
2011
City of Jacksonville
Sunshine Law
Public Records Law and
Ethics Training Program

GIFTS, FINANCIAL DISCLOSURE & FORMS

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ETHICS IN A NUTSHELL 2008-2B (Revised 2/09)

Financial and Gift Disclosures (Who files; Where and When)

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This is a summary of state laws on required gift and financial disclosure requirements for city officials and employees. Please review this information and contact the Ethics Officer or General Counsel's office if you have additional questions.

There are Jacksonville officials and employees who have to file financial and/or gift disclosure forms at the STATE level; required by state law.

STATE FILERS There are 2 groups of people who have to file financial disclosure forms and gift disclosure forms required by the STATE OF FLORIDA; Ethics Commission.

1. State Filers (Form 6 Financial Forms). This group files the lengthy financial disclosure form yearly (July 1). Gift disclosure is done quarterly on a Form 9. (Filed "quarterly" means for gifts received in the first quarter of a year, January through March, the form is filed by the end of the next quarter, June 30th.)

THIS GROUP INCLUDES ALL CITY COUNCIL MEMBERS; MAYOR; SHERIFF; TAX COLLECTOR; SUPERVISOR OF ELECTIONS; PROPERTY APPRAISER AND CLERK OF COURT

This group sends their forms to the State Ethics Commission in Tallahassee.

2. State Filers (Form 1 Financial Form). This group files a shorter financial disclosure form (July 1). Gift disclosure is also done quarterly on a Form 9.

State Law (section 112.145(1)(a)), requires the following local officers/employees to file in this category: Chief Administrative Employee (COO); General Counsel; Chief Building Inspector; Water Resources Coordinator; Pollution Control Director; Environmental

Control Director; Administrator with power to grant a land development permit; Fire Chief; School Superintendent; Medical Examiner; and Purchasing Agents having the authority to make a purchases exceeding \$15,000.

The Jacksonville employees who fit into these categories are listed online (www.coj.net Ethics Office, under "Disclosures".)

BOARDS This group of "Form 1" filers, by law, also includes some local Boards. These are boards having the power to enforce local code provisions. Boards whose members must file under this category are as follows: Planning Commission; Police Fire and Pension; General Employees Pension Board; Jacksonville Health Facilities Authority and the Building Code Adjustment Board.

The "Form 1" filers (above) file their forms with the Duval County Supervisor of Elections. Send to: Supervisor of Elections; 105 East Monroe St., Jacksonville, Fl 32202. 630-1414.

NOTE on STARTING AND ENDING your position. If you are in the above 2 categories of "STATE FILERS", you must file your initial financial form within 30 days of being appointed or employed; you do not wait until the next July. When you leave that position, you must file a final financial disclosure within 60 days after leaving the public position.

All Forms for these filings are on the State of Florida Ethics Commission website <http://www.ethics.state.fl.us/> see section on "Forms". There is also a link to these forms on the Ethics webpage (www.coj.net search word "ethics").

Penalties for late filing: \$25 per day up to \$1500.

LOCAL FILERS

There used to be a requirement that additional persons (all appointed employees and officials) filed financial and gift disclosures at the local level. These forms were filed with the local ethics office and done annually in July. Those requirements have been eliminated. Only those required by state law to file disclosure have to do so. If you are not a STATE FILER (see above), you do not have a requirement to file any type of financial or gift disclosure.

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ETHICS LAW

I. Gifts

A. Definitions [F.S. § 112.312(12)]

1. Gift

A gift is anything accepted by a person or on that person's behalf, directly or indirectly, for that person's benefit, equal or greater consideration is not given.

a(1) "Gift" includes:

- (1) real property or the use thereof;
- (2) tangible or intangible personal property or the use thereof;
- (3) a preferential rate or terms on a transaction not available to others similarly situated;
- (4) forgiveness of a debt;
- (5) transportation (unless provided in relation to officially approved governmental business), lodging, or parking;
- (6) food or beverage;
- (7) dues, fees and tickets;
- (8) plants and flowers;
- (9) personal services for which a fee is normally charged by the provider; and
- (10) any other thing or service having an attributable value. [F.S. § 112.312(12)(a)]

a(2) "Gift" does not include:

- (1) Salary, benefits, services, fees, gifts, commissions, or expenses associated primarily with one's employment, business, or service as an officer or director of a corporation or organization;
- (2) campaign contributions or expenditures pursuant to the elections laws;
- (3) an honorarium or honorarium expense;
- (4) an award, plaque, certificate, etc., given in recognition of public, civic, charitable or professional service;
- (5) honorary membership in a service or fraternal organization; and
- (6) the use of a public facility or public property made available by a governmental agency for a public purpose. [F.S. §112.312.(12)(b)]

a(3) Gifts from relatives:

- (1) Section 112.3148 (gift prohibitions and disclosure requirements) does not apply to gifts solicited or accepted from a "relative".
- (2) "Relative" means an individual who is related to a public officer or employee as 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, step great grandchild, person who is engaged to be married to the public officer or employee or who otherwise holds himself or herself out as or is generally known as the person whom the public officer or employee intends to marry or with whom the public officer or employee intends to form a household, or any other natural person having the same legal residence as the public officer or employee. [F.S. §112.312(21)]

2. Lobbyist

"Lobbyist" means any person who, for compensation, seeks, or sought during the preceding 12 months, to influence the governmental decision-making of a reporting individual or his or her agency or seeks, or sought during the preceding 12 months, to encourage the passage, defeat, or modification of any proposal or recommendation by the reporting individual or his or her agency. [F.S. §112.3148(2)(b)1.]

B. Solicitation Prohibitions - [F.S. §112.3148(3)]

A public officer is prohibited from soliciting any gift, food or beverage from a political committee, committee of continuous existence, or lobbyist who has lobbied his agency within the past 12 months, or from a partner, firm, employer or principal of such a lobbyist.

C. Acceptance Prohibitions

1. State Law - [F.S. §112.3148(4)]

A public officer is prohibited from directly or indirectly accepting a gift worth over \$100 from such a lobbyist, from a partner, firm, employer, or principal of the lobbyist, or from a political committee or committee of continuous existence. Such a gift may be accepted on behalf of a governmental entity, provided the gift is promptly transferred to the intended entity.

2. Jacksonville Ordinance Code - [Section 602.701]

Our local Code expands the application of the State's \$100 limit to all City employees. It also prohibits acceptance of such a gift from a person or entity doing business with the City or a person or entity subject to the permit approval of the City.

D. Gift Giving Prohibitions

1. State Law - [F.S. §112.3148(5)(a)]

- a. Political committees are prohibited from giving gifts valued at over \$100 to any public officer.
- b. Lobbyists are prohibited from giving a gift valued at over \$100 to a public officer or to others on their behalf, if the lobbyist lobbies the agency (e.g. the Council).

2. Jacksonville Ordinance Code - [Section 602.702]

- a. Our local Code tracks the State law and prohibits persons or entities listed in Section 602.701, Jacksonville Ordinance Code from providing prohibited gifts to City officers and employees.

E. Gifts over \$25 and Not Exceeding \$100 - [F.S. §112.3148(5)(b)]

1. A public officer may accept a gift valued at over \$25 but not exceeding \$100 from a lobbyist or a political committee.
2. The lobbyist or political committee who gives a public officer a gift valued at over \$25, but not exceeding \$100, must report such gifts on Ethics Form 30 by the last day of the calendar quarter for gifts given in the preceding quarter.

3. Such donors must notify the recipient at the time a reportable gift is made, that the gift will be disclosed.

F. Gifts from Government Agencies - [F.S. §112.3148(6)]

1. Government entities which lobby other governmental entities may give a gift worth over \$100 to a public officer if a public purpose can be shown for the gift.
2. The governmental entity giving such gift must provide the recipient with a statement describing the gift, the date it was given, and its value no later than March 1 of the following year. The reporting individual/recipient then must disclose this information on the Commission on Ethics Form 10, which is to be filed by July 1 with his annual financial disclosure.

G. Gift Disclosure - State Law

1. Quarterly Gift Disclosure Form 9 [F.S. §112.3148(6)(d)]

a. Disclosure Requirement

Public officers must file a FORM 9, Quarterly Gift Disclosure, with the Secretary of State on the last day of any calendar quarter following the calendar quarter in which he or she received a gift worth over \$100, other than gifts from relatives, gifts prohibited from being accepted, gifts primarily associated with his or her business or employment, and gifts otherwise required to be disclosed.

- * Include description, value, name and address of donor, gift date and receipt (if provided by donor).
- * File with Department of State, Division of Elections.
- * The last days of calendar quarters are March 31, June 30, September 30 and December 31.
- * FORM 9 need not be filed if no such gift was received during the calendar quarter.

b. Exceptions

- 1) Gifts from relatives.
- 2) Do not list prohibited gifts. (Those given to influence a vote or from a lobbyist and over \$100).

