



Town of Provincetown Finance Committee Code of Conduct

POLICY GOALS

The intent of this policy is to establish a clear statement and guidelines to serve as the standard for achieving and maintaining a high level of public confidence, trust and professional respect with regard to how the Finance Committee conducts its business.

CODE OF CONDUCT

A member of the Finance Committee is expected to comply with the following code of conduct:

- Realize your function is to follow the laws established by the Commonwealth, the Town Charter and Town By-Laws.
- Realize that you are one member of a team and should abide by all decisions of the Committee once they are made.
- Be well informed concerning the duties and responsibilities of the Committee.
- Remember that you represent the entire community at all times.
- Accept the role of a committee member as a means of unselfish service, not to benefit personally or politically from your Committee activities.
- Abide by the ethics guidelines established by the State.
- Abide by the open meeting guidelines established by the State. (*See the attached State Ethics Commission guidelines for finance committee members*).
- Request research assistance or information from Town staff only when you have been assigned to do so by the Committee or the Chair, and with the knowledge of the Town Manager.¹
- Ensure that any materials or information provided to a committee member from Town staff is made available to all committee members.

¹ Notwithstanding this policy, Section 5-2-3 of the Provincetown General By-laws provides for access to town financial records, as follows: “**Access to financial records.** The Finance Committee shall have access to all records needed for the discharge of its duties. Such records shall include all books in which Town accounts are kept and all bills and vouchers upon which money has been, or may be, paid from the town treasury. Upon request from the Finance Committee, every person responsible for the keeping of town records and accounts shall provide such facts, figures and records as the Committee may require.”

- When you are talking with members of the community about the work of your committee, learn to listen without making promises or implying action will be taken by the Committee.
- Do not make statements or promises of how you will vote on matters that will come before the Committee until you have had an opportunity to hear the pros and cons of the issue during a public meeting of the Committee.
- Honor the past. Try to gain a sense of where the Town and the Committee have been and what it has tried to do before you begin actively advocating a different path.
- Make decisions only after all facts on a question have been presented and discussed.
- Advocate at the meeting until a vote is taken, then support the majority view.
- If you have a minority view and want to continue to publicly state it, be sure to identify that it is the minority view. Describe the majority view and its rationale and why you disagree.
- If, for any reason, you were unable to participate in Committee deliberations on an issue, and you disagree with the Committee's decision, you should only speak publicly on the issue only as a private citizen, not as a committee member. You should make no reference to how you would have voted as a member of the Committee if you were present.
- Refrain from communicating the position of the Committee to reporters or state officials unless the full Committee has previously agreed on both the position and the language of the statement conveying the position. In general, only the Chairman should speak for the committee, and then only present what the rest of the committee has approved or is consistent with committee position.
- Treat with respect all members of the Committee despite differences of opinion.
- Present no public criticism of the overall Committee or individual committee members that you don't agree with.
- Don't make inferences about someone's intentions or reasons, just about their actions.
- Never publicly criticize an employee of the Town. Concerns about staff performance should be communicated to the Town Manager through private conversation.
- If circumstances change so that meeting attendance on a regular basis becomes difficult, offer your resignation to the Moderator, so that someone who can regularly attend meetings can be appointed.

Review and Amendments to this Policy

- The Finance Committee will review this policy annually and make amendments as necessary.

- Adoption of amendments to this policy will require a majority vote of the Finance Committee.
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Adopted by the Finance Committee on August 16, 2010 by a vote of 5-0-0.

Revision History	
Date Adopted	Summary of Changes
August 16, 2010	Initial version. Finance Committee vote: 5-0-0



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Municipal Finance Committee Members

As a member of a municipal finance committee, even if you are unpaid and serve solely in an advisory capacity, you are considered a municipal employee and are covered by the conflict of interest law, G.L. c. 268A. The purpose of the law is ensure that your private interests and relationships do not conflict with your responsibilities as a public official.

