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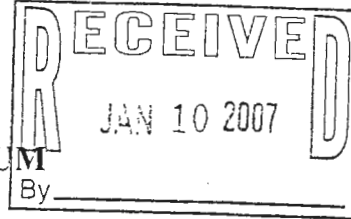
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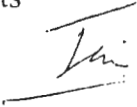
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## MEMORANDUM

January 8, 2007

TO: Special District Clients

FROM: Timothy J. Flynn 

RE: **Reporting and Disclosure of Gifts, Honoraria and Other Benefits**

There exists a statute that requires elected public officials to file the attached report on or before the **15th of January, April, July and October** with the Clerk and Recorder of the County in which the District Court having jurisdiction over the special district is located, in the event you receive gifts, honoraria or other benefits during the period since the last report. This statutory requirement does not apply to Special District Directors whose annual compensation is less than \$1,200. The likelihood of Special District Directors receiving compensation in excess of \$1,200 per year has been increased with the passage of Senate Bill 2005-12, which authorizes certain Special District Directors to receive as compensation for their services \$100 per meeting attended, not to exceed \$1,600 per year. If, as a result of this change, you anticipate receiving \$1,200 or more per year as compensation for serving on the Board of Directors, the attached report must be filed.

Section 24-6-203(3), C.R.S. denotes the items which need to be reported:

1. Any money, including but not limited to a loan, pledge, or advance of money or the guarantee of a loan of money, **with a value of \$25 or more;**
2. Any gift of any item of real or personal property, other than money, **with a value of \$50 or more;**
3. Any loan of any item of real or personal property, other than money, **with a value of \$50 or more;**

4. Any payment for a speech, appearance, or publication;
5. Tickets to sporting, recreational, educational, or cultural events **with a value of \$50 or more for any single event**, or a series of tickets to sporting events of a specific team scheduled during a season, or a series of tickets to cultural events of a specific performing company or organization **with a total value of \$100 or more**;
6. Payment of or reimbursement for actual and necessary expenditures for travel and lodging for attendance at a convention or other meeting at which the elected official is scheduled to participate, unless the payment of or reimbursement for such expenditures is made from public funds, or from the funds of any association of public officials or public entities whose membership includes the elected official or the municipality; or
7. Any gift of a meal to a fund-raising event of a political party.

Such report does not need to include any contribution or contribution in kind that has already been reported pursuant to the Fair Campaign Practices Act; any nonpecuniary award publicly presented in recognition of public service; or payment of salary.

Please let us know if you have any questions.

/pr  
Enclosure

Colorado Secretary of State  
Elections Division  
1700 Broadway, Ste. 270  
Denver, CO 80290  
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**DISCLOSURE BY PUBLIC OFFICEHOLDER  
REPORT OF GIFTS, HONORARIA AND OTHER BENEFITS**

(C.R.S. 24-6-203)

(Due on or before January 15, April 15, July 15, and October 15 for the period since the last report.)

Name of Officeholder: \_\_\_\_\_

Mailing Address (include city, state, and zip): \_\_\_\_\_

Official Title: \_\_\_\_\_

Name of Person From Whom the Gift, Honoraria or Other Benefit Was Received

\_\_\_\_\_

Amount or Value: \$ \_\_\_\_\_ Date Received: \_\_\_\_\_

Description: \_\_\_\_\_

Name of Person From Whom the Gift, Honoraria or Other Benefit Was Received

\_\_\_\_\_

Amount or Value: \$ \_\_\_\_\_ Date Received: \_\_\_\_\_

Description: \_\_\_\_\_

Name of Person From Whom the Gift, Honoraria or Other Benefit Was Received

\_\_\_\_\_

Amount or Value: \$ \_\_\_\_\_ Date Received: \_\_\_\_\_

Description: \_\_\_\_\_

Signature of Officeholder

Date

# Does Amendment 41 Apply to Special Districts?

Amendment 41, dubbed  
"Ethics in Government,"  
was adopted at the  
November 7, 2006  
General Election.

Since then, many districts  
have called SDA asking  
whether it applies to them.

Based on the analysis  
set forth here, we believe  
the answer is "No."

## Special District Association

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### Gift Ban

Section 3 of Amendment 41 prohibits a "public officer, member of the general assembly, local government official, or government employee" (collectively: "Covered Persons") from:

1. accepting or receiving any money, forbearance, or forgiveness of indebtedness from any person without giving adequate consideration; or
2. soliciting, accepting or receiving (either directly or indirectly through his or her spouse or dependent child) from any person any gift or other thing of value having a value or cost greater than \$50 (adjusted for inflation every four years) in any calendar year without giving adequate consideration.

Exceptions from the above-described prohibitions are made for certain gifts, for example, legal campaign contributions, unsolicited items of trivial value (a pen, calendar, plant, note pad, etc.), unsolicited tokens of appreciation (a plaque or trophy), gifts given by a family member or personal friend on a special occasion, and the cost of admission or food/drink at a reception or meeting at which the Covered Person is scheduled to speak or answer questions.

The possible application of these prohibitions could be very broad, and some

people have questioned whether the gift ban might prohibit the children of Covered Persons (e.g., government employees such as police officers) from accepting scholarship awards, etc.

### Lobbyist Provisions

Amendment 41 also prohibits professional (paid) lobbyists from giving any gift or thing of value, of any kind or nature, to a Covered Person or a member of his or her family and from knowingly paying for any meal or beverage to be consumed by a Covered Person, whether in the course of business or in connection with a personal or social event. This provision of the Amendment, if applicable to special districts, would prohibit SDA's Executive Director from buying a cup of coffee for a member of your district's board or staff.