- 3) Do not list government gifts given for "public purpose" (List on Form 10 instead).

c. Determining Value

- 1) Basic rule - Use actual cost to donor.
- 2) For personal services - use reasonable and customary charge.
- 3) Do not include taxes and gratuities.
- 4) Compensation provided by you is deducted from the value of the gift.
- 5) If gift value to individual participants at an event cannot be determined, pro-rate the total value of the gift by the number of participants.
- 6) Transportation is valued on a round-trip basis (unless only one-way transportation is provided). Round-trip travel is a single gift. The value for transportation in a private conveyance is based on the comparable commercial vehicle rate.
- 7) Lodging, if provided on consecutive days, is a single gift. The value of lodging at a private residence is based on the per diem rate minus meal allowance rate (\$50.00 - \$3, \$6, \$12).
- 8) Food and beverages which are consumed at a single sitting are one gift. However, if other food or beverages are provided on the same day, then the total for the day is a single gift.
- 9) Membership dues paid to the same organization during a 12 month period is one gift. Example: Monthly dues of \$10 are a single \$120 gift.
- 10) Entrance fees or tickets are valued based on the face value of the ticket or on a per event basis, whichever is greater.

2. Annual Disclosure of Gifts from Government Agencies and Direct-Support Organizations and Honorarium Event Related Expenses - Form 10 [F.S. §112.3148(6)]

- a. State government entities, may give a gift worth over \$100 to a public officer, if a public purpose can be shown for the gift. Also, a direct-support organization for a government entity may give such a gift to a person who is a public officer. These gifts are to be reported on FORM 10, to be filed by July 1.
[F.S. §112.3148(6)]

- b. The governmental entity giving the gift must provide the officer with a statement about the gift no later than March 1 of the following year. The officer must disclose this information by filing a statement by July 1 with his or her annual financial disclosure that describes the gift and lists the donor, the date of the gift, and the value of the total gifts provided during the calendar year. [F.S. §112.3148]
- c. In addition, a public officer who receives expenses or payment of expenses related to an honorarium event from someone who is prohibited from giving him or her an honorarium, must disclose annually the name, address, and affiliation of the donor, the amount of the expenses, the date of the event, a description of the expenses paid or provided, and the total value of the expenses on FORM 10. The donor paying the expenses must provide the officer or employee with a statement about the expenses within 60 days of the honorarium event. Honorarium related expenses from someone who does not employ a lobbyist do not have to be reported.
- d. The disclosure must be filed by July 1, for expenses received during the previous calendar year. It must be filed along with the officer's FORM 6.

**3. Donor's Quarterly Gift Disclosure - Form 30
[F.S. §112.3148(5)(b)]**

Certain entities are prohibited from giving a gift worth over \$100 to public officers. If such person or entity makes a gift worth between \$25 and \$100 to a public officer (that is not accepted on behalf of a governmental entity or charitable organization), the gift should be reported on FORM 30. The donor also must notify the recipient at the time the gift is made that it will be reported.

4. Availability of Forms

- a. These forms will be sent by mail from the Department of State by June 1 of each year. Newly elected officers should contact the Department of State for copies of the forms.
- b. Any person needing one or more of the other forms (FORMS 2, 3A, 4A, 8A, 8B, 9, 30, and 50) may obtain them upon request from a Supervisor of Elections or from the Department of State, Division of Elections, Room 1802, The Capitol, Tallahassee, Florida 32399.

H. Gift Disclosure - Local Code

Section 602.703, Jacksonville Ordinance Code requires that all officers, appointed employees, procurement employees, permitting employees, and zoning employees file an annual disclosure of all gifts of over \$100. Such disclosure is not required of officers or employees who file State gift law disclosures. Such disclosure must be filed by July 1st with the Director of Human Resources.

II. Financial Disclosure under State Statute [F.S.§112.3145]

Not all public officials and candidates file the same degree of disclosure; nor do they all file at the same time or place. Thus, care must be taken to determine which disclosure forms a particular official or candidate is required to file.

A. Full And Public Disclosure - Form 6 [F.S.§112.3145]

1. Who Must File

Persons required by law to file FORM 6 include all elected constitutional officers and candidates for such office; the Mayor and members of the City Council of the City of Jacksonville.

2. What Must be Disclosed

FORM 6 is a detailed disclosure of assets, liabilities, and sources of income over \$1,000, as well as net worth.

a. Assets Worth More Than \$1,000.

