

Guiding Public Officials and Public Employees Through the Ethics Reform Act

Meghan Walker, Executive Director
SC State Ethics Commission

SC State Ethics Commission

- State agency charged with enforcing the Ethics Reform Act.
- Agency is governed by eight commissioners elected by the Governor and General Assembly.
- Agency has two attorneys on staff Meghan Walker (Executive Director) and Courtney Laster (General Counsel).

SEC JURISDICTION

- **Public Officials**
 - Any elected or appointed official of the state (excluding judges) and any candidate for such office.
- **Public Members**
 - An individual appointed to a noncompensated, part-time position on a board, commission or council.
- **Public Employees**
 - Any person employed by state or local government.

Guiding Public Officials

- Required Filings
 - Advise public officials on the timeliness and details of Statements of Economic Interests.
- Rules of Conduct
 - Advise public officials on mandates and prohibitions within the Ethics Reform Act.
- Campaign Practices
 - Should be kept separate from all government resources.

What is a Statement of Economic Interests?

- An SEI is a financial disclosure that all public officials must file *prior to* performing their official duties. It must then be filed annually during every year of a public official's service.
- The SEI is filed using the Commission's online filing portal and is publicly available immediately upon filing.
- There may also be public employees within your governmental entity who are required to file Statements of Economic Interests.
 - Contact our office if you need assistance identifying which public employees are required SEI filers.

Contents of Statement of Economic Interests

- The source, type, and amount or value of income, not to include tax refunds, of substantial monetary value received from a governmental entity by the filer or the filer's immediate family.
- Description, value and location of real property owned/options to purchase real property by filer or immediate family if:
 - Public improvements were made in excess of \$200.00.
 - OR
 - The interest can reasonably be expected to be the subject of a conflict of interest.
 - If a sale, lease, or rental of personal property is to a state, county or municipal instrumentality of government, a copy of the contract, lease or rental agreement must be attached to the SEI.

Contents of Statement of Economic Interests

The name of each organization which paid for or reimbursed actual expenses of the filer for speaking before a public or private group, the amount of such payment or reimbursement, and the purpose, date and location of the speaking engagement.

BEWARE OF AN SEI THAT LOOKS LIKE THIS

Select a tab to view more.

Summary Position **Income & Benefits** Reg. Bus. Assoc. Property **More »**

i *** Filer does not have any personal income and benefit items to disclose. ***

i *** Filer does not have any family income and benefit items to disclose. ***

SEI FILING DEADLINES

- Newly elected public officials must file an SEI prior to performing their official duties.
 - SEI must be filed by public officials prior to their first meeting and/or taking their first official action to avoid late filing penalties and challenges to the legality of board/council actions.
- Public officials must file an updated SEI every year prior to March 30th.
 - Remind them, remind them again, and then remind them.

Recent Advisory Opinion

SEC AO2020-001

September 17, 2020

SUBJECT: Reporting Government Income on a Statement of Economic Interests (SEI)

SUMMARY: Individuals reporting government income on a Statement of Economic Interests should report the amount of gross income received. Gross income means the amount of wages earned prior to any deductions or withholdings.

Need SEI Help?

- Contact the State Ethics Commission at 803-253-4192.
- Go to www.ethics.sc.gov for Advisory Opinions related to Statements of Economic Interests.
- Email Lessie Cheeseborro at lessie@ethics.sc.gov for any SEI questions.

When Are SEIs Due?

- January 1
- March 30
- April 15
- December 31

Rules of Conduct

Nepotism and Self-Dealing

- A public official, public employee, or public member may not use his official position to knowingly provide an economic benefit to himself, a family member, and individual with whom he is associated or a business with which he is associated.
- A public official, public employee, or public member may not use his official position to influence a governmental decision in which he, a family member, an individual with whom he is associated or a business with which he is associated has an economic interest.

Family Members

- "Family member" means an individual who is:
 - (a) the spouse, parent, brother, sister, child, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, grandparent, or grandchild;
 - (b) a member of the individual's immediate family.
 - "Immediate family" means:
 - (a) a child residing in a candidate's, public official's, public member's, or public employee's household;
 - (b) a spouse of a candidate, public official, public member, or public employee; or
 - (c) an individual claimed by the candidate, public official, public member, or public employee or the candidate's, public official's, public member's, or public employee's spouse as a dependent for income tax purposes.

Business With Which He Is Associated

- "Business with which he is associated" means a business of which the person or a member of his immediate family is a director, an officer, owner, employee, a compensated agent, or holder of stock worth one hundred thousand dollars or more at fair market value and which constitutes five percent or more of the total outstanding stock of any class.

Individual With Whom He Is Associated

- “Individual with whom he is associated” means an individual with whom the person or a member of his immediate family is a director, officer, owner, employee, compensated agent, or holder of stock worth one hundred thousand dollars or more at fair market value and which constitutes five percent or more of the total outstanding stock of any class.

Economic Interests

- "Economic interest" means an interest distinct from that of the general public in a purchase, sale, lease, contract, option, or other transaction or arrangement involving property or services in which a public official, public member, or public employee may gain an economic benefit of fifty dollars or more.