### Cooling-off Period

Some state legislators choose to become lobbyists after they leave public office. Under Amendment 41, no member of the general assembly or statewide elected officeholder may become a paid lobbyist at the state level for a period of two years after leaving office. The Amendment also provides that similar restrictions on other Covered Persons may be established by law.

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# Gifts and Contracts: Ethics Basics for Special Districts

Even without the constraints of Amendment 41 (see companion article "Does Amendment 41 Apply to Special Districts?" on page 7), the state statutory Code of Ethics<sup>1</sup> (the "Ethics Code") restricts the actions of special district directors and employees. Unlike Amendment 41, the Ethics Code specifically includes special districts in its definition of "local government." Undeniably, special district directors fall within the defined term "local government official," which includes an elected or appointed official of a local government, and the defined term "employee" means any temporary or permanent employee of any local government.

The Ethics Code provides that holding public office or employment is a public trust and creates a fiduciary duty for district board members and employees, alike, to carry out their duties for the benefit of the people. The Ethics Code recognizes that conflicts may arise between the public duty of such a citizen and his or her private interest. Some actions are conflicts per se while other actions may or may not pose such conflicts depending on the surrounding circumstances. To that end, the Ethics Code includes both "Rules of Conduct," the strict Do's and Don't's of public life, and "Ethical Principles" which are intended to serve as guides to conduct. Failing to follow an Ethical Principle does not constitute a violation, as such, of the public trust.

<sup>1</sup> See title 24, article 18, part 1, C.R.S.

## Prohibited Actions (a/k/a Rules of Conduct)

As a local government official or employee, you must not:

- a) disclose or use confidential information acquired in the course of your official duties in order to further substantially your personal financial interests;
- b) accept a gift of substantial value or a substantial economic benefit (a loan at a below-market rate of interest, or compensation at an above-market rate) which would tend to improperly influence a reasonable person in your position to depart from the faithful and impartial discharge of his or her public duties or which you know (or reasonably should know) is primarily for the purpose of rewarding you for official action you have taken;
- c) engage in a substantial financial transaction for your private business purpose with a person that you supervise or inspect in the course of your official duties; or
- d) perform an official act directly and substantially affecting to its economic benefit a business in which you have a substantial financial interest or are engaged as counsel, consultant, representative, or agent.

Proof beyond a reasonable doubt<sup>2</sup> that you have committed one of these acts constitutes a breach of your fiduciary duty and the public trust.

<sup>2</sup> The same standard of proof as that used in criminal prosecutions.

**The "Ethics Code"**  
applies to the actions of  
special district directors  
and employees.

## Exceptions to the Rules

Certain gifts are excepted from the rule<sup>3</sup> and are thereby "allowed," including:

- Occasional nonpecuniary gifts, insignificant in value.
- Items of perishable or nonpermanent value, including, but not limited to, meals, lodging, travel expenses, or tickets to sporting, educational, cultural or recreational events.
- An opportunity to participate in a social function or meeting which is not extraordinary when viewed in the light of your position.

In addition, it is ok to accept or receive a benefit as an indirect consequence of transacting the district's business.

## Ethical Principles

The following items are guides to conduct for local government officials and employees:

- You should not acquire or hold an interest in any business which may be directly and substantially benefited

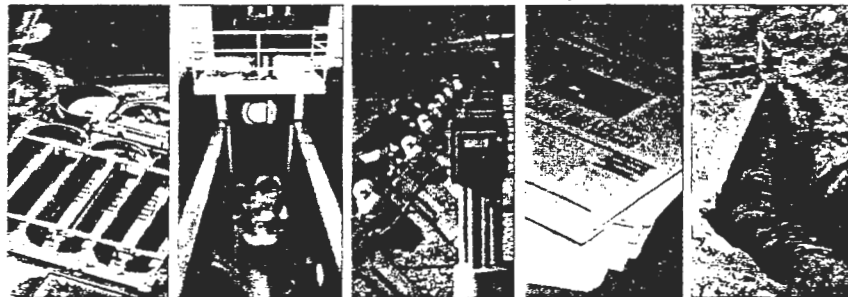
<sup>3</sup> See section 24-18-104(3), C.R.S.

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# Ethics for Special Districts

Continued from page 15.

(economically speaking) by your official action.

- You should wait six months after leaving office before taking employment which will take direct advantage, unavailable to others, of matters with which you were directly involved during your public service.
- You should not perform an official act which will cause a direct and substantial economic detriment to a business which competes with a business in which you have a substantial financial interest.

## Contracts

Has your district ever faced the question of whether you may enter into a contract which is somehow connected to a district board member?

State law<sup>4</sup> provides that (i) local government officials or employees shall not be interested in any contract made by them in their official capacity and (ii) a former employee may not, within six months after leaving public employment, contract or be employed by an employer who contracts with any local government involving matters with which the employee was directly involved during his employment.<sup>5</sup> The statute then explains that holding a minority interest in a corporation does not qualify as "being

interested in" a contract, and that certain contract arrangements are not prohibited.

For example, the law does not prohibit contracts with "interested" district board members or employees if:

- a) because of geographic restrictions, the district could not otherwise reasonably afford itself of the subject of the contract. For example, if the additional cost to the district is greater than 10% of the contract with the interested party or if the services must be performed within a limited time period and no other contractor can meet the deadline;
- b) the interested party follows the disclosure rules outlined below; or
- c) the interested party is the winner in a competitive bidding process or auction.

Contracts made in violation of these provisions are voidable at the request of any contract party except the interested local government official or employee.

