business, or service as an officer or director of a corporation or organization; contributions or expenditures reported pursuant to the election laws, campaign-related personal services provided without compensation by individuals volunteering their time, or any other contribution or expenditure by a political party, an honorarium or an expense related to an honorarium event paid to you or your spouse, an award, plaque, certificate, or similar personalized item given in recognition of your public, civic, charitable, or professional service; an honorary membership in a service or fraternal organization presented merely as a courtesy by such organization; the use of a governmental agency's public facility or public property for a public purpose. Also exempted are some gifts from state, regional, and national organizations that promote the exchange of ideas between, or the professional development of, governmental officials or employees.

HOW DO I DETERMINE THE VALUE OF A GIFT?

- The value of a gift provided to you is determined using the actual cost to the donor, and, with respect to personal services provided by the donor, the reasonable and customary charge regularly charged for such service in the community in which the service is provided. Taxes and gratuities are not included in valuing a gift. If additional expenses are required as a condition precedent to the donor's eligibility to purchase or provide a gift and the expenses are primarily for the benefit of the donor or are of a charitable nature, the expenses are not included in determining the value of the gift.
- Compensation provided by you to the donor within 90 days of receiving the gift shall be deducted from the value of the gift in determining the value of the gift.
- If the actual gift value attributable to individual participants at an event cannot be determined, the total costs should be prorated among all invited persons. A gift given to several persons may be attributed among all of them on a pro rata basis. Food, beverages, entertainment, etc. provided at a function for more than ten people should be valued by dividing the total costs by the number of persons invited, unless the items are purchased on a per-person basis, in which case the per-person cost should be used.
- Transportation should be valued on a round-trip basis unless only one-way transportation is provided. Round-trip transportation expenses should be considered a single gift. Transportation provided in a private conveyance should be given the same value as transportation provided in a comparable commercial conveyance.
- Lodging provided on consecutive days should be considered a single gift. Lodging in a private residence should be valued at \$44 per night.
- Food and beverages consumed at a single sitting or event are a single gift valued for that sitting or meal. Other food and beverages provided on a calendar day are considered a single gift, with the total value of all food and beverages provided on that date being the value of the gift.
- Membership dues paid to the same organization during any 12-month period are considered a single gift.
- Entrance fees, admission fees, or tickets are valued on the face value of the ticket or fee, or on a daily or per event basis, whichever is greater. If an admission ticket is given by a charitable organization, its value does not include the portion of the cost that represents a contribution to that charity.
- Except as otherwise provided, a gift should be valued on a per occurrence basis.

FOR MORE INFORMATION

The gift disclosures made on this form are required by Sec. 112.3148, Florida Statutes. Questions may be addressed to the Commission on Ethics, Post Office Drawer 15709, Tallahassee, Florida 32317-5709 or by calling (850) 488-7864; information is also provided at: www.ethics.state.fl.us.

CE FORM 9 - EFF. 1/2007



**GOREN CHEROF
DOODY & EZROL P.A.**
ATTORNEYS AT LAW



Outside/Concurrent Employment



Elected Officials SHALL NOT Lobby

Elected officials shall not lobby state or federal agencies or political subdivisions of the state.

- Art. II, Sec. 8(f), Florida Constitution



Immediate Family Members

Immediate family members may not lobby “covered individuals” or do business as vendor/contractor if doing so is prohibited by state law.

- Disclosure requirement.



Outside/Concurrent Employment – Disclosure

- Remuneration
- Exact amount or range
- Retirement contributions (exact amount or check box)
- July 1





Lobbyists



Lobbyist Registration System

- Each City must implement a lobbyist registration system.



Lobbyists

- Lobbyists must complete contact log irrespective of location (within 3 days)
- Municipalities must create contact log accessible by registered lobbyists
- Enforcement?



Content of Disclosure

- The lobbyist's name;
- The name of the entity by which the lobbyist is employed;
- The name of the person or entity for whom or which the lobbyist is lobbying;
- The name of each elected official lobbied by the lobbyist;
- The name of each person attending the meeting where the lobbying occurred;
- The date, time and location (mode of communication) of the meeting; and
- And the specific purpose and subject matter of the meeting.





