

EXECUTIVE BRANCH ETHICS COMMITTEE OPINIONS

SUBJECT MATTER INDEX

SUBJECT MATTER	ADVISORY OPINION	QUESTION PRESENTED	SUMMARY ANSWER	DATE ISSUED
<p>Conflict of Interest</p>	<p>2008-003</p>	<p>May a member of an executive branch licensing board use his or her government title for commercial purposes, while that person is employed by, or in an appointed position for, the state?</p>	<p>No. If the purpose or effect of the advertisement is to promote a commercial business, the use of one’s governmental position for commercial purposes to gain an advantage in the marketplace not available to others constitutes a misuse of position in violation of RSA 21-G:23 (supp. 2007).</p>	<p>December 8, 2008</p>
	<p>2008-002</p>	<p>1. May members of the Comprehensive Cancer Plan Oversight Board vote on targeting of funds if their employer organization has submitted a response to a request for proposal?</p>	<p>1. Before any proposals have been submitted for review, members of the Comprehensive Cancer Plan Oversight Board may vote on funding percentages for various program categories in accordance with RSA 126-A:64. Members should not participate in RFP Development Teams that are preparing RFPs for program categories if their employer organization is likely to be submitting proposals within that Program Category. Members should not participate in RFP Review Teams if the Team is</p>	<p>December 3, 2008</p>

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SUBJECT MATTER	ADVISORY OPINION	QUESTION PRESENTED	SUMMARY ANSWER	DATE ISSUED
Conflict of Interest (continued)	2008-002 (continued)	<p>2. May members of the Comprehensive Cancer Plan Oversight Board vote on targeting of funds if the organization that appointed the Board member has submitted a request for proposal, but the Board member is not employed by the appointing organization?</p>	<p>reviewing responses from the member’s employer organization. Board members should not vote on reallocation of limited funds if a proposal submitted by their employer organization is subject to the reallocation of funds. If a Board member’s employer organization’s proposal was not selected as a winning proposal by a RFP Review Team, then there is no conflict of interest if the Board member votes on the reallocation of limited funds.</p> <p>2. Members of the Comprehensive Cancer Plan Oversight Board appointed by an organization that has submitted a proposal for funding do not, solely by reason of their appointment, have a conflict of interest by participating in decisions involving his or her appointing organization.</p>	

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Conflict of Interest (continued)	2008-001	<p>May a department head or other supervisor within a prospective employee's chain of command participate, directly or indirectly, in the hiring of a family member?</p> <p>If it is determined that such employment is permissible, what, if any, limitations or obligations do the ethics statutes place on the department head or supervisor participating in the hiring process or supervision of their family member as an employee? If it is determined that such employment is not permissible, what effects, if any, would such a determination have on the department head, supervisor, or family member so hired?</p>	<p>An executive branch official who serves as a department head or supervisor must recuse himself or herself from a hiring process when either a spouse or a dependent family member is a candidate for employment within the official's department.</p> <p>Likewise, an executive branch official should not directly participate in any supervisory decisions regarding an employee who is a spouse or a dependent family member.</p> <p>A department head or supervisor who violates the ethics statutes may be charged with a misdemeanor or may face disciplinary action. RSA 21-G:34. In the event that an individual who is a spouse or a dependent family member of a department head or supervisor is employed by</p>	April 2, 2008

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Conflict of Interest (continued)	2008-001 (continued)		<p>the State in a process where the department head or supervisor was improperly involved in the hiring decision, the ethics statutes do not impose a consequence on the person hired.</p> <p>The ethics statute does not currently define other family relationships that may give rise to a conflict of interest under these circumstances.</p>	
	2007-014	May an executive branch official, including board members of regulatory boards, whose duties include the inspection and/or regulation of a profession, hold a second job conducting or working for a business that teaches mandatory classes on the law, rules, or code that the official enforces, or coordinate or teach in a state-approved apprenticeship program?	An executive branch official, including a board member of a regulatory board, who is employed as a regulator for a licensed profession, may engage in or work for a private business that competes with other private businesses to provide licensees with training, mandated by the State, on the law, rules, or codes enforced by that official, if that official follows a proper recusal policy.	November 7, 2007