## Disclosure

A board member who has a personal or private interest in any matter proposed or pending before the board must take the following steps:<sup>6</sup>

- Disclose such interest to the board;
- Do not vote (unless your vote is necessary to establish a quorum or otherwise

enable the board to act and you comply with the voluntary disclosure procedures discussed below); and

- Do not attempt to influence the vote of fellow board members

Section 24-18-110, C.R.S. sets forth certain voluntary disclosure procedures which, if followed, will constitute an affirmative defense to any civil or criminal action or any other sanction. Most importantly, the voluntary disclosure must be made before acting in a manner which may impinge on your fiduciary duty. To avail yourself of this safe harbor, you must disclose in writing to the Secretary of State (i) the nature of your private interest, including, the amount of any financial interest, (ii) the purpose and duration of any services rendered, (iii) any compensation received for the services, and (iv) any other information necessary to describe your interest. Then, at the time of performing the official act (e.g., voting), you are to state for the record the fact and summary nature of the interest disclosed. Your voluntary disclosure statement will be accessible by the public.

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<sup>4</sup> See title 24, article 18, part 2 re Proscribed Acts Related to Contracts and Claims.

<sup>5</sup> See section 24-18-201(1), C.R.S.

<sup>6</sup> See sections 24-18-109(3) and 24-18-110, C.R.S.

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### Additional Disclosure Under the Colorado Sunshine Law

District directors should also be aware of the additional reporting requirements included in the Public Official Disclosure Law.<sup>7</sup> This law provides that every incumbent in or candidate elected to "public office" who receives, in connection with his or her public service, (i) any money (including loans, advances or guarantees) in an amount of \$25 or more; (ii) any gift of any item of real or personal property, other than money, valued at \$50 or more; or (iii) any loan of real or personal property valued at \$50 or more (explained as the cost saved by the public officer by not borrowing, leasing or purchasing comparable property from a source available to the general public) must file a quarterly report<sup>8</sup> containing, at a minimum, the name of the person from whom the item was received, the amount or value, and the date of receipt.<sup>9</sup>

<sup>7</sup> Part 2 of article 6, title 24, C.R.S.

<sup>8</sup> Reports are due on or before January 15, April 15, July 15 and October 15 of each year.

<sup>9</sup> Section 24-6-203, C.R.S.

"Public office," as used in this statute, does not include "any elective office within a special district for which the annual compensation is less than \$1,200." Therefore, any director in a district which has authorized annual director compensation of \$1,200 or more should be careful to comply with these reporting requirements. Special district directors should file their reports with the county clerk and recorder for the county in which the district court having jurisdiction over the special district is located.

The reporting requirements also cover tickets to sporting, recreational, educational or cultural events, payments for a speech, appearance or publication, payment or reimbursement of travel and lodging expenses to attend a convention at which the public officer is scheduled to participate (except if the payment or reimbursement is made from public funds, so no worry if your district paid for you to attend the SDA Annual Conference!), and meals at a fund-raising event of a political party.

Reports do not need to be filed for items of perishable or nonpermanent value, includ-

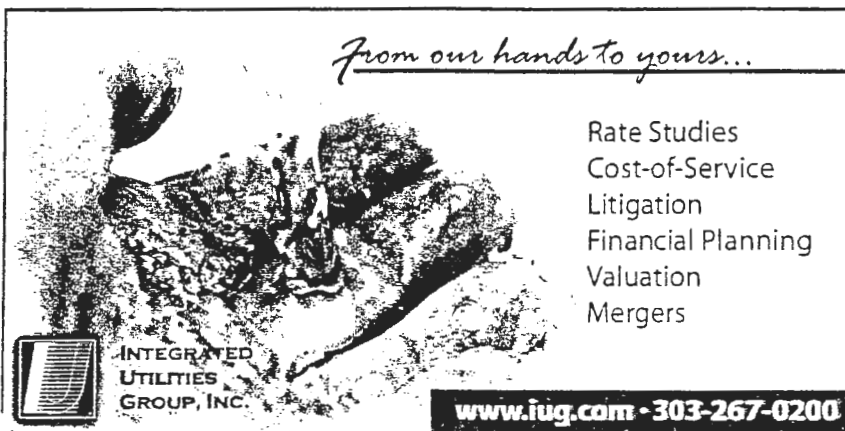
ing but not limited to meals, a nonpecuniary award publicly presented by an organization in recognition of public service, payment of salary from employment, or contributions or contributions in kind reported pursuant to the Fair Campaign Practices Act.<sup>10</sup> Any person who provides you with any item required to be reported under this statute must also furnish you with a written statement of the dollar value of the item.<sup>11</sup>

### The "Smell" Test

The rules of ethics and integrity in government are not always clear-cut and precise. Some actions may not violate the letter of the law, but may still lead to public implications that will cause real public relations problems for your district with your constituents. Always consider how your conduct might appear when it shows up on the 10:00 news or on the front page of the newspaper.

<sup>10</sup> The reporting requirements discussed in this article do not take the place of the disclosure mandated in connection with moneys received or spent in connection with being a candidate for a special district election. See Colorado Constitution Article XXVII, section 2(2) and Section 1-45-108, C.R.S.

<sup>11</sup> See section 24-6-203(5), C.R.S.



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**Document 1 of 3****Source:**

Colorado Statutes/TITLE 24 GOVERNMENT - STATE/ADMINISTRATION/ARTICLE 6 COLORADO SUNSHINE LAW/PART 2 PUBLIC OFFICIAL DISCLOSURE LAW/24-6-201. Declaration of policy.

**24-6-201. Declaration of policy.**

In order to continue the public confidence in the integrity of government officials and to promote trust of the people in the objectivity of their public servants, this open disclosure law is adopted.

**Source: Initiated 72. L. 73:** p. 1660, § 1. **C.R.S. 1963:** § 3-37-201.

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**Document 2 of 3****Source:**

Colorado Statutes/TITLE 24 GOVERNMENT - STATE/ADMINISTRATION/ARTICLE 6 COLORADO SUNSHINE LAW/PART 2 PUBLIC OFFICIAL DISCLOSURE LAW/24-6-202. Disclosure - contents - filing - false or incomplete filing - penalty.