Solicitation and Receipt of Contributions



Charitable Solicitation – Private Capacity

- Permissible on behalf of charitable organization, nonprofit entity, or individual
- Comply with applicable state and federal laws
- Not represented or implied to be on behalf city
- No use of city staff or public resources
- Disclosure



Charitable Solicitation – Official Capacity

- Permissible on behalf of charitable causes, individuals in need, or educational or humanitarian nonprofit entities under the IRC
- No quid pro quo
- No special consideration, including any direct or indirect exchange of benefits between parties to the solicitation
- Disclosure



What is NOT Charitable Solicitation?

- Postings on social media, when the primary purpose of the page is not to promote charitable causes/events
- Email correspondence directed to groups of 50 or more
- GoFundMe or similar online fundraising campaigns
- Newsletters referencing charitable causes/events when the primary purpose is note to promote such causes/events
- Statements at public meetings that reference charitable events/causes or that generally ask for contributions to such causes/events



Official Capacity– Use of City Resources

Official may use (“in-kind resources”):

- 1) Staff directly assigned to official;
- 2) City email;
- 3) City telephone; and
- 4) Other resources that do not require expenditure of public funds

City approval is required when the official solicitation involves expenditure of public funds or resources other than in-kind resources or staff other than staff directly assigned to the official.



Unless Solicitation is Formally Approved...

- May not represent or imply that solicitation is on behalf of the city
- May not use city staff resources when engaging in official solicitation if the official is soliciting from a specific person/entity without obtaining a written statement from city attorney that solicitation is legal and serves a public purpose
- Disclosure



Charitable Solicitation Disclosure

- Name of intended recipient of solicitation proceeds
 - Cause or event
 - Staff and resources used
 - Name of any person/entity that requested the official engage in solicitation
-
- Filed within 15 days



Charitable Solicitation – Other Considerations

- Elected official serves on fundraising committee or board of 501(c) – one (1) disclosure effective for two (2) years
- Salary received by elected official from nonprofit – not quid pro quo or special consideration
- No disclosure if elected official solicits on behalf of nonprofit employer



Campaign Fundraising – Disclosure

- Elected officials who solicit campaign contributions for other candidates **shall disclose** the following:
 - 1) The name of the candidate for whom they are soliciting;
 - 2) The location and date of any associated event; and
 - 3) The name and contribution amounts of any individual who provided contributions, directly or indirectly, to the *elected official* for subsequent delivery to the candidate.



Host Committees / Endorsements

- If solicitation of funds results “merely” from service on a candidate’s host committee or by signing an endorsement card authorizing name to be used for fundraising activities...
- Disclosure – effective through the election or for two (2) years, whichever is shorter.



Do NOT Disclose when...

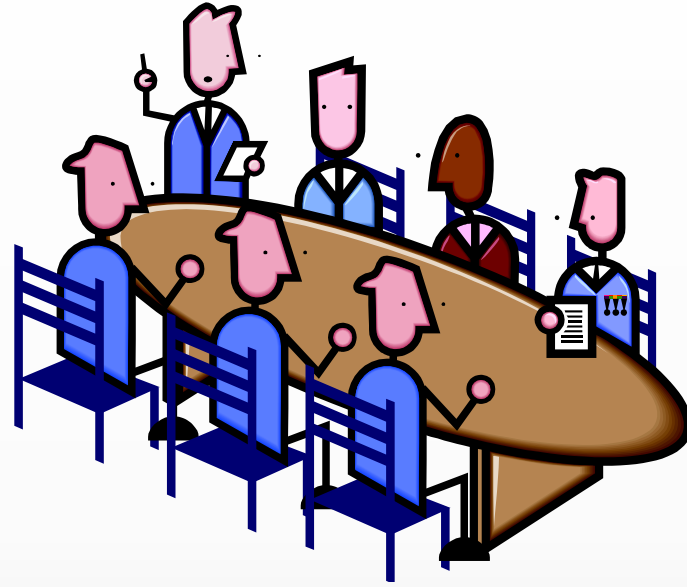
- Elected official's endorsement does not authorize use of their name in any fundraising efforts.
- Elected official attends or speaks at any event, including fundraiser, so long as official does not solicit contributions.



Campaign Fundraising – Use of City Resources

- City Commissioners may not use City staff or other City resources in the solicitation of campaign contributions.
- Campaign or political contributions may not be made, solicited or accepted in any government-owned building.