- 1) You must describe each asset worth more than \$1,000 and list its value.
- 2) The value of household goods and personal effects may be totaled and reported as a lump sum.
- 3) Assets include:
 - a) Interest in real property (land and buildings), such as your home, vacant land, real property, etc.

- b) Tangible personal property (not included as household goods and personal effects), such as collections of art or other objects held for investment purposes, animals, musical instruments, etc.
 - c) Intangible personal property, such as money, stocks, bonds, certificates of deposit, interest in partnerships, beneficial interest in a trust, promissory notes owed to you, accounts receivable by you, IRA's, and bank accounts.
 - d) Assets owned solely by your spouse are not required to be listed.
- 4) Identifying Assets
- a) Real property (land and buildings) may be identified by providing a simple description of the property and its location. A legal description is not required. Example: "Duplex, 5035 Yulee Road, Jacksonville, FL" or "Forty acres located at intersection of Highway 60 and I-95, Duval County".
 - b) Intangible property may be identified by describing the type of property and the business entity to which it relates. For example "stock (Modis)" or "bank accounts (Barnett Bank)".
- 5) Asset Valuation
- a) Each asset should be valued based on its fair market value.
 - b) Jointly held assets should be valued based on your legal percentage of ownership in the property.
 - c) Partnerships should be valued based on your interest in the capital equity of the partnership.
 - d) Real property may be valued based on its current assessed value for tax purposes, unless a more accurate appraisal of its fair market value is available.
 - e) Marketable securities should be valued based upon the closing price on the valuation date.

- f) Accounts, notes, and loans receivable are valued at fair market value, which generally is the amount you reasonably expect to collect.
- g) Life insurance should be valued based on cash surrender value.

b. Liabilities in Excess of \$1,000

- 1) List the name and address of each creditor to whom you are indebted in an amount that exceeded \$1,000 and list the amount of the liability.
- 2) Liabilities include:
 - a) Accounts receivable.
 - b) Notes payable.
 - c) Interest payable.
 - d) Real Estate mortgages payable.
 - e) Debts or obligations to governmental entities, other than taxes.
 - f) Judgments.
- 3) The following liabilities do not require disclosure:
 - a) Liabilities owed solely by your spouse.
 - b) Credit card and retail installment amounts.
 - c) Taxes owed.
 - d) Indebtedness on a life insurance policy.
 - e) Contingent liabilities.
- 4) Determining the amount of a liability:
 - a) Generally use the face amount of the debt.
 - b) If you are the only person obligated to satisfy a liability, 100% of the liability should be listed.
 - c) If you are jointly and severally liable, you must report the full amount of the liability.
 - d) If you are only jointly liable, your liability will be based on your percentage interest in the liability.

c. Net Worth

- 1) Your net worth must be calculated as of December 31st of the previous year or a more current date.

- 2) In order to determine your net worth, total the value of all your assets and subtract the amount of all your liabilities. (Note: You cannot simply subtract your reported liabilities from your reported assets. This will not result in an accurate net worth figure.).
- 3) To properly value your assets for net worth purposes, you must add your reported value of household goods and personal effects, your reported value of all assets over \$1,000 and all assets worth less than \$1,000 and those not included in reported household goods and personal effects.
- 4) To total the amount of your liabilities for net worth purposes, you must add your reported liabilities over \$1,000 and the total amount of unreported liabilities (those under \$1,000, credit card accounts, and taxes owed). However, joint liabilities with one or more other person for which you are jointly and severally liable should be included in your calculations based only upon your percentage of liability, unless the other person is your spouse, in which case 100% of the amount owed should be used.

d. Income

- 1) Part D of Form 6 requires the listing of primary and secondary sources of income.
- 2) You have the option of completing Part D or you may file a complete copy of the previous year's federal income tax return, including all schedules and attachments.
- 3) Primary sources of income:
 - a) You must list all sources of income in excess of \$1,000, the address of that source and the amount of income received.
 - b) The income of a spouse is not required to be disclosed.
 - c) Joint income to you and your spouse from property held jointly (such as interest or dividends from a bank or stocks) must be included.