**24-6-202. Disclosure - contents - filing - false or incomplete filing - penalty.**

(1) Not more than thirty days after their election, reelection, appointment, or retention in office, written disclosure, in such form as the secretary of state shall prescribe, stating the interests named in subsection (2) of this section shall be made to and filed with the secretary of state of Colorado by:

- (a) Each member of the general assembly;
- (b) The governor, lieutenant governor, secretary of state, attorney general, and state treasurer;
- (c) Each justice or judge of a court of record;
- (d) Each district attorney;
- (e) Each member of the state board of education;
- (f) Each member of the board of regents of the university of Colorado;
- (g) Each member of the public utilities commission.
- (h) Repealed.

(1.5) The provisions of subsection (1) of this section apply to any person who is serving in any position noted in said subsection (1) on July 1, 1979.

(2) Disclosure shall include:

(a) The names of any source or sources of any income, including capital gains, whether or not taxable, of the person making disclosure, his spouse, and minor children residing with him;



(b) The name of each business, insurance policy, or trust in which he, his spouse, or minor children residing with him has a financial interest in excess of five thousand dollars;

(c) The legal description of any interest in real property, including an option to buy, in the state in which the person making disclosure, his spouse, or minor children residing with him have any interest, direct or indirect, the market value of which is in excess of five thousand dollars;

(d) The identity, by name, of all offices, directorships, and fiduciary relationships held by the person making disclosure, his spouse, and minor children residing with him;

(e) The identity, by name, of any person, firm, or organization for whom compensated lobbying is done by any person associated with the person making disclosure if the benefits of such compensation are or may be shared by the person making disclosure, directly or indirectly;

(f) The name of each creditor to whom the person making disclosure, his spouse, or minor children owe money in excess of one thousand dollars and the interest rate;

(g) A list of businesses with which the person making disclosure or his spouse are associated that do business with or are regulated by the state and the nature of such business or regulation;

(h) Such additional information as the person making disclosure might desire.

(3) Any disclosure statement shall be amended no more than thirty days after any termination or acquisition of interests as to which disclosure is required.

(4) Any person required by this section to file a disclosure statement shall, on or before January 10 of each calendar year, file an amended statement with the secretary of state or notify the secretary of state in writing that he has had no change of condition since the previous filing of a disclosure statement.

(5) Each disclosure statement, amended statement, or notification that no amendment is required shall be public information, available to any person upon request during normal working hours.

(6) Any person subject to the provisions of this section may elect to file with the secretary of state annually a copy of his federal income tax return and any separate federal income tax return filed by his spouse or minor children residing with him together with a certified statement of any investments held by him, his spouse, or minor children residing with him which are not reflected by the income tax returns in lieu of complying with the provisions of subsections (1) to (4) of this section, which tax return and any statement filed under the provisions of this subsection (6) shall be public information.

(7) Any person who willfully files a false or incomplete disclosure statement, amendment, or notice that no amendment is required, or who willfully files a false or incomplete copy of any federal income tax return or a false or incomplete certified statement of investments, or who willfully fails to make any filing required by this section is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than one thousand dollars nor more than five thousand dollars.

**Source: Initiated 72. L. 73:** p. 1660, § 1. **C.R.S. 1963:** § 3-37-202. **L. 79:** IP(1), (4), and (6) amended and (1)(b), (1)(d), (1)(e), (1)(f), (1)(g), and (1)(h) added, pp. 851, 852, §§ 1, 2, effective July 1. **L. 85:** (1)(a) amended and (1)(h) repealed, pp. 382, 381, §§ 6, 1, effective April 17.

**Document 1 of 21****Source:**

Colorado Statutes/TITLE 24 GOVERNMENT - STATE/ADMINISTRATION/ARTICLE 18 STANDARDS OF CONDUCT/PART 1 CODE OF ETHICS

## PART 1 CODE OF ETHICS

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**Document 2 of 21****Source:**

Colorado Statutes/TITLE 24 GOVERNMENT - STATE/ADMINISTRATION/ARTICLE 18 STANDARDS OF CONDUCT/PART 1 CODE OF ETHICS/24-18-101. Legislative declaration.

**24-18-101. Legislative declaration.**

The general assembly recognizes the importance of the participation of the citizens of this state in all levels of government in the state. The general assembly further recognizes that, when citizens of this state obtain public office, conflicts may arise between the public duty of such a citizen and his or her private interest. The general assembly hereby declares that the prescription of some standards of conduct common to those citizens involved with government is beneficial to all residents of the state. The provisions of this part 1 recognize that some actions are conflicts per se between public duty and private interest while other actions may or may not pose such conflicts depending upon the surrounding circumstances.

**Source: L. 88:** Entire article added, p. 899, § 1, effective July 1.

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**Document 3 of 21****Source:**

Colorado Statutes/TITLE 24 GOVERNMENT - STATE/ADMINISTRATION/ARTICLE 18 STANDARDS OF CONDUCT/PART 1 CODE OF ETHICS/24-18-102. Definitions.

**24-18-102. Definitions.**

As used in this part 1, unless the context otherwise requires:

(1) "Business" means any corporation, limited liability company, partnership, sole proprietorship, trust or foundation, or other individual or organization carrying on a business, whether or not operated for profit.

(2) "Compensation" means any money, thing of value, or economic benefit conferred on or received by any person in return for services rendered or to be rendered by himself or another.

(3) "Employee" means any temporary or permanent employee of a state agency or any local government, except a member of the general assembly and an employee under contract to the state.

(4) "Financial interest" means a substantial interest held by an individual which is:

- (a) An ownership interest in a business;
- (b) A creditor interest in an insolvent business;
- (c) An employment or a prospective employment for which negotiations have begun;
- (d) An ownership interest in real or personal property;
- (e) A loan or any other debtor interest; or
- (f) A directorship or officership in a business.

