

Maryland's Public Ethics Law



MSDE Board
Retreat
September 7, 2017





Agenda



- I. Background, Purpose, and Scope
- II. Conflicts of Interest
- III. Financial Disclosure
- IV. Available Resources



What Is The Purpose Of The Law?

- Helps board members and employees avoid improper influence and appearance of improper influence
- Assures citizens of the impartiality and independent judgment of board members and employees
- Requires board members and employees to disclose financial affairs and to meet minimum standards of ethical conduct



The State Ethics Commission



- Five Commissioners, appointed to 5-year terms
- Charged with administering the Public Ethics Law
- Provides advice, issues formal opinions, regulates lobbyists, undertakes enforcement action
- Supported by a 12-member staff



Maryland's Public Ethics Law

Conflicts of Interest





What if...



...the Board will vote on the purchase of software to be used throughout the State to evaluate teachers. Among the companies whose products are being considered are businesses that employ your sister-in law and your daughter.

Can you participate?



Participation



The **Public Ethics Law** prohibits participation in matters by board members or employees:

- where the board member or employee, or certain relatives of the board member or employee (spouse, parent, child, brother, sister), have a specific interest
- matters involving business entities in which the board member or employee, or certain relatives of the board member or employee, have employment, contractual, creditor, or potential employment relationships



What if...



...in the previous scenario, your daughter is employed by a bidder, but the company is national in scope and your sister works in a different State.

*Now, can you
participate?*



What if...



...you are assigned to a panel to interview candidates for a vacant staff position. Your brother is one of the applicants.

Can you participate?



Participation



Exceptions allowed if:

- Conflict is disclosed and:
 - (1) disqualification would leave body with less than quorum (applies to Board members only);
 - (2) disqualified individual required to act by law; and
 - (3) disqualified individual only one authorized to act.
- Permitted by State Ethics Commission regulation



What if...



...you have an opportunity to teach a class at a private university that also has a contract with MSDE to conduct student assessments.

Can you do so?



What if...



...going back to the first scenario, you own stock in the company whose teacher-evaluation software was purchased by MSDE. You want to retain your stock in that company.

Can you do so?



Employment/Financial Interest



Absent an exception, a board member or employee may not be *employed by*, or have a *financial interest* in:

- an entity regulated by the board
- an entity that is negotiating or has entered a contract with the board, or...



Employment



- ...hold any other employment that would impair impartiality and independent judgment



Financial Interests



The Law defines financial interest as:

- Ownership of more than 3% of a business entity by board member or employee **or spouse of board member or employee**
- Ownership of securities that represent more than 3% of a business entity by board member or employee **or spouse of board member or employee**
- Ownership of an interest resulting in board member or employee having received in past 3 years, is currently receiving or will receive more than \$1,000 per year.



Two Exceptions



- ✓ If the statute governing the board requires appointment of persons regulated by the board
- ✓ If the member holds the employment or financial interest *when appointed*, and the employment or financial interest is publicly disclosed to the appointing authority, the State Ethics Commission and if applicable, the Senate

APPOINTEE EXEMPTION DISCLOSURE FORM

PART 1:	
NAME:	
ADDRESS:	
BOARD/COMMISSION NAME:	
PART 2:	
Please Check Item(s):	Exemption Requested: <input type="checkbox"/> No (If no, check box and skip to Part 3, Signature) <input type="checkbox"/> Yes (If yes, check box and complete rest of Part 2 and 3)
I request exemption for: <input type="checkbox"/> Financial Interest <input type="checkbox"/> Employment	
Financial Interest	Employment
Name of Entity where the financial interest exists:	Employment to be Exempted:
Address of Entity:	Your Position/Job Title:
Interest to be Exempted:	
Current Value: <input type="checkbox"/> Under \$1,000 <input type="checkbox"/> \$1,000-\$5,000 <input type="checkbox"/> \$5,000-\$10,000 <input type="checkbox"/> \$10,000 or More	
Explain below why you believe you may have financial interests or an employment situation that, in the absence of an exemption, will conflict with your service on the board or commission for which appointment is being considered. You may wish to contact the State Ethics Commission for information or advice at 410-260-7770.	
PART 3:	
Appointee:	Signature: _____ Date: _____

Mail the completed form to the Appointing Authority. For appointments made by the Governor:
Governor's Appointments Office
 State House
 Annapolis, MD 21401

Form #5





What if...



...you strongly disagree on certain legislation the Board tends to pursue in the upcoming Legislative Session. You decide to leave the Board and take a position with an association to lobby against it.