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Conflict of Interest (continued)	2007-013	Do the ethics laws prohibit an executive branch official from participating in regulatory activities relative to a non-profit or charity when a spouse or dependant serves as a board member or is a paid employee of the non-profit or charity?	Yes.	September 5, 2007
	2007-012	Do the ethics laws prohibit an executive branch official directly involved in the regulation of charities or other non-profits from soliciting money on their behalf?	No, provided the solicitation does not create a conflict of interest and the executive branch official does not improperly use his or her position in State government to benefit the charity or other non-profit.	September 5, 2007
	2007-008	May an elected executive branch official vote on the confirmation of an individual nominated to an executive branch position when the elected official's campaign received a political campaign contribution from the nominee at the most recent election?	Yes. There having been full, lawful disclosure of the contribution in question, there is no statute, court ruling or ethical rule which would disqualify the executive branch official from voting on the nomination presented for consideration.	April 11, 2007

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Conflict of Interest (continued)	2007-006	Should a State employee who has agreed to go to work for a private corporation in several months recuse himself or herself from any matters involving that corporation while still employed by the State?	Yes. The employee has satisfied all requirements of the ethics laws and appears to have taken the necessary steps to avoid any potential conflict of interest.	February 21, 2007
	2007-005	May a state employee accept free transportation to an event that the employee is attending in his or her official capacity from a person who is employed by an entity regulated by his or her agency?	Yes. The state employee and the leadership of the Department are, however, cautioned to reject the gift of free transportation if a conflict of interest would result.	February 21, 2007
	2007-002	May a Department solicit sponsorship from regulated companies/persons for training to be conducted by the State?	No, unless prior approval from the Governor has been obtained. Such solicitation raises serious concerns about the potential to cause a conflict of interest. It seems all too likely that sponsorship gifts from those subject to Department regulation would be made with the hope of	February 21, 2007

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Conflict of Interest (continued)	2007-002 (continued)		<p>currying favor with officials or employees who have regulatory authority over those solicited. The Committee therefore strongly recommends against the practice of soliciting sponsorships from regulated persons/entities, unless such solicitation is approved in advance by the Governor as a gift by the sponsor to the State.</p> <p>To the extent that there should arise circumstances where sponsorship gifts are appropriate, their acceptance must be approved by the Governor under RSA 4:8 as a gift to the state.</p>	

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Conflict of Interest (continued)	2007-001	May a member of a professional licensing or regulatory board/commission who is a member of the regulated profession or who is otherwise subject to the regulations set by the board/commission vote on the adoption or amendment of such regulations without violating the conflict of interest prohibition of RSA 21-G:22?	Yes. Unless the member of the board/commission has a specific conflict of interest arising from the issue being considered, he or she may participate in votes on regulations.	February 21, 2007
Financial Disclosure	2010-002	<ol style="list-style-type: none">1. Does a person who files a statement of financial interests listing one or more of the positions held which requires filing need to make an exhaustive list of all positions held, including statutory duties, which also requires a duty to file?2. Does a person who files an annual statement of financial	<ol style="list-style-type: none">1. Any individual required to fill out the RSA 15-A Statement of Financial Interests must include a list of all of the positions which they hold where filing pursuant to RSA 15-A:3 is required.2. Any individual required to file a statement of financial interests as	June 2, 2010

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Financial Disclosure (continued)	2010-002 (continued)	<p>interests in January of any given year have a duty to re-file each time he or she is appointed to a new position during that calendar year? For example, is an agency commissioner who files a statement of financial interests in January, and who is appointed to sit on boards in March and June of that same year, required to again file statements of financial interests after the March and June appointments or does the "unless the person has previously filed ... " language in RSA 15-A:6 only require the January filing?</p> <p>3. When the law assigns to an official a duty to serve on a board or commission and gives that official the authority to designate a subordinate to sit</p>	<p>stated at RSA 15-A:3 and who has complied with the annual January filing as required by RSA 15-A:6 does not need to re-file a statement of financial interests or an update if that individual gets appointed to a new or additional position in the same calendar year.</p> <p>3. When a person required to file under RSA 15-A:3 appoints a designee, as provided for in the statute for that particular commission or office, the designee</p>	