(5) "Local government" means the government of any county, city and county, city, town, special district, or school district.

(6) "Local government official" means an elected or appointed official of a local government but does not include an employee of a local government.

(7) "Official act" or "official action" means any vote, decision, recommendation, approval, disapproval, or other action, including inaction, which involves the use of discretionary authority.

(8) "Public officer" means any elected officer, the head of a principal department of the executive branch, and any other state officer. "Public officer" does not include a member of the general assembly, a member of the judiciary, any local government official, or any member of a board, commission, council, or committee who receives no compensation other than a per diem allowance or necessary and reasonable expenses.

(9) "State agency" means the state; the general assembly and its committees; every executive department, board, commission, committee, bureau, and office; every state institution of higher education, whether established by the state constitution or by law, and every governing board thereof; and every independent commission and other political subdivision of the state government except the courts.

**Source:** L. 88: Entire article added, p. 899, § 1, effective July 1. L. 90: (1) amended, p. 447, § 10, effective April 18. L. 91: (8) amended, p. 837, § 1, effective March 29.

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#### **Document 4 of 21**

**Source:**

Colorado Statutes/TITLE 24 GOVERNMENT - STATE/ADMINISTRATION/ARTICLE 18 STANDARDS OF CONDUCT/PART 1 CODE OF ETHICS/24-18-103. Public trust - breach of fiduciary duty.

#### **24-18-103. Public trust - breach of fiduciary duty.**

(1) The holding of public office or employment is a public trust, created by the confidence which the electorate poses in the integrity of public officers, members of the general assembly, local government officials, and employees. A public officer, member of the general assembly, local government official, or employee shall carry out his duties for the benefit of the people of the state.

(2) A public officer, member of the general assembly, local government official, or employee whose conduct departs from his fiduciary duty is liable to the people of the state as a trustee of property and shall suffer such other liabilities as a private fiduciary would suffer for abuse of his trust. The district attorney of the district where the trust is violated may bring appropriate judicial proceedings on behalf of the people. Any moneys collected in such actions shall be paid to the general fund of the state or local government. Judicial proceedings pursuant to this section shall be in addition to any criminal action which may be brought against such public officer, member of the general assembly, local government official, or employee.

**Source: L. 88:** Entire article added, p. 900, § 1, effective July 1.

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## Document 5 of 21

### Source:

Colorado Statutes/TITLE 24 GOVERNMENT - STATE/ADMINISTRATION/ARTICLE 18 STANDARDS OF CONDUCT/PART 1 CODE OF ETHICS/24-18-104. Rules of conduct for all public officers, members of the general assembly, local government officials, and employees.

### 24-18-104. Rules of conduct for all public officers, members of the general assembly, local government officials, and employees.

(1) Proof beyond a reasonable doubt of commission of any act enumerated in this section is proof that the actor has breached his fiduciary duty and the public trust. A public officer, a member of the general assembly, a local government official, or an employee shall not:

(a) Disclose or use confidential information acquired in the course of his official duties in order to further substantially his personal financial interests; or

(b) Accept a gift of substantial value or a substantial economic benefit tantamount to a gift of substantial value:

(I) Which would tend improperly to influence a reasonable person in his position to depart from the faithful and impartial discharge of his public duties; or

(II) Which he knows or which a reasonable person in his position should know under the circumstances is primarily for the purpose of rewarding him for official action he has taken.

(2) An economic benefit tantamount to a gift of substantial value includes without limitation a loan at a rate of interest substantially lower than the commercial rate then currently prevalent for similar loans and compensation received for private services rendered at a rate substantially exceeding the fair market value of such services.

(3) The following shall not be considered gifts of substantial value or gifts of substantial economic benefit tantamount to gifts of substantial value for purposes of this section:

(a) Campaign contributions and contributions in kind reported as required by section 1-45-108, C.R.S.;

(b) An occasional nonpecuniary gift, insignificant in value;

(c) A nonpecuniary award publicly presented by a nonprofit organization in recognition of public service;

(d) Payment of or reimbursement for actual and necessary expenditures for travel and subsistence for attendance at a convention or other meeting at which such public officer, member of the general assembly, local government official, or employee is scheduled to participate;

(e) Reimbursement for or acceptance of an opportunity to participate in a social function or meeting which is offered to such public officer, member of the general assembly, local government official, or employee which is not extraordinary when viewed in light of the position held by such public officer, member of the general assembly, local government official, or employee;

(f) Items of perishable or nonpermanent value, including, but not limited to, meals, lodging, travel expenses, or tickets to sporting, recreational, educational, or cultural events;

(g) Payment for speeches, appearances, or publications reported pursuant to section 24-6-203;

(h) Payment of salary from employment, including other government employment, in addition to that earned from being a member of the general assembly or by reason of service in other public office.

(4) The provisions of this section are distinct from and in addition to the reporting requirements of section 1-45-108, C.R.S., and section 24-6-203, and do not relieve an incumbent in or elected candidate to public office from reporting an item described in subsection (3) of this section, if such reporting provisions apply.

**Source:** **L. 88:** p. 901, § 1. **L. 92:** (3)(g) and (3)(h) amended, p. 874, § 103, effective January 1, 1993. **L. 94:** (3) amended and (4) added, p. 1827, § 4, effective January 1, 1995.

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## Document 6 of 21

### Source:

Colorado Statutes/TITLE 24 GOVERNMENT - STATE/ADMINISTRATION/ARTICLE 18 STANDARDS OF CONDUCT/PART 1 CODE OF ETHICS/24-18-105. Ethical principles for public officers, local government officials, and employees.