Can you do so?

Post-Employment Restrictions



Former board member or employee may not assist or represent outside entities or persons for compensation:

- In a case, contract or specific matter
- If the former board member or employee significantly participated in the matter in his/her State position

What if...



... the CEO of a company that does business with MSDE, who happens to be a friend, invites you to be his guest in his box at the Stadium to watch a Ravens game.

Can you accept the ticket and enjoy the food and drink?



What if...



...you are invited to lunch by a consultant who does work for MSDE.

Can you accept and allow the consultant to pay?

Can you accept a logo jacket offered to you by the consultant?



Gifts



Prohibitions Generally

- No solicitation
- No unsolicited gifts from 1) vendors, 2) regulated entities, 3) lobbyists, or 4) those with financial interests that may be uniquely affected by recipient

Key Exceptions

- Nominal = \$20 or less
- Meals/beverages in the presence of the donor
- Reasonable food, lodging, and travel for participation at a speaking engagement



What if...



...your best friend's son has applied for a position with a county school system. Your friend asks you to put in a good word for his son with the local school officials.

Can you do so?



Prestige of Office



Prohibitions Generally

- No use of office for board member's or employee's private gain
- No use of office for private gain of another

Covers both using the influence of one's office and using State resources





Prestige of Office



Effective October 1, 2017, the following types of actions are specifically prohibited:

- Influencing, except as part of the official duties of the board member or employee, the award of a State or local contract to a specific person;
- Directly or indirectly initiating a solicitation for a person to retain the compensated services of a particular regulated lobbyist;
- Using public resources or title to solicit a political contribution.





What if...



...you learn the Board is going to authorize an RFP so MSDE can purchase certain education software. This information has not yet been made public. You want to inform your brother-in-law who owns a company you expect will be interested in bidding.

Should you do so?



Confidential Information

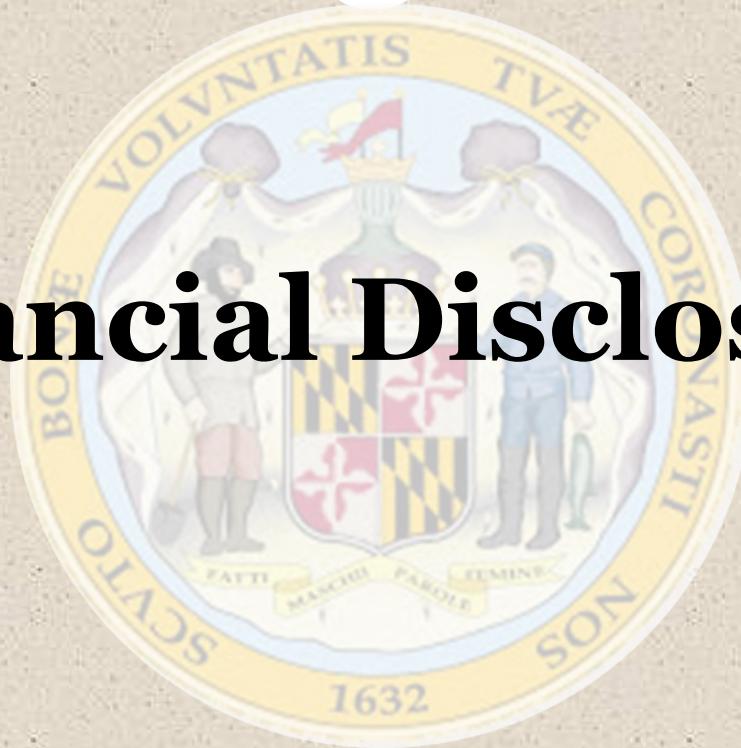


Cannot disclose or use confidential information acquired by reason of one's position and not available to the public:

- For personal economic benefit, or
- For the economic benefit of another

Maryland's Public Ethics Law

Financial Disclosure





Why Financial Disclosure?



- Annual opportunity to review employment and financial interests
- Public disclosure of possible conflicts of interest
- Demonstrate to public that interests are not hidden
- Allow voters to evaluate the suitability of candidates for office





Who Files and When?



- New board members must submit an initial filing within 30 days of assuming their positions
- After the initial filing, a financial disclosure statement must be filed annually no later than April 30th
- Departing board members must file a financial disclosure termination statement within 60 days of their departure, covering the period that elapsed since their previous filing



*** Effective October 1, 2017 filing must be done electronically



What must be disclosed Form #1?



