Code of Ethics

This directive states policy and establishes procedures for the implementation and administration of a code of ethics within the Department of Environmental Protection (DEP).

AUTHORITY

Ethics, Open Government, and Preventing Sexual Harassment, Executive Order 19-11;
Access to Public Records and Meetings, Article I, Section 24 of the Florida Constitution;
Code of Ethics for Public Officers, Chapter 112, Part III, Florida Statutes;
Public Records, Chapter 119, Florida Statutes;
Disclosure of Financial Interest, Chapter 34-8, Florida Administrative Code;
Executive Branch Lobbyist Registration, Chapter 34-12, Florida Administrative Code; and
Gifts and Honoraria, Chapter 34-13, Florida Administrative Code.

POLICY

DEP is committed to building public trust and confidence, communicating effectively with the public, and maintaining the people's respect. This code of ethics is intended to clearly set forth the Department's ethical principles and expectations in keeping with the Governor's Code of Ethics and support of the code of ethics specified in Chapter 112, Part III, Florida Statutes. To the extent that a statutory provision is not enhanced by a more restrictive, express provision of this Directive, the statutory Code of Ethics shall apply. Therefore, employees should familiarize themselves with the statutory Code of Ethics.

Ethics involves more than simply imposing limits on gifts. This comprehensive DEP Code of Ethics covers a wide range of topics and issues, all of which relate to the ultimate goal of improving services to the public. Promoting the public interest and maintaining the respect of the people in their government is a foremost concern.

ETHICS OFFICER/PUBLIC RECORDS AND OPEN GOVERNMENT CONTACT

The Secretary has designated the General Counsel as DEP's Chief Ethics Officer and public records/open government contact person.

Responsibility of Department's Chief Ethics Officer. The General Counsel is responsible for acting as the Department's contact person for providing information and interpretation concerning ethical issues. The General Counsel will also be the primary liaison between DEP and the Governor's Office of Open Government for purposes of training and compliance. Additionally, the General Counsel has designated an ethics attorney to answer day-to-day questions from DEP employees regarding the DEP ethics code. References in this code to seek assistance from the General Counsel also mean you may contact the ethics attorney.

Responsibility of Public Records and Open Government Contact. The General Counsel is responsible for facilitating access to public records and open meetings. This office is also responsible for providing information and interpretation concerning any public records issue. Additionally, the General Counsel has designated a public records attorney to respond to legal questions about the public records laws.

Open Government Mediation Program of the Office of the Attorney General. The General Counsel is responsible for acting as the Department's contact person and representative for utilizing this program or similar procedures to expedite resolution of public records and open meeting disputes.

Training. The General Counsel, as the Chief Ethics Officer for the Department, will make reasonable efforts to ensure that training is available regarding ethics, public records, open meeting requirements, records retention, equal opportunity and proper personnel procedures. Please see the People First Talent Management Portal for information on Training Opportunities.

Violations. Employees should report any suspected violations of this DEP Code of Ethics to the Department Chief Ethics Officer (General Counsel), and other appropriate personnel such as a bureau chief, program administrator, director, deputy secretary, DEP Bureau of Human Resource Management or DEP Office of Inspector General.

ETHICS TRAINING

Supervisors are responsible for ensuring that all employees are provided information and appropriate training to ensure full understanding of the Department's Code of Ethics, as specified in this and other related directives. Supervisors shall ensure that they and their employees receive annual training on the subjects of ethics, public records law, open meetings, records retention, equal opportunity, and proper personnel procedures.

Completion of Training. Training for supervisory personnel on the subjects of ethics, public records law, open meetings, records retention, equal opportunity, and proper personnel procedures is available through the Department's Basic Supervisory Training. All supervisors are required to complete this training.

Access to Information. Supervisors are responsible for ensuring that all employees access information on DEP's code of ethics through New Employee Orientation. Editors of DEP's various newsletters are responsible for ensuring that periodic informative articles on DEP's code of ethics provisions appear in these publications. Please contact the General Counsel for assistance.