Procurement Selection Committees



Selection/Evaluation Committees

- Elected officials **shall not be included** as members on any Selection/Evaluation Committee and **shall not participate or interfere** in any manner at Committee meetings or in the selection of Committee members.
- Upon completion of the selection process by the Committee, elected officials **may** inquire into all aspects of the selection process and express any concerns.



Strong Mayor / Charter Exceptions

- The prohibitions related to procurement **shall not** apply to cities with “strong mayors” or to *elected officials* who, under their City’s charter, are required to participate in the procurement process in a manner that would be inconsistent with such prohibitions (Lighthouse Point / Plantation).
- The prohibitions **shall also not apply** to the hiring (or contractual procurement, in lieu of hiring) of individuals who report directly to the City Commission.
- Auditor Selection – Sec. 218.391, F.S.





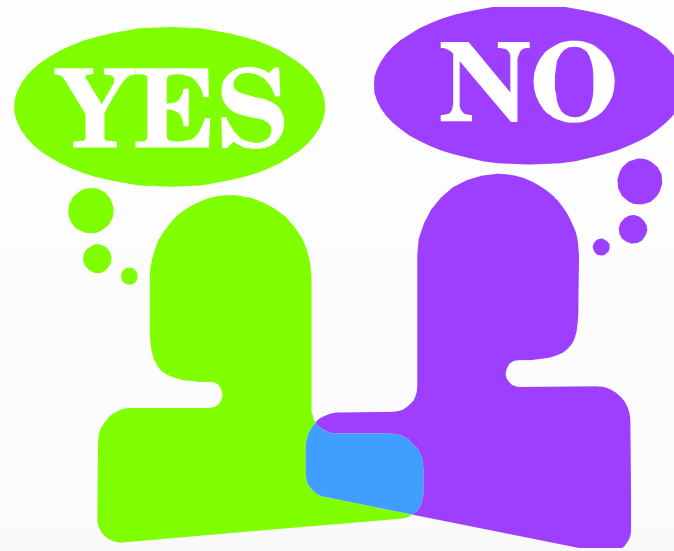
Financial Disclosure



Financial Disclosure – Form 1

- Filed with city clerk and SOE
- City may provide a link to separate database where campaign finance disclosures are otherwise filed





Advisory Opinions



Advisory Opinions

- Must include a recitation of material facts
- Elected Official must send opinions to county within 15 days of receipt





Training & Education



Training and Education – Newly Elected

- 4 hours within 120 days (starting with election)
- Must file certification within 15 days of completion
- 2 of 4 must be interactive (group or individual)
- Certification shall include date of training, number of hours and mode of training



Training and Education – Elected Officials

- 4 hours annually
- Annual = calendar year (Jan. 2017)
- Certification must be filed within 30 days after the end of each calendar year
- At least 2 hours must be interactive





Questions?



GOREN CHEROF
DOODY & EZROL P.A.
ATTORNEYS AT LAW



FLORIDA ETHICS LAW TRAINING

Chapter 112, F.S.

FOR ELECTED OFFICIALS



Presented by:

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April 19, 2024



Ethics in Government

A public office is a public trust. The people shall have the right to secure and sustain that trust against abuse.

Article II, Section 8
Constitution of the State of Florida



Article II, Section 8

- ▶ Public officers and candidates must file and publicly disclose financial interests and campaign finances.
- ▶ Civil liability for breach of public trust for private gain.
- ▶ Loss of public retirement and pension plan benefits for felony breaches of public trust for private gain.

Lobbying Restrictions:

- ▶ While in office, a public officer shall not lobby public agencies for compensation on policy, appropriations, or procurement issues.
 - ▶ Public officers shall not lobby public agencies for compensation on policy, appropriations, or procurement issues for six (6) years after leaving public office.
-



Code of Ethics

It is essential to the proper conduct and operation of government that public officials be independent and impartial and that public office not be used for private gain other than the remuneration provided by law. The public interest, therefore, requires that the law protect against any conflict of interest and establish standards for the conduct of elected officials and government employees in situations where conflicts may exist.

Chapter 112, Part III- Code of Ethics
Florida Statutes



State Policy as to Public Officers and Employees

- Agents of the people.
- Hold the public position to benefit the public.
- Observe the high standards of ethics.
- Duty to promote the public interest and maintain the respect of the people.