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Financial Disclosure (continued)	2010-002 (continued)	in his or her stead, who has to file an RSA 15-A statement of financial interests?	must also comply with RSA 15-A:3 and file a statement of financial interests annually.	
	2007-011	Does the duty to file a statement of financial interests imposed by RSA 15-A apply to members of an informal advisory group who participate to provide expertise or to advocate for their own interests or those of their employers or organizations?	No, provided the person is not otherwise enumerated in RSA 15-A and the advisory group he or she is a member of is not established by statute or administrative rule, and is not an Executive Branch Advisory Committee established pursuant to RSA 21-G:11.	August 1, 2007

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Financial Disclosure (continued)	2007-007	Are members of a statutorily established executive branch advisory commission who are not appointed by the Governor, Governor and Executive Council, the President of the Senate, or the Speaker of the House required to file a statement of financial interest?	Yes. A person who accepts an appointment by a private organization or authority to a statutorily established executive branch advisory commission is subject to the duty to file a statement of financial interest because he or she is volunteering to act on behalf of the Governor or an agency engaged in state business.	February 21, 2007

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Gifts	2016-03	Can a state law enforcement officer accept a firearm valued at approximately \$700 that he won as a raffle prize at a work-related conference paid for by the employer that was open to members of a national alliance of state drug enforcement agencies, where each of the approximately 65 conference attendees, representing 33 states, was eligible for raffle prizes by virtue of his/her registration?	Yes. Although the Committee has serious reservations about appearance of impropriety stemming from acceptance of a prize of such significant value, under the circumstances described, the committee finds that prohibiting acceptance of the prize would not advance the purpose of the gift prohibition because it is awarded randomly and cannot be targeted to a specific person or group of people. However, the recipient of the prize must evaluate whether acceptance of the prize would create a conflict based on his or her position in relation to the entity or person donating the prize.	November 2, 2016

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Gifts	2016-02	Whether the delivery of a thank you such as food basket, flowers, or chocolates to a state agency, or an employee within the agency, constitutes a prohibited gift under RSA 15-B.	<p>The purpose of prohibiting "gifts" to executive branch employees is to "ensure that the performance of official duties does not give rise to a conflict of interest...." Gifts such as food baskets provided in appreciation for past services do not appear to generate concerns about an employee's conflict of interest in the performance of public duties.</p> <p>In the exercise of prudent judgment, employees should decline a gift of this nature if the employee believes it was provided to influence the agency or employee in some inappropriate way or to receive future preferential treatment. An employee should certainly decline a food gift if acceptance would affect his or her professional, independent judgment in any way.</p>	September 13, 2016

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Gifts (continued)	2016-01	<p>Can a state employee accept an item such as a faux leather notepad, t-shirt, or tote bag, that is given to each attendee at a work-related conference without violating the prohibition on gifts under RSA 15-B?</p> <p>AND</p> <p>Can a state employee accept a \$100 gift certificate to a restaurant that she won as a raffle prize at a work-related conference paid for by the employer that was open to public and private sector employees, where each conference attendee was given a raffle ticket as part of the registration materials?</p>	<p>Yes, acceptance would be permissible. If the cost of the item was included in the registration fee, then it is not a gift. Even if it was not, the value of the item is likely insignificant, and thus not considered a gift.</p> <p>AND</p> <p>Under the circumstances described, the committee finds that prohibiting acceptance of the prize would not advance the purpose of the gift prohibition because it is awarded randomly and cannot be targeted to a specific person or group of people. However, the recipient of the prize must evaluate whether acceptance of the prize would create a conflict based on his or her position in relation to the entity or person donating the prize.</p>	September 13, 2016

