

# Commonwealth of Virginia



## Conflict of Interest and Ethics Advisory Council

Local Employees and Officers and  
the Conflict of Interests Act

Effective January 1, 2016

# Overview

- \* The Council
- \* Prohibited Conduct
- \* The Gift Law
- \* Travel Waivers
- \* Preparing and Submitting Disclosures
- \* Enforcement and Penalties

# Overview

This training will cover the Local Government Conflict of Interests law effective on January 1, 2016

This training is intended for local officers and employees only

Local government employees should review the local government employee training available on the Council's website



# **The Council's Powers and Duties**

# The Council Powers and Duties

- \* Council Established
  - \* § 30-355 et seq.
  - \* Established as an advisory council in the legislative branch
- \* Oversees the Lobbyist, Local and Local, and General Assembly Conflict of Interests Acts
  - \* Lobbyist, § 2.2-419 et seq.
  - \* Local and Local Conflict of Interests Act, § 2.2-3100 et seq.
  - \* General Assembly Conflict of Interests Act, § 30-100 et seq.

# The Council

- \* Nine Members

- \* Four local employee or officials
- \* Two Former Judges
- \* Three Gubernatorial Appointees
  - \* Active or Former Executive Branch Employee/Official
  - \* Virginia Association of Counties (VACO) Nominee
  - \* Virginia Municipal League (VML) Nominee

# Council Powers and Duties

- \* Advisory Agency

- \* Not an enforcement agency

- \* Provide guidance

- \* Formal Advisory Opinions

- \* Must be approved by Council

- \* Personal information is redacted

- \* Generally applied, not specifically

- \* Attorney General's is another resource for formal opinions

- \* Informal Guidance

- \* Issued by staff

- \* Exempt from FOIA

Both formal and informal guidance provide transactional immunity to local officers and employees, as long as both the request and the response are written.

# Council Powers and Duties

- \* Report to the General Assembly and the Governor
  - \* Due annually by December 1
  - \* Activities
  - \* Recommendations for changes in the laws
- \* Training, Guidance Documents
  - \* Conduct training seminars, educational programs, and publish educational materials
  - \* Approve orientation courses conducted by local agencies



# Council Powers and Duties

## \* Electronic Filing

- \* Provide an electronic format for persons required to disclose
- \* Disclosures are required to be filed electronically beginning July 2016

## \* Searchable Database

- \* Place ALL disclosures online
- \* Public search
- \* Redact personal information
  - \* Residence address, phone numbers

# Council Powers and Duties

- \* Assess Penalties

- \* Failure to file timely disclosures is a \$250 civil penalty
- \* Collected by the Attorney General
- \* Money offsets Council's budget

- \* Approve Travel Waivers

- \* Online request form

# **Prohibited Conduct**

# Prohibited Conduct

- \* Prohibited Conduct

- \* No local employee or official shall

- \* Solicit or accept money or other thing of value for services performed within the scope of his official duties except the compensation, expenses or other remuneration paid to him by the agency of which he is an officer or employee
      - \* This prohibition does not apply to the acceptance of special benefits that may be authorized by law;
    - \* Offer or accept any money or other thing of value for or in consideration of obtaining employment, appointment, or promotion of any person with any governmental or advisory agency;
    - \* Offer or accept any money or other thing of value for or in consideration of the use of his public position to obtain a contract for any person or business with any governmental or advisory agency;
    - \* Use for his own economic benefit or that of another party confidential information which he has acquired by reason of his public position and which is not available to the public;

# Prohibited Conduct

- \* Prohibited Conduct

- \* No local employee or official shall

- \* Accept any money, loan, gift, favor, service, or business or professional opportunity that reasonably tends to influence him in the performance of his official duties

- \* This shall not apply to any political contribution actually used for political campaign or constituent service purposes and reported as required by Chapter 9.3 (§ [24.2-945](#) et seq.) of Title 24.2 (the Campaign Finance Disclosure Act of 2006);

- \* Accept any business or professional opportunity when he knows that there is a reasonable likelihood that the opportunity is being afforded him to influence him in the performance of his official duties;

# Prohibited Conduct

- \* Prohibited Conduct

- \* No local employee or official shall

- \* Accept a gift from a person who has interests that may be substantially affected by the performance of the local employee or official's official duties under circumstances where the timing and nature of the gift would cause a reasonable person to question the local employee or official's impartiality in the matter affecting the donor. Violations of this subdivision shall not be subject to criminal law penalties; or

- \* Accept gifts from sources on a basis so frequent as to raise an appearance of the use of his public office for private gain. Violations of this subdivision shall not be subject to criminal law penalties.