Chapter 112, Part III- Code of Ethics



Definitions

“Public officer” includes any person elected or appointed to hold office in any agency, including any person serving on an advisory body.

“Agency” means any state, regional, county, local, or municipal government entity of this state,...

"Relative," unless otherwise specified in this part, means an individual who is related to a public officer or employee as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, grandparent, great grandparent, grandchild, great grandchild, step grandparent, step great grandparent, step grandchild, step great grandchild, a person who is engaged to be married to the public officer or employee or who otherwise holds himself or herself out as or is generally known as the person whom the public officer or employee intends to marry or with whom the public officer or employee intends to form a household, or any other natural person having the same legal residence as the public officer or employee.



Prohibited Activities & Conduct

- ▶ Solicitation or acceptance of gifts (Quid Pro Quo = Bribery)
- ▶ Unauthorized compensation
- ▶ Misuse of public office
- ▶ Wrongful disclosure or use of public information
- ▶ Doing business with one's agency
- ▶ Conflicting employment or contractual relationships
- ▶ Voting conflicts
- ▶ Employment or appointment of relatives (Nepotism)



Prohibited Activities - Solicitation/Acceptance of Gifts

You May Not:

- ▶ Solicit or accept anything of value to yourself, including a gift, loan, reward, promise of future employment, favor, or service, based upon any understanding that your vote, official action, or judgment would be influenced by the gift. [Section 112.313(2)]
- ▶ Solicit for your personal benefit or for any immediate family member or another public official or employee, any gift from a vendor doing business with your agency, or a political committee, or a lobbyist who lobbies you or your agency, or from a lobbyist' partner, firm, employer, or principal. [Sec. 112.3148(3), Fla. Stat.]
- ▶ Knowingly accept, directly or indirectly, a gift (reasonably believed to be in excess of \$100) from a vendor doing business with your agency, or from a political committee, or from a lobbyist who lobbies you or your agency; or directly or indirectly on behalf of the partner, firm, employer, or principal of the lobbyist. [Sec. 112.3148(4), Fla. Stat.]



Prohibited Activities - Unauthorized Compensation

You, your spouse, and minor children may not accept any compensation, payment, or thing of value if you know or reasonably should know, it is given to influence your vote or other official action.

[Sec. 112.313(4), Fla. Stat.]



Permitted Gifts or Activities

Gift - Anything of value not paid for within ninety (90) days of receipt.

- ▶ You may accept a gift on behalf of a governmental entity or a charitable organization, however your may not hold the gift for a period of time longer than reasonably necessary to transfer custody and ownership. [Sec. 112.3148(4), Fla. Stat.]
- ▶ A municipality (or other permitted agency) may give a gift having a value of \$100 or more in excess of \$100 to a public official (or procurement employee) if a public purpose can be shown for the gift; [Sec. 112.3148(6)(a), Fla. Stat.]
- ▶ A direct-support organization (specifically authorized by law to support a governmental entity) may give a gift to a public officer (or procurement employee) who is an officer or employee of such governmental entity. [Sec. 112.3148(6)(a), Fla. Stat.]
- ▶ A public official or procurement employee may accept a gift with a value of \$100 or more from a municipality (or other permitted agency) if a public purpose can be shown for the gift; and a public officer or procurement employee of a governmental entity supported by a direct-support organization specifically authorized by law to support such governmental entity may accept such a gift from such direct-support organization. [Sec. 112.3148(6)(b)), Fla. Stat]
- ▶ The value of a gift provided to a public officer is generally determined using actual cost to the donor, less taxes and gratuities. [Sec. 112.3148(7), Fla. Stat]



Prohibited Activities - Misuse of Public Office

- ▶ You cannot corruptly use or attempt to use your official position or any property or resource within your trust;
- ▶ You cannot corruptly perform your official duties to secure a special privilege, benefit, or exemption for yourself or others.

[Sec.112.313(6), Fla. Stat.]



Prohibited Activities - Wrongful Disclosure or Use of Public Information

You may not disclose or use information obtained by reason of your public position not available to the public, for your benefit or others.

[Sec. 112.313(8), Fla. Stat.]



