

cityethics Helping you Grow Good Government

Conflicts of Interest

Refresher for Boards & Commission Members

City of Austin Law Department
Ethics & Compliance Team
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Thanks

for Your Service

Local government depends on the service of community-minded individuals.

With public service come additional responsibilities.

Board members are City officials.

As a City official you become subject to laws that are designed to ensure the transparency and impartiality of your government.

What we'll cover today

ConflictsDEFINED

ConflictRULES

RecusalPROCESS

Federally-fundedPROJECTS

ConflictsDEFINED

The application of conflict rules requires a

close knowledge of an individual's

relationships and financial affairs.

It is ultimately the **personal responsibility** of each board member to be aware of the relevant rules and to comply with them.

Conflicted?

When your personal interests intrude on your ability to adhere to the highest standards in your decision making, or if it would appear so to an observer, you have a conflict of interest.

Conflicts can arise in a number of ways.

Financial Relationships **Personal Relationships** **Occupational Concerns**

Consider these:

- Could there be benefits (or consequences) for me that could cast doubt on my objectivity?
- Do I have a close personal or financial relationship with an interested party?
- Could this situation have an influence on any future opportunities for me?
- How would I feel if my role were portrayed in the media?
- Would I be happy if my personal connection to the issue became known to the public or my colleagues?

Conflict^{RULES}

Conflict rules:

- may **prohibit** the conflict
- may require **recusal** (taking yourself out of the loop)
- may leave the matter up to your **judgment** (the law cannot always codify common sense)

A person who is:

may not serve on a City board within **three years** of engaging in lobbying activity.

- ✓ registered as a lobbyist
- ✓ required to register as a lobbyist, or
- ✓ an employee of a person required to register under the City's lobbying ordinance

A City board member may not:

... formally appear before the board of which he or she is a member while acting as an advocate for himself or herself, or for any other person, group, or entity.

... accept paid campaign work relating to a ballot proposition if the member participated in the board's discussion or vote regarding the proposition.

A person may not be involved in the:

and have a financial interest, direct or indirect, in the contract resulting from that solicitation.

- ✓ development,
- ✓ evaluation, or
- ✓ decision-making process of any solicitation

The City Code requires a board member to recuse when

- the member has a **“substantial interest”** in a person or entity that would be **“affected”** by a vote of the board of which he or she is a member.

“Substantial Interest” may arise from

- Ownership
- Income
- Control
- Debt
- Family
- Doing business

“Affected” means

“reasonably likely to be subject to a **direct economic effect or consequence**, either positive or negative, as a result of the vote or decision in question.”

Remember...

- The vote or decision need not be the only producing cause of the economic effect or consequence. It's enough that the effect or consequence would be reasonably expected to occur.
- The vote or decision need not be the only decision or the final decision on the matter.

A City board member
who serves as

**a corporate officer or member of the
board of directors of a non-profit entity**

**may not participate in a vote or
decision regarding funding by
or through the City for the
entity.**

Recusal PROCESS

RECUSAL STEPS

STEP 1: Indicate that a conflict exists with a particular item on the attendance sheet.

STEP 2: State from the dais that you are recusing and why it must be included in the meeting's official minutes

STEP 3: Take no part in any discussion or vote, whether on or off the dais.

NOTE: You do not have to leave the dais during the discussion or vote, but you may wish to do so.
Remember you may not appear before your own board as an advocate for yourself or any other person.

Federally-funded PROJECTS

If a City board reviews a federally-funded project or activity, the members are *also* subject to the **federal conflict rules** for the federal program that is the source of the funding.

Each federal program has **specific conflict of interest rules**. Requirements set by various federal agencies may vary.

Typically, an official or an **official's relative or business associate** may not have a financial interest in the federal activity.

The prohibition applies during the official's tenure and for **a year thereafter**.

Remember...

- Some conflicts are not recognized by the law and require common sense
- Don't over-legalize
- Be sensitive to public perception

Questions

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