

The Louisiana Code of Governmental Ethics



*OVERVIEW OF
ETHICS LAW
POLICY & PROCEDURES*

R.S. 42:1101 et seq

LOUISIANA BOARD OF ETHICS

LA. CONST. ART. 10, § 21

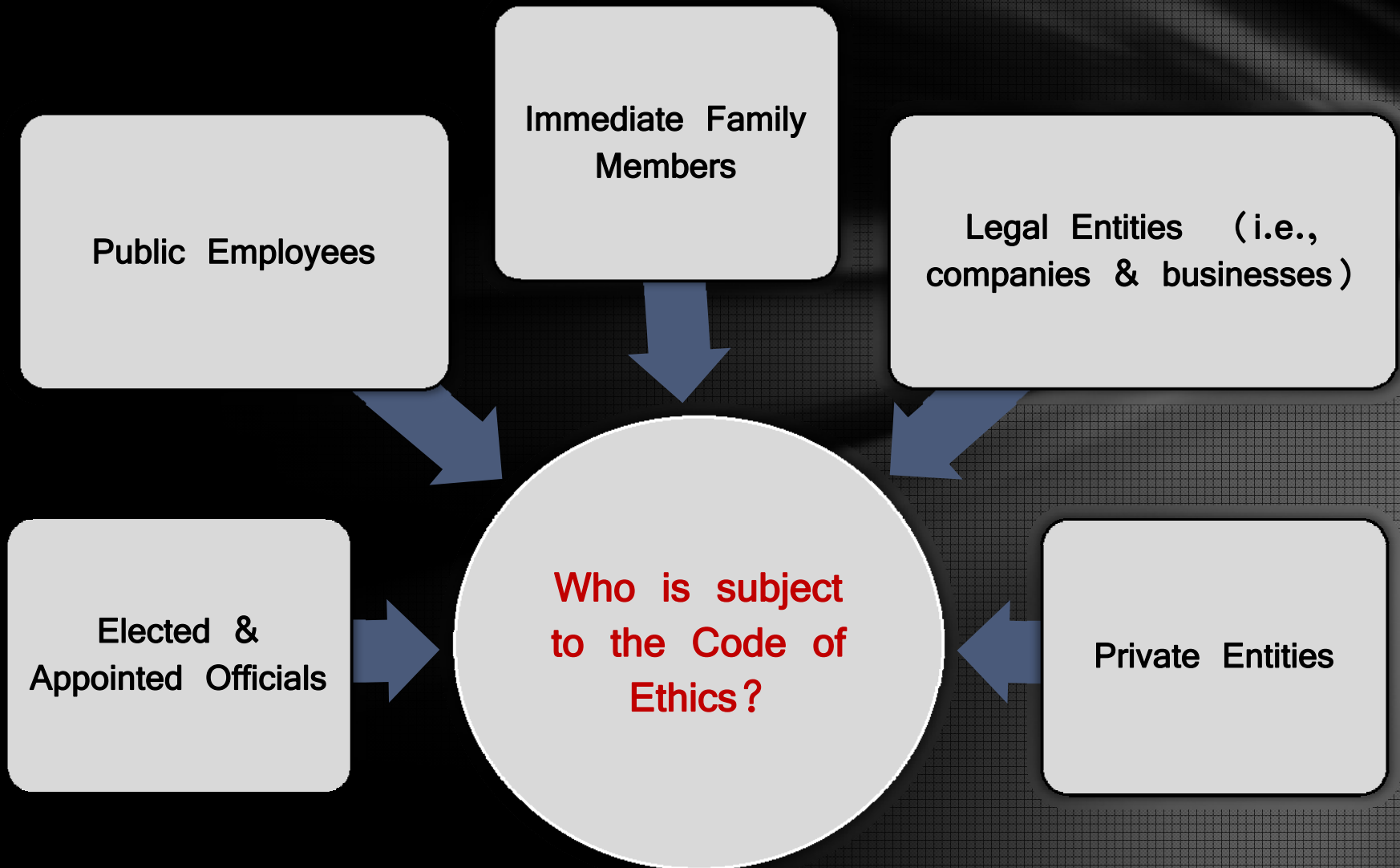
11 Members
Serve 5 year terms

7 appointed by the governor, with
at least one from each
congressional district

2 elected by the Senate

2 elected by the House of
Representatives

Code of Governmental Ethics



Code of Governmental Ethics

- Addresses conflicts of interest
- Policy Goals
 - Elected officials and public employees be independent and impartial
 - Governmental decisions and policy be made in the proper channel
 - Public office and employment not be used for private gain
 - Public confidence in the integrity of Government