Prohibited Activities - Solicitation Or Acceptance of Honoraria

- ▶ You may not solicit honoraria related to your public office or duties.
- ▶ You may not knowingly accept an honorarium from a political committee, or a vendor doing business with your agency, or a lobbyist who lobbies you or your agency, or from the employer, principal, partner, or firm of such a lobbyist [Sec. 112.3149, Fla. Stat.]
- ▶ Honoraria means a payment of money or anything of value to a public official or to any other person on his or her behalf, as consideration for:
 - A speech, address, oration, or other oral presentation by the public official.
 - A writing by the public official (not a published book).



Prohibited Activities - Doing Business With One's Agency

In your official capacity, you may not purchase, rent, or lease any property, goods, or services for your agency from a business entity in which you, or your spouse or child owns more than a 5% interest.

Conversely- while in your private capacity may not rent, lease or sell any property, goods, or services to your own agency.

[Sec. 112.313(3), Fla. Stat.]



Prohibited Activities - Conflicting Employment or Contractual Relationship

You may not hold any employment or contractual relationship with any business entity or agency that is regulated by or doing business with your agency.

[Sec. 112.313(7), Fla. Stat.]



Prohibited Activities- Dual Public Employment

Motive Matters:

- ▶ You may not accept public employment with the state or any political subdivision that is offered for the purpose of gaining influence or other advantage based on your public position.
- ▶ Public employment may not be accepted unless the position was already in existence or created without the anticipation of the official's interest, and was publicly advertised, and the officer undergoes same qualifications and hiring process as other applicants.
- ▶ Elected public officers already holding public employment, may not accept promotion intended to influence, or which is inconsistent other similarly situated employees.

[Sec. 112.3125, Fla. Stat.]



Prohibited Activities - Appointing, Contracting or Employing Relatives

Nepotism:

- ▶ You may not seek any appointment, employment, promotion, or advancement in the agency in which you are serving or over which you exercise jurisdiction or control for a relative
- ▶ No person to whom you are related may be appointed, employed, promoted, or advanced in or to a position in an agency if you have advocated for such and are serving in or exercising jurisdiction or control over the agency... [Sec. 112.3135(2)(a), Fla. Stat.]
- ▶ Relative means: an individual who is related to the public official as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister. [Sec. 112.3135(1)(d) Fla. Stat.]



Prohibited Activities - Lobbying by Former Local Government Officers & Employees

- ▶ Public officer” means a statewide elected officer, a member of the legislature, a county commissioner, a county officer pursuant to Article VIII or county charter, a school board member, a superintendent of schools, an elected municipal officer, an elected special district officer in a special district with ad valorem taxing authority, or a person serving as a secretary, an executive director, or other agency head of a department of the executive branch of state government.
- ▶ You may not lobby for compensation on issues of policy, appropriations, or procurement before the federal government, the legislature, any state government body or agency, or any political subdivision of this state, during your term of office.
- ▶ You may not lobby for compensation on issues of policy, appropriations, or procurement for a period of six (6) years after vacation of your public position, as follows:

A county commissioner, a county officer pursuant to Article VIII or county charter, a school board member, a superintendent of schools, an elected municipal officer, or an elected special district officer in a special district with ad valorem taxing authority shall not lobby his or her former agency or governing body. [State Constitution, Art. II, Sec. 8]



Prohibited Activities - Voting Conflicts

You may not, without first disclosing the nature of the interest, vote or participate in your official capacity upon any matter that would inure to the special private gain or loss of:

Yourself;

- ▶ Any principal who retained you;
- ▶ The parent organization or subsidiary who retained you;
- ▶ Sibling of a corporate principal who retained you.
- ▶ Your relative, or business associate.

Before voting the officer must publicly announce the nature of the interest:

- ▶ You must file memorandum of voting conflict on Commission Form 8B with your agency clerk within 15 days.
- ▶ The memorandum must be provided to other members and read publicly at next meeting.



Mandatory Disclosure of Financial Interests- Disclosure of Voting Conflicts of Interest

- Conflicts of interest may occur when you, in your official capacity, are also in a position to make decisions that affect your personal financial interests. Thus the requirement for public disclosure of your financial interests.
- The disclosure process serves to enable the public to evaluate potential conflicts of interest, deters corruption, and increases public confidence in government.
 - FORM 6 – Full and Public Disclosure of Financial Interests - Local officers, candidates for local elective office.
 - FORM 8B - Memorandum of Voting Conflict for Municipal/Local Officers.