- \* Constitutional Officers (except Commonwealth Attorneys) are prohibited from one year after the termination of his public service, act in a representative capacity on behalf of any person or group, for compensation, on any matter before the agency of which he is an officer.

# Personal Interest

## \* “Personal Interest”

- \* A financial benefit or liability accruing to a local employee or official or to a member of his immediate family which exists by reason of
  - \* (i) ownership in a business if the ownership interest exceeds three percent of the total equity of the business;
  - \* (ii) annual income that exceeds, or may reasonably be anticipated to exceed, \$5,000 from ownership in real or personal property or a business;
  - \* (iii) salary, other compensation, fringe benefits, or benefits from the use of property, or any combination thereof, paid or provided by a business or governmental agency that exceeds, or may reasonably be anticipated to exceed, \$5,000 annually;
  - \* (iv) ownership of real or personal property if the interest exceeds \$5,000 in value and excluding ownership in a business, income, or salary, other compensation, fringe benefits or benefits from the use of property;
  - \* (v) personal liability incurred or assumed on behalf of a business if the liability exceeds three percent of the asset value of the business; OR
  - \* (vi) an option for ownership of a business or real or personal property if the ownership interest will consist of clause (i) or (iv).

# Personal Interest

- \* “Transaction”

- \* Any matter considered by any governmental or advisory agency, whether in committee, subcommittee, or other entity of that agency or before the agency itself, on which official action is taken or contemplated



# Personal Interest

## \* “Personal Interest in a Transaction”

- \* When a personal interest in a transaction exists each officer and employee of any local governmental or advisory agency shall disqualify themselves from participating in the transaction if the transaction has application solely to property or a business or governmental agency in which he has a personal interest
  - \* The officer or employee is required to disclose their personal interest and shall not vote or in any manner act on behalf of his agency in the transaction.
  - \* The officer or employee shall not attend any portion of a closed meeting when the matter in which they have a personal interest is discussed
  - \* The officer or employee shall not discuss the matter in which he has a personal interest with other governmental officers or employees at any time

# Personal Interest

## \* “Personal Interest in a Transaction”

- \* An officer or employee may participate in the transaction
  - \* If they are a member of a business, profession, occupation, or group of three or more persons of which are affected by the transaction, and they disclose the conflict on their required disclosure forms
  - \* When a party to the transaction is a client of their firm if they do not personally represent or provide services to such client and they declare the interest orally to be recorded in the written minutes for their agency or file a written declaration with the clerk or administrative head of his governmental or advisory agency
  - \* If it affects the public generally, even though their personal interest, as a member of the public, may also be affected by the transaction

# Personal Interest

- \* “Contract”

- \* any agreement to which a governmental agency is a party, or any agreement on behalf of a governmental agency that involves the payment of money appropriated by the General Assembly or a political subdivision, whether or not such agreement is executed in the name of the Commonwealth, or some political subdivision thereof. "Contract" includes a subcontract only when the contract of which it is a part is with the local employee or official's own governmental agency

- \* “Personal Interest in a Contract”

- \* personal interest that a local employee or official has in a contract with a governmental agency, whether due to his being a party to the contract or due to a personal interest in a business that is a party to the contract

# Personal Interest

## \* Prohibited Conduct in a Contract

- \* Boards of Supervisors, city and town councils
  - \* Shall not have a personal interest
    - \* In any contract with their governing body, or
    - \* Any contract with any governmental agency that is a component part of his local government and which is subject to the ultimate control of the governing body of which he is a member, or
    - \* Any contract other than a contract of employment with any other governmental agency if such person's governing body appoints a majority of the members of the governing body of the second governmental agency.

# Personal Interest

- \* Personal interest in a contract does not apply to (BoS, City and Town Councils):
  - \* An officer or employee who was employed by the governmental agency prior to July 1, 1983;
  - \* Contracts for the sale by a governmental agency of services or goods at uniform prices available to the public; or
  - \* A contract awarded to a member of a governing body as a result of competitive sealed bidding where the governing body has established a need for the same or substantially similar goods through purchases prior to the election or appointment of the member to serve on the governing body.
    - \* the member shall have no involvement in the preparation of the specifications for such contract, and the remaining members of the governing body, by written resolution, shall state that it is in the public interest for the member to bid on such contract.