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Gifts (continued)	2015-001	Whether an executive branch official who leads an agency can accept an all-expense paid 7-day trip to Israel, funded by the American-Israel Friendship League (AIFL), arranged through and with the participation of a national association of similarly situated officials without violating the prohibition against acceptance of gifts under RSA 15-B:3	Yes, the prepayment of meals, lodging and transportation would fall within the gift exemption for expense reimbursement and attendance at an event in one's official capacity representing his or her agency. Acceptance of the prepayment as an expense reimbursement will require the inquirer to file a report with the secretary of state under RSA 15-B:6,I	September 14, 2015

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Gifts (continued)	2013-002	Can a state commissioner accept a complimentary ticket to a charity night preview of the New Hampshire Auto Show, valued at \$75.00, that is offered by the New Hampshire Automotive Education Foundation, a 501(c)(3) charitable organization that is sponsoring the event, without violating the prohibition on gifts under RSA 15-B?	Yes, such a ticket would fall within the exemption under RSA 15-B:2, V(b)(9)(B).	November 6, 2013

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Gifts (continued)	2013-001	If an executive branch employee has established a specialized program for the State of New Hampshire, and has been asked by another state to assist it to establish a similar program, can the executive branch employee receive payment to assist the other state develop its program, when the assistance is being provided while the employee is on vacation from his or her state employment?	Yes. The payment would be either wages or an honorarium, depending on the specific facts.	July 3, 2013

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Gifts (continued)	2011-001	Can the Lottery Commission award Red Sox game tickets to state liquor store employees, as part of the Commission's sales incentive program, without violating the prohibition on gifts under RSA 15-B?	No, unless the relevant sections of 2011 NH Laws Chapter 224 are properly implemented, in accordance with RSA 541-A, to establish the authorized employee incentive programs for the Liquor Commission and the Lottery Commission. Assuming there is no other statute, contract or other authority that authorizes award incentive payments to state employees, the Red Sox game tickets given to state employees would constitute a gift as defined by RSA 15-B:2, V.	September 7, 2011
	2010-001	Can multiple gifts from a single source, each individually defined as "presumed to be of insignificant economic value" under RSA 15-B:2, V(a)(2), be accumulated but continue to fall outside the definition of "gift?"	Multiple gifts from a single source in any calendar year cannot exceed the \$25 threshold of RSA 15-B:2, V(a)(2). Any gift, however, that falls within an exception under RSA 15-B:2, V(b) does not count toward the \$25 total.	February 3, 2010

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Gifts (continued)	2009-001	Are gift cards or gift certificates "gifts" as defined by RSA 15-B:2, V	Yes. Gift cards and gift certificates fall within the definition of "gift" as money in the form of a non-negotiable instrumentality for the transfer of money.	March 4, 2009
	2007-010	Is receipt of a discount offered to all state employees by a business entity a prohibited gift?	No, unless there is a conflict of interest.	July 11, 2007
	2007-009	May an executive branch State employee attend a private small celebratory event sponsored by a private corporation, held to recognize private-public collaboration that lead to the adoption or defeat of proposed legislation?	No, unless the employee is attending the event in an official capacity and there is no conflict of interest.	May 2, 2007
	2007-005	May a state employee accept free transportation to an event that the employee is attending in his or her official capacity from a person who is employed by an entity regulated by his or her agency?	Yes. The state employee and the leadership of the Department are, however, cautioned to reject the gift of free transportation if a conflict of interest would result.	February 21, 2007

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Gifts (continued)	2007-003	May a state employee who has earned frequent flyer mileage as a result of state reimbursed travel use the benefit for personal purposes?	Yes. State employees who pay for travel for state purposes and are then reimbursed for the travel costs by the state may use frequent flyer benefits for their personal use provided the benefits were obtained under the same conditions as those offered the general public and at no additional costs to the state.	February 21, 2007

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Gifts (continued)	2007-002	May a Department solicit sponsorship from regulated companies/persons for training to be conducted by the State?	No, unless prior approval from the Governor has been obtained. Such solicitation raises serious concerns about the potential to cause a conflict of interest. It seems all too likely that sponsorship gifts from those subject to Department regulation would be made with the hope of currying favor with officials or employees who have regulatory authority over those solicited. The Committee therefore strongly recommends against the practice of soliciting sponsorships from regulated persons/entities, unless such solicitation is approved in advance by the Governor as a gift by the sponsor to the State. To the extent that there should arise circumstances where sponsorship gifts are appropriate, their acceptance must be approved by the Governor under RSA 4:8 as a gift to the state.	February 21, 2007