Mandatory Disclosure of Financial Interests – Penalties and Final Statement of Financial Interest

- An ethics complaint could be filed against the filer.
- Penalties include removal or suspension from office, dismissal from employment, public censure and reprimand, disqualification from being on the ballot.
- If a complaint is filed and it “alleges an immaterial, inconsequential, or de minimus error or omission” (“if the original filing provided sufficient information for the public to identify potential conflicts of interest’), the filer is given 30 days to correct. Forgiven if corrected.

Final Statement of Financial Interest

- To be filed within 60 days of leaving public office or employment.



PENALTIES- Violation of Code of Ethics or Sunshine Amendment

Although, no criminal penalties attach for violation of the Sunshine Amendment and the Code of Ethics, the penalty for violation may include:

- ▶ impeachment,
- ▶ removal from office or employment,
- ▶ suspension,
- ▶ public censure,
- ▶ reprimand,
- ▶ demotion,
- ▶ reduction in salary level,
- ▶ forfeiture of no more than one-third salary per month for no more than twelve months, and
- ▶ a civil penalty not to exceed \$10,000, and restitution of any pecuniary benefits received, and triple the value of a gift from a political committee.



THE FLORIDA COMMISSION ON ETHICS- COMPOSITION

- ▶ The Florida Commission on Ethics
 - Has nine (9) members.
 - Functions as an independent commission responsible for investigating and issuing public reports on complaints of breach of the public trust by public officers and employees.
 - Renders legally binding advisory opinions interpreting the ethics laws and implements the State's financial disclosure laws.
 - Recommends penalties.
- ▶ Composition
 - Members serve two-year terms.
 - Five (5) members are appointed by the Governor, with no more than three from the same political party. One member appointed by the Governor must be a former city or county official
 - Two (2) members are appointed by the President of the Senate and
 - Two (2) members by the Speaker of the House of Representatives.




THE FLORIDA COMMISSION ON ETHICS- ADVISORY OPINIONS

- ▶ Conservative prudence favors conferring and seeking opinions from the Commission on Ethics.
 - Any public officer, candidate for public office, or public employee in Florida who is in doubt about the applicability of the standards of conduct or disclosure laws to himself or herself, or anyone who has the power to hire or terminate another public employee, may seek an advisory opinion from the Commission about himself or herself or that employee.
- ▶ Requesting An Opinion
 - Letter presenting a question based on detailed description of an actual present situation.
 - Commission opinions are binding on the conduct of the person who is the subject of the opinion, unless material facts were omitted or misstated in the request.
 - Published opinions will not bear the name of the persons involved absent consent.



Questions



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OFFICE OF THE INSPECTOR GENERAL

Presented by:

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Fort Lauderdale, FL 33308
(954) 771-4500 - Office
(954) 771-4923 - Fax

Created to investigate misconduct and gross mismanagement

- 1) Misconduct – Any violation of the state or federal constitution, any state or federal statutes or code, any county or municipal ordinance of code; or any conduct involving fraud, corruption or abuse.
- 2) Gross Mismanagement – Material waste or significant mismanagement of public resources.

Jurisdiction of Inspector General

- 1) All elected and appointed officials (“Officials”) and employees (“Employees”) of the Charter Government of Broward County and of all municipalities, including any city, town or village duly incorporated under the laws of the state within Broward County.
- 2) All entities and persons (other than employees of the County of any Municipality) that provide goods or services to the County or any Municipality under contract for compensation, but solely with respect to the provision of such goods or services (“Providers”).

Commencement of an Investigation

The IG may commence an investigation if good cause exists that any Official, Employee or Provider has engaged in misconduct or gross mismanagement.



Good Cause

The Inspector General may find good cause:

- 1) On his/her own initiative; or
- 2) Based on a signed, verified complaint stating allegations that, if true, would constitute misconduct or gross mismanagement.

Complaint

A complaint may only serve as a basis for a good cause finding if it is signed by an identified person who verifies the content of the complaint by including the following statement:

“Under penalties of perjury, I declare that I have read the foregoing complaint and that based on my personal knowledge the facts stated in it are true.”

Inspector General Investigation

IG shall have the power to subpoena witnesses, administer oaths, and require (through subpoena or otherwise) the production of documents and records.

IG may audit any program, contract, or the operations of any division, department, or office of the county or municipalities.