ADVISORY OPINIONS

- May be requested by any public servant, private entity or individual which has a direct interest in an issue arising under one of the laws under the Board's jurisdiction
- Request must be submitted in writing
- Request should be submitted prior to taking action
- Advisory opinions and requests for opinions are public record

COMPLAINTS

- May be filed by any individual 18 years of age or older who is qualified to vote
- May be sworn or non-sworn
- Must be written and signed
- Issue must have occurred within the past 4 years
- Agency heads are required to report any potential issues (Section 1161)



INVESTIGATIONS

- Board must vote to investigate a complaint
- Respondent receives an explanation of the matter, a redacted copy of the complaint, and a certificate of vote by certified mail
- Matters under investigation are confidential
- Persons who reveal confidential information may be prosecuted

Louisiana Board of Ethics

- Board may vote to dismiss or to file charges
- Charges are public information



CONSENT OPINIONS

- The Board may give the respondent an offer to enter into a consent opinion
- Consent opinions are public record
- Consent opinions may be accompanied by a fine or other penalty

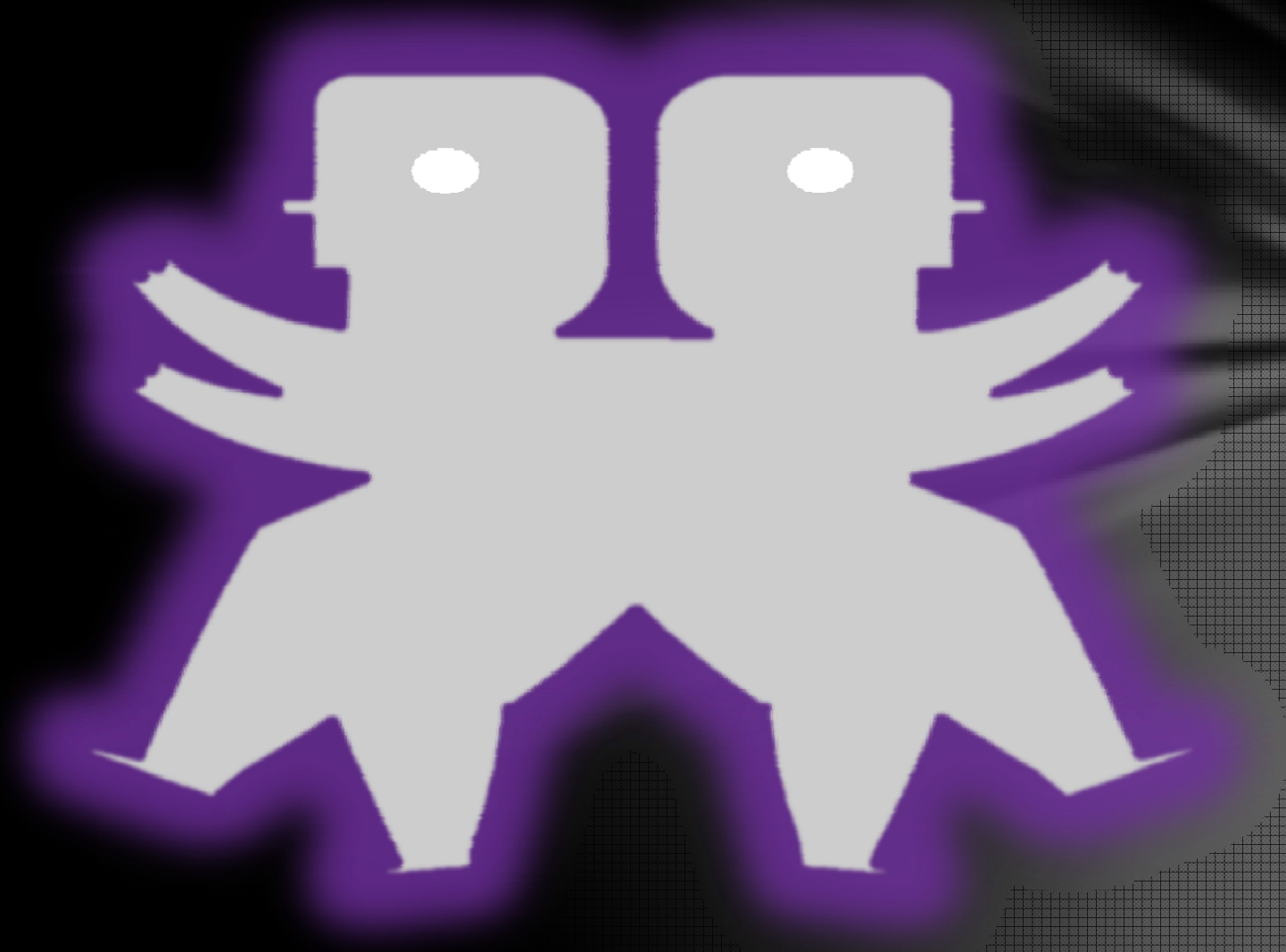
PUBLIC HEARINGS

- Conducted by the Ethics Adjudicatory Board (EAB)
- Respondent has due process rights
- EAB issues opinions and determines penalties, if applicable
- Respondent may appeal EAB decision with the Louisiana First Circuit Court of Appeal

PENALTIES

- Censure
- Fine of up to \$10,000, or amount of economic gain plus additional 50%
- Forfeiture of gifts and payment
- Remove, suspend, or order a reduction in pay, or demotion of the public employee

CONFLICTS



OF INTEREST

DEFINITIONS

Public Servant

- Anyone, whether compensated or not, who is a public employee; appointed or elected official; or anyone in the performance of a governmental function.

Agency (for an elected official)

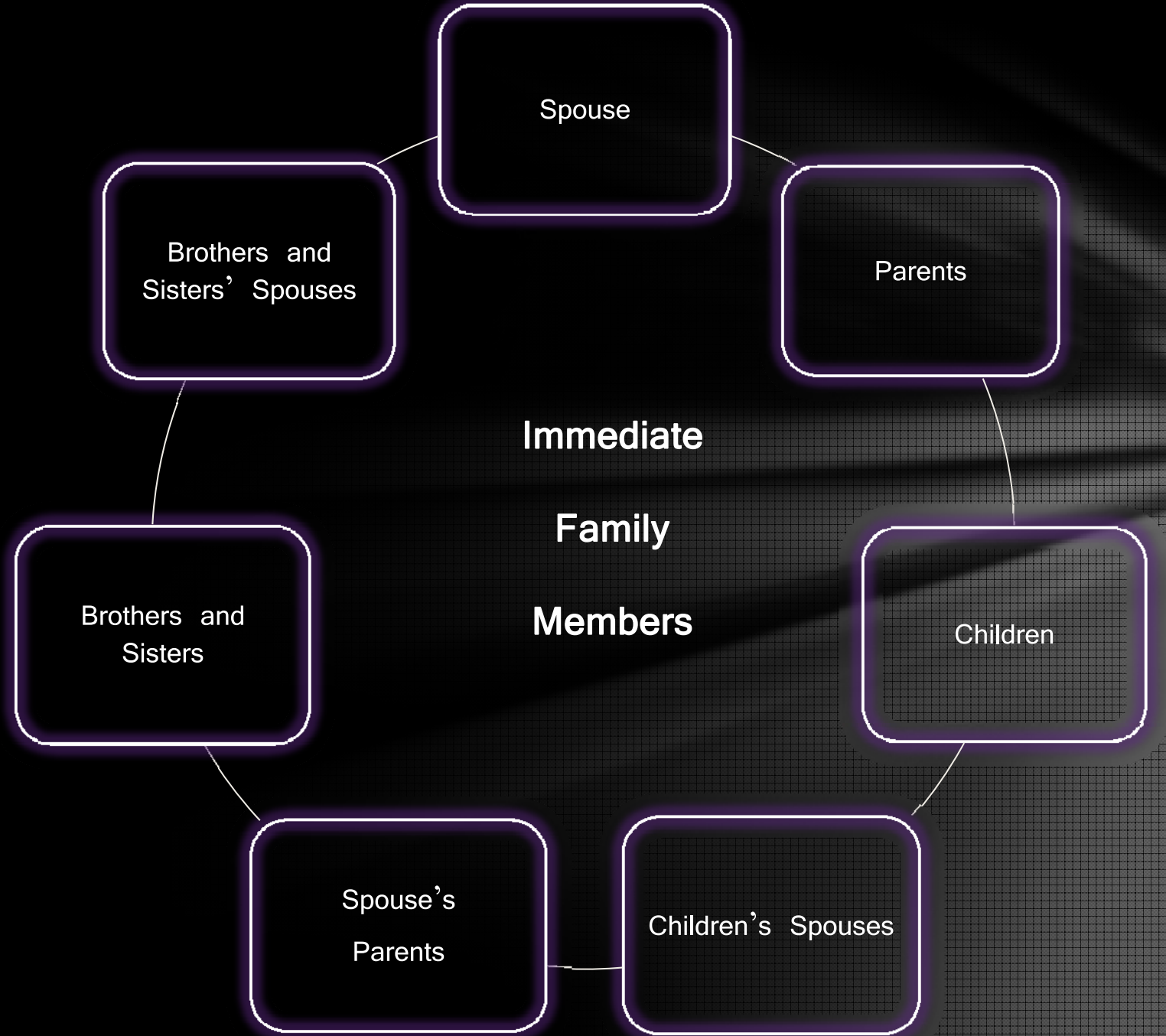
- The state or any political subdivision to which the elected official is elected