AVOIDING THE APPEARANCE OF IMPROPRIETY

Use of Power and Resources. Employees must use the powers and resources of the Department to further the public interest and not for any financial or personal benefit other than salaried compensation and employer-provided benefits.

Safeguarding Impartiality. Employees must safeguard their ability to make objective, fair and impartial decisions. Accordingly, employees are prohibited from engaging in any activity or accepting benefits that a reasonable person could perceive as potentially influencing or rewarding their decisions. Employees should avoid any conduct (whether in the context of business, financial or social relationships) that might undermine the public trust, whether that conduct is unethical or may give the appearance of ethical impropriety. Employees shall consider their circumstances and recuse themselves from certain matters where dealings, finances or personal relationships could lead to the appearance of impropriety. Recusals must be submitted in writing to the Governor's Office of General Counsel after consultation with the Department Chief Ethics Officer (General Counsel). Failure to provide a written recusal when justified may constitute grounds for dismissal.

Conflicts of Interest. Employees whose immediate family relative is a lobbyist are required to report to the General Counsel the names of all such lobbyist's clients quarterly. Such employees are prohibited from participating in any matter that would benefit them or their immediate family relatives, and will refrain from participating in discussions, meetings, or activities involving clients of their immediate family relatives. Directors shall reassign responsibilities that pose a conflict of interest to another employee. Where confidentiality requirements prohibit the public disclosure of any names of clients, the employee must specifically identify the confidentiality concerns prior to or contemporaneously with the submission of the list and the employee's supervising director, in consultation with the General Counsel, will take the measures necessary and appropriate to assure effective recusal by the affected employee(s).

Serving as Officers/Directors of Governmental & Non-Governmental Entities. Contact the General Counsel's designated ethics attorney for further information.

- Employees may serve on the board or commissions of <u>governmental</u> entities subject to the approval of the employee's supervisor and General Counsel.

- No employee may serve as an officer or director of any non-governmental corporation, company, partnership or other entity, regardless of its private or public ownership or its for-profit or item-for-profit status, unless such service meets one of the following exceptions:

  - ➢ Subject to the approval of the employee's supervisor and the General Counsel, an employee may serve as an officer or director of a non-governmental, non-profit organization, corporation, company or partnership that <u>does not seek funding</u> by the State.

  - ➢ Subject to the approval of the employee's supervisor and the General Counsel, an employee may serve as an officer or director of a non-governmental, non-profit organization, corporation, company or partnership that <u>seeks funding</u> from the State if:

    - ✓ Serving in that capacity is directly related to the employee's employment; and

    - ✓ The employee has been requested to do so by the Secretary of FDEP or is required to serve in that capacity by statute, rule, executive order or other applicable law.

- Subject to the approval of the employee's supervisor and the General Counsel, an employee may serve as an officer or director of a non-governmental, for-profit organization, corporation, company or partnership <u>that does not seek or receive funding from or do business with the State and that is closely-held or family-owned/operated</u>. For example, an employee who, along with other family members, is an officer or director of an entity that owns rental property could seek approval under this exception.

- Voluntary, pro bono services (i.e., where the DEP employee does not receive compensation) not associated with serving on a board on behalf of non-profit organizations may be permitted, so long as services to such organizations would not have the potential to create a conflict and would not impair the employee's ability to discharge his/her public duties fully and faithfully.

No Personal Benefit. No employee shall participate in an official capacity in any matter that would benefit him or her, or which the employee knows will benefit any family relative or business associate of the employee or family relative.

Screening. To further avoid any appearance of impropriety, employees will not participate in meetings between and/or decisions directly involving the DEP employee and his or her former private employer, clients or business entities for which she or he had substantial, direct responsibility during the two years prior to assuming their present employment with DEP. To the extent the employee seeks to participate in any such meeting or decision, he or she will first notify the supervising Director or equivalent (if the employee is a Director, then his or her direct supervisor) who, with consultation with the General Counsel, will prescribe an appropriate screen depending on the particular circumstances. In no event, however, will a procedure limit the employee's ability to fulfill the core functions of his or her job. Moreover, nothing in this Code is meant to prohibit an employee from addressing or making decisions relating to issues that may generally affect an industry or business sector with which they may have had a prior relationship. For example, a DEP employee may not ever review the permit that he helped prepare as a private engineering consultant, though that DEP employee may review permits that others prepared from the DEP's former employer.