IG may audit the operations or performance of any Provider relating to the Provider's contract for compensation with the County or Municipality.

IG Investigation (Continued)

All Officials, Employees, and Providers shall fully cooperate with investigations.

IG shall interview all persons implicated by a complaint, and all persons implicated during the investigation.

IG may attend all duly-noticed local government meetings relating to the procurement of goods or services, and may pose questions and raise concerns consistent with the functions, authority, and powers of the IG.

Confidentiality of Investigation

To the full extent provided under applicable law, including under Section 112.3188(2)., F.S., as amended, the Inspector General's records related to active investigations shall be confidential and exempt from disclosure.



“Malicious” Complaints

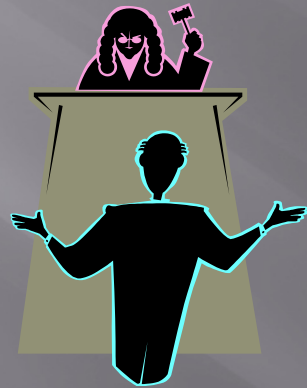
If the IG determines that a person has filed a complaint with a malicious intent to injure an Official’s, Employee’s or Provider’s reputation with baseless, spurious or false accusations or with a reckless disregard for the truth of the allegations, the complainant shall be liable for all costs incurred by the IG in investigation of the complaint.

Recovery of Costs for Malicious Complaint

- 1) IG issues a demand letter for reimbursement of costs.
- 2) If complainant objects in writing to the demand within thirty (30) days, the matter shall be referred to Hearing Officer for adjudication.
- 3) If no objection, IG's determination shall be final and binding, and may be enforced by a court of competent jurisdiction.

Recovery of Costs – Prevailing Official

A Official or Employee who prevails in full in any administrative hearing in connection with a complaint filed with the IG shall be entitled to reimbursement of all reasonable attorney's fees and costs incurred.



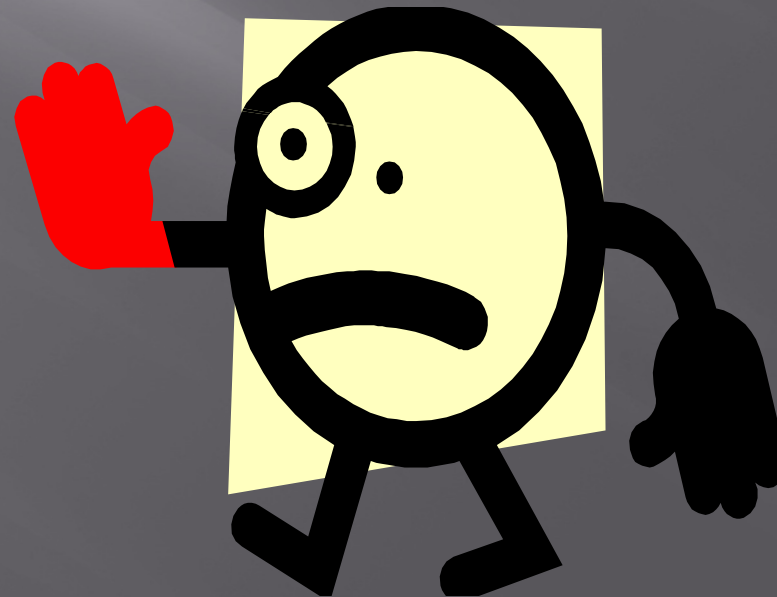
IG Finding of Probable Cause

After completing his/her investigation and determining that there is probable cause to believe misconduct has occurred, the IG shall notify the appropriate civil, criminal or administrative agencies charged with the enforcement related to the alleged misconduct.

If no agency has jurisdiction over the alleged misconduct, the matter shall be referred to a Hearing Officer for quasi-judicial enforcement proceedings.