### **24-18-105. Ethical principles for public officers, local government officials, and employees.**

(1) The principles in this section are intended as guides to conduct and do not constitute violations as such of the public trust of office or employment in state or local government.

(2) A public officer, a local government official, or an employee should not acquire or hold an interest in any business or undertaking which he has reason to believe may be directly and substantially affected to its economic benefit by official action to be taken by an agency over which he has substantive authority.

(3) A public officer, a local government official, or an employee should not, within six months following the termination of his office or employment, obtain employment in which he will take direct advantage, unavailable to others, of matters with which he was directly involved during his term of employment. These matters include rules, other than rules of general application, which he actively helped to formulate and applications, claims, or contested cases in the consideration of which he was an active participant.

(4) A public officer, a local government official, or an employee should not perform an official act directly and substantially affecting a business or other undertaking to its economic detriment when he has a substantial financial interest in a competing firm or undertaking.

**Source: L. 88:** Entire article added, p. 902, § 1, effective July 1.

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### Source:

Colorado Statutes/TITLE 24 GOVERNMENT - STATE/ADMINISTRATION/ARTICLE 18 STANDARDS OF CONDUCT/PART 1 CODE OF ETHICS/24-18-106. Rules of conduct for members of the general assembly.

### 24-18-106. Rules of conduct for members of the general assembly.

(1) Proof beyond a reasonable doubt of commission of any act enumerated in this section is proof that the member of the general assembly committing the act has breached his fiduciary duty and the public trust. A member of the general assembly shall not accept a fee, a contingent fee, or any other compensation, except his official compensation provided by statute, for promoting or opposing the passage of legislation.

(2) It shall not be a breach of fiduciary duty and the public trust for a member of the general assembly to:

(a) Use state facilities or equipment to communicate or correspond with a member's constituents, family members, or business associates; or

(b) Accept or receive a benefit as an indirect consequence of transacting state business.

(3) Notwithstanding any other provision of law, no member of the general assembly shall lobby, solicit lobbying business or contracts, or otherwise establish a lobbying business or practice respecting issues before the general assembly prior to the expiration of his or her term. Where the member tenders his or her resignation prior to the expiration of his or her term, the requirements of this subsection (3) shall apply up through the date of the member's resignation from office.

**Source: L. 88:** Entire article added, p. 902, § 1, effective July 1. **L. 2003:** (3) added, p. 1230, § 1, effective July 1.

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### Source:

Colorado Statutes/TITLE 24 GOVERNMENT - STATE/ADMINISTRATION/ARTICLE 18 STANDARDS OF CONDUCT/PART 1 CODE OF ETHICS/24-18-107. Ethical principles for members of the general assembly.

### 24-18-107. Ethical principles for members of the general assembly.

(1) The principles in this section are intended only as guides to a member of the general assembly in determining whether or not his conduct is ethical.

(2) A member of the general assembly who has a personal or private interest in any measure or bill proposed or pending before the general assembly shall disclose the fact to the house of which he is a member and shall not vote thereon. In deciding whether or not he has such an interest, a member shall consider, among other things, the following:

- (a) Whether the interest impedes his independence of judgment;
- (b) The effect of his participation on public confidence in the integrity of the general assembly; and
- (c) Whether his participation is likely to have any significant effect on the disposition of the matter.

(3) An interest situation does not arise from legislation affecting the entire membership of a class.

(4) If a member of the general assembly elects to disclose the interest, he shall do so as provided in the rules of the house of representatives or the senate, but in no case shall failure to disclose constitute a breach of the public trust of legislative office.

**Source: L. 88:** Entire article added, p. 902, § 1, effective July 1.

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### Source:

Colorado Statutes/TITLE 24 GOVERNMENT - STATE/ADMINISTRATION/ARTICLE 18 STANDARDS OF CONDUCT/PART 1 CODE OF ETHICS/24-18-108. Rules of conduct for public officers and state employees.

### **24-18-108. Rules of conduct for public officers and state employees.**

(1) Proof beyond a reasonable doubt of commission of any act enumerated in this section is proof that the actor has breached his fiduciary duty.

(2) A public officer or a state employee shall not:

(a) Engage in a substantial financial transaction for his private business purposes with a person whom he inspects, regulates, or supervises in the course of his official duties;

(b) Assist any person for a fee or other compensation in obtaining any contract, claim, license, or other economic benefit from his agency;

(c) Assist any person for a contingent fee in obtaining any contract, claim, license, or other economic benefit from any state agency; or

(d) Perform an official act directly and substantially affecting to its economic benefit a business or other undertaking in which he either has a substantial financial interest or is engaged as counsel, consultant, representative, or agent.

(3) A head of a principal department or a member of a quasi-judicial or rule-making agency may perform an official act notwithstanding paragraph (d) of subsection (2) of this section if his participation is necessary to the administration of a statute and if he complies with the voluntary disclosure procedures under section 24-18-110.

(4) Repealed.

**Source: L. 88:** Entire article added. p. 903, § 1, effective July 1. **L. 91:** (4) repealed, p. 837, § 2, effective March 29.

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**Source:**

Colorado Statutes/TITLE 24 GOVERNMENT - STATE/ADMINISTRATION/ARTICLE 18 STANDARDS OF CONDUCT/PART 1 CODE OF ETHICS/24-18-108.5. Rules of conduct for members of boards and commissions.

**24-18-108.5. Rules of conduct for members of boards and commissions.**

(1) Proof beyond a reasonable doubt of commission of any act enumerated in this section is proof that the actor has breached his fiduciary duty.

(2) A member of a board, commission, council, or committee who receives no compensation other than a per diem allowance or necessary and reasonable expenses shall not perform an official act which may have a direct economic benefit on a business or other undertaking in which such member has a direct or substantial financial interest.