Honoraria and Honorarium Related Expenses. Employees are prohibited from soliciting or accepting, directly or indirectly, honoraria or any other thing of monetary value for speaking appearances or published articles relating to DEP or the employee's DEP employment-related responsibilities. Employees may, however, accept payment of honorarium expenses reasonably incurred. Such acceptance must receive prior approval from the General Counsel. The employee's spouse or relative may not accept any honorarium for expenses incurred to attend such functions with the employee. The employee may not accept payment of honorarium expenses if a political action committee, DEP regulated entity, DEP contractor, a lobbyist, or an employer, principal or partner of a lobbyist offers to pay these honorarium-incurred expenses. However, payment of honorarium expenses reasonably incurred on behalf of the employee by DEP may be reimbursed to DEP and prior approval of these expenses is not required from the General Counsel. See Sections 112.3149 112.3215, Florida Statutes (2019).

Aircraft and Motor Vehicles. The motor vehicles owned, leased, or operated by the Office of the Governor/Lieutenant Governor or any State Department are available for official state business only as authorized by the Governor, Lieutenant Governor, or the Secretary. Although not specifically prohibited by Chapter 112, Florida Statutes, employees are prohibited from traveling in a private aircraft unless they have obtained prior authorization from the Governor or the Governor's Chief of Staff.

Employee Political Activities. Political activities of State employees are restricted by the Federal Hatch Act and Florida law. (See Chapter 110, Florida Statutes). Employees are responsible for being aware of and complying with these restrictions, as specified in DEP 490, Political Activities.

Nepotism. A Specified State Employee is prohibited from seeking for a relative any appointment, employment, promotion or advancement in the unit in which the employee works or over which the employee has control. Employees are responsible for being aware of, and complying with, the provisions in DEP 407, Employment of Relatives. This directive does not prevent relatives from working together in public employment. Contact the Bureau of Human Resource Management for assistance.

Gifts. Nothing of value may be solicited or accepted based upon any understanding that the gift was given to influence official action. (See Section 112.313, Florida Statutes).

The statutory Code of Ethics for public officers, procurement employees and reporting individuals provides that a gift from a lobbyist may not be accepted. (See Section 112.3148, Florida Statutes). However, it is the policy of DEP that no employee, regardless of reporting status, may accept a gift or anything of value from a lobbyist or lobbyist's principal, regardless of whether the item is being offered or given for the purpose of lobbying.

No DEP employee may solicit any gift, regardless of its value, if the gift is for the personal benefit of themselves, their family, or another employee.

Unless given by a relative, any gift received by specified state employees (i.e., reporting individuals and procurement employees, as defined by Section 112.3148, Florida Statutes) which is valued at over $100 must be reported to the Commission on Ethics in the quarter in which it is received. Forms 9 and 10 are available on the Florida Commission on Ethics' website to use for this purpose. (See the section on Financial Disclosure in this directive for more information on financial reporting requirements).

No DEP employee may accept anything of value from a non-lobbyist unless given by a relative or a personal friend in the ordinary course of friendship. A gift from a personal friend may only be given for a special occasion (e.g., holidays, birthdays, weddings, showers, anniversaries, graduation, Valentine's Day, etc.), or as a meal (whether at a restaurant or at a home), or as lodging at the friend's home. However, that personal friend cannot be:

- a lobbyist;
- the partner, firm, member, employer, employee or principal of a lobbyist;
- a person having a special pecuniary interest either individually or through a business entity (e.g., limited liability company, partnership, corporation, etc.) or organization in a matter pending before DEP (e.g., those regulated by DEP) and/or the Office of the Governor/Lieutenant Governor;
- a person who, either individually or through a business entity or organization, provides goods or services to the State under contract or agreement (i.e., a DEP contractor or vendor); or
- a person who, either individually or through a business entity or organization, is seeking to do business with the State.