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Misuse of Position	2008-003	May a member of an executive branch licensing board use his or her government title for commercial purposes, while that person is employed by, or in an appointed position for, the state?	No. If the purpose or effect of the advertisement is to promote a commercial business, the use of one's governmental position for commercial purposes to gain an advantage in the marketplace not available to others constitutes a misuse of position in violation of RSA 21-G:23 (supp. 2007).	December 8, 2008
	2008-002	1. May members of the Comprehensive Cancer Plan Oversight Board vote on targeting of funds if their employer organization has submitted a response to a request for proposal?	1. Before any proposals have been submitted for review, members of the Comprehensive Cancer Plan Oversight Board may vote on funding percentages for various program categories in accordance with RSA 126-A:64. Members should not participate in RFP Development Teams that are preparing RFPs for program categories if their employer organization is likely to be submitting proposals within that Program Category. Members should not participate in RFP Review Teams if the Team is	December 3, 2008

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Misuse of Position (continued)	2008-001	May a department head or other supervisor within a prospective employee's chain of command participate, directly or indirectly, in the hiring of a family member?	<p>An executive branch official who serves as a department head or supervisor must recuse himself or herself from a hiring process when either a spouse or a dependent family member is a candidate for employment within the official's department.</p> <p>Likewise, an executive branch official should not directly participate in any supervisory decisions regarding an employee who is a spouse or a dependent family member.</p> <p>A department head or supervisor who violates the ethics statutes may be charged with a misdemeanor or may face disciplinary action. RSA 21-G:34. In the event that an individual who is a spouse or a dependent family member of a department head or supervisor is employed by</p>	April 2, 2008

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SUBJECT MATTER	ADVISORY OPINION	QUESTION PRESENTED	SUMMARY ANSWER	DATE ISSUED
Misuse of Position (continued)	2007-014	May an executive branch official, including board members of regulatory boards, whose duties include the inspection and/or regulation of a profession, hold a second job conducting or working for a business that teaches mandatory classes on the law, rules, or code that the official enforces, or coordinate or teach in a state-approved apprenticeship program?	An executive branch official, including a board member of a regulatory board, who is employed as a regulator for a licensed profession, may engage in or work for a private business that competes with other private businesses to provide licensees with training, mandated by the State, on the law, rules, or codes enforced by that official, if that official follows a proper recusal policy.	November 7, 2007
	2007-012	Do the ethics laws prohibit an executive branch official directly involved in the regulation of charities or other non-profits from soliciting money on their behalf?	No, provided the solicitation does not create a conflict of interest and the executive branch official does not improperly use his or her position in State government to benefit the charity or other non-profit.	September 5, 2007

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EXECUTIVE BRANCH ETHICS COMMITTEE OPINIONS

SUBJECT MATTER INDEX

SUBJECT MATTER	ADVISORY OPINION	QUESTION PRESENTED	SUMMARY ANSWER	DATE ISSUED
Misuse of Position (continued)	2007-004	Is it acceptable for a public official or a state employee to use Department/Agency letterhead to send an employment reference for a person who was not employed by, and who has not done work for, the Department/Agency?	Yes. Provided the public official/employee had personal knowledge of the individual seeking the recommendation by virtue of working with the individual in a government capacity and issuing a letter of recommendation is a reasonable extension of the public official/employee's responsibility.	February 21, 2007
	2007-003	May a state employee who has earned frequent flyer mileage as a result of state reimbursed travel use the benefit for personal purposes?	Yes. State employees who pay for travel for state purposes and are then reimbursed for the travel costs by the state may use frequent flyer benefits for their personal use provided the benefits were obtained under the same conditions as those offered the general public and at no additional costs to the state.	February 21, 2007

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