**Source: L. 91:** Entire section added, p. 837, § 3, effective March 29.

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**Source:**

Colorado Statutes/TITLE 24 GOVERNMENT - STATE/ADMINISTRATION/ARTICLE 18 STANDARDS OF CONDUCT/PART 1 CODE OF ETHICS/24-18-109. Rules of conduct for local government officials and employees.

**24-18-109. Rules of conduct for local government officials and employees.**

(1) Proof beyond a reasonable doubt of commission of any act enumerated in this section is proof that the actor has breached his fiduciary duty and the public trust.

(2) A local government official or local government employee shall not:

(a) Engage in a substantial financial transaction for his private business purposes with a person whom he inspects or supervises in the course of his official duties; or

(b) Perform an official act directly and substantially affecting to its economic benefit a business or other undertaking in which he either has a substantial financial interest or is engaged as counsel, consultant, representative, or agent.

(3) (a) A member of the governing body of a local government who has a personal or private interest in any matter proposed or pending before the governing body shall disclose such interest to the governing body and shall not vote thereon and shall refrain from attempting to influence the decisions of the other members of the governing body in voting on the matter.

(b) A member of the governing body of a local government may vote notwithstanding paragraph (a) of this subsection (3) if his participation is necessary to obtain a quorum or otherwise enable the body to act and if he



complies with the voluntary disclosure procedures under section 24-18-110.

(4) It shall not be a breach of fiduciary duty and the public trust for a local government official or local government employee to:

(a) Use local government facilities or equipment to communicate or correspond with a member's constituents, family members, or business associates; or

(b) Accept or receive a benefit as an indirect consequence of transacting local government business.

**Source: L. 88:** Entire article added, p. 903, § 1, effective July 1.

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### Source:

Colorado Statutes/TITLE 24 GOVERNMENT - STATE/ADMINISTRATION/ARTICLE 18 STANDARDS OF CONDUCT/PART 1 CODE OF ETHICS/24-18-110. Voluntary disclosure.

### 24-18-110. Voluntary disclosure.

A member of a board, commission, council, or committee who receives no compensation other than a per diem allowance or necessary and reasonable expenses, a member of the general assembly, a public officer, a local government official, or an employee may, prior to acting in a manner which may impinge on his fiduciary duty and public trust, disclose the nature of his private interest. Members of the general assembly shall make disclosure as provided in the rules of the house of representatives and the senate, and all others shall make the disclosure in writing to the secretary of state, listing the amount of his financial interest, if any, the purpose and duration of his services rendered, if any, and the compensation received for the services or such other information as is necessary to describe his interest. If he then performs the official act involved, he shall state for the record the fact and summary nature of the interest disclosed at the time of performing the act. Such disclosure shall constitute an affirmative defense to any civil or criminal action or any other sanction.

**Source: L. 88:** Entire article added, p. 904, § 1, effective July 1. **L. 91:** Entire section amended, p. 838, § 4, effective March 29.

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### Source:

Colorado Statutes/TITLE 24 GOVERNMENT - STATE/ADMINISTRATION/ARTICLE 18 STANDARDS OF CONDUCT/PART 1 CODE OF ETHICS/24-18-111. Powers of the secretary of state.

### 24-18-111. Powers of the secretary of state.

(1) The secretary of state may:

(a) Issue advisory opinions to persons subject to the provisions of this article concerning issues relating to the

requesting person's conduct and the provisions of this article with such deletions as are necessary to protect the identity of the requesting party or the party about whom the opinion is written;

- (b) Keep and permit reasonable public access to voluntary disclosure statements;
- (c) Make rules for the conduct of his affairs under this part 1.

(2) Any advisory opinion issued by the secretary of state shall take priority over any comment issued by the board of ethics for the executive branch pursuant to section ~~24-18-112~~ or any opinion issued by the board of ethics for the general assembly pursuant to section ~~24-18-113~~ if the comment or the opinion covers the same circumstances and the same issues as covered by the opinion of the secretary of state and if the comment or the opinion reached a separate conclusion from that reached by the opinion of the secretary of state.

**Source: L. 88:** Entire article added, p. 904, § 1, effective July 1.

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**Source:**

Colorado Statutes/TITLE 24 GOVERNMENT - STATE/ADMINISTRATION/ARTICLE 18 STANDARDS OF CONDUCT/PART 1 CODE OF ETHICS/24-18-112. Board of ethics for the executive branch - created - duties.

#### **24-18-112. Board of ethics for the executive branch - created - duties.**

(1) There is hereby created a board of ethics for the executive branch of state government in the office of the governor. The board shall consist of five members to be appointed by and serve at the pleasure of the governor.

(2) The board of ethics for the executive branch shall:

(a) Comment, when requested by the governor, on each proposed gubernatorial appointment, including the heads of the principal departments and the senior members of the governor's office based upon the provisions of this article;

(b) Upon written request of the governor, review complaints of any violation of the provisions of this article by a member of the executive branch of state government;

(c) Make written recommendations to the governor concerning his requests; and

(d) Review appeals brought before the board of ethics pursuant to section 24-30-1003 (4).

**Source: L. 88:** Entire article added, p. 905, § 1, effective July 1. **L. 94:** (2) amended, p. 1249, § 2, effective July 1.

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Colorado Statutes/TITLE 24 GOVERNMENT - STATE/ADMINISTRATION/ARTICLE 18 STANDARDS OF CONDUCT/PART

<http://198.187.128.12/mbPrint/6b11565f.htm>

1/12/2007

1 CODE OF ETHICS/24-18-113. Board of ethics for the general assembly - created - duties.

**24-18-113. Board of ethics for the general assembly - created - duties.**

(1) There is hereby created a board of ethics for the general assembly. The board shall consist of four legislative members. One member shall be appointed by and serve at the pleasure of the majority leader of the house of representatives; one member shall be appointed by and serve at the pleasure of the majority leader of the senate; one member shall be appointed by and serve at the pleasure of the minority leader of the house of representatives; and one member shall be appointed by and serve at the pleasure of the minority leader of the senate.