# Personal Interest

- \* Prohibited Contracts by members of School Boards

- \* No person elected or appointed as a member of a local school board shall have a personal interest in (i) any contract with his school board or (ii) any contract with any governmental agency that is subject to the ultimate control of the school board of which he is a member.

- \* Exceptions:

- \* A member's personal interest in a contract of employment provided the employment first began prior to the member becoming a member of the school board;
- \* Contracts for the sale by a governmental agency of services or goods at uniform prices available to the public; or
- \* A contract awarded to a member of a school board as a result of competitive sealed bidding where the school board has established a need for the same or substantially similar goods through purchases prior to the election or appointment of the member to serve on the school board. However, the member shall have no involvement in the preparation of the specifications for such contract, and the remaining members of the school board, by written resolution, shall state that it is in the public interest for the member to bid on such contract.

# Personal Interest

- \* Prohibited Contracts by other officers and employees of local government
  - \* No other officer or employee of any governmental agency of local government, including a hospital authority as defined in § [2.2-3109.1](#), shall have a personal interest in a contract with the agency of which he is an officer or employee other than his own contract of employment.
  - \* No officer or employee of any governmental agency of local government, including a hospital authority as defined in § [2.2-3109.1](#), shall have a personal interest in a contract with any other governmental agency that is a component of the government of his county, city or town unless such contract is (i) awarded as a result of competitive sealed bidding or competitive negotiation as set forth in § [2.2-4302.1](#) or [2.2-4302.2](#) or is awarded as a result of a procedure embodying competitive principles as authorized by subdivision A 10 or 11 of § [2.2-4343](#) or (ii) is awarded after a finding, in writing, by the administrative head of the governmental agency that competitive bidding or negotiation is contrary to the best interest of the public.

# Personal Interest

- \* Exceptions to the Previous Slide:

- \* An employee's personal interest in additional contracts for goods or services, or contracts of employment with his own governmental agency that accrue to him because of a member of his immediate family, provided the employee does not exercise any control over (i) the employment or the employment activities of the member of his immediate family and (ii) the employee is not in a position to influence those activities or the award of the contract for goods or services;
- \* An officer's or employee's personal interest in a contract of employment with any other governmental agency that is a component part of the government of his county, city or town;
- \* Contracts for the sale by a governmental agency of services or goods at uniform prices available to the general public;
- \* Any ownership or financial interest of members of the governing body, administrators, and other personnel serving in a public charter school in renovating, lending, granting, or leasing public charter school facilities, as the case may be, provided such interest has been disclosed in the public charter school application as required by § [22.1-212.8](#).



# Personal Interest

- \* Further Exceptions to ALL local employees

- \* The personal interest of an officer or employee of a hospital authority in additional contracts of employment with his own governmental agency that accrue to him because of a member of his immediate family, provided (i) the officer or employee and the immediate family member are licensed members of the medical profession or hold administrative support positions at the hospital authority, (ii) the governing board of the hospital authority finds that it is in the best interests of the hospital authority and the county, city, or town for such dual employment to exist, and (iii) after such finding, the governing board of the hospital authority ensures that neither the officer or employee, nor the immediate family member, has sole authority to supervise, evaluate, or make personnel decisions regarding the other;
- \* 2. Subject to approval by the governing board of the hospital authority, an officer or employee's personal interest in a contract between his hospital authority and a professional entity that operates a clinical practice at any medical facilities of such other hospital authority and of which such officer or employee is a member or employee;

# Personal Interest

- \* Further Exceptions to ALL local employees

- \* 3. Subject to approval by the relevant governing body, an officer or employee's personal interest in a contract for research and development or commercialization of intellectual property between the hospital authority and a business in which the employee has a personal interest, provided (i) the officer or employee's personal interest has been disclosed to and approved by the hospital authority prior to the time at which the contract is entered into; (ii) the officer or employee promptly files a disclosure statement pursuant to § [2.2-3117](#) and thereafter files such statement annually on or before December 15; (iii) the local hospital authority has established a formal policy regarding such contracts in conformity with any applicable federal regulations that has been approved by its governing body; and (iv) no later than December 31 of each year, the local hospital authority files an annual report with the Virginia Conflict of Interest and Ethics Advisory Council disclosing each open contract entered into subject to this provision, the names of the parties to each contract, the date each contract was executed and its term, the subject of each contractual arrangement, the nature of the conflict of interest, the hospital authority's employee responsible for administering each contract, the details of such hospital authority's commitment or investment of resources or finances for each contract, and any other information requested by the Virginia Conflict of Interest and Ethics Advisory Council; or

