

General Ethics Guide for Counties

A publication of the Association of Minnesota Counties

There are many statutes dealing with ethics in government, ranging from the Ethics in Government Act, (Minn. Stat. Chapter 10A) to Codes of Ethics for executive branch employees (Minn. Stat. 43A.38) to specific prohibitions on public officials having interests in contracts (see Minn. Stat. 471.87). Regardless of the specific prohibition or directive set forth by statutes, all of these statutes attempt to insure that public confidence in elected officials is not eroded by irresponsible conduct by elected officials.

County board members and officials should ensure that no conflicts of interest exist in matters that come before them for official action. County officials must not appear to trade on his or her position for any personal advantage.

All county officials must expect to be the subject of constant public scrutiny and officials may be required to accept restrictions on his or her conduct that may be viewed as burdensome by the ordinary citizen. County Board members must avoid impropriety and the appearance of impropriety. Although there is not a test for what gives rise to the appearance of impropriety, a yard stick one might use is to ask whether a person aware of the facts might reasonably entertain a doubt that the county official would be able to act with integrity, impartiality and competence.

The Ethics in Government Act (10A.01) at et. seq. applies not only to state officials but also to local officials of metropolitan governmental units and counties. However, many of the provisions set forth therein, such as conflicts of interest (under section 10A.07), are specifically made non-applicable to local officials with respect to a matter governed by Minn. Stat. 471.87 and 471.88.

Officials holding positions with any of the seven counties making up the metropolitan area need to refer more carefully to Minn. Stat. 10A.01 et. seq., for specific rules and regulations that apply to them. Statements of economic interest may also be required under section 10A.09 for officials in the metropolitan area.

Specific Prohibited Conduct

No county official may have a direct or indirect interest in any contract, labor or business in which the county is a party (Minn. Stat. 10A.09).

1. This includes any contracts involving the purchase or sale of any property by or to the county. These sales constitute a direct conflict of interest (Minn. Stat. 382.18). Under Minnesota Statute 471.87, public officials are prohibited from voluntarily having a personal financial interest in any sale, lease or contract, or to personally benefit therefrom, when that public officer is authorized to take part in the making of that sale, lease or contract.
2. A violation of these provisions is a gross misdemeanor.
3. Examples of transactions that have been held to be prohibited:
 - A county may not contract with a newspaper in which one commissioner is an interested party.
 - A member of the county welfare board may not be compensated for services as appraiser.
 - A veterinarian who was a county commissioner could be barred from testing cattle under county contract.

There is a list of exceptions to this rule under Minn. Stat. 471.88 and this list should be referred to when questions arise. Some of those exceptions are as follows:

1. Dealings with a bank or savings association as an authorized depository for public funds.
2. The designation of an official newspaper if it is the only newspaper complying with statutory requirements relating to publication.
3. A contract with a cooperative association of which the county official is a shareholder or stockholder but not an officer or manager.
4. A contract for which competitive bids are not required by law.
5. A contract for renting space in a public facility, as long as it is at a rate commensurate with that paid by other members of the public.
6. Loans or grants to an officer from a local development organization.
7. The purchase or sale of property under condemnation proceedings.

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Prohibitions on Acceptance of Gifts

A county board member may not accept gifts from a person or a representative of a person or association that has a direct financial interest in decisions that the county board member is authorized to make (Minn. Stat. 479.895, 10A.071).

However, a county board member or official may accept the following:

1. A contribution defined as anything of monetary value given or loaned to a candidate or committee for a political purpose (Minn. Stat. 211A.01, subd. 5)
2. Services to assist the county board member in the performance of official duties, including but not limited to providing advice, consultation, information and communication in connection with legislation and services to constituents.
3. Services of insignificant monetary value.
4. A plaque or similar memento recognizing individual services.
5. A trinket or memento of insignificant value.
6. Informational material of unexceptional value.
7. A food or beverage given at a reception, meal or meeting away from the county board member's place of work by an organization before whom the board member appears to make a speech or answer questions as part of a program.
8. The prohibitions against gifts do not apply if a family member is giving the gift.

Avoidance of Conflicts of Interest

- Do not use non-public information, which, if released prematurely or in a non-summary form, could provide an unfair economic advantage, or adversely affect the competitive position of an individual or business.
- Do not accept outside employment or involvement in a business or activity that might require the disclosure or use of such confidential or non-public information.
- Do not use or allow the use of county time, supplies, or county-owned or leased property and/or equipment for private interest or for any other use not in the interest of the county, except as provided by law.
- When you believe the potential for a conflict of interest exists, it is your duty to attempt to avoid the situation. When in doubt, seek the advice of the county attorney to determine if a conflict of interest exists.
- Under the Ethics and Government Act (section 10A.02), a state ethical practices board has been created. That board may provide advisory opinions upon request of an individual or association that wishes to use the opinion to guide the individuals or the association's own conduct.

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Incompatible Offices

As a county commissioner you may not hold another elected office during tenure as a board member. Nor may the county (Minn. Stat. 375.09) employ county commissioners.

Minn. Stat. 375.09 provides that no commissioner shall receive any money or other valuable thing as a condition of voting or inducement to vote for any contract or other thing under consideration by the board. Every such election, contract or payment voted for or made contrary to this section is void. Any violation of that statute is malfeasance in office.



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