Gifts, regardless of value, may be accepted on behalf of a governmental entity or charitable organization, or for which a public purpose can be shown, provided the General Counsel has approved such acceptance. DEP employees must contact the General Counsel for assistance with the acceptance of such gifts on behalf of DEP.

Gifts, regardless of value, made to DEP may be accepted by an employee on behalf of DEP provided that the General Counsel has approved such acceptance**.**

In determining whether a gift or potential gift poses a conflict of interest and should not be accepted, the following questions are intended as guidelines for employees.

- Is the gift being given or accepted with the intent that your official action or judgment would be influenced by the gift? If the answer to this question is "yes" the gift, regardless of value, CANNOT be accepted. If the answer is "no" proceed to the next question.

- Do you know, or with the exercise of reasonable care, should you know that the gift is being given to influence your official action? If the answer to this question is "yes" the gift, regardless of value, CANNOT be accepted. If the answer is "no" proceed to the next question.

- Have you accepted multiple gifts, even if nominal in value, from the same source such that the gifts taken in the aggregate may appear that they have been given in circumvention of the prohibition against gifts? If the answer is "yes" the gift CANNOT be accepted. If the answer is "no" proceed to the next question.

- Is the gift being given to you by a relative? If the answer is "yes" the gift CAN be accepted*.* If the answer is "no" proceed to the next question.

- Is the gift being given by either a registered or unregistered lobbyist, partner, firm, member, employer, employee or principal of a lobbyist, DEP contractor or DEP regulated entity? If the answer is "yes" the gift CANNOT be accepted*.* If the answer is "no" proceed to the next question.[1]

- Is the gift being given to you by a personal friend, who <u>does not fall into any of the categories specified in this section, in the normal course of friendship for a special occasion or as a meal or lodging</u>? If the answer is "yes" the gift CAN be accepted. If the answer is "no" the gift CANNOT be accepted. Specified state employees must report such gift if it is valued at over $100.00 to the Commission on Ethics (see Quarterly Gift Disclosure under FINANCIAL DISCLOSURE)

- Is the gift being given to your relative by a lobbyist? If the answer is "yes" the gift CANNOT be accepted. Any gift that the DEP employee cannot receive directly may not be received indirectly.

Events sponsored in whole or in part by lobbyist, principal of a lobbyist, DEP contractor or DEP regulated entity.

[1] For a list of registered legislative and executive branch agency lobbyists, see www.leg.state.fl.us/Lobbyist.

- Employees may attend events sponsored by statutory direct-support organizations.

- Employees have a duty to inquire whether an event being offered is sponsored by a lobbyist, principal of a lobbyist, DEP contractor, or DEP regulated entity. Employees may attend events or accept invitations to events sponsored by a lobbyist, principal of a lobbyist, DEP contractor or DEP regulated entity ONLY IF the DEP employee pays or provides equivalent consideration. The payment must be contemporaneous with or precede the receipt of the item or attendance at the event. When such an event is a social occasion, employees should at all times refrain from discussing any State business.

- Employees may attend a community event open to all persons.

- Employees may accept an item or benefit generally available for free or below the customary rate (discount) if the terms or rate is a government rate available to all other similarly-situated government employees or a rate which is available to similarly-situated members of the public by virtue of occupation, affiliation, age, religion, sex, or national origin. This includes free and discounted items or benefits that have been made possible by sponsorship by a lobbyist, principal of a lobbyist, DEP contractor or DEP regulated entity. Prior to accepting any such item, the employee must first determine the discount is available equally to all government employees and is not intended to benefit a particular class of employees. Examples of acceptable free and discounted items or benefits could include:

  ✓ reduced registration fees for government lawyers attending a legal seminar;

  ✓ reduced registration fees for government employees attending a chamber of commerce program.

  Such benefits are not "gifts" under this directive or state law.

Awards, plaques, certificates, or similar personalized items given in recognition of the employee's public, civic, charitable or professional service may be accepted if the item has no separate commercial value. If the item is being given by a lobbyist, principal of a lobbyist, DEP contractor or DEP regulated entity the DEP OGC must approve the acceptance.