Large Class Exceptions

- An exception to the recusal requirements of the Ethics Act. This exception must be reviewed on a case-by-case basis to determine whether a large class exists.
- There is no definitive number that designates a group a “large class.”

Section 8-13-700 in Practice

- Superintendent of school district signs employment contract for family members. Fined \$12,000.00 by Commission.
- School board member votes to award a contract to a non-profit. Member's wife sat on the board of the non-profit. Member was told by general counsel that he could vote on the matter. Member was fined \$1,000.00.
- Fire commissioner takes fire department vehicle to Florida for vacation. Fire commissioner ordered to pay \$450.00 to fire department.
- County council member voted to give herself ex-gratia payment of \$6,750.00. Member alleged that she did this after being advised by counsel that her vote was legal. Commission fined council member \$2,700.00.

Use of Confidential Information

- Confidential information gained in the course of official activities cannot be used by a public official, public member, or public employee in a way that would affect the economic interests of himself, a family member, a person with whom he is associated or a person with which he is associated.
- Public officials, public members and public employees cannot access records of individuals in public departments or agencies if the purpose of the examination is improper or unlawful.

Employed By and Serving on the Same Board

- An individual can be both on the governing body of a governmental entity and employed by the governmental entity. The individual will need to recuse himself from any matters affecting his economic interests.
 - Example: a teacher can serve on the board of the school district that employs him.
- Exception: A nonappointed member of the governing body of a board or commission for a water or sewer district may not be employed by the same entity.

Supervising Family Members

- A public official, public member, or public employee may not cause the employment, appointment, promotion, transfer, or advancement of a family member to a state or local office or position in which the public official, public member or public employee supervises or manages.
- A public official, public member or public employee may not participate in an action relating to the discipline of their family member.

Government Contracts

- No public official, public member or public employee may have an economic interest in a contract if he is authorized to perform an official function relating to the contract.
 - Official functions include, but are not necessarily limited to, preparing the contract specifications, accepting bids, and awarding the contract.
- A public official, public member or public employee who is participating directly in procurement may not resign his position and accept employment with a person contracting with the governmental body if the contract falls/would have fallen under the person's official responsibilities.

Who Is Not a Family Member?

- Brother
- Sister
- Cousin
- Son-in-law

Campaign Practices

Campaigns and Government Resources

- Public officials, public members and public employees must keep governmental resources including, time, government property, and money, completely separate from campaign activity.
- The Ethics Act does not bar public officials, public members and public employees from participating in political campaigns – but this must be done on the individual's own time and without the use of any government resource.

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Advisory Opinions

SEC AO2018-003

May 25, 2018

SUBJECT: USE OF PUBLIC RESOURCES TO INFLUENCE THE OUTCOME OF AN ELECTION OR BALLOT MEASURE; INFORMATIONAL MATERIALS CONCERNING A BALLOT MEASURE

QUESTIONS: Beaufort County Council (Council) seeks an opinion from the Commission on the scope of a Council Member's allowable communication regarding a referendum when such communication is made in the Council Member's private capacity. Specifically, Council asks if S.C. Code Ann. § 8-13-765 and § 8-13-1346 apply when Council Members are not using public time and public resources. Council also asks if S.C. Code Ann. § 8-13-765 and § 8-13-1346 apply to a proposed referendum that has not yet been submitted to the voters for approval.

SUMMARY: Sections 765 and 1346 do not apply when Council Members are not using public time and public resources. Sections 765 and 1346 do not apply to proposed referenda not yet submitted to voters for approval.

Advisory Opinions

SEC AO2018-004

July 19, 2018

SUBJECT: USE OF PUBLIC RESOURCES TO INFLUENCE THE OUTCOME OF AN ELECTION OR BALLOT MEASURE; INFORMATIONAL MATERIALS CONCERNING A BALLOT MEASURE

QUESTIONS: According to the Beaufort County (County) Council (Council), two referenda will appear on the ballot for voter approval in an upcoming election. Council Members want to express their personal opinions on these referenda during Council meetings and ask to what extent such expressions are permissible under § 8-13-1346, which prohibits the use of “public funds, property, or time” in an attempt to influence the outcome of a ballot measure.

Council also asks if § 8-13-1346(C), which permits Council to expend public resources to prepare “informational materials” on these referenda, requires the materials to be viewpoint neutral or whether the Council may provide information that portrays the referenda in a positive or negative light.

SUMMARY: A Council Member’s expression of a personal opinion on a ballot measure during a Council meeting constitutes use of public resources. Whether such an expression constitutes an attempt to influence the outcome of a ballot measure in violation of § 8-13-1346 is a factual question and must be determined by looking to the totality of the circumstances.

Informational materials provided pursuant to § 8-13-1346(C) must be informational only and must not favor one side of a controversy over another. Whether such materials are “informational” will be determined by looking to factors such as the style, tenor, and timing of the publication.

What Percentage of the Day Can a Public Employee Use to Work on a Political Campaign?

- 0%
- 3%
- 5%
- 10%

Questions?

- Should you have any questions, please contact our general counsel, Courtney Laster, at 803-253-4192 or at claster@ethics.sc.gov.
- I can be contacted at mwalker@ethics.sc.gov.