(2) The board of ethics for the general assembly shall, upon written request of a member of the general assembly, issue advisory opinions concerning issues relating to the requesting member's conduct and the provisions of this article.

**Source: L. 88:** Entire article added, p. 905, § 1, effective July 1.

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**Source:**

Colorado Statutes/TITLE 24 GOVERNMENT - STATE/ADMINISTRATION/ARTICLE 18 STANDARDS OF CONDUCT/PART PROSCRIBED ACTS RELATED TO CONTRACTS AND CLAIMS

**PART 2  
PROSCRIBED ACTS RELATED TO CONTRACTS AND CLAIMS**

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**Source:**

Colorado Statutes/TITLE 24 GOVERNMENT - STATE/ADMINISTRATION/ARTICLE 18 STANDARDS OF CONDUCT/PART 2 PROSCRIBED ACTS RELATED TO CONTRACTS AND CLAIMS/24-18-201. Interests in contracts.

**24-18-201. Interests in contracts.**

(1) Members of the general assembly, public officers, local government officials, or employees shall not be interested in any contract made by them in their official capacity or by any body, agency, or board of which they are members or employees. A former employee may not, within six months following the termination of his employment, contract or be employed by an employer who contracts with a state agency or any local government involving matters with which he was directly involved during his employment. For purposes of this section, the term:

(a) "Be interested in" does not include holding a minority interest in a corporation.

(b) "Contract" does not include:

(I) Contracts awarded to the lowest responsible bidder based on competitive bidding procedures;

(II) Merchandise sold to the highest bidder at public auctions;

(III) Investments or deposits in financial institutions which are in the business of loaning or receiving moneys;

(IV) A contract with an interested party if, because of geographic restrictions, a local government could not otherwise reasonably afford itself of the subject of the contract. It shall be presumed that a local government could not otherwise reasonably afford itself of the subject of a contract if the additional cost to the local government is greater than ten percent of a contract with an interested party or if the contract is for services that must be performed within a limited time period and no other contractor can provide those services within that time period.

(V) A contract with respect to which any member of the general assembly, public officer, local government official, or employee has disclosed a personal interest and has not voted thereon or with respect to which any member of the governing body of a local government has voted thereon in accordance with section 24-18-109 (3) (b) or 31-4-404 (3), C.R.S. Any such disclosure shall be made: To the governing body, for local government officials and employees; in accordance with the rules of the house of representatives and the senate, for members of the general assembly; and to the secretary of state, for all others.

**Source: L. 88:** Entire article added, p. 905, § 1, effective July 1.

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### Source:

Colorado Statutes/TITLE 24 GOVERNMENT - STATE/ADMINISTRATION/ARTICLE 18 STANDARDS OF CONDUCT/PART 2 PROSCRIBED ACTS RELATED TO CONTRACTS AND CLAIMS/24-18-202. Interest in sales or purchases.

### 24-18-202. Interest in sales or purchases.

Public officers and local government officials shall not be purchasers at any sale or vendors at any purchase made by them in their official capacity.

**Source: L. 88:** Entire article added, p. 906, § 1, effective July 1.

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### Source:

Colorado Statutes/TITLE 24 GOVERNMENT - STATE/ADMINISTRATION/ARTICLE 18 STANDARDS OF CONDUCT/PART 2 PROSCRIBED ACTS RELATED TO CONTRACTS AND CLAIMS/24-18-203. Voidable contracts.

### 24-18-203. Voidable contracts.

Every contract made in violation of any of the provisions of section 24-18-201 or 24-18-202 shall be voidable at the instance of any party to the contract except the officer interested therein.

**Source: L. 88:** Entire article added, p. 906, § 1, effective July 1.

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### Source:

Colorado Statutes/TITLE 24 GOVERNMENT - STATE/ADMINISTRATION/ARTICLE 18 STANDARDS OF CONDUCT/PART 2 PROSCRIBED ACTS RELATED TO CONTRACTS AND CLAIMS/24-18-204. Dealings in warrants and other claims prohibited.

### **24-18-204. Dealings in warrants and other claims prohibited.**

State officers, county officers, city and county officers, city officers, and town officers, as well as all other local government officials, and their deputies and clerks, are prohibited from purchasing or selling or in any manner receiving to their own use or benefit or to the use or benefit of any person or persons whatever any state, county, city and county, city, or town warrants, scrip, orders, demands, claims, or other evidences of indebtedness against the state or any county, city and county, city, or town thereof except evidences of indebtedness issued to or held by them for services rendered as such officer, deputy, or clerk, and evidences of the funded indebtedness of such state, county, city and county, city, or town.

**Source: L. 88:** Entire article added, p. 906, § 1, effective July 1.

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Colorado Statutes/TITLE 24 GOVERNMENT - STATE/ADMINISTRATION/ARTICLE 18 STANDARDS OF CONDUCT/PART 2 PROSCRIBED ACTS RELATED TO CONTRACTS AND CLAIMS/24-18-205. Settlements to be withheld on affidavit.

### **24-18-205. Settlements to be withheld on affidavit.**

(1) Every officer charged with the disbursement of public moneys who is informed by affidavit establishing probable cause that any officer whose account is about to be settled, audited, or paid by him has violated any of the provisions of this part 2 shall suspend such settlement or payment and cause such officer to be prosecuted for such violation by the district attorney of the appropriate jurisdiction.

(2) If there is judgment for the defendant upon such prosecution, the proper officer may proceed to settle, audit, or pay such account as if no such affidavit had been filed.

**Source: L. 88:** Entire article added, p. 906, § 1, effective July 1.

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