# Personal Interest

- \* Further Exceptions to ALL local employees

- \* 4. Subject to approval by the relevant governing body, an officer or employee's personal interest in a contract between the hospital authority and a business in which the officer or employee has a personal interest, provided (i) the personal interest has been disclosed to the hospital authority prior to the time the contract is entered into; (ii) the officer or employee files a disclosure statement pursuant to § [2.2-3117](#) and thereafter annually on or before December 15; (iii) the officer or employee does not participate in the hospital authority's decision to contract; (iv) the president or chief executive officer of the hospital authority finds and certifies in writing that the contract is for goods and services needed for quality patient care, including related medical education or research, by any of the hospital authority's medical facilities or any of its affiliated organizations, or is otherwise necessary for the fulfillment of its mission, including but not limited to the acquisition of drugs, therapies, and medical technologies; and (v) no later than December 31 of each year, the hospital authority files an annual report with the Virginia Conflict of Interest and Ethics Advisory Council disclosing each open contract entered into subject to this provision, the names of the parties to each contract, the date each contract was executed and its term, the subject of each contractual arrangement, the nature of the conflict of interest, the hospital authority's employee responsible for administering each contract, the details of the hospital authority's commitment or investment of resources or finances for each contract, and any other information requested by the Virginia Conflict of Interest and Ethics Advisory Council.

# Personal Interest

- \* Further Exceptions to ALL local employees
  - \* C. Notwithstanding the provisions of subdivisions B 3 and B 4, if the research and development or commercialization of intellectual property or the officer or employee's personal interest in a contract with a business is subject to policies and regulations governing conflicts of interest promulgated by any agency of the United States government, including the adoption of policies requiring the disclosure and management of such conflicts of interest, the policies established by the hospital authority pursuant to such federal requirements shall constitute compliance with subdivisions B 3 and B 4, upon notification by the hospital authority to the Virginia Conflict of Interest and Ethics Advisory Council by January 31 of each year of evidence of its compliance with such federal policies and regulations.

# Personal Interest

- \* Further Exceptions to ALL local employees

- \* D. The governing body may delegate the authority granted under subdivision B 2 to the president or chief executive officer of hospital authority. If the board elects to delegate such authority, the board shall include this delegation of authority in the formal policy required by clause (iii) of subdivision B 3. In those instances where the board has delegated such authority, on or before December 1 of each year, the president or chief executive officer of the hospital authority shall file a report with the relevant governing body disclosing each open contract entered into subject to this provision, the names of the parties to each contract, the date each contract was executed and its term, the subject of each contractual arrangement, the nature of the conflict of interest, the hospital authority's employee responsible for administering each contract, the details of the hospital authority's commitment or investment of resources or finances for each contract, the details of how revenues are to be dispersed, and any other information requested by the governing body.

# Personal Interest

- \* Even Further Exceptions:

- \* 1. The sale, lease or exchange of real property between an officer or employee and a governmental agency, provided the officer or employee does not participate in any way as such officer or employee in such sale, lease or exchange, and this fact is set forth as a matter of public record by the governing body of the governmental agency or by the administrative head thereof;
- \* 2. The publication of official notices;
- \* 3. Contracts between the government or school board of a town or city with a population of less than 10,000 and an officer or employee of that town or city government or school board when the total of such contracts between the town or city government or school board and the officer or employee of that town or city government or school board or a business controlled by him does not exceed \$10,000 per year or such amount exceeds \$10,000 and is less than \$25,000 but results from contracts arising from awards made on a sealed bid basis, and such officer or employee has made disclosure as provided for in § [2.2-3115](#);

# Personal Interest

- \* Even Further Exceptions:

- \* 4. An officer or employee whose sole personal interest in a contract with the governmental agency is by reason of income from the contracting firm or governmental agency in excess of \$10,000 per year, provided the officer or employee or a member of his immediate family does not participate and has no authority to participate in the procurement or letting of such contract on behalf of the contracting firm and the officer or employee either does not have authority to participate in the procurement or letting of the contract on behalf of his governmental agency or he disqualifies himself as a matter of public record and does not participate on behalf of his governmental agency in negotiating the contract or in approving the contract;