Exemptions. There may be unique or compelling circumstances warranting exceptions to or waivers from these requirements in certain individual cases. In those instances, prior approval of the General Counsel is required in consultation with the Governor's Office of General Counsel as necessary.

FINANCIAL DISCLOSURE

Specified state employees must comply with reporting requirements.

Disclosure of Financial Interests. Specified state employees are required by Section 112.3145, Florida Statutes, to disclose publicly, by July 1 of each year of state employment, their financial interests to the

Commission on Ethics. See Chapter 34-8, Florida Administrative Code, and Florida Commission on Ethics Form 1 (Statement of Financial Interests). The DEP Bureau of Human Resource Management annually provides a list of specified employees to the Florida Commission on Ethics.

Quarterly Gift Disclosure. Specified state employees must also file a Quarterly Gift Disclosure (Form 9) for all gifts received that are valued at over $100.00. Only those gifts received from relatives or gifts reported pursuant to Form 10 (under Annual Gift Disclosure) are exempted from this quarterly filing requirement.

Annual Gift Disclosure. Specified state employees must also file Form 10, Annual Disclosure of Gifts from Governmental Entities and Direct Support Organizations and Honorarium Event Related Expenses form, to be submitted with Form 1 by July 1 of each year, to report the following:

- any gift valued at over $100 which is received from a governmental entity or direct support organization; or
- actual and reasonable transportation costs, lodging or other expenses related to travel in connection with a presentation made by the employee and paid by a political action committee or lobbyist.

Final Statement of Financial Interests. Specified State Employees must file a Final Statement of Financial Interests (Form 1F) with the Florida Commission on Ethics within 60 days after leaving state employment, unless such employee immediately accepts a subsequent position that requires the employee to comply with the financial disclosure requirements of Section 112.3145, Florida Statutes.

For more information about financial disclosure requirements or to obtain forms, please visit the Florida Commission on Ethics website at www.ethics.state.fl.us. Employees should review regularly their personal assets, business interests and investments to assure that potential conflicts or appearances of impropriety are avoided.

FREQUENT-FLYER MILES AND HOTEL REWARDS POINTS EARNED THROUGH STATE-REIMBURSED TRAVEL

Employees may sometimes be required to travel on State business, requiring them to spend evenings and weekends away from their homes and families. Per diem reimbursements often do not fully reimburse the employee for out-of-pocket travel expenses. As a matter of general policy, any frequent-flyer miles, bonus miles, hotel rewards points, etc. that are awarded to an employee as a result of State-reimbursed travel may be used for personal use by the employee.

DUAL EMPLOYMENT

Secondary employment within state government or outside of state government may not interfere with or pose a conflict of interest with an employee's primary employment with DEP.

Determination by General Counsel. In addition to completing the Notification of Secondary Non-State Employment form and obtaining supervisor approval, Specified State Employees are required to seek an opinion from the General Counsel to determine whether any current or potential secondary employment constitutes a conflict of interest. If the General Counsel determines that the secondary employment constitutes a conflict of interest with the employee's appointment, the employee must sever or not accept the secondary employment relationship. Non-Specified State Employees shall complete the Secondary Employment notification form and obtain their supervisor's approval. (See ADM 401, Dual Employment and Dual Compensation).

Dual State Employment. Non-Specified State Employees may be employed by another state Department in any capacity, in keeping with the provisions specified in ADM 401, Dual Employment and Dual Compensation, and the applicable provisions of collective bargaining agreements. Employees are required to be familiar, and comply, with the provisions of ADM 401.

OTHER PROFESSIONAL CODES OF ETHICS

Nothing in this directive relieves any attorney from any obligations under the Rules of Professional Responsibility; nor shall anything in this directive relieve any professional from any other applicable professional codes of ethics.

DEFINITIONS

Director. Any member of senior management.

Employee. Any DEP employee, regardless of employment classification. [2]

Gift. A service or item having value and accepted, either directly, indirectly, or in trust for the recipient's benefit, by the recipient or by another on the recipient's behalf. Gift includes:

- real property; the use of real property; tangible or intangible personal property or use of such property;
- preferential terms or rate on a debt, loan, goods or services which are not provided as a government rate; forgiveness of a debt;
- transportation; food or beverage; membership dues; entrance or admission fees;
- plants or flowers; personal services for which a fee is normally charged;
- any other similar service or thing having value.