Agency (for a public servant)

- Department, office, division, agency, commission, board, committee, or other organizational unit of a governmental entity

Person

- An individual or a legal entity other than a governmental entity



PROHIBITED SOURCE

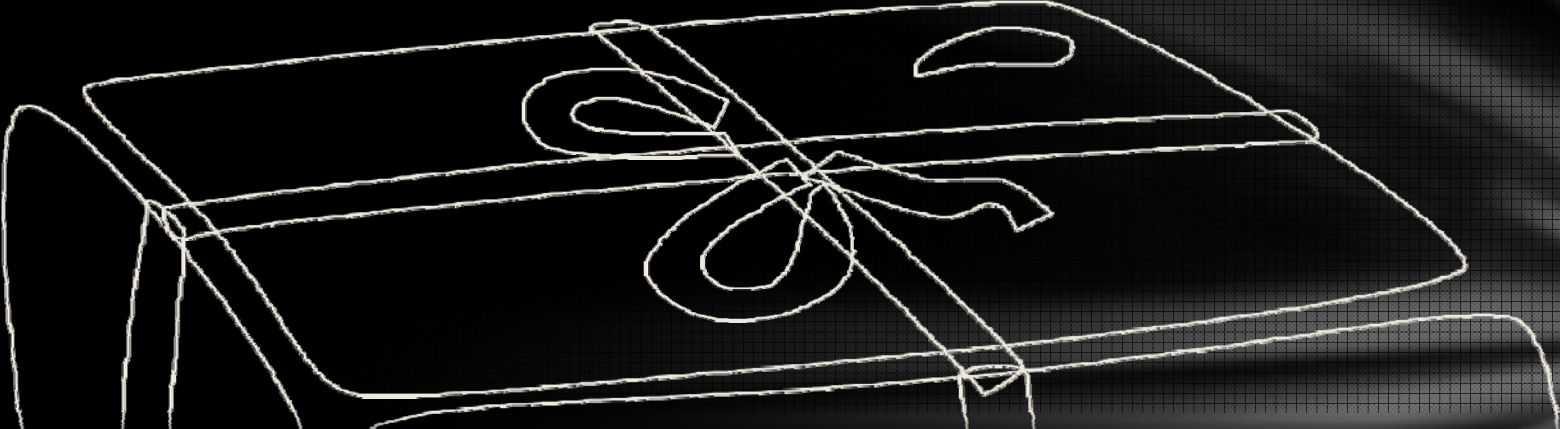
For public employees:
(In addition to the
prohibited sources listed
below, the following two
categories)

- A person who conducts activities which are regulated by the public employee's agency.
- A person who has a substantial economic interest that can be affected by the performance or non-performance of the public employee's job duties.