Prohibited Actions (Section 19)

The law generally prohibits you from taking any official action on matters affecting:

- your own financial interests, or
- the financial interests of:
 - your immediate family members,
 - business partners,
 - private employers,
 - those with whom you are negotiating prospective employment, or
 - organizations for which you serve as an officer, director, partner or trustee.

If one of these matters comes up for consideration at a Finance Committee meeting, you should leave the room during both the deliberation and the vote on the matter, and make sure that the minutes of the meeting reflect your recusal.

The prohibition on acting in these matters is very broad. You may not participate in any way: you may not vote on them; you may not participate in, moderate or chair discussions about them; you may not delegate them to a subordinate; you may not prepare official analyses or other documentation concerning them; and you may not take any other type of official action regarding them.

For example, if a budget line item includes the salary of an immediate family member, you may not vote to recommend a particular funding level for that line item. If you are an abutter to a public works project, you may not participate in discussions about financing that project. If you are on the board of a charitable organization, you may not help prepare a finance committee report recommending that the organization be one of three finalists for a municipal grant.

Note that there are some special cases, including:

- **If You Are Appointed to Your Position**

Before taking any action on a matter subject to § 19 restrictions, you may disclose all the facts about the situation to your appointing authority (3), and ask for a written determination that the financial interest involved is not likely to affect the integrity of your official actions. If you receive this type of "prior permission" from your appointing authority, you may then participate in the matter. Note that you may not use this exemption if you are elected to your position.

- **Acting on Budgets**

Unless an appointing authority gives you prior permission, you must abstain from any action on budget items which include the salary of an immediate family member (or would otherwise affect one of the financial interests listed above). Although you are prohibited from acting on those particular line items, you may act and vote on the budget as a whole. For more information, request Fact Sheet No. 3: Voting on Budgets which Include Salaries for Family Members from the State Ethics Commission.

Appearances (Section 23)

The law prohibits you from taking any type of official action that could create an appearance of impropriety, or acting in a manner which could cause an impartial observer to believe that your actions are tainted with bias or favoritism. Before taking any type of action which could appear to be biased, you must first file a full, written disclosure of all the relevant facts with your City or Town Clerk. (We also recommend that you make the disclosure public at the finance committee meeting where the issue arises.) Instances where you should file such a disclosure include: actions affecting the financial interests of a relative who is not an immediate family member; actions involving a friend, neighbor, business associate, or anyone with whom you have a significant personal or professional relationship. If you are in doubt as to whether there is an "appearance problem", the safest approach is to make the disclosure.

Acting on Behalf of Others (Section 17)

The law generally prohibits you from acting as agent or representative for anyone other than your municipality in connection with any matter involving your municipality. For instance, you may not contact a municipal agency on behalf of a private individual, company, not-for-profit organization, group, association, or other special interest. You may not appear before a municipal agency on someone else's behalf. You may not allow your name to be used on documents which are submitted to a municipal board by someone else. You may not serve as spokesperson or otherwise represent anyone in connection with municipal business.

Also, you may not be paid (or receive any other type of compensation), by anyone other than your municipality in connection with any matter that involves your municipality.

There are some exemptions to this general prohibition. For instance, if your position is designated as a "special municipal employee" position (4), you generally may act as agent and be paid in connection with a matter involving your municipality, provided that: you have never personally participated in the matter as a municipal official; the matter is not within your official responsibility; and the matter is not pending before your municipal agency.

Also, you may always act on your own behalf, and you may always state your own personal points of view. However, you should always make it clear that you are acting on your own behalf, and not acting in any official capacity. You may even represent yourself before the municipal agency you work for (but remember that you may not take any type of official action on a matter that affects you).

For information about other exemptions, see State Ethics Commission Advisory No. 13: Agency.

Multiple Office Holding (Section 20)

The law generally prohibits you from holding more than one position with the same municipality. However, there are many exemptions in this section of the law. For more information, request Advisory No. 7: Multiple Office Holding from the State Ethics Commission.