# Personal Interest

- \* Even Further Exceptions:

- \* 5. When the governmental agency is a public institution of higher education, an officer or employee whose personal interest in a contract with the institution is by reason of an ownership in the contracting firm in excess of three percent of the contracting firm's equity or such ownership interest and income from the contracting firm is in excess of \$10,000 per year, provided that (i) the officer or employee's ownership interest, or ownership and income interest, and that of any immediate family member in the contracting firm is disclosed in writing to the president of the institution, which writing certifies that the officer or employee has not and will not participate in the contract negotiations on behalf of the contracting firm or the institution, (ii) the president of the institution makes a written finding as a matter of public record that the contract is in the best interests of the institution, (iii) the officer or employee either does not have authority to participate in the procurement or letting of the contract on behalf of the institution or disqualifies himself as a matter of public record, and (iv) does not participate on behalf of the institution in negotiating the contract or approving the contract;



# Personal Interest

- \* Even Further Exceptions:

- \* 6. Except when the governmental agency is the Virginia Retirement System, contracts between an officer's or employee's governmental agency and a public service corporation, financial institution, or company furnishing public utilities in which the officer or employee has a personal interest, provided the officer or employee disqualifies himself as a matter of public record and does not participate on behalf of his governmental agency in negotiating the contract or in approving the contract;
- \* 7. Contracts for the purchase of goods or services when the contract does not exceed \$500;
- \* 8. Grants or other payment under any program wherein uniform rates for, or the amounts paid to, all qualified applicants are established solely by the administering governmental agency; or
- \* 9. An officer or employee whose sole personal interest in a contract with his own governmental agency is by reason of his marriage to his spouse who is employed by the same agency, if the spouse was employed by such agency for five or more years prior to marrying such officer or employee.

# Personal Interest

- \* Even Further Exceptions:

- \* Neither the provisions of this chapter nor, unless expressly provided otherwise, any amendments thereto shall apply to those employment contracts or renewals thereof or to any other contracts entered into prior to August 1, 1987, which were in compliance with either the former Virginia Conflict of Interests Act, Chapter 22 (§ 2.1-347 et seq.) or the former Comprehensive Conflict of Interests Act, Chapter 40 (§ 2.1-599 et seq.) of Title 2.1 at the time of their formation and thereafter. Those contracts shall continue to be governed by the provisions of the appropriate prior Act. Notwithstanding the provisions of subdivision (f) (4) of § 2.1-348 of Title 2.1 in effect prior to July 1, 1983, the employment by the same governmental agency of an officer or employee and spouse or any other relative residing in the same household shall not be deemed to create a material financial interest except when one of such persons is employed in a direct supervisory or administrative position, or both, with respect to such spouse or other relative residing in his household and the annual salary of such subordinate is \$35,000 or more.

The background of the slide features a bright blue sky at the top, transitioning into a white area with soft, wavy lines representing clouds. The overall design is clean and modern.

# Gifts

# Gifts

- \* The gift section in the Local Conflict of Interests Act apply only to officers and employees required to file the Statement of Economic Interests form

# Gifts

- \* Three Questions

- \* Is it a gift?

- \* If it's a gift, does the gift apply to the \$100 gift cap?

- \* Is the gift reportable?

# Gifts

- \* Is it a gift?
  - \* What is a “gift”?
    - \* “any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value. ”
    - \* Services
    - \* Transportation
    - \* Local travel
    - \* Lodgings and meals, whether provided in-kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred
    - \* Provided to you or your immediate family
      - \* Your spouse and any person who resides with you and is a dependent of the local employee or official

# Gifts

- \* What is NOT a “gift”?
  - \* Returned or donated gifts
    - \* No returned gift must be disclosed
      - \* Unless you claim the donation on taxes
  - \* Unused ticket, coupon, or other admission or pass
  - \* Honorary degrees
  - \* Any athletic, merit, or need-based scholarship or any other financial aid awarded by a public or private school, institution of higher education, or other educational program pursuant to such school, institution, or program's financial aid standards and procedures applicable to the general public