For Elected Officials

- A person who has or is seeking a contractual, business, or financial arrangement with your agency.
- Someone who, for compensation attempts to influence any legislation or ordinance of the elected body

GIFTS



A public servant may not solicit or accept, *directly* or *indirectly*, any thing of economic value as a gift or gratuity from any person or from any officer, director, agent, or employee of such person that is considered a “Prohibited Source”:

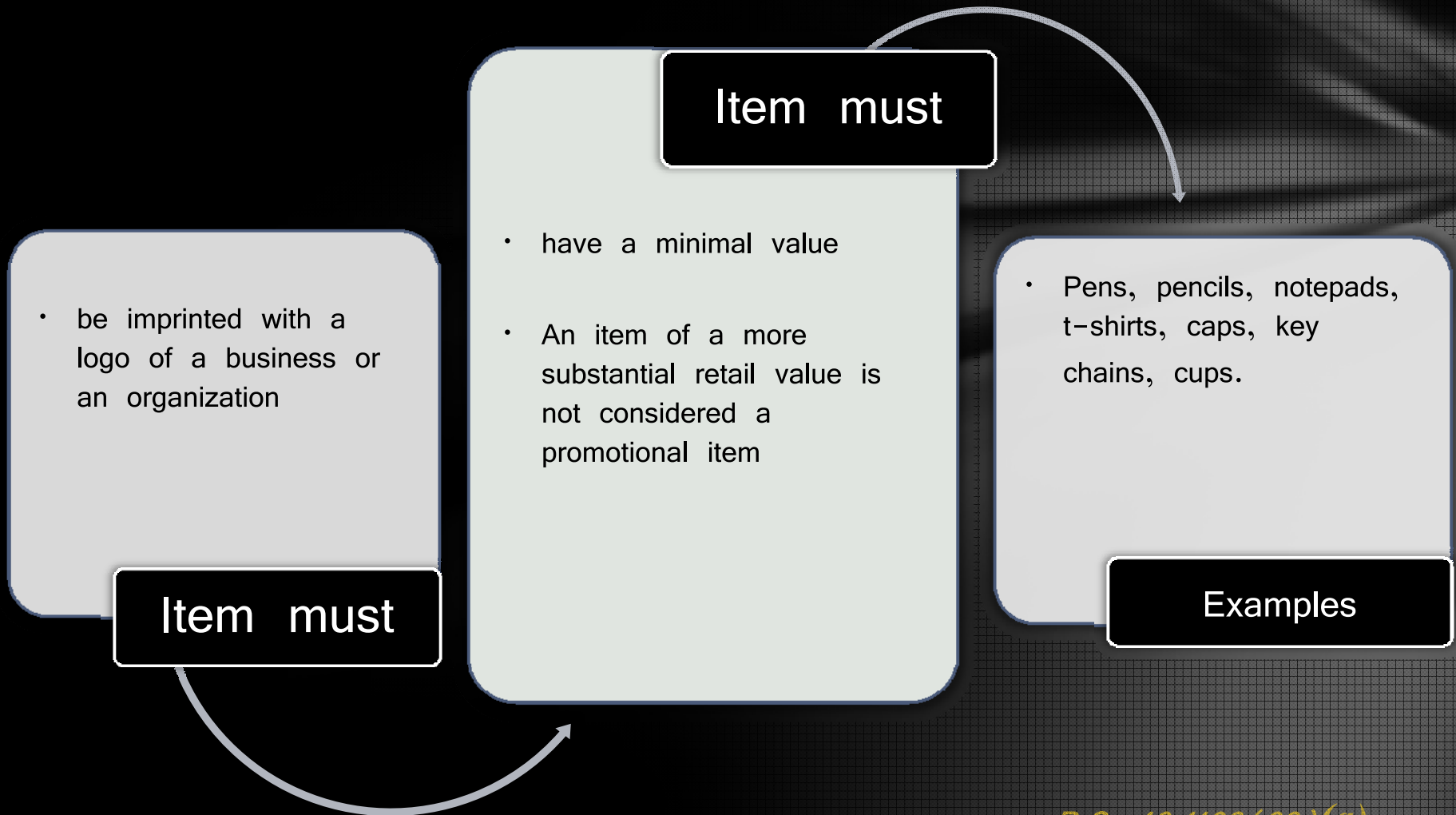
THING OF ECONOMIC VALUE

- Means money or any other thing having economic value
- Thing of economic value includes both tangibles and intangibles
- No minimum value
- Common examples
 - Tickets/complimentary admission
 - Gift cards
 - Discounts
 - Trips

* There are exceptions and they must be followed closely to avoid a violation of the Code of Ethics



Promotional Items having no Substantial Resale Value



Exceptions

Food & Drink Exceptions



- Food and drink must be consumed by the personal guest in the presence of the provider or representative of the company/organization that is providing.
- The exception allows a public servant to receive transportation and entertainment which is incidental to the food and drink.
- Gift cards and gift certificates for food or drink are not part of the exception for food and drink.