Financial Interests in Contracts with Your Municipality (Section 20)

You are generally prohibited from having a direct or indirect financial interest in a contract with your municipality. However, there are many exemptions in this section of the law. For instance, you may own less than 1% of the stock

of a company that does business with your municipality. Also, if your position is designated as a "special municipal employee" position, the Board of Selectmen, City Council or Board of Aldermen may vote to grant you an exemption (5). For information about other exemptions, contact your Town Counsel, City Solicitor or the Legal Division of the State Ethics Commission.

Unwarranted Privileges (Section 23)

The law prohibits you from using your official position to obtain any type of "unwarranted privilege" for yourself or anyone else. For example: you may not use official resources (e.g., official cars, office equipment, stationery, the municipal seal) for personal or political purposes. You may not use your official position to get any type of preferential treatment for yourself or anyone else. You may not use your official title to endorse products or activities.

Confidential Information (Section 23)

The law prohibits you from publicly revealing confidential information, and from using it for private or political purposes. Anything that is not a "public record" under the Massachusetts Public Records Law is considered confidential.

Private Employment (Sections 17 and 18)

The conflict law restricts your private employment in the following ways:

- The law generally prohibits you from being paid (or receiving any other type of compensation) in connection with any matter that is "of direct and substantial interest" to your municipality.
- If your position is designated as a "special municipal employee" position, you generally may be paid in connection with matters you have not personally participated in, and which are not under your official responsibility.
- You may never be paid by anyone but your municipality in connection with a particular matter in which you participated as a public official. For example, if you act on a particular budget line item, you may not be paid by a private company in connection with a contract funded by that line item.
- There is a one-year "cooling off" period before you may personally appear before a municipal agency in connection with a matter that was under your official responsibility, even if you did not participate in it.
- Your business partners are generally subject to the same restrictions on private employment that you are.

For more information on these restrictions, see State Ethics Commission Advisory No. 14: Negotiation for Prospective Employment and Summary of the Conflict of Interest Law for Former Municipal Employees.

Bribes (Section 2)

You may not ever accept anything that is given to you with an "intent to influence" your official actions. Anything -- of any value -- may be considered a bribe if it is given to you in exchange for your agreeing to take some type of official action (or if you agree to not take an official action you would otherwise take).

Gifts and Gratuities (Section 3)

You may not accept anything worth \$50 or more if it is given to you because of something you did, or might do, as a municipal official. Examples of regulated gratuities include: sports tickets, costs of drinks and meals, travel expenses, conference fees, gifts of appreciation, entertainment expenses, free use of vacation homes and complimentary tickets to charitable events. Generally, if the gift-giver is someone you deal with in your municipal position, then the gift is being given to you because of your official duties, and you may not accept it if it is worth more than \$50.

Note that you may not accept multiple gifts from the same person or company if the total value of all the gifts is more than \$50. Also, you may not accept more than a total of \$50 worth of gifts from different sources sharing a "common interest." The law treats a standing offer (e.g., "I can get you Celtics tickets anytime you want them") as if it were a case of multiple gifts. You should refuse standing offers, since they may be considered to be worth more than \$50.

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Summaries are prepared and issued by the Public Education Division of the State Ethics Commission. They are intended to provide guidance to public officials and employees concerning practical applications of the conflict law. For more information about the law, please contact your Town Counsel or City Solicitor, or the Legal Division of the State Ethics Commission at (617) 371-9500.

ISSUED: February 14, 1995

1 Members of your "immediate family" include: your spouse; and the parents, siblings and children of both you and your spouse.

2 Note that this prohibition applies both to for-profit and to charitable organizations.

3 Your "appointing authority" is the person or board who appointed you to your position. Contact your Town Counsel or City Solicitor if you have any question about who your appointing authority is.

4 Only part-time or unpaid positions may be designated as "special municipal employee" positions. This designation is granted by a vote of the Board of Selectmen, City Council or Board of Aldermen. Boards of Selectmen in towns of less than 10,000 population are automatically "special municipal employees." Mayors, Aldermen, and Selectmen in towns of more than 10,000 population may never be "special municipal employees."

5 You are also required to file a disclosure of your interest in the contract with the City or Town Clerk.