- d) Income means the same as gross income for federal income tax purposes.
 - e) Child support is not included within the definition of income.
- 4) Secondary sources of income:
- a) Secondary sources of income include major customers, clients, and other sources of income to businesses owned by you.
 - b) No report is required unless:
 - 1) You owned more than 5% of the total assets or capital stock of a business entity doing business in Florida and
 - 2) You received more than \$1,000 in gross income from that business.
 - c) If the above two thresholds are met, you must list every source of income to the business entity which exceeded 10% of the business entity's gross income, the source's address, the source's principal business activity, and the name of the business entity in which you owned an interest. You are not required to list the amount of income the business derived from that major source.

e. Interest In Specified Businesses

- 1) Part E requires the disclosure of interests in specified businesses doing business in the State of Florida.
- 2) Specified businesses are:
 - a. State and federally chartered banks.
 - b. State and federal savings and loan associations.
 - c. Cemetery companies.
 - d. Insurance companies (including insurance agencies).
 - e. Mortgage companies.
 - f. Credit unions.
 - g. Small loan companies.
 - h. Alcoholic beverage licensees.
 - i. Pari-mutuel wagering companies.

- j. Utility companies.
 - k. Entities controlled by the Public Service Commission.
 - l. Entities granted a franchise to operate by either a city or county government.
- 3) Disclosure is required if you own or owned more than 5% of the total assets or capital stock of one of the specified business entities, or were an officer, director, partner, proprietor, or agent of such an entity.
- 4) If you have such an interest, you must list:
- a. The name of the business.
 - b. Its address and principle business activity.
 - c. The position held with the business (if any).
 - d. A description of the nature of your interest in a business in which you own more than 5%.

3. When and Where to File

Incumbent officials must file FORM 6 annually by July 1 with the Florida Commission on Ethics. Candidates must file with the officer before whom they qualify at the time of qualifying. [Art. II. Sec.8(a) and (h), Fla. Const., and F.S. §112.3144]

B. Quarterly Client Disclosure - Form 2 [F.S. §112.3145(4)]

1. Who Must File

Local officers must file a FORM 2 if they, or a partner or associate of their professional firm, represent a client for compensation before an agency at their level of government.

2. What Must be Disclosed

- (1) A FORM 2 disclosure includes the names of clients represented by the reporting person or by any partner or associate of his or her professional firm for a fee or commission before agencies at the reporting person's level of government.
- (2) Such representations do not include appearances in ministerial matters or representations on behalf of one's agency in one's official capacity.

- (3) Nor does the term include the preparation and filing of forms and applications merely for the purpose of obtaining or transferring a license, so long as the issuance of the license does not require a variance, special consideration, or a certificate of public convenience and necessity.

3. When and Where to File

This disclosure should be filed quarterly, within 15 days after the last day of the calendar quarter during which a reportable representation was made. FORM 2 need not be filed merely to indicate that no reportable representations occurred during the preceding quarter; it should be filed ONLY when reportable representations were made during the quarter. Local officers file with the Supervisor of Elections.

III. Financial Disclosure Under Municipal Ordinances

A. Section 602.450 Disclosure

1. This ordinance requires "appointed employees" to file a financial disclosure within 30 days of their appointment and annually by July 1st thereafter.
2. The disclosure is identical to the State's "Form 1" disclosure.
3. This ordinance does not apply to appointed employees who must file financial disclosure under State law.
4. The disclosure must be filed with the Jacksonville Ethics Commission.

B. Section 116.903(b) Disclosure

1. This ordinance requires disclosure, under certain circumstances, of a public officer's interest in a business entity doing business with the City.
2. The disclosure is required of public officers who:
 - (1) own 10% or more of the total assets or capital stock of the business entity or
 - (2) are an officer, director, partner, proprietor, associate or general agent of the business entity.

3. The public officer must disclose any privilege to operate or any business dealings between the City and the business entity.
4. The disclosure shall be filed within 45 days of becoming an officer or within 45 days of the acquisition of the business position or material interest.
5. The disclosure shall be filed with the Clerk of the Court and with either the Council Secretary, if an officer of the City, or with the chief administrative officer of the independent agency, if an officer of the independent agency.

C. Section 602.453 Disclosure

1. This ordinance requires disclosure of a public official's financial interest in a bid or contract having a value in excess of \$12,000 for capital improvements, contractual services or supplies or \$8000 or more for professional services.
2. The disclosure shall be in writing to the Purchasing Division or the using agency.
3. The disclosure shall be made at the time of the bid or contract or no later than two days after the bid or contract is submitted.
4. The disclosure shall include the bid number, the name and position of the public official, the name and address of the business entity, and the position or relationship of the public official with the business entity.
5. Financial interest means any ownership interest in any bidder, contractor, or first tier subcontractor (an entity directly supplying services or supplies to a bidder or contractor) whereby the public official knows they will receive any financial gain.
6. Failure to make this required disclosure is unlawful and a Class D offense.