Food & Drink Exceptions

- The limitation on the total dollar value of food and drink which a public servant may be given at a single event is \$54 per public servant per event. (effective July 1, 2010)
- An “event” is a single activity, occasion, reception, meal, or meeting at a given place and time
- The food and drink dollar limitation is calculated by dividing the total cost of the food and drink by the total number of persons invited to the event
- The dollar limitation does not include tax or gratuity

Food & Drink Exceptions

- Dollar limitation on food and drink does NOT apply at:

- A gathering held in conjunction with a meeting related to a national or regional organization

or a meeting of a statewide organization of governmental officials or employees provided

that at least ten persons associated with the organization are invited to the gathering.

- “In conjunction” means an event held during the same time period and in the same general locale as a meeting of such an organization; or as part of the scheduled activities of the meeting and open to all persons attending the meeting

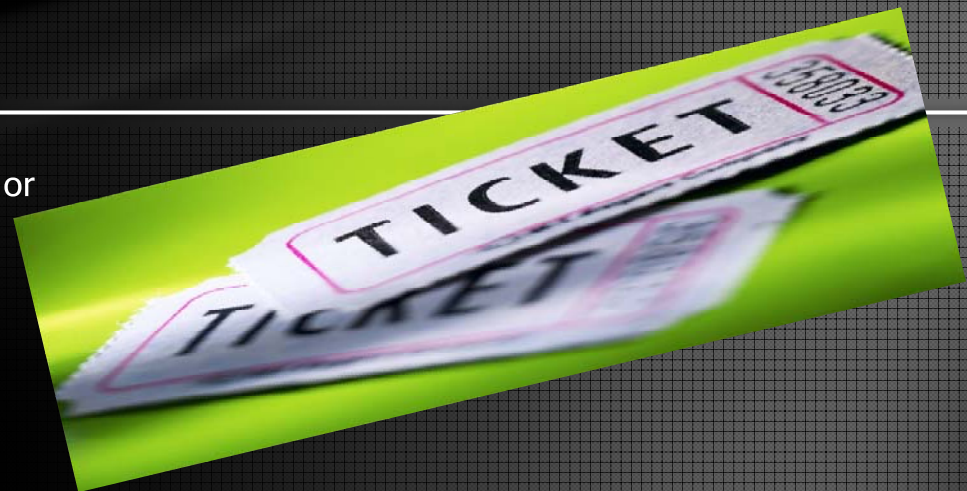
Complimentary admission

Admission to a civic, non-profit, educational or political event, if the public servant is a program honoree, giving a speech, or a panel member participating in a debate or discussion at the event

A public servant under the supervision of an elected official may receive complimentary admission to assist the elected official if such assistance is a part of the public servant's ordinary job duties

Does NOT include admission to any professional, semi-professional, or collegiate sporting event

Admission to a fundraising event for a candidate or a political party



Education and professional development seminars and conferences

A public servant may accept complimentary admission, reasonable lodging and transportation to an educational, professional development seminar or conference which is held within the U.S. or Canada and which is related to the job duties of the public servant, provided that :

- The public servant must be invited to attend by the organization or entity;
- The sponsor is not a prohibited source seeking to influence legislation by public servant's agency;
- The agency head gives approval;
- An affidavit is filed with the Board of Ethics within 60 days including the actual amount expended on the public servant's behalf;
- No affidavit is required if the public servant's agency or governmental entity pays for the public servant's expenses for attending the seminar

UNIVERSITY EXCEPTIONS

- May receive a thing of economic value:
 - From “thing” accruing to benefit of university;
 - Approved by management board;
 - Through recognized alumni organization/foundation if charter specifies purpose is to aid university;
 - Compensation for proctoring/assisting a bona fide non-profit organization in administration of standardized tests but such compensation shall not be considered a regular compensation nor basis for benefit nor for time.

prohibitions

Prohibitions on Income

- A public servant may *not receive* any thing of economic value, other than compensation and benefits from the governmental entity to which he is duly entitled, for the performance of the duties and responsibilities of his office or position
- Prohibition applies to receiving a thing of economic value from either member of the public or a private source

*Ex. The coach of a high school football team cannot receive a discount at the local dealership because he won the state championship.