# Gifts

## \* What is NOT a “gift”? (Continued)

- \* A campaign contribution or travel disclosed properly received and reported pursuant to Campaign Finance Disclosure Act
- \* Any gift related to the private profession or occupation of a local employee or official or of a member of his immediate family
- \* Food or beverages consumed while attending an event at which the filer is performing official duties related to his public service
- \* Food and beverages received at or registration or attendance fees waived for any event at which the filer is a featured speaker, presenter, or lecturer
- \* Unsolicited awards of appreciation or recognition in the form of a plaque, trophy, wall memento, or similar item that is given in recognition of public, civic, charitable, or professional service



# Gifts

## \* What is NOT a “gift”? (Continued)

- \* A devise or inheritance
- \* Travel paid for or provided by the government of the United States, any of its territories, or any local or any political subdivision of such local
- \* Travel related to an official meeting of the Commonwealth, its political subdivisions, or any board, commission, authority, or other entity, or any charitable organization established pursuant to § 501(c)(3) of the Internal Revenue Code affiliated with such entity, to which such person has been appointed or elected or is a member by virtue of his office or employment
- \* Gifts from relatives or personal friends.

# Gifts

- \* What is a “Relative”?

- \* The local employee or official’s spouse

- \* The local employee or official or their spouse's parent, grandparent, grandchild, brother, sister, step-parent, step-grandparent, step-grandchild, step-brother, or step-sister;
    - \* Your brother's or sister's spouse.

- \* Child

- \* Uncle

- \* Aunt

- \* Niece

- \* Nephew

- \* First cousin

- \* Fiancé

# Gifts

- \* What is a “personal friend”
  - \* It is **NOT**
    - \* A person whom you know to be a registered lobbyist or registered lobbyist principal in Virginia or a person, organization or business who is or is seeking to become a party to a contract with local governmental or advisory agency of which the officer or employee has the authority to direct such agency’s activities
      - \* UNLESS you consider
        - \* the circumstances under which the gift was offered;
        - \* the history of the relationship between the person and the donor, including the nature and length of the friendship and any previous exchange of gifts between them;
        - \* to the extent known to the person, whether the donor personally paid for the gift or sought a tax deduction or business reimbursement for the gift; AND
        - \* whether the donor has given the same or similar gifts to other persons required to file Statement of Economic Interests disclosures.

# Gifts

- \* If it is a gift, does it apply to the \$100 gift cap?
- \* \$100 Cap on Gifts
  - \* Applies to gifts from registered lobbyists or lobbyist principals and to a person, organization, or business who is or is seeking to become a party to a contract with a local governmental or advisory agency of which the filer is an officer or employee unless they are a 'personal friend'
  - \* Cannot solicit, accept, or receive a single gift for you or a member of your immediate family with a value in excess of \$100
    - \* Or any combination of gifts with an aggregate value in excess of \$100 in a calendar year
  - \* Reimbursed gifts
    - \* Value is in excess of \$100 and monetary compensation is provided to bring the value of the gift below gift cap

# Gifts

- \* Exceptions to the Cap
  - \* Gifts with a value less than \$20
    - \* Combination of gifts from the same source with a value of less than \$20 must be reported if they exceed \$50

# Gifts

- \* Exceptions to the Cap

- \* Widely Attended Event

- \* At least 25 persons have been invited to attend and there is a reasonable expectation that at least 25 person will attend and is open to individuals who

- \* Share a common interest

- \* Are members of a public, civic, charitable, or professional organization

- \* Are from a particular industry or profession, or

- \* Represent persons interested in a particular issue

# Gifts

- \* Exceptions to the Cap
  - \* Gifts from foreign dignitaries
  - \* Personal friendship of a lobbyist
  - \* Personal friendship with a person, organization, or business who is or is seeking to become a party to a contract with the local governmental or advisory agency which the filer is an officer or employee
    - \* Not exempt from reporting
  - \* Travel approved by the Council

# Gifts

- \* Is the gift reportable on Schedule E?
  - \* Is it a single or combined (aggregate over the calendar year) gift valued at over \$50 from **ANY** business, government entity, or individual that is not a relative or personal friend?
    - \* Gifts under \$20 do count when determining the total value received. From a single source
  - \* If you answered **NO**
    - \* It is **not** reportable