(See Section 112.312 (12), Florida Statutes).

Gift does <u>not</u> include:

[2] DEP has elected to apply the provisions of the lobbying laws contained in Section 112.3148, Florida Statutes, to all DEP employees, rather than limit their application to those individuals who must file financial disclosure forms pursuant to Sections 112.3144 and 112.3145, Florida Statutes.

- salary, benefits, services, fees, commissions, gifts, or expenses associated primarily with the employee's employment;
- except as provided in Section 112.31485, contributions or expenditures, reported pursuant to Chapter 106, contributions or expenditures reported pursuant to federal election law, campaign-related personal services provided without compensation by individuals volunteering their time, or any other contribution or expenditure by a political party or affiliated party committee
- reasonably incurred expenses related to an honorarium event, (see Honoraria and Honorarium Related Expenses of this directive for more on honorarium);
- an award, plaque, certificate, or similar personalized item given in recognition of the employee's public, civic, charitable or professional service,
- an honorary membership in a service or fraternal organization presented merely as a courtesy by such organization;
- use of a public facility or public property, made available by a governmental Department for a public purpose;
- transportation provided to an employee by a Department in relation to officially approved governmental business;
- gifts provided directly or indirectly by a state, regional, or national organization which promotes the exchange of ideas between, or the professional development of, governmental officials or employees, and whose membership is primarily composed of elected or appointed public officials or staff, to members of that organization or officials or staff of a governmental Department that is a member of that organization;
- cash or property received as awards, prizes, or winnings from activities authorized by the laws of this state or other jurisdictions in which such activities, provided that the acceptance of such cash or property does not otherwise pose a conflict of interest as described in this directive, and providing further that the entities or organizations awarding or distributing the awards, prizes, or winnings do not lobby executive branch agencies, do business with DEP (regulated entities or contractors/ vendors), or seek to do business with DEP.

Immediate Family Relative. An employee's spouse, sibling, parent, or child.

Lobbying. Seeking to influence an executive branch Department decision in the area of policy or procurement or attempting to obtain the goodwill of an employee.

Lobbyist. Any person who meets the definitions of that term as used in Chapter 112, Part III, Florida Statutes. Consistent with Section 112.3215, Florida Statutes, "lobbyist" does not include an employee of a Department or of a legislative or judicial branch entity acting in the normal course of his or her duties. Consistent with Chapter 112, Part III, Florida Statutes, a "principal" is anyone (other than a Department, legislative branch entity or judicial branch entity) who employs or retains a lobbyist, either as an employee or independent contractor. The Florida Legislature maintains a website of executive branch lobbyists and their principals and should be consulted by the employee (http://www.leg.state.fl.us). See Sections 112.3215(1)(f)-(i), Florida Statutes (2019).

Relative. An employee's father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, half-sister, grandparent, great grandparent, grandchild, great grandchild, step grandparent, step great grandparent, step grandchild, or step great grandchild. Relative also includes a person who is engaged to be married to the subject employee, or who otherwise holds himself or herself out as, or is generally known as, the person whom the employee intends to marry, or with whom the employee intends to form a household, or any other natural person having the same legal residence as the employee. See Section 112.312(21), Florida Statutes (2019).

Reporting Individual (also referred to as a "specified state employee"). An employee who is required to file a financial disclosure form pursuant to Section 112.3144, Florida Statutes. Contact Employee Relations in the DEP Bureau of Human Resource Management to find out whether you are a reporting individual.

Specified State Employee. A reporting individual. See Section 112.3145, Florida Statutes.

This update supersedes DEP 202 dated August 19, 2011 and is necessary to achieve consistency between this directive and the amendments to the Governor's directive as well as clarification to some provisions of this directive.

Please contact the Office of General Counsel for further guidance on any content in this document.

Relevant Forms are available at the Commission on Ethics website.