Prohibitions on Income

- A public servant,
- A public servant's spouse, or
- A legal entity of which
 - the public servant or the spouse Exercises control, or
 - Owns an interest greater than 25%,

MAY NOT

- Receive any thing of economic value for or in consideration of services which are performed for or compensated by a person from whom the public servant is prohibited from receiving a gift by Section 1115A(1)
- What is a “service”?
 - The performance of work, duties, or responsibilities, or the leasing, rental, or sale of movable or immovable property.
 - Includes employment, contractual work, selling property and goods

Giver of illegal payments & gifts

- No public servant or other person shall give, pay, loan, transfer, or deliver or offer to give, pay, loan, transfer, or deliver, directly or indirectly, to any public servant or other person any thing of economic value which such public servant or other person would be prohibited from receiving by any provision of the Code of Ethics



Prohibited transactions

- A public servant
- A public servant's immediate family member, and
- A legal entity of which
Othe public servant and/or his immediate family members (collectively or separately) have an ownership interest exceeding 25%

MAY NOT

- Bid on, or enter into, any contract, subcontract, or other transaction under the supervision or jurisdiction of the public servant's agency

(This provision does not apply to legislators)

Prohibited transactions

- There is no allowable minimum value for contracts, subcontracts and other transactions
- The prohibitions apply even if the contract or subcontract is awarded pursuant to public bid law, RFP, or other competitive selection process
- Donations of services and moveable property are allowed

Disclosure & participation

disclosure

- A public servant, or the immediate family member of a public servant, who derives any thing of economic value through a person who is
 - Regulated by the public servant's agency,
or
 - Has bid on or entered into or is in any way financially interested in any contract, subcontract or other transaction under the supervision or jurisdiction of the public servant's agency
- Must disclose the amount of income received to the Board of Ethics

Participation

Any person with whom the public servant is negotiating or has a contract concerning prospective employment

A public servant's immediate family members

A public servant **may not** participate in a transaction involving the governmental entity in which the public servant or one of the following persons has a substantial economic interest:

Any person of which the public servant is an officer, director, trustee, partner, or employee

Any person in which the public servant or his immediate family member has a substantial economic interest

Participation

“Participate” means to take part in, or have or share responsibility, for an action of the governmental entity or a proceeding, personally, as a public servant of the governmental entity through:

- Approval
- Disapproval
- Decision
- Recommendation
- Rendering of advice
- Investigation
- Failure to act or perform a duty

Participation

What is a “substantial economic interest”?

- An economic interest which is of greater benefit to the public servant or other persons than to a general class or group of persons
- A substantial economic interest does NOT include:
 - A public servant’s interest in his own position, office, rank, salary, per diem or other matter
 - An interest that a person has as a member of the general public

Participation



Avoiding Participation

- Public employees may disqualify themselves to avoid participation problems.
- Elected officials must recuse themselves from voting. They may participate in debate or discussion.
- Appointed members of boards or commissions must recuse themselves to avoid Section 1112 conflicts and may not participate in the debate or discussion.

Influencing

Action

for

personal gain

Influencing

No public servant shall:

- Solicit or receive any thing of economic value, directly or indirectly, for, or to be used by him or a member of his immediate family principally to aid in,
- the accomplishment of the passage or defeat of any matter affecting his agency by the legislature, if his agency is a state agency, or by the governing authority, if his agency is an agency of a political subdivision, or
- the influencing, directly or indirectly, of the passage or defeat of any matter affecting his agency by the legislature, if his agency is a state agency, or by the governing authority, if his agency is an agency of a political subdivision.

Abuse of office

A public servant may not:

- Use his office or position, directly or indirectly, to compel or coerce anyone to provide himself or another public servant any thing of economic value.

-OR-

- Use his office or position, directly or indirectly to compel or coerce anyone to participate in political activity.

Nepotism

No member of the immediate family of an **agency head** shall be employed in his agency.