# Gifts

- \* Is the gift reportable on Schedule E?
  - \* If you answered **YES** to any of the questions on the previous slide
    - \* Does the gift fall under one of these exceptions?
      - \* Entertainment events where the average value per person did not exceed \$50;
      - \* Business entertainment where the business is related to your private profession or occupation; or
      - \* Campaign contributions publicly reported as required by Chapter 9.3 of Title 24.2 of the Code of Virginia (Campaign Finance Disclosure Act of 2006)
  - \* If it meets one of the exceptions above, it is **NOT** reportable
  - \* If it does not, then you **MUST** report it

# **Travel Waivers**

# Travel Waiver Requirement

- \* Travel Waivers Required for filers of the Statement of Economic Interests form
  - \* When a lobbyist or lobbyist's principal or person, business, or organization who is or is seeking to become party to a contract offers to pay for travel related transportation, lodging, hospitality, food or beverages
  - \* Waiver requests are submitted online
  - \* Council staff has five days to approve
    - \* If not approved in five days, it is auto approved
    - \* May request additional information
      - \* Clock is reset
  - \* Approved travel must be disclosed on the Statement of Economic Interests

# Travel Waiver Requirement

- \* When is a Travel Waiver **NOT** Required (**NOT** considered a gift and therefore not reportable)
  - \* Campaign Travel
    - \* Disclosed on campaign finance forms
  - \* Paid for by the government
    - \* Includes reimbursements
  - \* Attendance to regular or special session
  - \* Attendance to meetings of legislative committee or commission
  - \* Attendance at a national conference where attendance is approved by the House or Senate Committee on Rules
  - \* Any official meeting of the Commonwealth, its political subdivisions, any board, commission, authority, or any charitable organization established pursuant to § 501(C)(3) if the IRC to which such person has been appointed or elected or is a member by virtue of his office or employment

# Travel Waiver Requirement

- \* Council Review of Travel Request
  - \* What's the purpose of the official's travel?
  - \* Does it bear a reasonable relationship to the official's duties?
- \* Associated events
  - \* Travel to a conference may be approved, but anything outside of the conference which has additional value not offered in conjunction with the conference will not be approved
    - \* e.g. For an extra \$250 attendees can meet Bruce Springsteen

# Disclosures

# Disclosures

## \* Statement of Economic Interests

- \* Required to be filed by
  - \* The members of every governing body and school board of each county and city and of towns with populations in excess of 3,500
  - \* Constitutional Officers
  - \* Other persons occupying such positions of trust and have been designated by the governing body to file by ordinance
  - \* School board can designate other persons by adopted policy

# Disclosures

- \* Statement of Economic Interests
  - \* Deadlines are moved to the next business day if they fall on a weekend or local holiday
  - \* Filed as a condition to assuming office
  - \* Due December 15 (May 1 – October 31)
  - \* Due June 15 (November 1 – April 30)
  - \* If serving in multiple positions, then must file for each position
    - \* If all in same locality, list all positions on the form and one filing shall suffice; multiple jurisdictions will require a copy filed to each jurisdiction



# Disclosures

- \* Financial Disclosure form
  - \* Required to be filed by
    - \* Any authority established in any county or city, or part or combination thereof, and having the power to issue bonds or expend funds in excess of \$10,000 in any fiscal year
    - \* Nonsalaried citizen members of local boards, commissions and councils as may be designated by the governing body

# Disclosures

- \* Financial Disclosure Form
  - \* Filed as a condition to assuming office
  - \* Due annually on December 15 (November 1 – October 31)
  - \* Deadlines are moved to the next business day if they fall on a weekend or local holiday

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# **Enforcement**

# Enforcement

- \* Commonwealth Attorney enforces the Conflict of Interests law for local officers and employees
- \* Knowing Violation of the law
  - \* Class 1 misdemeanor
  - \* Constitutes malfeasance
    - \* Upon conviction, the judge or jury may order the forfeiture of such office or employment
- \* \$250 civil penalty for the late filing of a required disclosure

# Enforcement

- \* Cannot be prosecuted if relied on a written opinion of the Attorney General, Commonwealth Attorney, city or county attorney or a formal opinion of the Virginia Conflict of Interest and Ethics Advisory Council
- \* Assuming the opinion was made after the full disclosure of the facts even if the opinion is later withdrawn assuming the violation occurred prior to the withdrawal of the opinion

# Thank You for Completing Your Required Training

Virginia Conflict of Interest and Ethics Advisory Council

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