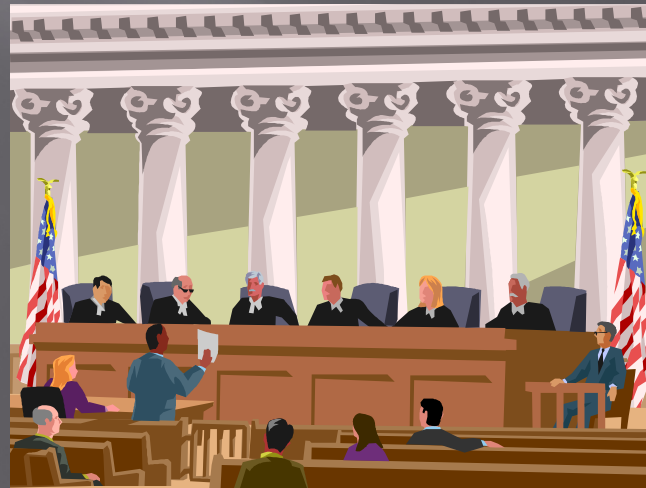
Criminal Offenses

IG shall refer findings of alleged criminal offenses to the Office of the State Attorney and/or the Office of the United States Attorney.



Civil Offenses – Ch. 112, F.S.

The IG shall refer findings of alleged civil offenses involving a violations of Chapter 112, Part III, F.S., to the Florida Commission on Ethics.



Election Code Violations

The IG shall refer findings of alleged violations of the Florida Election Code, Chapters 97 through 106, F.S., to the Florida Elections Commission (except as to alleged violations that may be criminal in nature, which shall be referred to the Office of the State Attorney).



Other Violations

The IG shall refer other alleged offenses to the appropriate civil, criminal or administrative agency that would have jurisdiction over the mater.



Action Brought by the IG

Any civil infraction which does not fall within one of the previously detailed categories shall be stated in a complaint brought in the name of the IG.

IG may retain independent counsel to represent him/her in prosecuting the complaint before a hearing officer.

Accused shall file a response within thirty (30) days after being served.

Hearing Procedures

Except to any extent inconsistent with the Broward County Charter, the Florida Rules of Civil Procedure and the Florida Evidence Code, as amended, shall apply to all matter referred to a Hearing Officer.



Authority of the Hearing Officer

- 1) Issue scheduling orders, case-management orders, and briefing schedules;
- 2) Issue notice of hearings;
- 3) Hold hearings on any procedural or substantive matters related to the Complaint;
- 4) Administer oaths and affirmations;
- 5) Issue subpoenas (attendance of witnesses and production of documents);
- 6) Rule on motions presented;

Authority of Hearing Officer Continued

- 7) Issue appropriate orders to effectuate discovery;
- 8) Regulate the course of the hearing;
- 9) Dispose of procedural requests; and
- 10) Enter any order consistent with his/her authority.

Final Order of Hearing Officer

Shall be issued within thirty (30) days after completion of the hearing process.

Shall contained detailed findings of fact and conclusions of law.

If the hearing officer determines that misconduct has occurred, the final order shall specify the sanctions imposed, if any.

Hearing Officer Standard of Review

The Final Order of the Hearing Officer shall determine whether the IG has proved the allegations of the complaint by a preponderance of the evidence.



Sanctions

- 1) Fines
- 2) Public Reprimand/Censure



Fines

- 1) An Official, Employee, or Provider determined to have committed misconduct shall be assessed a monetary fine of between \$250 and \$5,000.
- 2) In determining the amount of the fine, the Hearing Officer shall consider the gravity of the violation, whether it was intentional, and whether it was a repeat offense.
- 3) Hearing Officer may determine that no fine shall be imposed upon making an affirmative, express finding that the violation was unintentional and *de minimis*.
- 4) In addition to a fine, the Hearing Officer may order the Official, Employee, or Provider to pay restitution or to disgorge any sums wrongfully received (directly or indirectly) by that person or entity.

Public Reprimand/Censure

An Official or Employee who is found to have violated any provision of this Code may be subject to public reprimand or censure.



Inspector General Reports

The IG shall issue reports, including recommendations, in the following circumstances:

1) At the conclusion of an investigation involving allegations of gross mismanagement; and

2) At the conclusion of an investigation involving allegations of misconduct, if the IG determines that a report will assist the County or any Municipality in preventing similar future misconduct.

Recommendation Follow-up

The IG may follow up on any recommendations he/she makes to determine whether such recommendations have been implemented.



Annual Report

- 1) The IG shall annually publish a written report to the County and Municipalities detailing activities of the Office of the Inspector General.
- 2) The Selection-Oversight Committee shall convene within sixty (60) days of its receipt of the annual report to consider the report and performance of the IG.

THE END