- An “agency head” is the chief executive or administrative officer of an agency, or any member of a board or commission that exercises supervision or jurisdiction over an agency

Persons held liable for willful violation of nepotism provisions:

- Agency head
- Member of the governing authority
- Person having authority to hire and fire
- Immediate supervisor



Nepotism

The
Nepotism
rules
do
not
prohibit:

- The continued employment and normal promotional advancement of a public employee where a member of the public employee's immediate family becomes the agency head, provided the public employee has been employed by the agency for at least one year prior to the public employee's immediate family member becoming the agency head

Nepotism

There are specific exceptions concerning the immediate family members of:

School Board members

District Attorneys

Members of a governing authority of a municipality with less than 2000 population and which owns an electrical or gas distribution system

Legislators (as legislative assistants)

Post

Employment

Restrictions

Post Employment Restrictions

A former agency head or elected official shall not, for a period of **two years** following the termination of his public service:

- Assist another person, for compensation, in a transaction, or in an appearance in connection with a transaction, involving that agency, or
- Render any service on a contractual basis to or for such agency

Post Employment Restrictions

No former public employee shall, for a period of **two years**

- Assist another person, for compensation, in a transaction, or in an appearance in connection with a transaction, where he participated at any time during his employment and the agency he was employed by, or
- Render, any service he performed at the agency during the term of his public employment on a contractual basis, regardless of the parties to the contract, to, for, or on behalf of the agency with where he was employed.

Personal

Financial

Disclosure

disclosure

All elected officials who are subject to the Code of Ethics are required to file a personal financial disclosure statement with the Board of Ethics annually during each year of the term of office, as well as the year following the last year of the term of office.

Each elected official should file only one statement annually, regardless of the number of positions which the elected official holds. The statement corresponding to the highest tier to which the elected official belongs should be filed.

- Tier 1 – Statewide elected officials
- Tier 2 – Elected officials who represent a voting district with a population of 5,000 or more, and all state legislators
- Tier 2.1 – Members of certain boards and commissions
- Tier 3 – Elected officials who represent a voting district with a population of less than 5,000

Training

Ethics

(mandatory)

Mandatory Training

Beginning January 1, 2012:

- One hour each year
- Each agency shall have an ethics designee
 - Minimum two hours ethics training regarding code
 - Designee information to be posted for access to all employees of agency
 - Licensed to practice law

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? **QUESTIONS** ?
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Can a ULM employee accept something of economic value as a door prize or otherwise from a vendor with whom the University does business (Examples: A \$250 gift certificate/card or a TV, iPod, or knife set that does not have the company logo on them indicating that it is a promotional item from Aramark, LA Capitol Federal Credit Union, or Nebraska Bookstore) ?

Can a ULM employee accept something of economic value as a door prize or otherwise from a vendor who is trying to obtain a contract to do business with the university (Examples: A \$250 gift certificate/card or a TV, iPod, or knife set that does not have the company logo on them indicating that it is a promotional item from a company who has bid or is going to bid on a university contract) ?

Can a ULM employee accept something of economic value at a luncheon sponsored by a local chapter of a professional organization when the employee is attending the luncheon to obtain continuing professional education credit (for example, Nurses Association, Society of Louisiana CPA's)?

Would any of the previous scenarios be acceptable if numbered tickets were drawn out of a hat (e.g., a raffle) to determine door prize winners?

If the door prizes et cetera previously described were donated to the ULM Foundation first and then the Foundation presented the door prize to the ULM employee, would it then be allowable?

Can a university employee who is being recognized for achieving ten years of service or employee of the month, et cetera, accept something of economic value provided by a vendor who does business with the university (Examples: A \$250 gift certificate/card or a TV, iPod, or knife set that does not have the company logo on them indicating that it is a promotional item from Aramark, LA Capitol Federal Credit Union, or Nebraska Bookstore) ?

Can the university donate football tickets to individuals who are not included on the university's complimentary ticket policy?

Can the university donate a membership to a private individual that allows them free use of the ULM Activity Center for a period of time?

Can a university employee solicit things of economic value from vendors who do business with the university or from someone seeking to obtain a business, financial, or contractual relationship with the university?

Can a university employee do business with the university? Hypothetical example: Could an English professor write an English workbook, establish a publishing company to publish the workbook, sell the workbook to the university, and personally keep the proceeds of the sale of the workbook that go to the publishing company? If the publishing company belonged to an immediate family member would it be allowable?

Can a university employee (faculty, unclassified staff, or classified staff) run for public office?

Nepotism: Can a member of the immediate family of an agency head be employed in his agency? Hypothetical example – could the wife of the Dean of the College of Health Sciences be employed as an instructor in the School of Dental Hygiene which is within the College of Health Sciences?

When will Ethics training become mandatory and how often?

Website assistance



www.ethics.state.la.us

www.ag.louisiana.gov

www.la.la.gov