- Interests in real property, wherever located
- Interests in corporations, partnerships (e.g. stocks) whether or not they do business with the State
- Interests in non-corporate businesses that do business with the State
- Gifts (exceeding **\$50** or series of gifts totaling \$100 or more) from lobbyists or entities doing business with or regulated by the State
- Offices, directorships, salaried employment or similar interest (of the individual or member of immediate family) in businesses that do business with the State
- Debts owed to entities doing business with the State
- Immediate family members employed by the State
- **Sources of earned income, to include salaried employment and business interests of individual and members of the immediate family (Note HB879 – Lobbyist spouse’s clients as of 01/01/19)**



Can the Public Access Financial Disclosure Statements?



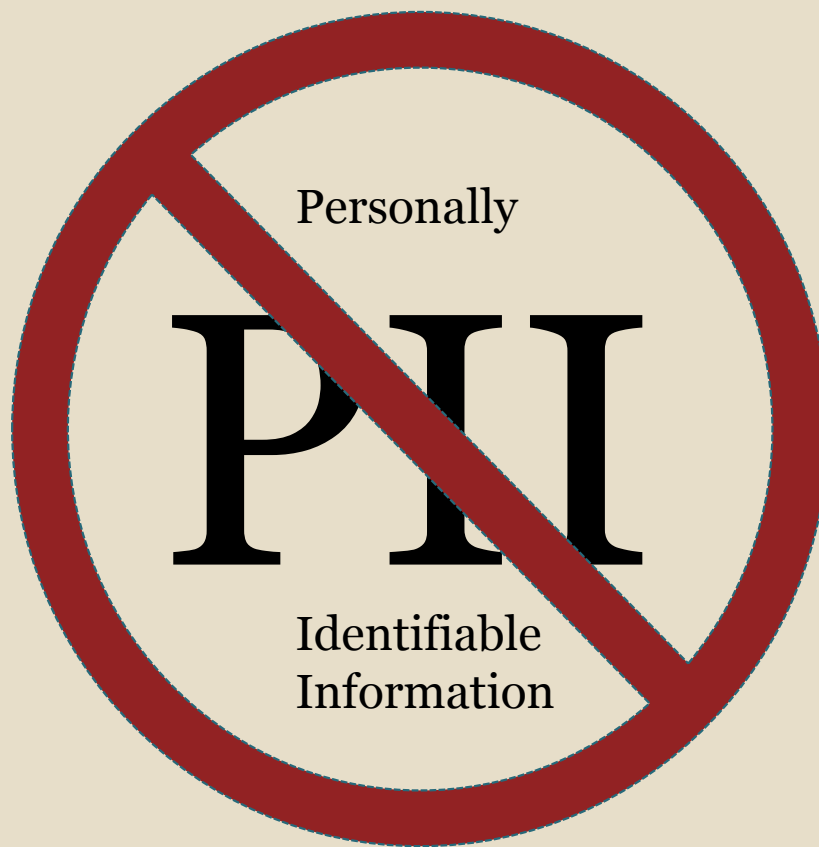
- **YES!**
(Note HB879 – not home address as of 01/01/19)
- Statements must be available for public inspection and copying
(Note: HB879 – On Internet for State Official, candidate, Cabinet Secretary as of 01/01/19)



Precautions You Can Take Regarding Your Financial Disclosure Statement



Request to
be notified
if someone
reviews
your file



If you attach
documents to
your disclosure
statement,
redact personal
information on
end-of-year
statements
(SSN, account
#, etc.)



Maryland State Ethics Commission

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Available Resources



Maryland.gov Phone Directory State Agencies Online Services



STATE ETHICS COMMISSION

Search

STATE EMPLOYEES & OFFICIALS LOBBYISTS BOARDS & COMMISSIONS LOCAL GOVERNMENT

General Info

- > [About the Commission](#)
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Quick Links

- > [Advisory Opinions](#)
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Financial Disclosure Deadline

Did you know?
You may file your annual Financial Disclosure Statement anytime after



How Do I?

- > [File a Financial Disclosure Statement](#)
- > [File an Amendment to my Financial Disclosure Statement](#)
- > [File a Lobbying Registration Form](#)
- > [File a Lobbying Activity Report](#)
- > [File a Complaint](#)
- > [Get my User Name and Password](#)
- > [Make a Request for Secondary Employment](#)

www.ethics.maryland.gov

Where do I go for Advice?



45 Calvert Street, 3rd Floor

Annapolis, MD 21401

(410) 260-7770

(410) 260-7746 (Fax)

<http://ethics.maryland.gov>